FIFTY-SIXTH DAY

St. Paul, Minnesota, Friday, May 17, 1991

The Senate met at 8:30 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Michelle Rem.

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

Adkins	Day	Johnson, J.B.	Metzen	Renneke
Beckman	DeCramer	Johnston	Moe, R.D.	Riveness
Belanger	Dicklich	Kelly	Mondale	Sams
Benson, D.D.	Finn	Knaak	Morse	Samuelson
Benson, J.E.	Flynn	Kroening	Neuville	Solon
Berg	Frank	Laidig	Novak	Spear
Berglin	Frederickson, D.J.	Langseth	Olson	Storm
Bernhagen	Frederickson, D.R.	Larson	Pappas	Stumpf
Bertram	Gustafson	Lessard	Pariseau	Traub
Brataas	Halberg	Luther	Piper	Vickerman
Chmielewski	Hottinger	Marty	Pogemiller	Waldorf
Cohen	Hughes	McGowan	Price	
Dahl	Johnson, D.E.	Mehrkens	Ranum	
Davis	Johnson, D.J.	Merriam	Reichgott	

The President declared a quorum present.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 86, 274, 962, 302 and 998.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1991

Mr. President:

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

the following Senate File:

S.F. No. 621: A bill for an act relating to the environment; clarifying and correcting provisions relating to the legislative commission on Minnesota resources and the Minnesota environmental and natural resources trust fund; amending Minnesota Statutes 1990, sections 116P.04, subdivision 5; 116P.05; 116P.06; 116P.07; 116P.08, subdivisions 3 and 4; 116P.09, subdivisions 2, 4, and 7.

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

Kahn, Osthoff and Johnson, V.

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

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1991

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. 1053: A bill for an act relating to Minnesota Statutes; correcting erroneous, ambiguous, and omitted text and obsolete references; eliminating certain redundant, conflicting, and superseded provisions; making miscellaneous technical corrections to statutes and other laws; amending Minnesota Statutes 1990, sections 3C.04, subdivision 3; 14.47, subdivision 5; 15.39, subdivision 2; 15.45, subdivision 1; 16B.06, subdivision 2a; 16B.19, subdivision 2b; 16B.21, subdivision 1; 16B.405, subdivision 2; 18B.05, subdivision 1; 27.138, subdivision 4; 41A.066, subdivision 1; 60A.13, subdivision 3a; 60B.25; 62E.19, subdivision 1; 84B.09; 86B.415, subdivision 1; 89.37, subdivision 4; 97A.101, subdivision 2; 103A.405; 103B.211, subdivision 4; 103F.215, subdivision 1; 103G.545, subdivision 2; 115A.06, subdivision 4; 115B.25, subdivision 4; 115B.26, subdivisions 1 and 4; 115B.30, subdivision 1; 115B.31; 115B.32, subdivision 1; 115B.33, subdivision 1; 115B.34; 115B.36; 115C.08, subdivision 5; 115D.02; 116.733; 116J.68, subdivision 2; 121.88, subdivision 5; 123.702, subdivision 2; 124.195, subdivision 9; 124.225, subdivision 8l; 124.245, subdivision 6; 124A.036, subdivision 5; 125.032, subdivision 2; 126.036; 126.071, subdivision 1; 127.19; 136.82, subdivision 1; 144.49, subdivision 8; 144.804, subdivision 1; 144.8097, subdivision 2; 144A.29, subdivisions 2 and 3; 147.01, subdivision 1; 148.03; 148.52; 148.90, subdivision 3; 150A.02, subdivision 1; 151.03; 152.022, subdivision 1; 152.023, subdivision 2; 153.02; 154.22; 156.01; 161.17, subdivision 2; 168.325, subdivision 3; 222.63, subdivision 4; 237.161, subdivision 1; 256.035, subdivision 8; 256B.059, subdivision 4; 268.38, subdivision 12; 270.42; 273.1392; 273.1398, subdivision 5a; 275.065, subdivision 1; 275.50, subdivision 5; 290A.04, subdivision 2h; 297A.25, subdivision 8; 298.17; 299A.24, subdivision 1; 299A.41, subdivision 1; 299F.361, subdivision 1; 299F.451, subdivision 1; 299F.72, subdivision 1; 317A.021, subdivision 7; 325E.045, subdivision 1; 326.04; 341.01; 354A.094, subdivision 7; 356.215, subdivision 4d; 356.216; 384.14; 386.63, subdivision 1; 400.03, subdivision 1; 423.806, subdivision 1; 446A.10, subdivision 2; 469.129, subdivision 1; 473.844, subdivision 1; 473.845, subdivision 1; 508.36;

529.16; 551.05, subdivision 1; 571.75, subdivision 2; 571.81, subdivision 2; 604.06; 609.531, subdivision 1; 609.892, subdivision 1; Laws 1990, chapter 562, article 8, section 38; chapter 602, article 2, section 10; and chapter 606, article 4, section 1, subdivisions 2 and 6; reenacting Minnesota Statutes 1988, section 169.126, subdivision 2, as amended; repealing Minnesota Statutes 1990, sections 103B.211, subdivision 5; 103I.005, subdivision 18; 117.31; 124.47; 171.015, subdivision 4; 299F.362, subdivision 8; 474A.081, subdivisions 1, 2, and 4; 593.40, subdivision 6; and 626A.21.

Senate File No. 1053 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1991

CONCURRENCE AND REPASSAGE

Mr. Finn moved that the Senate concur in the amendments by the House to S.F. No. 1053 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1053 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 39 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Hottinger	Marty	Pogemiller
Beckman	Chmielewski	Hughes	McGowan	Price
Belanger	Cohen	Johnson, D.E.	Metzen	Ranum
Benson, D.D.	Day	Johnson, J.B.	Moe, R.D.	Renneke
Benson, J.E.	Finn	Johnston	Neuville	Sams
Berglin	Flynn	Langseth	Novak	Traub
Bernhagen	Frank	Larson	Olson	Vickerman
Bertram	Frederickson, D.J.	Lessard	Pariseau	

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. 561: A bill for an act relating to natural resources; authorizing certain minors to harvest wild rice without a license; amending Minnesota Statutes 1990, section 84.091, subdivision 2.

Senate File No. 561 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1991

CONCURRENCE AND REPASSAGE

Mr. Lessard moved that the Senate concur in the amendments by the House to S.F. No. 561 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 561 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 38 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Bertram	Frederickson, D.J.	Marty	Price
Beckman	Brataas	Hottinger	McGowan	Ranum
Belanger	Chmielewski	Hughes	Metzen	Riveness
Benson, D.D.	Cohen	Johnson, J.B.	Moe, R.D.	Sams
Benson, J.E.	Day	Johnston	Novak	Traub
Berg	Finn	Langseth	Olson	Vickerman
Berglin	Flynn	Lessard	Pariseau	
Bernhagen	Frank	Luther	Pogemiller	

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 that the House refuses to concur in the Senate amendments to House File No. 606:

H.F. No. 606: A bill for an act relating to transportation; authorizing state departments to cancel uncollectible debts up to $200 in certain cases; allowing department of transportation to employ debt collection services; allowing department of transportation to make direct expenditures from state aid funds for administrative expenses; providing penalty for failure to pay fee for sign permit more than 30 days after fee is due; providing when estimates of certain construction projects are nonpublic data; directing the commissioner of transportation to adopt rules governing the location and breakaway standards for mailbox installations; allowing white strobe lamps to be used on highway maintenance vehicles; authorizing exchange of lands with Grand Portage Band of Chippewa Indians; abolishing conflicting requirements related to market artery highways; adding a route and changing the description of a route in the state highway system; providing a penalty; amending Minnesota Statutes 1990, sections 10.12; 13.72, subdivision 1; 161.20, subdivision 4; 162.06, subdivision 2; 162.12, subdivision 2; 169.64, by adding a subdivision; and 173.13, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 1990, section 169.833.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Brown, Kalis and Seaberg have been appointed as such committee on the part of the House.

House File No. 606 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1991

Ms. Johnston moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 606, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 958:

H.F. No. 958: A bill for an act relating to agriculture; providing for development of aquaculture; amending Minnesota Statutes 1990, section 17.49; proposing coding for new law in Minnesota Statutes, chapter 17.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Sparby, Solberg and Bettermann have been appointed as such committee on the part of the House.

House File No. 958 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1991

Mr. Berg moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 958, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 202:

H.F. No. 202: A bill for an act relating to public employees; defining the term "employee" for the purpose of the public employees labor relations act; providing for a leave of absence from public office or to employment without pay for certain elected officials; amending Minnesota Statutes 1990, sections 3.088, subdivision 1; 179A.03, subdivision 14.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Rukavina, Farrell and Girard have been appointed as such committee on the part of the House.

House File No. 202 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1991

Mr. Chmielewski moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 202, 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 appointed on the part of the House. The motion prevailed.

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. 1411: A bill for an act relating to housing; requiring counseling for reverse mortgage loans; providing penalties; amending Minnesota Statutes 1990, section 47.58, by adding a subdivision.

Senate File No. 1411 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1991

CONCURRENCE AND REPASSAGE

Mr. Sams moved that the Senate concur in the amendments by the House to S.F. No. 1411 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1411 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 42 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Halberg	Luther	Price
Beckman	Chmielewski	Hottinger	Marty	Renneke
Belanger	Cohen	Hughes	McGowan	Riveness
Benson, D.D.	Day	Johnson, D.E.	Mehrkens	Sams
Benson, J.E.	Dicklich	Johnson, J.B.	Metzen	Traub
Berg	Finn	Johnston	Moe, R.D.	Vickerman
Berglin	Flynn	Knaak	Novak	
Bernhagen	Frank	Larson	Pariseau	
Bertram	Frederickson, D.J.	Lessard	Pogemiller	

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 that the House refuses to concur in the Senate amendments to House File No. 1050:

H.F. No. 1050: A bill for an act relating to state government; requiring certain notice of proposed executive reorganization orders; permitting the commissioner of administration to lease land to a political subdivision under some circumstances; amending Minnesota Statutes 1990, sections 16B.24, subdivision 6; and 16B.37, subdivision 2.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Orfield, Carruthers and Bishop have been appointed as such committee on the part of the House.

House File No. 1050 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1991

Mr. Marty moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1050, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 20:

H.F. No. 20: A bill for an act relating to insurance; requiring insurers to furnish a summary of claims review findings; proposing coding for new law in Minnesota Statutes, chapter 72A.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Winter, Skoglund and Abrams have been appointed as such committee on the part of the House.

House File No. 20 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1991

Mr. Marty moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 20, 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 appointed on the part of the House. The motion prevailed.

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. 762: A bill for an act relating to health; changing restrictions on disclosing birth record of a child born to an unmarried woman; amending Minnesota Statutes 1990, section 144.225, subdivisions 2 and 4.

Senate File No. 762 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1991

Mr. Luther moved that S.F. No. 762 be laid on the table. The motion prevailed.

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. 822: A bill for an act relating to the environment; responsible person for removal and remediation of hazardous waste; providing that the state, an agency of the state, or a political subdivision that acquires property through eminent domain or through negotiated purchase following the filing of eminent domain petition, or any person acquiring from the condemning authority, is not liable as a responsible person solely because of the acquisition; clarifying the status of mortgagees and contract for deed vendors as responsible persons; amending Minnesota Statutes 1990, section 115B.03, by adding subdivisions.

Senate File No. 822 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1991

Mr. Luther moved that S.F. No. 822 be laid on the table. The motion prevailed.

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. 1178: A bill for an act relating to elections; allowing school meetings on certain election days; amending Minnesota Statutes 1990, section 204C.03, subdivision 3.

Senate File No. 1178 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1991

Mr. Luther moved that S.F. No. 1178 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 317:

H.F. No. 317: A bill for an act relating to marriage dissolution; clarifying

procedure for modification of certain custody orders; providing for additional child support payments; providing an alternative form of satisfaction of child support obligation; imposing a fiduciary duty and providing for compensation in cases of breach of that duty; clarifying certain mediation procedures; providing for attorneys' fees in certain cases; clarifying language concerning certain motions; imposing penalties; amending Minnesota Statutes 1990, sections 518.18; 518.551, subdivision 5; 518.57, by adding a subdivision; 518.58, subdivision 1, and by adding a subdivision; 518.619, subdivision 6; 518.64, subdivision 2; and 518.641, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 518.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Wagenius, Vellenga and Seaberg have been appointed as such committee on the part of the House.

House File No. 317 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1991

Mr. Luther moved that H.F. No. 317 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1:

H.F. No. 1: A bill for an act relating to waters; establishing a program for the enhancement, preservation, and protection of wetlands within the state; providing penalties; appropriating money; amending Minnesota Statutes 1990, sections 103A.201; 103B.311, subdivision 6; 103E.701, by adding a subdivision; 103G.005, subdivisions 15 and 18, and by adding subdivisions; 103G.221, subdivision 1; 103G.231, by adding subdivisions; and 446A.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 84; 103F; and 103G; repealing Minnesota Statutes 1990, section 103G.221, subdivisions 2 and 3.

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

Munger, Dille, Marsh, Kahn and Bertram have been appointed as such committee on the part of the House.

House File No. 1 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1991

Mr. Luther moved that H.F. No. 1 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 459:

H.F. No. 459: A bill for an act relating to crimes; providing that a claimant in a forfeiture proceeding does not have to pay a filing fee; providing for appointment of qualified interpreters in forfeiture proceedings; amending Minnesota Statutes 1990, sections 609.5314, subdivisions 2 and 3; 611.31; and 611.32.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Greenfield, Vellenga and Macklin have been appointed as such committee on the part of the House.

House File No. 459 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1991

Mr. Luther moved that H.F. No. 459 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 794, 1132, 1389, 997 and 871.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1991

FIRST READING OF HOUSE BILLS

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

H.F. No. 794: A bill for an act relating to traffic regulations; authorizing one-day handicapped certificates for use by vehicles transporting nursing home residents; amending Minnesota Statutes 1990, section 169.345, subdivision 3.

Referred to the Committee on Transportation.

H.F. No. 1132: A bill for an act relating to natural resources; providing for enforcement of sanctions for hunting while under the influence of alcohol or a controlled substance; amending Minnesota Statutes 1990, section 97B.065; proposing coding for new law in Minnesota Statutes, chapter 97B.

Referred to the Committee on Environment and Natural Resources.

H.F. No. 1389: A bill for an act relating to animal health; requiring a study of the feasibility of abolishing mandatory anaplasmosis testing.

Referred to the Committee on Agriculture and Rural Development.

H.F. No. 997: A bill for an act relating to port authorities; providing for extraterritorial exercise of port authority powers to assist economic development projects; authorizing affected governmental units to contribute funds in support of port authority financing; authorizing the city of Rosemount to establish a port authority; amending Minnesota Statutes 1990, section 469.062, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 469.

Referred to the Committee on Taxes and Tax Laws.

H.F. No. 871: A bill for an act relating to employment; board of electricity; clarifying definitions; providing for a complaint committee; clarifying and adding duties of the board; providing penalties; amending Minnesota Statutes 1990, sections 326.01, subdivisions 2, 3, 4, 5, 6, 6a, and by adding subdivisions; 326.241, subdivision 2; 326.242, subdivisions 1, 2, 3, 4, 5, 6, 9, 12, and by adding subdivisions; 326.244, subdivisions 4, 5, and by adding a subdivision; 326.245; and 326.246.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 688, now on General Orders.

MOTIONS AND RESOLUTIONS

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

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Kelly, Ms. Pappas, Messrs. Knaak and McGowan introduced—

S.F. No. 1579: A bill for an act relating to judges; providing for the election of unopposed incumbent judges by submitting to the voters whether they should succeed themselves; amending Minnesota Statutes 1990, sections 204B.34, subdivision 3; 204B.36, subdivision 4; and 204D.08, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 204C.

Referred to the Committee on Elections and Ethics.

Mr. Chmielewski introduced—

S.F. No. 1580: A bill for an act relating to cemeteries; requiring cemeteries to permit burial in all seasons; proposing coding for new law in Minnesota Statutes, chapter 306.

Referred to the Committee on Veterans and General Legislation.

Mses. Traub, Pappas, Mr. Hottinger, Ms. Berglin and Mr. Neuville introduced—

S.F. No. 1581: A bill for an act relating to adoption; providing for release of birth information to adopted persons; amending Minnesota Statutes 1990, sections 259.49, subdivisions 1, 4, 5, and by adding a subdivision; repealing Minnesota Statutes 1990, section 259.49, subdivisions 2 and 3.

Referred to the Committee on Judiciary.

Messrs. Kelly, Neuville, Marty and Cohen introduced—

S.F. No. 1582: A bill for an act relating to courts; altering the election districts of district judges; providing for the judges to be elected from their assignment district within the judicial district; amending Minnesota Statutes 1990, section 2.722, by adding a subdivision.

Referred to the Committee on Judiciary.

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, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 910: A bill for an act relating to health; providing clarification of various laws relating to public health issues; providing penalties; amending Minnesota Statutes 1990, sections 115.71, subdivision 9, and by adding a subdivision; 144.698, subdivision 1; 145.43, subdivision 1a; 153A.15, subdivision 4, and by adding a subdivision; 153A.17; and 268.12, subdivision 12; proposing coding for new law in Minnesota Statutes, chapters 144; 147; and 176; repealing Minnesota Statutes 1990, sections 115.71, subdivision 7; 145.34; 145.35; and 153A.16.

Senate File No. 910 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1991

CONCURRENCE AND REPASSAGE

Ms. Berglin moved that the Senate concur in the amendments by the House to S.F. No. 910 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 910: A bill for an act relating to health; providing clarification of various laws relating to public health issues; providing penalties; amending Minnesota Statutes 1990, sections 115.71, subdivision 9, and by adding a subdivision; 116C.852; 144.698, subdivision 1; 145.43, subdivision 1a; 153A.15, subdivision 4, and by adding a subdivision; 153A.17; and 268.12, subdivision 12; proposing coding for new law in Minnesota Statutes, chapters 144; 147; and 176; repealing Minnesota Statutes 1990, sections 115.71, subdivision 7; 145.34; 145.35; and 153A.16.

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 38 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, J.B.	Mehrkens	Riveness
Belanger	Finn	Johnston	Metzen	Sams
Benson, D.D.	Flynn	Langseth	Moe, R.D.	Samuelson
Benson, J.E.	Frank	Larson	Novak	Spear
Berglin	Halberg	Lessard	Pappas	Traub
Bertram	Hottinger	Luther	Pariseau	Vickerman
Chmielewski	Hughes	Marty	Pogemiller	
Cohen	Johnson, D.E.	McGowan	Price	

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Stumpf moved that the following members be excused for a Conference Committee on S.F. No. 1535 at 9:00 a.m.:

Messrs. Dicklich, Waldorf, Stumpf, Mrs. Brataas and Ms. Piper. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Dicklich moved that the following members be excused for a Conference Committee on H.F. No. 700 at 9:00 a.m.:

Messrs. Dicklich, Dahl, DeCramer, Mses. Olson and Pappas. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Ms. Pappas moved that S.F. No. 762 be taken from the table. The motion prevailed.

S.F. No. 762: A bill for an act relating to health; changing restrictions on disclosing birth record of a child born to an unmarried woman; amending Minnesota Statutes 1990, section 144.225, subdivisions 2 and 4.

CONCURRENCE AND REPASSAGE

Ms. Pappas moved that the Senate concur in the amendments by the House to S.F. No. 762 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 762 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 40 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Hughes	McGowan	Renneke
Belanger	Day	Johnson, D.E.	Mehrkens	Riveness
Benson, D.D.	Finn	Johnston	Metzen	Sams
Benson, J.E.	Flynn	Kroening	Novak	Samuelson
Berg	Frank	Larson	Pappas	Solon
Berglin	Gustafson	Lessard	Pariseau	Spear
Bertram	Halberg	Luther	Pogemiller	Traub
Chmielewski	Hottinger	Marty	Price	Vickerman

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

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Luther moved that the Senate take up the Special Orders Calendar. The motion prevailed.

SPECIAL ORDER

H.F. No. 628: A bill for an act relating to traffic regulations; increasing the fine for violating seat belt requirements; reallocating fine receipts; amending Minnesota Statutes 1990, section 169.686, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapter 169.

Mr. Frank moved that the amendment made to H.F. No. 628 by the Committee on Rules and Administration in the report adopted May 16, 1991, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 628 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 35 and nays 15, as follows:

Those who voted in the affirmative were:

Belanger	Frank	Johnson, J.B.	McGowan	Pappas
Benson, J.E.	Frederickson, D.J.	Kelly	Mehrkens	Pariseau
Berglin	Gustafson	Knaak	Metzen	Pogemiller
Cohen	Halberg	Langseth	Moe, R.D.	Price
Day	Hottinger	Larson	Mondale	Ranum
Finn	Hughes	Luther	Neuville	Spear
Flynn	Johnson, D.E.	Marty	Novak	Traub

Those who voted in the negative were:

Adkins	Berg	Johnston	Reichgott	Sams
Beckman	Bertram	Kroening	Renneke	Samuelson
Benson, D.D.	Chmielewski	Lessard	Riveness	Vickerman

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 1246: A bill for an act relating to energy; expanding conservation improvement programs; extending protection against disconnection of residential utility customers during cold weather; improving energy efficiency by prohibiting incandescent lighting in certain exit signs; requiring applicants for certificates of need for large utility facilities to justify the use of nonrenewable rather than renewable energy; establishing energy conservation goals for state buildings; requiring a review of the state building code and energy standards; requiring a report to the legislature; authorizing conservation improvement financial incentive plans; making conforming amendments; prescribing penalties; appropriating money; amending Minnesota Statutes 1990, sections 16B.32; 16B.61, subdivision 3; 216B.16, subdivision 6b, and by adding a subdivision; 216B.241; 216B.243, subdivision 3, and by adding a subdivision; 216C.02, subdivision 1; and 299F.011, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 216B and 216C.

Mr. Novak moved that the amendment made to H.F. No. 1246 by the Committee on Rules and Administration in the report adopted May 16, 1991, pursuant to Rule 49, be stricken. The motion prevailed. So the

amendment was stricken.

Mr. Novak then moved to amend H.F. No. 1246 as follows:

Page 3, line 13, delete "*By December 31, 1995,*"

Page 3, delete lines 23 to 32

Page 3, line 33, delete "*(c)*" and insert "*(b)*"

Page 4, line 7, after the semicolon, insert "*or*"

Page 4, delete lines 8 and 9

Page 4, line 10, delete "*(3)*" and insert "*(2)*"

Page 4, line 11, delete "*(d)*" and insert "*(c)*"

Page 4, line 17, delete everything before the period

Page 4, line 31, delete "*By December 31, 1995,*"

Page 5, delete lines 7 to 16

Page 5, line 17, delete "*(d)*" and insert "*(c)*"

Page 5, line 29, delete "*Starting in 1992,*"

Page 6, line 5, delete everything before the period

Page 9, line 9, delete "*two*" and insert "*1.75*"

Page 9, line 10, delete "*one*" and insert "*.6*"

Page 12, after line 17, insert:

"Sec. 6. [TRANSITIONAL SPENDING REQUIREMENTS.]

Notwithstanding section 2, subdivisions 1a and 1b, a public utility, municipality, or cooperative electric association governed by one of those subdivisions that spends and invests less than those subdivisions require on conservation improvements shall increase its spending and investment in accordance with this section. The utility, municipality, or association shall:

(1) using its 1991 gross operating revenues, apply the applicable percentage required by subdivision 1a or 1b to determine what level of spending would have been required in 1991 had those subdivisions been in effect;

(2) subtract from the amount computed under clause (1) the actual amount spent by the utility, municipality, or association on conservation improvements in 1991; and

(3) in each of four years, beginning in 1992, increase its spending on energy conservation improvements by one-fourth of the remainder computed under clause (2).

After December 31, 1995, the utility, municipality, or association shall annually spend and invest the amount required by, and determined under, section 2, subdivision 1a or 1b, whichever applies."

Renumber the sections of article 1 in sequence

Page 16, lines 17 and 21, after "*bulbs*" insert ", *except for battery-powered back-up bulbs,*"

Page 17, line 1, delete everything after "*that*"

Page 17, delete line 2

Page 17, line 3, delete everything before the period and insert "*it has explored the possibility of generating power by means of renewable energy sources and has demonstrated that the alternative selected is less expensive (including environmental costs) than power generated by a renewable energy source*"

Page 18, line 1, after the period, insert "*Repayments must be interest-free.*"

Page 21, after line 10, insert:

"ARTICLE 7

STUDIES

Section 1. [STUDY; PHOTOVOLTAIC DEVICES.]

The commissioner of public service shall conduct a study of the potential market within the state for photovoltaic devices. The study shall focus on applications where photovoltaics, with and without energy storage, cost less than conventional means of supplying energy and power for those applications. The commissioner shall submit the report to the appropriate committees of the legislature by January 15, 1992.

Sec. 2. [STUDY; CARBON EMISSIONS TAX.]

The commissioner of public service shall conduct a study to evaluate the need for, and the impact of, a carbon emissions tax ranging from $1 to $75 per ton of carbon emissions. The study shall consider the effect of the tax on the sources and use of energy in the state and on the economy of the state. The commissioner shall submit the report to the appropriate committees of the legislature by January 15, 1992.

Sec. 3. [LANDFILL GAS RECOVERY.]

The public utilities commission shall examine the economic and technical aspects of the process by which a qualified facility could use methane gas from qualified landfills to produce electricity for sale to electric utilities under Minnesota Statutes, section 216B.164. If the commission determines that use of that technology should be encouraged, but that changes in relevant statutes are necessary to accomplish that end, it shall recommend appropriate statutory changes to the legislature by January 15, 1992.

Sec. 4. [APPROPRIATION.]

$55,000 is appropriated from the general fund to the commissioner of public service to cover costs associated with the studies required by sections 1 and 2."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Marty moved to amend H.F. No. 1246 as follows:

Page 17, after line 6, insert:

"Sec. 2. [216B.244] [NUCLEAR POWER PLANTS; CERTIFICATE OF NEED.]

The commission may not issue a certificate of need for the construction of a nuclear powered generating plant until the commission:

(1) is satisfied that a safe method is available for the permanent storage

or other disposal of nuclear wastes; and

(2) the commission has communicated its finding with respect to clause (1) in writing to the chairs of the standing committees of the senate and the house of representatives having jurisdiction over energy and public utilities."

Renumber the sections of article 4 in sequence

Amend the title accordingly

Mr. Larson questioned whether the amendment was germane.

The President ruled that the amendment was germane.

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 19 and nays 23, as follows:

Those who voted in the affirmative were:

Berglin	Halberg	Luther	Mondale	Riveness
Cohen	Hottinger	Marty	Neuville	Sams
Flynn	Johnson, J.B.	Metzen	Pogemiller	Spear
Frederickson, D.J.	Kelly	Moe, R.D.	Price	

Those who voted in the negative were:

Adkins	Bertram	Johnson, D.E.	Lessard	Renneke
Beckman	Chmielewski	Johnston	McGowan	Samuelson
Belanger	Day	Kroening	Mehrkens	Vickerman
Benson, J.E.	Frank	Langseth	Novak	
Berg	Gustafson	Larson	Pariseau	

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

Mr. Marty then moved to amend H.F. No. 1246 as follows:

Page 3, line 17, delete "*.5*" and insert "*2.4*"

Page 3, line 20, delete "*1.5*" and insert "*3.6*"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 10 and nays 35, as follows:

Those who voted in the affirmative were:

Berglin	Flynn	Luther	Piper	Spear
Cohen	Hughes	Marty	Pogemiller	Waldorf

Those who voted in the negative were:

Adkins	Chmielewski	Johnson, D.E.	Lessard	Novak
Beckman	Day	Johnson, J.B.	McGowan	Pariseau
Belanger	Finn	Johnston	Mehrkens	Price
Benson, D.D.	Frank	Kelly	Metzen	Renneke
Benson, J.E.	Frederickson, D.J.	Kroening	Moe, R.D.	Sams
Berg	Halberg	Langseth	Mondale	Solon
Bertram	Hottinger	Larson	Neuville	Vickerman

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

Mr. Finn moved to amend H.F. No. 1246 as follows:

Page 12, after line 17, insert:

"Sec. 6. Minnesota Statutes 1990, section 239.78, is amended to read:

239.78 [INSPECTION FEES.]

~~An inspection fee shall be charged on petroleum products when received~~

~~by the distributor, and on petroleum products received and held for sale or use by any person when the petroleum products have not previously been received by a licensed distributor. The department shall adjust the inspection fee to recover~~ *A person who owns petroleum products held in storage at a pipeline terminal, river terminal, or refinery shall pay an inspection fee of 75 cents for every 1,000 gallons sold or withdrawn from the terminal or refinery storage. The revenue from the fee must cover* the amount appropriated for petroleum product quality inspection expenses and the amount appropriated for the inspection and testing of petroleum product measuring devices as required by this chapter. ~~The department shall review and adjust the inspection fee as required by section 16A.128, except the review of the fee shall occur annually on or before January 1.~~

The commissioner of revenue shall credit ~~the distributor~~ *a person* for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report in a manner approved by the department. The commissioner of revenue ~~is authorized to~~ *may* collect the inspection fees along with any taxes due under chapter 296."

Page 12, after line 25, insert:

"*$1,000,000 is appropriated from the general fund to the energy and conservation account established in section 2, subdivision 2a, to be available until June 30, 1993, for programs administered by the commissioner of public service or other state agency to improve the energy efficiency of residential oil-fired heating plants in low-income households.*"

Renumber the sections of article 1 in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1246 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 41 and nays 8, as follows:

Those who voted in the affirmative were:

Adkins	Flynn	Kroening	Mondale	Sams
Beckman	Frank	Langseth	Neuville	Solon
Belanger	Frederickson, D.J.	Lessard	Novak	Spear
Benson, J.E.	Halberg	Luther	Pariseau	Stumpf
Berg	Hottinger	Marty	Piper	Waldorf
Berglin	Hughes	McGowan	Pogemiller	
Brataas	Johnson, D.E.	Mehrkens	Price	
Cohen	Johnson, J.B.	Metzen	Reichgott	
Finn	Kelly	Moe, R.D.	Renneke	

Those who voted in the negative were:

Benson, D.D.	Chmielewski	Gustafson	Larson	Vickerman
Bertram	Day	Johnston		

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

SPECIAL ORDER

H.F. No. 1088: A bill for an act relating to economic development; establishing the regional seed capital program; amending Minnesota Statutes 1990, section 469.101, by adding a subdivision; proposing coding for new

law in Minnesota Statutes, chapter 116O.

Mr. Metzen moved to amend H.F. No. 1088, as amended pursuant to Rule 49, adopted by the Senate May 16, 1991, as follows:

(The text of the amended House File is identical to S.F. No. 1037.)

Page 2, delete lines 9 to 14

Pages 2 and 3, delete section 2

Page 3, delete section 4

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete line 6 and insert "section 469.101,"

The motion prevailed. So the amendment was adopted.

H.F. No. 1088 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 44 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Johnson, D.E.	Marty	Price
Beckman	Day	Johnson, J.B.	Metzen	Reichgott
Belanger	Finn	Johnston	Moe, R.D.	Renneke
Benson, D.D.	Flynn	Kelly	Mondale	Sams
Benson, J.E.	Frank	Kroening	Neuville	Solon
Berg	Frederickson, D.J.	Langseth	Novak	Spear
Berglin	Gustafson	Larson	Pariseau	Stumpf
Bertram	Hottinger	Lessard	Piper	Vickerman
Chmielewski	Hughes	Luther	Pogemiller	

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

SPECIAL ORDER

H.F. No. 1286: A bill for an act relating to the secretary of state; changing certain fees, deadlines, and procedures; providing for supplemental filing and information services; providing for removal of documents from the public record; clarifying certain language; amending Minnesota Statutes 1990, sections 5.03; 5.16, subdivision 5; 302A.821, subdivisions 3, 4, and 5; 303.07, subdivision 2; 303.08; 303.13, subdivision 1; 303.17, subdivision 1; 308A.131, subdivision 1; 308A.801, subdivision 6; 317A.821, subdivision 2; 317A.823; 317A.827, subdivision 1; and 331A.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 5.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 35 and nays 2, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Hughes	Marty	Price
Beckman	Finn	Johnson, D.E.	Metzen	Reichgott
Belanger	Flynn	Johnson, J.B.	Moe, R.D.	Sams
Berg	Frank	Kelly	Mondale	Solon
Berglin	Frederickson, D.J.	Kroening	Novak	Spear
Bertram	Gustafson	Langseth	Piper	Stumpf
Chmielewski	Hottinger	Luther	Pogemiller	Vickerman

Mrs. Benson, J.E. and Ms. Johnston voted in the negative.

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 1387: A bill for an act relating to public administration; permitting certain leases; requiring that legislative hearing rooms and the house and senate chambers be fitted with devices to aid the hearing-impaired; appropriating money; amending Minnesota Statutes 1990, sections 16B.61, by adding a subdivision; and 16B.24, subdivision 6.

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 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Hughes	Luther	Piper
Beckman	Finn	Johnson, D.E.	Marty	Price
Belanger	Flynn	Johnson, J.B.	Mehrkens	Sams
Benson, J.E.	Frank	Johnston	Metzen	Samuelson
Berglin	Frederickson, D.J.	Kelly	Moe, R.D.	Spear
Bertram	Gustafson	Kroening	Mondale	Vickerman
Chmielewski	Hottinger	Langseth	Novak	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 571: A bill for an act relating to retirement; Minneapolis municipal employees; making various changes reflecting benefits, administration, and investment practices of the Minneapolis employees retirement fund; amending Minnesota Statutes 1990, sections 11A.24, subdivision 1; 356.71; 422A.03, subdivision 1; 422A.05, subdivision 2c; 422A.09, subdivision 3; 422A.13, subdivision 2; and 422A.16, subdivisions 1 and 3.

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 36 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Kroening	Mondale	Spear
Beckman	Flynn	Langseth	Novak	Storm
Benson, J.E.	Frank	Lessard	Piper	Stumpf
Berglin	Frederickson, D.J.	Luther	Pogemiller	Vickerman
Bertram	Hottinger	Marty	Price	
Chmielewski	Hughes	Mehrkens	Reichgott	
Cohen	Johnson, J.B.	Metzen	Sams	
Day	Johnston	Moe, R.D.	Samuelson	

So the bill passed and its title was agreed to.

CALL OF THE SENATE

Mr. Chmielewski imposed a call of the Senate for the balance of the proceedings on H.F. No. 304. The Sergeant at Arms was instructed to bring in the absent members.

SPECIAL ORDER

H.F. No. 304: A bill for an act relating to labor; providing that certain hiring practices by an employer during a strike or lockout are unfair labor practices; amending Minnesota Statutes 1990, sections 179.12; and 179A.13.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

Mr. Morse moved that those not voting be excused from voting. The motion did not prevail.

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

The roll was called, and there were yeas 41 and nays 20, as follows:

Those who voted in the affirmative were:

Adkins	Flynn	Lessard	Pappas	Solon
Beckman	Frank	Luther	Piper	Spear
Berglin	Frederickson, D.J.	Marty	Pogemiller	Traub
Bertram	Hottinger	Merriam	Price	Vickerman
Chmielewski	Hughes	Metzen	Ranum	Waldorf
Cohen	Johnson, D.J.	Moe, R.D.	Reichgott	
Dahl	Johnson, J.B.	Mondale	Riveness	
Dicklich	Kelly	Morse	Sams	
Finn	Kroening	Novak	Samuelson	

Those who voted in the negative were:

Belanger	Bernhagen	Gustafson	Larson	Olson
Benson, D.D.	Brataas	Halberg	McGowan	Pariseau
Benson, J.E.	Day	Johnson, D.E.	Mehrkens	Renneke
Berg	Frederickson, D.R.	Johnston	Neuville	Storm

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 598: A bill for an act relating to transportation; establishing state transportation goals and requiring periodic revisions of the state transportation plan; directing a study of rail-highway grade crossings; establishing penalties for violations of grade crossing safety laws; authorizing the commissioner of transportation to make grants and loans for the improvement of commercial navigation facilities; establishing special categories of roads and highways; authorizing local units of government to advance funds for the completion of highway projects; authorizing road authorities to enter into agreements for the construction, maintenance, and operation of toll facilities; creating a transportation services fund; specifying percentage of unrefunded motor fuel tax revenue that is attributable to use on forest roads; authorizing the use of local bridge grant funds to construct drainage structures; authorizing the commissioner of transportation to plan, acquire, construct, and equip light rail transit facilities; creating a light rail transit joint

powers board; authorizing transportation research; directing a study of highway corridors; extending the transportation study board and specifying duties; appropriating money; amending Minnesota Statutes 1990, sections 162.02, subdivision 3a; 162.09, subdivision 3a; 162.14, subdivision 6; 169.14, by adding a subdivision; 169.26; 171.13, subdivision 1, and by adding a subdivision; 173.13, subdivision 4; 174.01; 174.03, subdivision 2, and by adding a subdivision; 219.074, by adding a subdivision; 219.402; 296.16, subdivision 1a; 296.421, subdivision 8; 299D.03, subdivision 5; 473.373, subdivision 4a; 473.3993, subdivisions 2 and 3, and by adding a subdivision; 473.3994; and 473.3996; Laws 1990, chapter 610, article 1, section 13, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 3; 160; 161; 162; 174; 219; and 473; proposing coding for new law as Minnesota Statutes, chapter 457A; repealing Laws 1989, chapter 339, section 21.

Mr. DeCramer moved to amend S.F. No. 598 as follows:

Page 34, after line 6, insert:

"Sec. 11. [ADVISORY COUNCIL ON PARATRANSIT.]

Subdivision 1. [CREATION; MEMBERSHIP.] *The regional transit board shall establish a paratransit advisory committee consisting of the following members:*

(1) two members representing the regional transit board, appointed by the chair of the board;

(2) two members representing the department of human services, appointed by the commissioner of human services;

(3) one member representing the department of transportation, appointed by the commissioner of transportation;

(4) one member representing the metropolitan transit commission, appointed by the chair of the commission;

(5) one member representing the council on disability, appointed by the council;

(6) one member representing nonprofit providers, appointed by the commissioner of human services;

(7) one member representing for-profit providers, appointed by the commissioner of human services;

(8) one member representing the senior community, appointed by the commissioner of human services;

(9) one member representing the metropolitan area, appointed by the chair of the metropolitan council; and

(10) two members representing users of paratransit, appointed by the chair of the board.

The committee shall expire December 31, 1991.

Subd. 2. [ADMINISTRATION.] *The regional transit board and the department of human services shall provide staff and administrative services for the committee. The organizations whose representatives are listed in subdivision 1, clauses (4) to (8), shall provide information, staff, and technical assistance for the committee as needed.*

Subd. 3. [STUDIES.] *The committee shall study the feasibility of consolidating and coordinating existing metro mobility service trips with existing department of human services medical assistance service trips in the metropolitan area. The committee shall consult affected persons and organizations not represented by members appointed under subdivision 1, including day training and rehabilitation centers, nursing homes, and intermediate care facilities for the mentally retarded.*

Subd 4. [REPORT.] *The commissioner of human services and the chair of the regional transit board shall jointly submit the report and recommendations to the legislature and the governor no later than December 31, 1991.*

Subd. 5. [DEFINITION.] *For the purposes of this section, "metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2."*

Page 34, line 10, delete "*11*" and insert "*12*"

Renumber the sections of article 7 in sequence and correct the internal references

Amend the title as follows:

Page 1, line 22, after "board;" insert "establishing a paratransit advisory council;"

The motion prevailed. So the amendment was adopted.

Ms. Pappas moved to amend S.F. No. 598 as follows:

Page 25, after line 28, insert:

"Section 1. [161.1246] [HIGHWAY RECONSTRUCTION; LIGHT RAIL TRANSIT.]

The commissioner of transportation shall ensure that design plans for reconstruction of interstate highways marked I-94 and I-35W provide for the consideration of light rail transit facilities as part of the reconstruction. The design for reconstruction of interstate highway I-94 may include design for a light rail transit facility, as described in the Midway Corridor draft environmental impact statement, from the Western avenue intersection near downtown St. Paul to approximately Fairview avenue. The design for reconstruction of interstate highway I-35W may include design for a light rail transit facility from the city of Minneapolis to approximately county road 42 in the city of Burnsville. The commissioner shall consult with regional railroad authorities where the highway reconstruction will occur to ensure an acceptable and feasible light rail transit facility design may be included in the highway reconstruction design."

Renumber the sections of article 7 in sequence and correct the internal references

Amend the title as follows:

Page 1, line 19, after the semicolon, insert "requiring the commissioner of transportation to include light rail transit facilities in the design for reconstruction of interstate highways I-94 and I-35W;"

The motion prevailed. So the amendment was adopted.

Mr. DeCramer moved to amend S.F. No. 598 as follows:

Page 25, after line 28, insert:

"Section 1. [METROPOLITAN TRANSIT FACILITIES.]

The metropolitan council shall recommend all future transit facilities for the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2.

Sec. 2. [METROPOLITAN COUNCIL TRANSIT FACILITIES REPORT.]

Subdivision 1. [REPORT.] *(a) By February 10, 1992, the metropolitan council shall submit to the legislature a report on metropolitan transportation development. The report must identify the major transportation patterns and corridors to be developed in the metropolitan area and recommend optimal transit modes based on information regarding current and future origin and destination patterns, ridership, access, ease of commuting, cost and cost effectiveness, potential for federal financial assistance, relationship to land development, pricing and availability of parking, air quality, and energy conservation.*

(b) The council shall utilize existing studies and information submitted by the department of transportation and by the regional transit board in consultation with the metropolitan regional rail authorities and the metropolitan transit commission in developing its report and recommendations. The board and the department shall submit information and recommendations to the council by November 1, 1991, based on guidelines prescribed by the council that include funding policies, cost performance measures, and evaluation criteria.

(c) The department shall provide cost estimates for the options outlined in subdivision 2.

Subd. 2. [REPORT COMPONENTS.] *The council's report on future transportation facilities shall include consideration of the following options:*

(1) the department of transportation's five-year highway work program for the metropolitan area and uses of intelligent vehicle highway systems;

(2) high occupancy vehicle corridors, including reserved rights-of-way, and all potential multiple and simultaneous uses for regional railroad authority corridors or other corridors;

(3) enhanced bus service provided by the metropolitan transit commission and replacement service programs and the use of reserved rights-of-way for bus service; and

(4) light rail transit facilities, taking into consideration the most recent cost projections and ridership forecasts, or other fixed guideway transit facilities.

Subd. 3. [LIGHT RAIL.] *No regional rail authority or political subdivision may begin final design for light rail transit without approval by the council.*

Subd. 4. [REVISED TRANSPORTATION STUDIES.] *The council shall identify for the regional transit board, regional rail authorities, and department of transportation, the existing public transportation studies that will require revision as a result of the council's report and recommendations to the legislature.*

Subd. 5. [COMPLIANCE WITH COUNCIL RECOMMENDATIONS.]

All future metropolitan transit facilities must be consistent with the council's recommendations."

Renumber the sections of article 7 in sequence and correct the internal references

Amend the title as follows:

Page 1, line 19, after the semicolon, insert "requiring a report on metropolitan transportation development and transit development consistent with the report;"

Mr. Novak moved to amend the DeCramer amendment to S.F. No. 598 as follows:

Page 2, line 16, after the period, insert quotation marks

Page 2, delete lines 17 to 19

CALL OF THE SENATE

Mr. DeCramer imposed a call of the Senate for the balance of the proceedings on S.F. No. 598. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Novak amendment to the DeCramer amendment.

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

The roll was called, and there were yeas 10 and nays 26, as follows:

Those who voted in the affirmative were:

Benson, D.D.	Hughes	Kroening	Mondale	Pappas
Cohen	Kelly	Metzen	Novak	Storm

Those who voted in the negative were:

Adkins	Davis	Hottinger	Mehrkens	Spear
Beckman	Day	Johnson, D.E.	Merriam	Vickerman
Belanger	DeCramer	Larson	Morse	
Berg	Flynn	Lessard	Riveness	
Berglin	Frank	Luther	Sams	
Bertram	Frederickson, D.J.	Marty	Solon	

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

Mr. Riveness moved to amend the DeCramer amendment to S.F. No. 598 as follows:

Page 2, line 19, before the period, insert "*under subdivision 1 after August 1, 1992*"

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

The question recurred on the DeCramer amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

Mr. Merriam moved to amend S.F. No. 598 as follows:

Page 11, line 18, delete "*reduced*" and insert "*lower*"

Page 12, line 5, after the period, insert "*This subdivision does not preclude an action for damages arising from negligence in the construction,*

reconstruction, or maintenance of a natural preservation route."

Page 12, line 24, before the period, insert "*and includes county state-aid highways and municipal state-aid streets*"

Page 12, delete lines 25 to 36

Page 13, delete lines 1 to 8 and insert:

"*Subd. 2.* [RESTRICTIONS.] *A road authority may not make a change in the width, grade, or alignment of a park road that would affect the wildlife habitat or aesthetic characteristics of the park road or its adjacent vegetation or terrain, unless:*

(1) the road authority has the written consent of the city, county, park district, or state agency with authority over the park;

(2) the change is required to permit the safe travel of vehicles at the speed lawfully designated for the park road; or

(3) if the road is a county state-aid highway or municipal state-aid street, the change is required by the minimum state-aid standard applicable to the road.

Subd. 3. [LIABILITY.] *A road authority and its officers and employees, are exempt from liability for any tort claim for injury to persons or property arising from travel on a park road and related to the design of the park road, if:*

(1) the design is adopted to conform to subdivision 2;

(2) the design is not grossly negligent; and

(3) if the park road is a county state-aid highway or municipal state-aid street, the design complies with the minimum state-aid standard applicable to the road.

This subdivision does not preclude an action for damages arising from negligence in the construction, reconstruction, or maintenance of a park road."

Page 16, line 2, delete "*A political*" and insert "*The political subdivision with authority over a park may establish a speed limit on a road located within the park.*"

Page 16, delete lines 3 to 5

Page 16, line 6, delete "*county.*" and after "*must*" insert "*be based on an engineering and traffic investigation prescribed by the commissioner of transportation and must*"

The motion prevailed. So the amendment was adopted.

Ms. Pappas moved to amend S.F. No. 598 as follows:

Page 33, delete section 8 and insert:

"Sec. 8. [473.3997] [FEDERAL FUNDING; LIGHT RAIL TRANSIT.]

(a) By July 1, 1992, the regional transit board, the regional rail authorities, and the commissioner of transportation shall prepare a joint application for federal assistance for light rail transit facilities in the metropolitan area. The application must be reviewed and approved by the metropolitan council before it is submitted. The board, the rail authorities, and the commissioner must consult with the council in preparing the application.

The application may provide for metropolitan regional railroad authorities to design or construct light rail transit facilities under contract with the commissioner.

(b) Until the application described in paragraph (a) of this section is submitted, no political subdivision in the metropolitan area may on its own apply for federal assistance for light rail transit planning or construction."

The motion prevailed. So the amendment was adopted.

Mr. Marty moved to amend S.F. No. 598 as follows:

Page 25, after line 37, insert:

"Sec. 2. Minnesota Statutes 1990, section 398A.04, is amended by adding a subdivision to read:

Subd. 8a. [TAXATION RESTRICTION.] *Notwithstanding subdivision 8, no authority in the metropolitan area as defined in section 473.121, subdivision 2, may use the proceeds of a tax under subdivision 8 for planning, designing, constructing, or lobbying for any purposes related to light rail transit facilities without specific authorization by the legislature. An authority in the metropolitan area may levy a tax under subdivision 8 at a rate not exceeding .01209 percent of market value of taxable property for acquisition of land related to possible construction of light rail transit facilities.*"

Page 34, after line 11, insert:

"Sec. 14. [EFFECTIVE DATE.]

Section 2 is effective for taxes levied in 1991, payable in 1992, and thereafter."

Renumber the sections of article 7 in sequence and correct the internal references

Amend the title as follows:

Page 1, line 21, after the semicolon, insert "limiting authority to levy a tax for light rail transit;"

Page 1, line 33, after the second semicolon, insert "398A.04, by adding a subdivision;"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 11 and nays 26, as follows:

Those who voted in the affirmative were:

Belanger	Halberg	Johnson, J.B.	Merriam	Renneke
Benson, D.D.	Hottinger	Marty	Morse	Waldorf
Davis				

Those who voted in the negative were:

Adkins	Day	Kroening	Metzen	Traub
Beckman	Flynn	Laidig	Mondale	Vickerman
Berg	Frank	Langseth	Novak	
Berglin	Hughes	Lessard	Pappas	
Bertram	Johnson, D.E.	Luther	Pariseau	
Cohen	Kelly	Mehrkens	Samuelson	

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

S.F. No. 598 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 50 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Hughes	Luther	Pogemiller
Beckman	Day	Johnson, D.E.	Marty	Riveness
Belanger	DeCramer	Johnson, J.B.	Mehrkens	Sams
Benson, J.E.	Finn	Johnston	Merriam	Samuelson
Berg	Flynn	Knaak	Metzen	Solon
Berglin	Frank	Kroening	Mondale	Storm
Bertram	Frederickson, D.R.	Laidig	Morse	Stumpf
Brataas	Gustafson	Langseth	Neuville	Traub
Chmielewski	Halberg	Larson	Novak	Vickerman
Cohen	Hottinger	Lessard	Pariseau	Waldorf

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Ms. Ranum moved that the following members be excused for a Conference Committee on H.F. No. 693 from 9:00 a.m. to 12:30 p.m.:

Messrs. Merriam, Knaak and Ms. Ranum. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Finn moved that the following members be excused for a Conference Committee on H.F. No. 551 at 1:30 p.m.:

Messrs. Laidig, Marty, Neuville, Ms. Ranum and Mr. Finn. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Samuelson moved that the following members be excused for a Conference Committee on H.F. No. 126 at 1:00 p.m.:

Messrs. Finn, Mehrkens and Samuelson. The motion prevailed.

SPECIAL ORDER

S.F. No. 985: A bill for an act relating to workers' compensation; regulating supplementary benefits; amending Minnesota Statutes 1990, section 176.132, subdivisions 1, 2, and 3.

Mr. Gustafson moved to amend S.F. No. 985 as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

SCOPE OF COVERAGE/LIABILITY

Section 1. Minnesota Statutes 1990, section 176.011, subdivision 11a, is amended to read:

Subd. 11a. [FAMILY FARM.] "Family farm" means any farm operation which *(1)* pays or is obligated to pay less than ~~$8,000~~ *$20,000* in cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year, *and (2) has total liability and medical payment coverage equal to $300,000 and $6,000, respectively, under a farm*

liability insurance policy. For purposes of this subdivision, farm laborer does not include any spouse, parent or child, regardless of age, of a farmer employed by the farmer, or any executive officer of a family farm corporation as defined in section 500.24, subdivision 2, or any spouse, parent or child, regardless of age, of such an officer employed by that family farm corporation, or other farmers in the same community or members of their families exchanging work with the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered as an independent contractor for the purposes of this chapter; provided that a commercial baler or commercial thresher shall be considered an independent contractor.

Sec. 2. Minnesota Statutes 1990, section 176.041, subdivision 1a, is amended to read:

Subd. 1a. [ELECTION OF COVERAGE.] The persons, partnerships and corporations described in this subdivision may elect to provide the insurance coverage required by this chapter.

(a) An owner or owners of a business or farm may elect coverage for themselves.

(b) A partnership owning a business or farm may elect coverage for any partner.

(c) A family farm corporation as defined in section 500.24, subdivision 2, clause (c), may elect coverage for any executive officer.

(d) A closely held corporation which had less than 22,880 hours of payroll in the previous calendar year may elect coverage for any executive officer if that executive officer is also an owner of at least 25 percent of the stock of the corporation.

(e) *A person, partnership, or corporation that receives the services of a voluntary uncompensated worker who is not required to be covered under this chapter may elect to provide coverage for that worker.*

(f) A person, partnership, or corporation hiring an independent contractor, as defined by rules adopted by the commissioner, may elect to provide coverage for that independent contractor. A person, partnership, or corporation may charge the independent contractor a fee for providing the coverage only if the independent contractor (1) elects in writing to be covered, (2) is issued an endorsement setting forth the terms of the coverage, the name of the independent contractors, and the fee and how it is calculated.

The persons, partnerships, and corporations described in this subdivision may also elect coverage for an employee who is a spouse, parent, or child, regardless of age, of an owner, partner, or executive officer, who is eligible for coverage under this subdivision. Coverage may be elected for a spouse, parent, or child whether or not coverage is elected for the related owner, partner, or executive director and whether or not the person, partnership, or corporation employs any other person to perform a service for hire. Any person for whom coverage is elected pursuant to this subdivision shall be included within the meaning of the term employee for the purposes of this chapter.

Notice of election of coverage or of termination of election under this subdivision shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so indicated in the notice. The insurance policy shall be endorsed to indicate the names of those persons for whom

coverage has been elected or terminated under this subdivision. An election of coverage under this subdivision shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this subdivision shall be construed to limit the responsibilities of owners, partnerships, or corporations to provide coverage for their employees, if any, as required under this chapter.

Sec. 3. Minnesota Statutes 1990, section 176.183, subdivision 1, is amended to read:

Subdivision 1. When any employee sustains an injury arising out of and in the course of employment while in the employ of an employer, other than the state or its political subdivisions, not insured or self-insured as provided for in this chapter, the employee or the employee's dependents shall nevertheless receive benefits as provided for in this chapter from the special compensation fund, and the commissioner has a cause of action against the employer for reimbursement for all moneys paid out or to be paid out, and, in the discretion of the court, as punitive damages an additional amount not exceeding ~~50~~ *60* percent of all moneys paid out or to be paid out. As used in this subdivision, "employer" includes officers of corporations who have legal control, either individually or jointly with another or others, of the payment of wages. An action to recover the moneys shall be instituted unless the commissioner determines that no recovery is possible. All moneys recovered shall be deposited in the general fund. There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.

Sec. 4. Minnesota Statutes 1990, section 176.215, is amended by adding a subdivision to read:

Subd. 1a. [EXCLUSIVE REMEDY.] *The liability of a general contractor, intermediate contractor, or subcontractor who pays compensation pursuant to subdivision 1, to an injured individual who is not an employee of the general contractor, intermediate contractor, or subcontractor is exclusive and in the place of any other liability to the individual, the individual's personal representative, surviving spouse, parent, any child, dependent, next of kin, or other person entitled to recover damages on account of the individual's injury or death.*

Sec. 5. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1992. Sections 2 to 4 are effective the day following final enactment.

ARTICLE 2

COMPENSATION BENEFITS

Section 1. Minnesota Statutes 1990, section 176.011, subdivision 3, is amended to read:

Subd. 3. [DAILY WAGE.] "Daily wage" means the daily wage of the employee in the employment engaged in at the time of injury but does not include tips and gratuities paid directly to an employee by a customer of the employer and not accounted for by the employee to the employer. If the amount of the daily wage received or to be received by the employee in the employment engaged in at the time of injury was irregular or difficult to determine, or if the employment was part time, the daily wage shall be computed by dividing the total amount the employee actually earned in

such employment in the last 26 weeks, by the total number of days in which the employee actually performed any of the duties of such employment, provided further, that in the case of the construction industry, mining industry, or other industry where the hours of work are affected by seasonal conditions, the weekly wage shall not be less than five times the daily wage. Where board or allowances other than tips and gratuities are made to an employee in addition to wages as a part of the wage contract they are deemed a part of earnings and computed at their value to the employee. In the case of persons performing services for municipal corporations in the case of emergency, then the normal working day shall be considered and computed as eight hours, and in cases where such services are performed gratis or without fixed compensation the daily wage of the person injured shall, for the purpose of calculating compensation payable under this chapter, be taken to be the usual going wage paid for similar services in municipalities where such services are performed by paid employees. If, at the time of injury, the employee was regularly employed by two or more employers, the employee's earnings in all such employments shall be included in the computation of daily wage. *Holiday pay and vacation pay shall not be included in the calculation of daily wage.*

Sec. 2. Minnesota Statutes 1990, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. If the employee normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of employment in the last 26 weeks by the number of weeks in which the employee actually performed such duties, provided that the weekly wage for part time employment during a period of seasonal or temporary layoff shall be computed on the number of days and fractional days normally worked in the business of the employer for the employment involved. If, at the time of the injury, the employee was regularly employed by two or more employers, the employee's days of work for all such employments shall be included in the computation of weekly wage. Occasional overtime is not to be considered in computing the weekly wage, but if overtime is regular or frequent throughout the year it shall be taken into consideration. *Holiday pay and vacation pay shall not be included in the calculation of weekly wage.* The maximum weekly compensation payable to an employee, or to the employee's dependents in the event of death, shall not exceed ~~66 2/3~~ *80* percent of the ~~product of the daily wage times the number of days normally worked~~ *employee's after-tax weekly wage*, provided that the compensation payable for permanent partial disability under section 176.101, subdivision 3, and for permanent total disability under section 176.101, subdivision 4, or death under section 176.111, shall not be computed on less than the number of hours normally worked in the employment or industry in which the injury was sustained, subject also to such maximums as are specifically otherwise provided.

Sec. 3. Minnesota Statutes 1990, section 176.011, is amended by adding a subdivision to read:

Subd. 18a. [AFTER-TAX WEEKLY WAGE.] *"After-tax weekly wage" means the weekly wage reduced by the amounts required to be withheld by*

the Federal Insurance Contributions Act, United States Code, title 16, sections 3101 to 3126, but without regard to the yearly maximum, and by state and federal income tax laws using as the number of allowances the number of exemptions that the employee is entitled to under federal law for the employee and the employee's dependents and without additional allowances. The after-tax weekly wage must be determined as of the date of injury, and changes in dependents after that date may not be considered.

Sec. 4. Minnesota Statutes 1990, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except for medical, burial, and other nonperiodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by section 176.101, *subdivision 3*. If doubt exists as to the eventual permanent partial disability, payment ~~for the economic recovery compensation or impairment compensation, whichever is due, pursuant to section 176.101,~~ shall be ~~then~~ made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of commencement of the payment of ~~economic recovery compensation or lump sum or periodic payment of impairment~~ *permanent partial disability* compensation, the employee and employer shall be furnished with a copy of the medical report upon which the payment is based and all other medical reports which the insurer has that indicate a permanent partial disability rating, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. ~~Economic recovery compensation or impairment compensation pursuant to section 176.101 is payable in addition to but not concurrently with compensation for temporary total disability but is payable pursuant to section 176.101. Impairment compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total disability, and no credit shall be taken for payment of economic recovery compensation or impairment compensation against liability for temporary total or future permanent total disability. Liability on the part of an employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. Economic recovery compensation or impairment compensation is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to section 176.101.~~ The right to receive temporary total, temporary partial, or permanent total disability payments vests in the injured employee or the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time

the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.

The right to receive ~~economic recovery compensation or impairment~~ *permanent partial* compensation vests in an injured employee *or in the employee's dependents under this chapter or, if none, in the employee's legal heirs* at the time the disability can be ascertained, provided that the employee lives for at least 30 days beyond the date of the injury. ~~Upon the death of an employee who is receiving economic recovery compensation or impairment compensation, further compensation is payable pursuant to section 176.101. Impairment compensation is payable under this paragraph if vesting has occurred, the employee dies prior to reaching maximum medical improvement, and the requirements and conditions under section 176.101, subdivision 3e, are not met.~~

~~Disability ratings for permanent partial disability shall be based on objective medical evidence.~~ *The right is not abrogated by the employee's death prior to the making of the payment.*

Sec. 5. Minnesota Statutes 1990, section 176.061, subdivision 10, is amended to read:

Subd. 10. [INDEMNITY.] Notwithstanding the provisions of chapter 65B or any other law to the contrary, an employer has a right of indemnity for any compensation paid or payable pursuant to this chapter, including temporary total compensation, temporary partial compensation, permanent partial disability, ~~economic recovery compensation, impairment compensation,~~ medical compensation, rehabilitation, death, and permanent total compensation.

Sec. 6. Minnesota Statutes 1990, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] *(a)* For *an* injury producing temporary total disability, the compensation is ~~66 2/3~~ *80* percent of the *after-tax* weekly wage at the time of injury.

~~(1) provided that~~ *(b)* During the year commencing on October 1, ~~1979~~ *1991*, and each year thereafter, commencing on October 1, the maximum weekly compensation payable is *105 percent of* the statewide average weekly wage for the period ending December 31, of the preceding year.

~~(2)~~ *(c)* The minimum weekly compensation ~~benefits for temporary total disability shall be not less than 50~~ *payable is 20* percent of the statewide average weekly wage or the injured employee's ~~actual~~ *after-tax* weekly wage, whichever is less. ~~In no case shall a weekly benefit be less than 20 percent of the statewide average weekly wage.~~

~~Subject to subdivisions 3a to 3u this~~ *(d) Temporary total* compensation shall be paid during the period of disability~~, payment to be made at the intervals when the wage was payable, as nearly as may be.~~ *and shall cease whenever any one of the following occurs:*

(1) the disability ends;

(2) the employee returns to work;

(3) the employee retires by withdrawing from the labor market;

(4) the employee fails to diligently search for appropriate work;

(5) the employee refuses an offer of work that is consistent with a plan

of rehabilitation filed with the commissioner which meets the requirements of section 176.102, subdivision 1, or, if no plan has been filed, the employee refuses an offer of work that the employee can do in the employee's physical condition; or

(6) 90 days pass after the employee has reached maximum medical improvement, except as provided in section 176.102, subdivision 11, paragraph (b).

(e) For purposes of this subdivision, the 90-day period after maximum medical improvement commences on the earlier of:

(1) the date that the employee receives a written medical report indicating that the employee has reached maximum medical improvement; or

(2) the date that the employer or insurer serves the report on the employee and the employee's attorney, if any, and files a copy with the division.

(f) Once temporary total disability compensation has ceased under paragraph (d), clause (1), (2), (3), or (4), it may be recommenced prior to 90 days after maximum medical improvement only as follows:

(1) if temporary total disability compensation ceased under paragraph (d), clause (1), it may be recommenced if the employee again becomes disabled as a result of the work-related injury;

(2) if temporary total disability compensation ceased under paragraph (d), clause (2), it may be recommenced if the employee is laid off or terminated for reasons other than misconduct or is medically unable to continue at the job;

(3) if temporary total disability compensation ceased under paragraph (d), clause (3), but the employee subsequently returned to work, it may be recommenced in accordance with paragraph (f), clause (2); or

(4) if temporary total disability compensation ceased under paragraph (d), clause (4), it may be recommenced if the employee begins diligently searching for appropriate work. Temporary total disability compensation recommenced under this paragraph is subject to cessation under paragraph (d).

Recommenced temporary total disability compensation may not be paid beyond 90 days after the employee reaches maximum medical improvement, except as provided under section 176.102, subdivision 11, paragraph (b).

(g) Once temporary total disability compensation has ceased under paragraph (d), clauses (5) and (6), it may not be recommenced at a later date except as provided under section 176.102, subdivision 11, paragraph (b).

Sec. 7. Minnesota Statutes 1990, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] *(a)* In all cases of temporary partial disability the compensation shall be ~~66-2/3 percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition.~~ *80 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is able to earn in the employee's partially disabled condition.*

(b) ~~This~~ *Temporary partial* compensation shall be paid during the period of disability ~~except as provided in this section, payment to be made at the~~

~~intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to the statewide average weekly wage.~~ *when the employee is working, earning less than the employee's weekly wage at the time of the injury, and the reduction in the wage the employee is able to earn in the employee's partially disabled condition is due to the injury. Except as provided in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid after the employee has returned to work for 156 weeks, including weeks in which the employee has no wage loss, or after 350 weeks after the date of injury, whichever occurs first.*

(c) Temporary partial compensation may not exceed the maximum rate for temporary total compensation and must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 300 percent of the statewide average weekly wage.

Sec. 8. Minnesota Statutes 1990, section 176.101, is amended by adding a subdivision to read:

Subd. 3. [PERMANENT PARTIAL DISABILITY.] *(a) Compensation for permanent partial disability is as provided in this subdivision. Permanent partial disability must be rated as a percentage of the whole body in accordance with rules adopted by the commissioner under section 176.105. The percentage determined pursuant to the rules must be multiplied by the corresponding amount in the following table:*

Percent of Disability	*Amount*
0-25	*$ 75,000*
26-30	*80,000*
31-35	*85,000*
36-40	*90,000*
41-45	*95,000*
46-50	*100,000*
51-55	*120,000*
56-60	*140,000*
61-65	*160,000*
66-70	*180,000*
71-75	*200,000*
76-80	*240,000*
81-85	*280,000*
86-90	*320,000*
91-95	*360,000*
96-100	*400,000*

An employee may not receive compensation for more than a 100 percent disability of the whole body, even if the employee sustains disability to two or more body parts.

(b) Permanent partial disability is payable upon cessation of temporary total disability under subdivision 1. If the employee is not working, the compensation is payable in installments at the same intervals and in the same amount as the initial temporary total disability rate. If the employee returns to work, the remaining compensation is payable in a lump sum 30 days after the employee returned to work, provided the employment has not

been substantially interrupted by the injury for any part of the 30 days and the employee is still employed at the job at the end of the period. Permanent partial disability is not payable while temporary total compensation is being paid. Permanent partial disability is payable to permanently totally disabled employees in a lump sum at the time the disability can be ascertained.

Sec. 9. Minnesota Statutes 1990, section 176.101, subdivision 4, is amended to read:

Subd. 4. [PERMANENT TOTAL DISABILITY.] For permanent total disability, as defined in subdivision 5, the compensation shall be ~~66 2/3~~ *80* percent of the ~~daily~~ *after-tax weekly* wage at the time of the injury, subject to ~~a maximum weekly compensation equal to~~ the maximum ~~weekly compensation for a temporary total disability~~ and a minimum ~~weekly compensation equal to the minimum weekly compensation~~ *rates* for a temporary total disability. This compensation shall be paid during the permanent total disability of the injured employee but after a total of $25,000 of weekly compensation has been paid, the amount of the weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if the disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision. This reduction shall also apply to any old age and survivor insurance benefits. *Permanent total disability payments shall cease at retirement.* Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of confinement in the institution, unless there is wholly dependent on the employee for support some person named in section 176.111, subdivision 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of confinement, shall be paid for the benefit of the dependent person during dependency. The dependency of this person shall be determined as though the employee were deceased.

Sec. 10. Minnesota Statutes 1990, section 176.101, subdivision 5, is amended to read:

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

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

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

(b) For purposes of paragraph (a), clause (2), "totally and permanently incapacitated" means that the employee's physical disability, in combination with the employee's age, education and training, and experience, causes the employee to be unable to secure anything more than sporadic employment resulting in an insubstantial income. Local labor market conditions may not be considered in making the total and permanent incapacitation determination.

Sec. 11. Minnesota Statutes 1990, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS.] If any employee entitled to the benefits of this chapter is a minor or is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total ~~or a compensable permanent partial~~ disability, for the purpose of computing the compensation to which the employee is entitled for the injury, the compensation rate for ~~temporary total, temporary partial,~~ a permanent total disability ~~or economic recovery compensation~~ shall be *105 percent of* the statewide average weekly wage.

Sec. 12. Minnesota Statutes 1990, section 176.101, is amended by adding a subdivision to read:

Subd. 9. [MOVING EXPENSES.] *An injured employee who has reached maximum medical improvement and who is unable to find suitable gainful employment consistent with the individual's physical disability, in combination with the individual's age, education and training, and experience, due to local labor market conditions is eligible to receive up to $5,000 for moving expenses, provided:*

(1) 90 days have passed after the individual has reached maximum medical improvement;

(2) the individual has actually moved in order to take a new job which constitutes suitable gainful employment; and

(3) the new job is located at a distance greater than 35 miles from the individual's current residence.

Sec. 13. Minnesota Statutes 1990, section 176.102, subdivision 11, is amended to read:

Subd. 11. [RETRAINING; *COMPENSATION.*] *(a)* Retraining is limited to 156 weeks. An employee who has been approved for retraining may petition ~~the commissioner~~ for additional compensation not to exceed 25 percent of the compensation otherwise payable. If the commissioner *or compensation judge* determines that this additional compensation is warranted due to unusual or unique circumstances of the employee's retraining plan, the commissioner *or compensation judge* may award additional compensation in an amount ~~the commissioner determines is appropriate,~~ not to exceed the employee's request. This additional compensation shall cease at any time the commissioner *or compensation judge* determines the special circumstances are no longer present.

(b) If the employee is not working during a retraining plan that has been specifically approved under this section, temporary total compensation is payable for up to 90 days after the end of the retraining plan; except that, payment during the 90-day period is subject to cessation in accordance with section 176.101, subdivision 1, paragraph (d), clauses (1) to (5). If the employee is working during the retraining plan but earning less than at the time of injury, temporary partial compensation is payable at the rate of 80 percent of the difference between the employee's after-tax weekly wage at the time of injury and the after-tax weekly wage the employee is able to earn in the employee's partially disabled condition, subject to the maximum rate for temporary total compensation. Temporary partial compensation is not subject to either the 156-week or the 350-week limitation provided by section 176.101, subdivision 2, during the retraining plan, but is subject to those limitations before and after the plan.

(c) Retraining may not be approved if the employee has refused suitable

gainful employment, as defined by rule.

Sec. 14. Minnesota Statutes 1990, section 176.105, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE; RULES.] *(a)* The commissioner of labor and industry shall by rule establish a schedule of degrees of disability resulting from different kinds of injuries. *Disability ratings under the schedule for permanent partial disability must be based on objective medical evidence. The commissioner, in consultation with the medical services review board, shall periodically review the rules adopted under this paragraph to determine whether any injuries omitted from the schedule should be compensable and amend the rules accordingly.*

(b) No permanent partial disability compensation shall be payable except in accordance with the disability ratings established under this subdivision. The schedule may provide that minor impairments receive a zero rating.

Sec. 15. Minnesota Statutes 1990, section 176.105, subdivision 4, is amended to read:

Subd. 4. [LEGISLATIVE INTENT; RULES; LOSS OF MORE THAN ONE BODY PART.] (a) For the purpose of establishing a disability schedule pursuant to clause (b), the legislature declares its intent that the commissioner establish a disability schedule ~~which, assuming the same number and distribution of severity of injuries, the aggregate total of impairment compensation and economic recovery compensation benefits under section 176.101, subdivisions 3a to 3u be approximately equal to the total aggregate amount payable for permanent partial disabilities under section 176.101, subdivision 3, provided, however, that awards for specific injuries under the proposed schedule need not be the same as they were for the same injuries under the schedule pursuant to section 176.101, subdivision 3. The schedule shall be determined by sound actuarial evaluation and shall be based on the benefit level which exists on January 1, 1983~~.

(b) The commissioner shall by rulemaking adopt procedures setting forth rules for the evaluation and rating of functional disability and the schedule for permanent partial disability and to determine the percentage of loss of function of a part of the body based on the body as a whole, including internal organs, described in section 176.101, subdivision 3, and any other body part not listed in section 176.101, subdivision 3, which the commissioner deems appropriate.

The rules shall promote objectivity and consistency in the evaluation of permanent functional impairment due to personal injury and in the assignment of a numerical rating to the functional impairment.

Prior to adoption of rules the commissioner shall conduct an analysis of the current permanent partial disability schedule for the purpose of determining the number and distribution of permanent partial disabilities and the average compensation for various permanent partial disabilities. The commissioner shall consider setting the compensation under the proposed schedule for the most serious conditions higher in comparison to the current schedule and shall consider decreasing awards for minor conditions in comparison to the current schedule.

The commissioner may consider, among other factors, and shall not be limited to the following factors in developing rules for the evaluation and

rating of functional disability and the schedule for permanent partial disability benefits:

(1) the workability and simplicity of the procedures with respect to the evaluation of functional disability;

(2) the consistency of the procedures with accepted medical standards;

(3) rules, guidelines, and schedules that exist in other states that are related to the evaluation of permanent partial disability or to a schedule of benefits for functional disability provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);

(4) rules, guidelines, and schedules that have been developed by associations of health care providers or organizations provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);

(5) the effect the rules may have on reducing litigation;

(6) the treatment of preexisting disabilities with respect to the evaluation of permanent functional disability provided that any preexisting disabilities must be objectively determined by medical evidence; and

(7) symptomatology and loss of function and use of the injured member.

The factors in paragraphs (1) to (7) shall not be used in any individual or specific workers' compensation claim under this chapter but shall be used only in the adoption of rules pursuant to this section.

Nothing listed in paragraphs (1) to (7) shall be used to dispute or challenge a disability rating given to a part of the body so long as the whole schedule conforms with the expressed intent of clause (a).

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

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

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

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

Sec. 16. Minnesota Statutes 1990, section 176.111, subdivision 6, is amended to read:

Subd. 6. [SPOUSE, NO DEPENDENT CHILD.] If the deceased employee

leaves a dependent surviving spouse and no dependent child, there shall be paid to the spouse weekly workers' compensation benefits at ~~50~~ *80* percent of the *after-tax* weekly wage at the time of the injury for a period of ten years, including adjustments as provided in section 176.645.

Sec. 17. Minnesota Statutes 1990, section 176.111, subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] If the deceased employee leaves a surviving spouse and one dependent child, there shall be paid to the surviving spouse for the benefit of the spouse and child ~~60~~ *80* percent of the ~~daily~~ *after-tax weekly* wage at the time of the injury of the deceased until the child is no longer a dependent as defined in subdivision 1. At that time there shall be paid to the dependent surviving spouse weekly benefits at ~~a~~ *the same* rate ~~which is 16 2/3 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent,~~ for a period of ten years, including adjustments as provided in section 176.645.

Sec. 18. Minnesota Statutes 1990, section 176.111, subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.] If the deceased employee leaves a surviving spouse and two dependent children, there shall be paid to the surviving spouse for the benefit of the spouse and children ~~66 2/3~~ *80* percent of the ~~daily~~ *after-tax weekly* wage at the time of the injury of the deceased until the last dependent child is no longer dependent. At that time the dependent surviving spouse shall be paid weekly benefits at ~~a~~ *the same* rate ~~which is 25 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent,~~ for a period of ten years, adjusted according to section 176.645.

Sec. 19. Minnesota Statutes 1990, section 176.111, subdivision 12, is amended to read:

Subd. 12. [ORPHANS.] If the deceased employee leaves a dependent orphan, there shall be paid ~~55~~ *80* percent of the *after-tax* weekly wage at the time of the injury of the deceased, for two or more orphans there shall be paid ~~66 2/3~~ *80* percent of the ~~wages~~ *after-tax weekly wage*.

Sec. 20. Minnesota Statutes 1990, section 176.111, subdivision 14, is amended to read:

Subd. 14. [PARENTS.] If the deceased employee ~~leave~~ *leaves* no surviving spouse or child entitled to any payment under this chapter, but leaves both parents wholly dependent on *the* deceased, there shall be paid to such parents jointly ~~45~~ *80* percent of the *after-tax* weekly wage at the time of the injury of the deceased. In case of the death of either of the wholly dependent parents the survivor shall receive ~~35~~ *80* percent of the *after-tax* weekly wage thereafter. If the deceased employee ~~leave~~ *leaves* one parent wholly dependent on the deceased, there shall be paid to such parent ~~35~~ *80* percent of the *after-tax* weekly wage at the time of the injury of the deceased employee. The compensation payments under this section shall not exceed the actual contributions made by the deceased employee to the support of the employee's parents for a reasonable time immediately prior to the injury which caused the death of the deceased employee.

Sec. 21. Minnesota Statutes 1990, section 176.111, subdivision 15, is

amended to read:

Subd. 15. [REMOTE DEPENDENTS.] If the deceased employee leaves no surviving spouse or child or parent entitled to any payment under this chapter, but leaves a grandparent, grandchild, brother, sister, mother-in-law, or father-in-law wholly dependent on the employee for support, there shall be paid to such dependent, if but one, ~~30~~ *40* percent of the *after-tax* weekly wage at the time of injury of the deceased, or if more than one, ~~35~~ *45* percent of the *after-tax* weekly wage at the time of the injury of the deceased, divided among them share and share alike.

Sec. 22. Minnesota Statutes 1990, section 176.111, subdivision 18, is amended to read:

Subd. 18. [BURIAL EXPENSE.] In all cases where death results to an employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount ~~$2,500~~ *$7,500*. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, its reasonable value shall be determined and approved by the commissioner, a compensation judge, or workers' compensation court of appeals, in cases upon appeal, before payment, after reasonable notice to interested parties as is required by the commissioner. If the deceased leaves no dependents, no compensation is payable, except as provided by this chapter.

Sec. 23. Minnesota Statutes 1990, section 176.111, subdivision 20, is amended to read:

Subd. 20. [ACTUAL DEPENDENTS, COMPENSATION.] Actual dependents are entitled to take compensation in the order named in subdivision 3 during dependency until ~~66 2/3~~ *80* percent of the *after-tax* weekly wage of the deceased at the time of injury is exhausted. The total weekly compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate an amount equal to the maximum weekly compensation for a temporary total disability.

Sec. 24. Minnesota Statutes 1990, section 176.111, subdivision 21, is amended to read:

Subd. 21. [DEATH, BENEFITS; COORDINATION WITH GOVERNMENTAL SURVIVOR BENEFITS.] The following provision shall apply to any dependent entitled to receive weekly compensation benefits under this section as the result of the death of an employee, and who is also receiving or entitled to receive benefits under any government survivor program:

The combined total of weekly government survivor benefits and workers' compensation death benefits provided under this section shall not exceed 100 percent of the *after-tax* weekly wage being earned by the deceased employee at the time of the injury causing death; provided, however, that no state workers' compensation death benefit shall be paid for any week in which the survivor benefits paid under the federal program, by themselves, exceed 100 percent of such weekly wage provided, however, the workers' compensation benefits payable to a dependent surviving spouse shall not be reduced on account of any governmental survivor benefits payable to decedent's children if the support of the children is not the responsibility of the dependent surviving spouse.

For the purposes of this subdivision "dependent" means dependent surviving spouse together with all dependent children and any other dependents.

For the purposes of this subdivision, mother's or father's insurance benefits received pursuant to United States Code, title 42, section 402(g), are benefits under a government survivor program.

Sec. 25. Minnesota Statutes 1990, section 176.131, subdivision 8, is amended to read:

Subd. 8. [DEFINITIONS.] As used in this section, the following terms have the meanings given them:

"Physical impairment" means any physical or mental condition that is permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment, except that physical impairment is limited to the following:

(a) epilepsy,

(b) diabetes,

(c) hemophilia,

(d) cardiac disease, provided that objective medical evidence substantiates at least the minimum permanent partial disability listed in the workers' compensation permanent partial disability schedule,

(e) partial or entire absence of thumb, finger, hand, foot, arm, or leg,

(f) lack of sight in one or both eyes or vision in either eye not correctable to 20/40,

(g) residual disability from poliomyelitis,

(h) cerebral palsy,

(i) multiple sclerosis,

(j) Parkinson's disease,

(k) cerebral vascular accident,

(l) chronic osteomyelitis,

(m) muscular dystrophy,

(n) thrombophlebitis,

(o) brain tumors,

(p) Pott's disease,

(q) seizures,

(r) cancer of the bone,

(s) leukemia,

(t) mental retardation or other related conditions,

(u) any other physical impairment resulting in a disability rating of at least ~~ten~~ *25* percent of the whole body if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and

(v) any other physical impairments of a permanent nature which the commissioner may by rule prescribe.

"Compensation" has the meaning defined in section 176.011.

"Employer" includes insurer.

"Disability" means, unless otherwise indicated, any condition causing either temporary total, temporary partial, permanent total, permanent partial, death, medical expense, or rehabilitation.

"Mental retardation" means significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior that require supervision and protection for the person's welfare or the public welfare.

"Other related conditions" means severe chronic disabilities that are (i) attributable to cerebral palsy, epilepsy, autism, or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment or services similar to those required for persons with mental retardation; (ii) likely to continue indefinitely; and (iii) result in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, or capacity for independent living.

Sec. 26. Minnesota Statutes 1990, section 176.131, is amended by adding a subdivision to read:

Subd. 13. [APPLICABLE LAW.] *The right to reimbursement under this section is governed by the law in effect on the date of the subsequent injury.*

Sec. 27. Minnesota Statutes 1990, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) An employee who has suffered personal injury prior to October 1, 1983 for which benefits are payable under section 176.101 and who has been totally disabled for more than 104 weeks shall be eligible for supplementary benefits as prescribed in this section after 104 weeks have elapsed and for the remainder of the total disablement. Regardless of the number of weeks of total disability, no totally disabled person is ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, ~~except as provided by clause (b),~~ provided that all periods of disability are caused by the same injury.

(b) An employee who has suffered personal injury after October 1, 1983, *and before October 1, 1987,* is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving temporary total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

(c) An employee who has suffered a personal injury after October 1, 1987, and is permanently totally disabled as defined in section 176.101, subdivisions 4 and 5, is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving permanent total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by

the same injury.

Sec. 28. Minnesota Statutes 1990, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under ~~this section~~ *subdivision 1, paragraphs (a) and (b),* shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or 4, and 65 percent of the statewide average weekly wage as computed annually. *The supplementary benefit payable under subdivision 1, paragraph (c), shall be the difference between:*

(1) the amount the employee receives on or after October 1, 1991, under section 176.101, subdivision 4; plus the amount of disability benefits being paid under any government disability benefit program, provided those benefits are a result of the same injury or injuries giving rise to payments under section 176.101, subdivision 4; plus the amount of any federal old age and survivors insurance benefits; and

(2) 50 percent of the statewide average weekly wage, as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or ~~65~~ *50* percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. Attorney's fees shall be allowed in settlements of claims for supplementary benefits in accordance with this chapter.

(d) In the event an eligible recipient *under subdivision 1, paragraph (a) or (b),* is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), this reduction shall not apply.

(f) Notwithstanding any other provision in this subdivision to the contrary, if the ~~individual~~ *eligible recipient* does not receive the maximum benefits for which the individual is eligible under other governmental disability

programs due to the provision of United States Code, title 42, section 424a(d), the calculation of supplementary benefits payable to the individual shall be as provided under this section in Minnesota Statutes ~~1988~~ *1990*.

Sec. 29. Minnesota Statutes 1990, section 176.132, subdivision 3, is amended to read:

Subd. 3. [PAYMENT.] The payment of supplementary benefits shall be the responsibility of the employer or insurer currently paying total disability benefits *under subdivision 1, paragraph (a) or (b), or currently paying permanent total disability benefits under subdivision 1, paragraph (c)*, or any other payer of such benefits. When the eligible individual is not currently receiving benefits because the total paid has reached the maximum prescribed by law the employer and insurer shall, nevertheless, pay the supplementary benefits that are prescribed by law. The employer or insurer paying the supplementary benefit shall have the right of full reimbursement from the special compensation fund for the amount of such benefits paid.

Sec. 30. [176.178] [FRAUD.]

Any person who, with intent to defraud, receives workers' compensation benefits to which the person is not entitled by knowingly misrepresenting, misstating, or failing to disclose any material fact is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3.

Sec. 31. Minnesota Statutes 1990, section 176.179, is amended to read:

176.179 [~~PAYMENTS OF COMPENSATION RECEIVED IN GOOD FAITH~~ *RECOVERY OF OVERPAYMENTS*.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, a compensation judge, or court of appeals relative to a claim by an injured employee or the employee's survivors, and received in good faith by the employee or the employee's survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a full credit against future lump sum benefit entitlement and as a partial credit against future weekly benefits. The credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits, death benefits, or weekly payments of ~~economic recovery or impairment~~ *permanent partial* compensation shall not exceed 20 percent of the amount that would otherwise be payable.

Where the commissioner or compensation judge determines that the mistaken compensation was not received in good faith, the commissioner or compensation judge may order reimbursement of the compensation or order a credit for the compensation against any future monetary benefits from the same injury. The credit may be up to 100 percent of the amount of monetary benefits otherwise payable. For purposes of this section, a payment is not received in good faith if it is obtained through fraud, or if the employee knew or should have known that the compensation was paid under mistake

of fact or law, and the employee has not refunded the mistaken compensation.

A credit may not be applied against medical expenses due or payable.

Sec. 32. Minnesota Statutes 1990, section 176.221, subdivision 6a, is amended to read:

Subd. 6a. [MEDICAL, REHABILITATION, ~~ECONOMIC~~ ~~RECOVERY,~~ AND ~~IMPAIRMENT~~ *PERMANENT PARTIAL* COMPENSATION.] The penalties provided by this section apply in cases where payment for treatment under section 176.135, rehabilitation expenses under section 176.102, subdivisions 9 and 11, ~~economic~~ ~~recovery~~ ~~compensation~~ or ~~impairment~~ *permanent partial* compensation are not made in a timely manner as required by law or by rule adopted by the commissioner.

Sec. 33. Minnesota Statutes 1990, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on October 1, ~~1977~~ *1991*, or thereafter under this section shall exceed ~~six~~ *four* percent a year. In those instances where the adjustment under the formula of this section would exceed this maximum the increase shall be deemed to be ~~six~~ *four* percent.

Sec. 34. Minnesota Statutes 1990, section 176.645, subdivision 2, is amended to read:

Subd. 2. [TIME OF FIRST ADJUSTMENT.] For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to subdivision 1 ~~shall be~~ *is* deferred until the first anniversary of the date of the injury. *For injuries occurring on or after October 1, 1991, the initial adjustment under subdivision 1 is deferred until the third anniversary of the date of injury.*

Sec. 35. Minnesota Statutes 1990, section 176.66, subdivision 11, is amended to read:

Subd. 11. [AMOUNT OF COMPENSATION.] The compensation for an occupational disease is ~~66 2/3~~ *80* percent of the employee's *after-tax* weekly wage on the date of injury subject to a maximum compensation equal to the maximum compensation in effect on the date of last exposure. The employee shall be eligible for supplementary benefits notwithstanding the provisions of section 176.132, after four years have elapsed since the date of last significant exposure to the hazard of the occupational disease if that employee's weekly compensation rate is less than the current supplementary benefit rate.

Sec. 36. Minnesota Statutes 1990, section 268.08, subdivision 3, is amended to read:

Subd. 3. [NOT ELIGIBLE.] An individual shall not be eligible to receive benefits for any week with respect to which the individual is receiving, has received, or has filed a claim for remuneration in an amount equal to or in excess of the individual's weekly benefit amount in the form of:

(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or dismissal payment is made in a lump sum, the employer may allocate such lump sum payment over a period equal to the lump sum divided by the employee's regular pay while employed by such employer; provided any such payment shall be applied for a period immediately following the last day of work but not to exceed 28 calendar days; or

(2) vacation allowance paid directly by the employer for a period of requested vacation, including vacation periods assigned by the employer under the provisions of a collective bargaining agreement, or uniform vacation shutdown; or

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund established and paid for by the employer except that this does not apply to an individual who is receiving temporary partial compensation pursuant to section 176.101, subdivision ~~3k~~ *2*; or

(4) 50 percent of the pension payments from any fund, annuity or insurance maintained or contributed to by a base period employer including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

(5) 50 percent of a primary insurance benefit under title II of the Social Security Act, as amended, or similar old age benefits under any act of congress or this state or any other state.

Provided, that if such remuneration is less than the benefits which would otherwise be due under sections 268.03 to 268.231, the individual shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that the individual is not entitled to such benefits, this provision shall not apply. If the computation of reduced benefits, required by this subdivision, is not a whole dollar amount, it shall be rounded down to the next lower dollar amount.

Sec. 37. Minnesota Statutes 1990, section 353.33, subdivision 5, is amended to read:

Subd. 5. [BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.] Disability benefits paid shall be coordinated with any amounts received or receivable under workers' compensation law, such as temporary total, permanent total, temporary partial, *or* permanent partial~~, or economic recovery compensation~~ benefits, in either periodic or lump sum payments from the employer under applicable workers' compensation laws, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabilitant. If the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation

benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability, whichever is greater, the disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2).

Sec. 38. [176.90] [AFTER-TAX CALCULATION.]

For purposes of sections 176.011, subdivisions 18 and 18a; 176.101, subdivisions 1, 2, 3, and 4; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20, and 21; and 176.66, the commissioner shall publish by September 1 of each year tables or formulas for determining the after-tax weekly wage to take effect the following October 1. The tables or formulas must be based on the applicable federal income tax and social security laws and state income tax laws in effect on the preceding April 1. These tables or formulas are conclusive for the purposes of converting the weekly wage into after-tax weekly wage. The commissioner may contract with the department of revenue or any other person or organization in order to adopt the tables or formulas. The adoption of the tables or formulas is exempt from the administrative rulemaking provisions of chapter 14.

Sec. 39. [REPEALER.]

Minnesota Statutes 1990, sections 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; and 176.111, subdivision 8a, are repealed.

Sec. 40. [EFFECTIVE DATE.]

This article is effective October 1, 1991; except that section 14, paragraph (b), is retroactively effective to January 1, 1984.

ARTICLE 3

LEGAL, REHABILITATION, MEDICAL PROVIDERS/BENEFITS

Section 1. Minnesota Statutes 1990, section 175.007, is amended to read:

175.007 [ADVISORY COUNCIL ON WORKERS' COMPENSATION; CREATION.]

Subdivision 1. The commissioner shall appoint an advisory council on workers' compensation, which consists of five representatives of employers and five representatives of employees; ~~five nonvoting members representing the general public; two persons who have received or are currently receiving workers' compensation benefits under chapter 176 and the chairs of the rehabilitation review panel and the medical services review board. The council may consult with any party it desires~~. *The commissioner shall appoint as nonvoting members three representatives of insurers, one representative of medical doctors, one representative of hospitals, two legislators from the house of representatives, and two legislators from the senate. The commissioner shall be a nonvoting member and is the chairperson.* The terms and removal of members shall be as provided in section 15.059. The council expires as provided in section 15.059, subdivision 5.

Subd. 2. The advisory council shall ~~study and present to the legislature and the governor, on or before November 15 of each even numbered year, its findings relative to the costs, methods of financing, and the formula to be~~

~~used to provide supplementary compensation to workers who have been determined permanently and totally disabled prior to July 1, 1969, and its findings relative to alterations in the scheduled benefits for permanent partially disabled, and other aspects of the workers' compensation act. The council shall also study and present to the legislature and the governor on or before November 15 of 1981 and by November 15 of each even-numbered year thereafter a report on the financial, administrative and personnel needs of the workers' compensation division.~~ *advise the department in carrying out the purposes of chapter 176. The council shall submit its recommendations with respect to amendments to chapter 176 to each regular session of the legislature and shall report its views upon any pending bill relating to chapter 176 to the proper legislative committee. At the request of the chairpersons of the senate and house of representatives committees that hear workers' compensation matters, the department shall schedule a meeting of the council with the members of the committees to discuss matters of legislative concern arising under chapter 176.*

Sec. 2. Minnesota Statutes 1990, section 176.011, subdivision 27, is amended to read:

Subd. 27. [ADMINISTRATIVE CONFERENCE.] An "administrative conference" is a meeting conducted by a commissioner's designee where parties can discuss on an expedited basis and in an informal setting their viewpoints concerning disputed issues arising under section ~~176.102, 176.103, 176.135, 176.136, or~~ 176.239. If the parties are unable to resolve the dispute, the commissioner's designee shall issue an administrative decision under *that* section ~~176.106 or 176.239~~.

Sec. 3. Minnesota Statutes 1990, section 176.081, subdivision 1, is amended to read:

Subdivision 1. [APPROVAL.] (a) A fee for legal services of 25 percent of the first $4,000 of compensation awarded to the employee and 20 percent of the next ~~$27,500~~ *$70,000* of compensation awarded to the employee is permissible and does not require approval by the commissioner, compensation judge, or any other party except as provided in ~~clause (b)~~ *paragraph (d). All fees must be calculated according to the formula under this subdivision or earned in hourly fees for representation at dispute resolution conferences under section 176.239. Hourly fees must be determined according to the criteria set forth under subdivision 5.*

(b) Fees for legal services related to the same injury are cumulative and may not exceed $15,000, except as provided under subdivision 2. No other attorney fees for any proceeding under this chapter are allowed.

(c) If the employer or the insurer or the defendant is given written notice of claims for legal services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed *claims or* portions of claims~~, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. Fees for administrative conferences under section 176.239 shall be determined on an hourly basis, according to the criteria in subdivision 5~~.

~~(b)~~ *(d)* An attorney who is claiming legal fees ~~under this section~~ *for representing an employee in a workers' compensation matter* shall file a statement of ~~attorney's~~ *attorney* fees with the commissioner, compensation

judge before whom the matter was heard, or workers' compensation court of appeals on cases before the court. A copy of the signed retainer agreement shall also be filed. The employee and insurer shall receive a copy of the statement. The statement shall be on a form prescribed by the commissioner, *shall report the number of hours spent on the case,* and shall clearly and conspicuously state that the employee or insurer has ten calendar days to object to the attorney fees requested. If no objection is timely made by the employee or insurer, the amount requested shall be conclusively presumed reasonable providing the amount does not exceed the limitation in subdivision 1. The commissioner, compensation judge, or court of appeals shall issue an order granting the fees and the amount requested shall be awarded to the party requesting the fee. If a timely objection is filed, or the fee is determined on an hourly basis, the commissioner, compensation judge, or court of appeals shall review the matter and make a determination based on the criteria in subdivision 5. If no timely objection is made by an employer or insurer, reimbursement under subdivision 7 shall be made if the statement of fees requested this reimbursement.

Sec. 4. Minnesota Statutes 1990, section 176.081, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the commissioner, compensation judge, or district judge, before whom the matter was heard. An appeal of a decision by the commissioner, a compensation judge, or district court judge on additional fees may be made to the workers' compensation court of appeals. The application shall set forth the fee requested ~~and~~, *the number of hours spent on the case,* the basis for the request, and whether or not a hearing is requested. The application, with affidavit of service upon the employee, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 5. Minnesota Statutes 1990, section 176.081, subdivision 3, is amended to read:

Subd. 3. [REVIEW.] ~~An employee who~~ *A party that* is dissatisfied with *its* attorney fees~~,~~ may file an application for review by the workers' compensation court of appeals. ~~Such~~ *The* application shall state the basis for the need of review and whether or not a hearing is requested. A copy of ~~such~~ *the* application shall be served upon the *party's* attorney ~~for the employee~~ by the court administrator and if a hearing is requested by either party, the matter shall be set for hearing. The notice of hearing shall be served upon known interested parties. ~~The attorney for the employee shall be served with a notice of the hearing.~~ The workers' compensation court of appeals shall have the authority to raise ~~the question of~~ the issue of the attorney fees at any time upon its own motion and shall have continuing jurisdiction over attorney fees.

Sec. 6. Minnesota Statutes 1990, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] *(a) This section only applies to vocational rehabilitation of injured employees and their spouses as provided under subdivision 1a. Physical rehabilitation of injured employees is considered treatment subject to section 176.135.*

(b) Rehabilitation is intended to restore the injured employee~~, through physical and vocational rehabilitation,~~ so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

Sec. 7. Minnesota Statutes 1990, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services *and shall by rule, subject to chapter 14, establish a fee schedule or otherwise limit fees charged by qualified rehabilitation consultants and vendors. By March 1, 1993, the commissioner shall report to the legislature on the status of the commissioner's monitoring of rehabilitation services.* The commissioner may hire qualified personnel to assist in the commissioner's duties under this section and may delegate the duties and performance.

Sec. 8. Minnesota Statutes 1990, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner or a designee, who shall serve as an ex officio member, and ~~two~~ *three* members ~~each from~~ *who shall represent both* employers~~,~~ *and* insurers, ~~rehabilitation, and medicine,~~ one member representing chiropractors, ~~and four~~ *one member representing medical doctors, three* members representing labor, *two members representing rehabilitation vendors, and five members representing qualified rehabilitation consultants*. The members shall be appointed by the commissioner and shall serve four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chair. The panel shall review and make a determination with respect to appeals from orders of the commissioner regarding certification approval of qualified rehabilitation consultants and vendors. The hearings are de novo and initiated by the panel under the contested case procedures of chapter 14, and are appealable to the workers' compensation court of appeals in the manner provided by section 176.421.

Sec. 9. Minnesota Statutes 1990, section 176.102, subdivision 3a, is amended to read:

Subd. 3a. [DISCIPLINARY ACTIONS.] The panel has authority to discipline qualified rehabilitation consultants and vendors and may impose a penalty of up to $1,000 per violation, and may suspend or revoke certification. Complaints against registered qualified rehabilitation consultants and vendors shall be made to the commissioner who shall investigate all complaints. If the investigation indicates a violation of this chapter or rules adopted under this chapter, the commissioner may initiate a contested case

proceeding under the provisions of chapter 14. In these cases, the rehabilitation review panel shall make the final decision following receipt of the report of an administrative law judge. The decision of the panel is appealable to the workers' compensation court of appeals in the manner provided by section 176.421. The panel shall continuously study rehabilitation services and delivery, develop and recommend rehabilitation rules to the commissioner, and assist the commissioner in accomplishing public education.

~~The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one labor member, one employer or insurer member, and one member representing medicine, chiropractic, or rehabilitation.~~

Sec. 10. Minnesota Statutes 1990, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (a) ~~An employer or insurer shall provide rehabilitation consultation by a qualified rehabilitation consultant or by another person permitted by rule to provide consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be provided immediately after receipt of this information.~~

~~For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time.~~ *A rehabilitation consultation must be provided by the employer to an injured employee upon request of the employee, the employer, or the commissioner. If a rehabilitation consultation is requested, the employer shall provide a qualified rehabilitation consultant. If the injured employee objects to the employer's selection, the employee may select a qualified rehabilitation consultant of the employee's own choosing within 30 days following the first in-person contact between the employee and the original qualified rehabilitation consultant. If the consultation indicates that rehabilitation services are appropriate under subdivision 1, the employer shall provide the services. If the consultation indicates that rehabilitation services are not appropriate under subdivision 1, the employer shall notify the employee of this determination within 14 days after the consultation.*

(b) In order to assist the commissioner in determining whether or not to request rehabilitation consultation for an injured employee, an employer shall notify the commissioner whenever the employee's temporary total disability will likely exceed 13 weeks. The notification must be made within 90 days from the date of the injury or when the likelihood of at least a 13-week disability can be determined, whichever is earlier, and must include a current physician's report.

(c) The qualified rehabilitation consultant ~~appointed by the employer or~~

~~insurer~~ shall disclose in writing at the first meeting or written communication with the employee any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest.

The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party ~~to~~, *attorney, or health care provider involved in* the case ~~, including any attorneys, doctors, or chiropractors~~.

~~If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection. The notification shall include the name, address, and telephone number of the qualified rehabilitation consultant chosen by the employee to provide rehabilitation consultation.~~

(d) After the initial provision or selection of a qualified rehabilitation consultant as provided under paragraph (a), the employee may ~~choose~~ *request* a different qualified rehabilitation consultant ~~as follows:~~

~~(1) once during the first 60 days following the first in-person contact between the employee and the original consultant;~~

~~(2) once after the 60-day period referred to in clause (1); and~~

~~(3) subsequent requests~~ *which* shall be ~~determined~~ *granted or denied* by the commissioner or compensation judge according to the best interests of the parties.

(e) The employee and employer shall ~~enter into a program if one is prescribed in~~ *develop* a rehabilitation plan *within 30 days of the rehabilitation consultation if the qualified rehabilitation consultant determines that rehabilitation is appropriate*. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner *within 15 days after the plan has been developed*.

~~(b)~~ *(f)* If the employer does not provide rehabilitation consultation, *or the employee does not select a qualified rehabilitation consultant,* as ~~required by this section~~ *provided in paragraph (a)*, the commissioner or compensation judge shall notify the employer that if the employer fails to ~~appoint~~ *provide, or the employee fails to select, whichever is applicable,* a qualified rehabilitation consultant ~~or other persons as permitted by clause (a)~~ within 15 days to conduct a rehabilitation consultation, the commissioner or compensation judge shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner or compensation judge determines the consultation is not required.

~~(c)~~ *(g)* In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

~~(d)~~ *(h)* The commissioner or compensation judge may waive rehabilitation services under this section if the commissioner or compensation judge is satisfied that the employee will return to work in the near future or that rehabilitation services will not be useful in returning an employee to work.

Sec. 11. Minnesota Statutes 1990, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner or a compensation judge shall determine eligibility for rehabilitation services and shall review, approve, modify, or reject rehabilitation plans developed under subdivision 4. The commissioner or a compensation judge shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled. *A plan that is not completed within six months or after $3,000 has been paid in rehabilitation benefits must be specifically approved by the commissioner. This approval may not be waived by the parties.*

Sec. 12. Minnesota Statutes 1990, section 176.102, subdivision 7, is amended to read:

Subd. 7. [PLAN IMPLEMENTATION; REPORTS.] *(a)* Upon request by the commissioner, insurer, employer or employee, medical and rehabilitation reports shall be made by the provider of the medical and rehabilitation service to the commissioner, insurer, employer, or employee.

(b) If a rehabilitation plan has not already been filed under subdivision 4, an employer shall report to the commissioner after 90 days and before 120 days from the date of the injury, as to what rehabilitation consultation and services have been provided to the injured employee or why rehabilitation consultation and services have not been provided.

Sec. 13. Minnesota Statutes 1990, section 176.102, subdivision 9, is amended to read:

Subd. 9. [PLAN, COSTS.] An employer is liable for the following rehabilitation expenses under this section:

(a) Cost of rehabilitation evaluation and preparation of a plan;

(b) Cost of all rehabilitation services and supplies necessary for implementation of the plan;

(c) Reasonable cost of tuition, books, travel, and custodial day care; and, in addition, reasonable costs of board and lodging when rehabilitation requires residence away from the employee's customary residence;

(d) Reasonable costs of travel and custodial day care during the job interview process;

(e) Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury. An employee shall not be required to relocate and a refusal to relocate shall not result in a suspension or termination of compensation under this chapter; and

(f) Any other expense agreed to be paid.

Charges for services provided by a rehabilitation consultant or vendor must be submitted on a billing form prescribed by the commissioner. No payment for the services shall be made until the charges are submitted on the prescribed form.

Sec. 14. [176.107] [MEDICAL AND REHABILITATION DISPUTES.]

Any dispute for benefits under section 176.102, 176.103, 176.135, or 176.136 may be referred to the mediation services section of the department for consideration. All health care providers, qualified rehabilitation consultants, intervenors or potential intervenors, or any other third parties who have or may have an interest in the resolution of the dispute must be notified of the proceeding and requested to be in attendance. Any agreement by the parties who attend the hearing or appear by telephone conference is binding on any other party who had notice and did not participate in the hearing.

Sec. 15. Minnesota Statutes 1990, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, PSYCHOLOGICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish any medical, psychological, ~~chiropractic,~~ podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. ~~This treatment shall include treatments necessary to physical rehabilitation.~~ *An employer may fulfill its obligation under this section by utilizing a certified managed care plan as provided in this chapter.*

(b) The employer shall furnish reasonably required chiropractic treatment for a maximum of 30 days from the date the employee first seeks the treatment, or 15 chiropractic treatment visits, whichever occurs first. The employer shall furnish reasonably required physical therapy treatment for a maximum of 30 days from the date the employee first seeks the treatment. Chiropractic or physical therapy treatment is compensable thereafter only with the consent of the employer or insurer, or after a specific determination by the commissioner or a compensation judge, pursuant to paragraph (f), that treatment for an additional specified period of time is reasonably required. This paragraph is effective for treatment provided after July 1, 1992.

(c) The employer shall pay for the reasonable value of nursing services provided by a member of the employee's family in cases of permanent total disability.

(d) Exposure to rabies is an injury and an employer shall furnish preventative treatment to employees exposed to rabies.

(e) The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of the employer's inability or refusal seasonably to ~~do so~~ *provide the items required to be provided under this paragraph*, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7, ~~and attorney fees incurred by the employee. No action to recover the cost~~

~~of copies may be brought until the commissioner adopts a schedule of reasonable charges under subdivision 7. Attorney's fees shall be determined on an hourly basis according to the criteria in section 176.081, subdivision 5. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability~~.

~~(b)~~ *(f)* Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with ~~sections 176.106 and~~ *section* 176.305 *and to issue orders approving mediated settlements in accordance with section 176.107.*

Sec. 16. Minnesota Statutes 1990, section 176.135, subdivision 1a, is amended to read:

Subd. 1a. [NONEMERGENCY SURGERY; SECOND SURGICAL OPINION.] The employer is required to furnish surgical treatment pursuant to subdivision 1 when the surgery is reasonably required to cure and relieve the effects of the personal injury or occupational disease. An employee may not be compelled to undergo surgery. If an employee desires a second opinion on the necessity of the surgery, the employer shall pay the costs of obtaining the second opinion. Except in cases of emergency surgery, the employer or insurer may require the employee to obtain a second opinion on the necessity of the surgery, at the expense of the employer, before the employee undergoes surgery. Failure to obtain a second surgical opinion, *if required by the employer or insurer,* shall not be reason for nonpayment of the charges for the surgery~~. The employer is required to pay the reasonable value of the surgery~~, unless the commissioner or compensation judge determines that the surgery is not reasonably required.

Sec. 17. Minnesota Statutes 1990, section 176.135, subdivision 5, is amended to read:

Subd. 5. [OCCUPATIONAL DISEASE MEDICAL ELIGIBILITY.] Notwithstanding section 176.66, an employee who has contracted an occupational disease is eligible to receive compensation under this section even if the employee is not disabled from earning full wages at the work at which the employee was last employed.

Payment of compensation under this section shall be made by the employer and insurer on the date of the employee's last exposure to the hazard of the occupational disease. Reimbursement for medical benefits paid under this subdivision or subdivision 1a is allowed from the employer and insurer liable under section 176.66, subdivision 10, only in the case of disablement.

Sec. 18. Minnesota Statutes 1990, section 176.135, subdivision 6, is amended to read:

Subd. 6. [COMMENCEMENT OF PAYMENT.] As soon as reasonably possible, and no later than 30 calendar days after receiving the bill, the employer or insurer shall pay the charge or any portion of the charge which is not denied, *or* deny all or a part of the charge ~~on the basis of excessiveness or noncompensability, or specify the additional data needed,~~ with written notification to the employee and the provider~~.~~ *explaining the basis for denial. All or part of a charge must be denied if any of the following conditions exist:*

(1) the injury or condition is not compensable under this chapter;

(2) the charge or service is excessive under this section or section 176.136;

(3) the provider is not enrolled with or certified by the department in accordance with rules adopted under section 176.183;

(4) the charges are not submitted on the prescribed billing form; or

(5) additional medical records or reports are required under subdivision 7 to substantiate the nature of the charge and its relationship to the work injury.

If payment is denied under clause (3), (4), or (5), the employer or insurer shall reconsider the charges in accordance with this subdivision within 30 calendar days after receiving additional medical data, a prescribed billing form, or documentation of enrollment or certification as a provider.

Sec. 19. Minnesota Statutes 1990, section 176.135, subdivision 7, is amended to read:

Subd. 7. [MEDICAL BILLS AND RECORDS.] Health care providers shall submit to the insurer an itemized statement of charges *on a billing form prescribed by the commissioner*. Health care providers ~~other than hospitals~~ shall also submit copies of medical records or reports that substantiate the nature of the charge and its relationship to the work injury~~, provided, however, that hospitals must submit any copies of records or reports requested under subdivision 6~~. Health care providers may charge for copies of any records or reports that are in existence and directly relate to the items for which payment is sought under this chapter. ~~Charges for copies provided under this subdivision shall be reasonable.~~ The commissioner shall adopt a schedule of reasonable charges by ~~emergency rules~~ *rule*.

A health care provider shall not collect, attempt to collect, refer a bill for collection, or commence an action for collection against the employee, employer, or any other party until the information required by this section has been furnished.

Sec. 20. [176.1351] [MANAGED CARE.]

Subdivision 1. [APPLICATION.] *Any health care provider, health care providers, or business entities providing health care services may make written application to the commissioner to become certified to provide managed care to injured workers for injuries and diseases compensable under this chapter. Each application for certification shall be accompanied by a reasonable fee prescribed by the commissioner. A certificate is valid for the period the commissioner prescribes unless revoked or suspended. Application for certification shall be made in the form and manner and shall set forth information regarding the proposed plan for providing services as the commissioner may prescribe. The information shall include, but not be limited to:*

(a) a list of the names of all health care providers who will provide services under the managed care plan, together with appropriate evidence of compliance with any licensing or certification requirements for those providers to practice in this state;

(b) a description of the places and manner of providing services under the plan;

(c) a description of the places and manner of providing other related optional services the applicants wish to provide; and

(d) satisfactory evidence of ability to comply with any financial requirements to ensure delivery of service in accordance with the plan which the

commissioner may prescribe.

Subd. 2. [CERTIFICATION.] *The commissioner shall certify a health care provider, health care providers, or business entities providing health care services to provide managed care under a plan if the commissioner finds that the plan:*

(a) proposes to provide services that meet quality, continuity, and other treatment standards prescribed by the commissioner and will provide all medical and health care services that may be required by this chapter in a manner that is timely, effective, and convenient for the worker;

(b) provides appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;

(c) provides adequate methods of peer review, utilization review, and dispute resolution to prevent inappropriate or not medically necessary treatment, to exclude from participation in the plan those individuals who violate these treatment standards, and to provide for the resolution of such medical disputes as the commissioner considers appropriate;

(d) provides a program for early return to work for injured workers involving, where appropriate, cooperative efforts by the workers, the employer, and the managed care organizations to promote workplace health and safety consultative and other services;

(e) provides a timely and accurate method of reporting to the commissioner necessary information regarding medical and health care service cost and utilization to enable the commissioner to determine the effectiveness of the plan;

(f) authorizes workers to receive compensable medical treatment from a health care provider who is not a member of the managed care organization, but who maintains the worker's medical records and with whom the worker has a documented history of treatment, if that health care provider agrees to refer the worker to the managed care organization for any specialized treatment, including physical therapy, to be furnished by another provider that the worker may require and if that health care provider agrees to comply with all the rules, terms, and conditions regarding services performed by the managed care organization. Nothing in this paragraph is intended to limit the worker's right to change health care providers prior to the filing of a workers' compensation claim; and

(g) complies with any other requirement the commissioner determines is necessary to provide quality medical services and health care to injured workers.

Subd. 3. [REVOCATION, SUSPENSION, AND REFUSAL TO CERTIFY.] *The commissioner shall refuse to certify or shall revoke or suspend the certification of any health care provider or group of medical service providers to provide managed care if the commissioner finds that the plan for providing medical or health care services fails to meet the requirements of this section, or service under the plan is not being provided in accordance with the terms of a certified plan.*

Subd. 4. [REVIEW.] *(a) Utilization review, quality assurance, and peer review activities pursuant to this section and authorization of medical services to be provided by other than an attending physician pursuant to this chapter shall be subject to review by the commissioner or the commissioner's designated representatives. Data generated by or received in connection*

with these activities, including written reports, notes or records of any such activities, or of the commissioner's review shall be confidential, and shall not be disclosed except as considered necessary by the commissioner in the administration of this section. The commissioner may report professional misconduct to an appropriate licensing board.

(b) No data generated by utilization review, quality assurance, or peer review activities pursuant to this section or the commissioner's review thereof shall be used in any action, suit, or proceeding except to the extent considered necessary by the commissioner in the administration of this chapter.

(c) A person participating in utilization review, quality assurance, or peer review activities pursuant to this section shall not be examined as to any communication made in the course of such activities or the findings thereof, nor shall any person be subject to an action for civil damages for affirmative actions taken or statements made in good faith.

(d) No person who participates in forming managed care plans, collectively negotiating fees, or otherwise solicits or enters into contracts in a good faith effort to provide medical or health care services according to the provisions of this section shall be examined or subject to administrative or civil liability regarding any such participation except pursuant to the commissioner's active supervision of such activities and the managed care organization. Before engaging in such activities, the person shall provide notice of intent to the commissioner on a prescribed form.

(e) The provisions of this section shall not affect the confidentiality or admission in evidence of a claimant's medical treatment records.

Subd. 5. [RULES.] *The commissioner in cooperation with the commissioners of the department of health, department of commerce, and department of human services, shall adopt such rules as may be necessary to carry out the provisions of this section.*

Sec. 21. Minnesota Statutes 1990, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] *(a)* The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups.

(b) The procedures established by the commissioner ~~shall~~ *must* limit, *in accordance with subdivisions 1a and 1b,* the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135~~, based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing~~. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive ~~shall~~ *must* be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures ~~shall~~ *must* incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

Sec. 22. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1a. [RELATIVE VALUE FEE SCHEDULE.] *The liability of an employer for services included in the medical fee schedule is limited to the maximum fee allowed by the schedule in effect on the date of the medical service, or the provider's actual fee, whichever is lower. The medical fee schedule effective on October 1, 1990, shall remain in effect until the commissioner adopts a new schedule by permanent rule, but shall remain in effect no later than June 1, 1993. The commissioner shall adopt permanent rules regulating fees, except fees limited by subdivision 1b, by implementing a relative value fee schedule to be effective on October 1, 1992, or as soon thereafter as possible. The conversion factors for the relative value fee schedule shall reasonably reflect a 15 percent overall reduction from 1991 charges, based on a sample of the most common services billed in the first six months of 1991 that is large enough to be statistically valid.*

After permanent rules have been adopted to implement this section, the conversion factors must be adjusted annually on October 1, by the percentage change in the statewide average weekly wage as set forth in section 176.645, subdivision 1. The commissioner shall annually give notice in the State Register of the adjusted conversion factors. This notice shall be in lieu of the requirements of chapter 14.

Sec. 23. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1b. [LIMITATION OF LIABILITY.] *(a) The liability of the employer for treatment, articles, and supplies provided to an employee while an inpatient or outpatient at a hospital or an outpatient at a same-day surgical facility or emergency room shall be limited to 85 percent of the amount charged.*

(b) For the services rendered under paragraph (a) by a hospital with 100 or fewer licensed acute care beds, the liability of employers shall be the actual hospital charges.

(c) The liability of the employer for the treatment, articles, and supplies that are not limited by subdivision 1a or paragraph (a) shall be limited to the provider's actual charge, or the charges that prevail in the same community for similar treatment, articles, and supplies furnished to an injured person when paid for by the injured person, whichever is lower. On this basis, the commissioner or compensation judge may determine the reasonable value of all treatment, services, and supplies, and the liability of the employer is limited to that amount.

Sec. 24. Minnesota Statutes 1990, section 176.136, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVE FEES.] If the employer or insurer determines that the charge for a health service or medical service is excessive, no payment in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter unless the commissioner, compensation judge, or court of appeals determines otherwise. In such a case, the health care provider may initiate an action under this chapter for recovery of the amounts deemed excessive by the employer or insurer, but the employer or insurer shall have the burden of proving excessiveness.

A charge for a health service or medical service is excessive if it:

(1) exceeds the maximum permissible charge pursuant to subdivision 1 or section 176.135, subdivision 1a;

(2) is for a service provided at a level, duration, or frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards;

(3) is for a service that is outside the scope of practice of the particular provider or is not generally recognized within the particular profession of the provider as of therapeutic value for the specific injury or condition treated; or

(4) is otherwise deemed excessive or inappropriate pursuant to rules adopted pursuant to this chapter.

Where the sole issue in dispute is whether medical fees are excessive, the only parties to the proceeding shall be the health care provider and employer or insurer. The rights of an employee shall not be affected by a determination under this subdivision.

Sec. 25. Minnesota Statutes 1990, section 176.305, subdivision 1, is amended to read:

Subdivision 1. [HEARINGS ON PETITIONS.] The petitioner shall serve a copy of the petition on each adverse party personally or by first class mail. The original petition shall then be filed with the commissioner together with an appropriate affidavit of service. When any petition has been filed with the workers' compensation division, the commissioner shall, within ten days, refer the matter presented by the petition for a settlement conference under this section, for ~~an administrative~~ *a mediation* conference under section ~~176.106~~ *176.107*, or for hearing to the office.

Sec. 26. Minnesota Statutes 1990, section 176.351, subdivision 2a, is amended to read:

Subd. 2a. [SUBPOENAS NOT PERMITTED.] A member of the rehabilitation review panel or medical services board or an employee of the department who has conducted an administrative, *mediation*, or settlement conference, or hearing under section ~~176.106~~ *176.107* or 176.239, shall not be subpoenaed to testify regarding the conference, hearing, or concerning a mediation session. A member of the rehabilitation review panel, medical services board, or an employee of the department may be required to answer written interrogatories limited to the following questions:

(a) Were all statutory and administrative procedural rules adhered to in reaching the decision?

(b) If the answer to question (a) is no, what deviations took place?

(c) Did the person making the decision consider all the information presented prior to rendering a decision?

(d) Did the person making the decision rely on information outside of the information presented at the conference or hearing in making the decision?

(e) If the answer to question (d) is yes, what other information was relied upon in making the decision?

In addition, for a hearing with a compensation judge and with the consent

of the compensation judge, an employee of the department who conducted an administrative conference, hearing, or mediation session, may be requested to answer written interrogatories relating to statements made by a party at the prior proceeding. These interrogatories shall be limited to affirming or denying that specific statements were made by a party.

Sec. 27. Minnesota Statutes 1990, section 176.421, subdivision 7, is amended to read:

Subd. 7. [RECORD OF PROCEEDINGS.] At the division's own expense, the commissioner shall make a complete record of all proceedings before the commissioner and shall provide a stenographer or an audio magnetic recording device to make the record of the proceedings.

The commissioner shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge which shall be set by the commissioner. Upon a showing of cause, the commissioner may direct that a transcript be prepared without expense to the person requesting the transcript, in which case the cost of the transcript shall be paid by the division. Transcript fees received under this subdivision shall be paid to the workers' compensation division account in the state treasury and shall be annually appropriated to the division for the sole purpose of providing a record and transcripts as provided in this subdivision. This subdivision does not apply to any administrative conference or other proceeding before the commissioner which may be heard de novo in another proceeding including but not limited to proceedings under section ~~176.106~~ *176.107* or 176.239.

Sec. 28. Minnesota Statutes 1990, section 176.442, is amended to read:

176.442 [APPEALS FROM DECISIONS OF COMMISSIONER.]

Except for a commissioner's decision which may be heard de novo in another proceeding including but not limited to a decision from an administrative conference under section ~~176.102,~~ ~~176.103,~~ ~~176.106,~~ 176.239, or a summary decision under section 176.305, any decision or determination of the commissioner affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by the determination may appeal to the workers' compensation court of appeals by filing a notice of appeal with the commissioner in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the workers' compensation court of appeals.

Sec. 29. Minnesota Statutes 1990, section 176.82, is amended to read:

176.82 [ACTION FOR CIVIL DAMAGES FOR OBSTRUCTING EMPLOYEE SEEKING BENEFITS.]

Subdivision 1. [GENERALLY.] Any person discharging or threatening to discharge an employee for seeking workers' compensation benefits or in any manner intentionally obstructing an employee seeking workers' compensation benefits is liable in a civil action for damages incurred by the employee including any diminution in workers' compensation benefits caused by a violation of this section including costs and reasonable attorney fees, and for punitive damages not to exceed three times the amount of any compensation benefit to which the employee is entitled. Damages awarded under this section shall not be offset by any workers' compensation benefits to which the employee is entitled.

Subd. 2. [REFUSAL TO REHIRE.] *Any employer who without reasonable cause refuses to rehire an employee who is injured in the course of employment, where suitable employment is available within the employee's physical and mental limitations, upon order of the department and in addition to other benefits, has exclusive liability to pay to the employee the wages lost during the period of the refusal, not exceeding six months wages or a maximum of $15,000. In determining the availability of suitable employment, the continuance in business of the employer shall be considered and any written rules promulgated by the employer with respect to seniority or the provisions of any collective bargaining agreement with respect to seniority shall govern.*

Sec. 30. Minnesota Statutes 1990, section 176.83, subdivision 5, is amended to read:

Subd. 5. [EXCESSIVE MEDICAL SERVICES.] In consultation with the medical services review board or the rehabilitation review panel, rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the payer that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer, and the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program unless the commissioner or compensation judge determines at a hearing or administrative conference that the level, frequency, or cost was not excessive in which case the insurer, self-insurer, or group self-insurer shall make the payment deemed reasonable.

A health or rehabilitation provider who is determined by the rehabilitation review panel or medical services review board, after hearing, to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under this chapter. A prohibition imposed on a provider under this subdivision may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing certifying body.

~~The rules adopted under this subdivision shall require insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause.~~

Sec. 31. Minnesota Statutes 1990, section 176.83, is amended by adding a subdivision to read:

Subd. 5a. [REPORTING.] *Rules requiring insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this section and chapter 176.*

Sec. 32. Minnesota Statutes 1990, section 176.83, subdivision 6, is amended to read:

Subd. 6. [CERTIFICATION OF MEDICAL PROVIDERS.] Rules establishing procedures and standards for the certification *or enrollment* of physicians, chiropractors, *osteopaths*, podiatrists, and other health care providers, *which may include hospitals and other business entities providing health care services*, in order to assure the coordination of treatment, rehabilitation, and other services and requirements of chapter 176 for carrying out the purposes and intent of this chapter.

After the rules for provider enrollment have been promulgated, a provider must be enrolled in accordance with the rules to receive payment for services rendered under section 176.135. An unenrolled provider may not receive payment or attempt to collect from any source, including the employee, any insurer or self-insured employer, the special compensation fund, or any government program. Retroactive enrollment must be permitted pursuant to guidelines established by rule. A list of currently enrolled providers must be given to all self-insured employers and insurers. The list must be made available to others upon request.

Sec. 33. [REPEALER.]

Minnesota Statutes 1990, sections 176.106; 176.135, subdivision 3; and 176.136, subdivision 5, are repealed.

Sec. 34. [EFFECTIVE DATE.]

This article is effective October 1, 1991; except that section 1 is effective January 1, 1992.

ARTICLE 4

COURTS/JURISDICTION

Section 1. Minnesota Statutes 1990, section 15A.083, subdivision 7, is amended to read:

Subd. 7. [WORKERS' COMPENSATION COURT OF APPEALS AND COMPENSATION JUDGES.] Salaries of judges of the workers' compensation court of appeals are the same as the salary for district judges as set under section 15A.082, subdivision 3. Salaries of compensation judges are ~~75~~ *80* percent of the salary of district court judges. The chief workers' compensation settlement judge at the department of labor and industry may be paid an annual salary that is up to five percent greater than the salary of workers' compensation settlement judges at the department of labor and industry. *The assistant chief administrative law judge for workers' compensation at the office of administrative hearings shall be paid in conformity with the salary provisions of the managerial plan under section 43A.18, but the minimum salary shall be equal to the salary of a compensation judge.*

Sec. 2. Minnesota Statutes 1990, section 176.061, is amended by adding a subdivision to read:

Subd. 6a. [JURISDICTION.] *Notwithstanding section 573.02 or any other law to the contrary, the commissioner or compensation judge has jurisdiction to order the distribution of proceeds in accordance with subdivision 6 in all cases except where the district court has awarded a specific amount in satisfaction of the employer's subrogation interest or has specifically denied the employer's subrogation interest.*

Sec. 3. [176.2615] [SMALL CLAIMS COURT.]

Subdivision 1. [PURPOSE.] *There is established in the department of labor and industry a small claims court, to be presided over by settlement judges for the purpose of settling small claims.*

Subd. 2. [ELIGIBILITY.] *The claim is eligible for determination in the small claims court if referred by the commissioner or if all parties agree to submit to its jurisdiction; and*

(1) the claim is for rehabilitation benefits only under section 176.102 or medical benefits only under section 176.135; or

(2) the claim in its total amount does not equal more than $5,000; and

(3) where the claim is for apportionment or for contribution or reimbursement, no counterclaim in excess of $5,000 is asserted.

Subd. 3. [TESTIMONY; EXHIBITS.] *At the hearing a settlement judge shall hear the testimony of the parties and consider any exhibits offered by them and may also hear any witnesses introduced by either party.*

Subd. 4. [APPEARANCE OF PARTIES.] *A party may appear on the party's own behalf without an attorney, or may retain and be represented by a duly admitted attorney who may participate in the hearing to the extent and in the manner that the settlement judge considers helpful. Attorney fees awarded under this subdivision are included in the overall limit allowed under section 176.081, subdivision 1.*

Subd. 5. [EVIDENCE ADMISSIBLE.] *At the hearing the settlement judge shall receive evidence admissible under the rules of evidence. In addition, in the interest of justice and summary determination of issues before the court, the settlement judge may receive, in the judge's discretion, evidence not otherwise admissible. The settlement judge, on the judge's own motion, may receive into evidence any documents which have been filed with the department.*

Subd. 6. [SETTLEMENT.] *A settlement judge may attempt to conciliate the parties. If the parties agree on a settlement, the judge shall issue an order in accordance with that settlement.*

Subd. 7. [DETERMINATION.] *If the parties do not agree to a settlement, the settlement judge shall summarily hear and determine the issues and issue an order in accordance with section 176.305, subdivision 1a. Any determination by a settlement judge is not res judicata with respect to any other proceeding between or among the parties under this chapter, nor may it be considered as evidence in any other proceeding.*

Subd. 8. [COSTS.] *The prevailing party is entitled to costs and disbursements as in any other workers' compensation case.*

Sec. 4. Minnesota Statutes 1990, section 176.461, is amended to read:

176.461 [SETTING ASIDE AWARD.]

Except when a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or if as a matter of law the determination of the supreme court cannot be subsequently modified, the workers' compensation court of appeals, for cause, at any time after an award, upon application of either party and not less than five working days after written notice to all interested parties, may set the award aside and grant a new hearing and refer the matter for a determination on its merits to the chief administrative law judge for assignment to a compensation

judge, who shall make findings of fact, conclusions of law, and an order of award or disallowance of compensation or other order based on the pleadings and the evidence produced and as required by the provisions of this chapter or rules adopted under it.

As used in this section, the phrase "for cause" is limited to the following grounds:

(1) a mutual mistake of fact that was not discoverable at the time of the award;

(2) newly discovered evidence that was not discoverable at the time of the award;

(3) fraud; or

(4) a substantial change in medical condition since the time of the award that was clearly not anticipated and could not reasonably have been anticipated at the time of the award.

Sec. 5. Minnesota Statutes 1990, section 480A.06, subdivision 3, is amended to read:

Subd. 3. [CERTIORARI REVIEW.] The court of appeals shall have jurisdiction to issue writs of certiorari to all agencies, public corporations and public officials, except the tax court ~~and the workers' compensation court of appeals~~. The court of appeals shall have jurisdiction to review decisions of the commissioner of jobs and training, pursuant to section 268.10.

Sec. 6. Minnesota Statutes 1990, section 480A.06, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATIVE REVIEW.] The court of appeals shall have jurisdiction to review on the record: the validity of administrative rules, as provided in sections 14.44 and 14.45~~, and~~; the decisions of administrative agencies in contested cases, as provided in sections 14.63 to 14.69; *and workers' compensation cases and peace officer death benefits cases, as provided under chapters 176 and 176A.*

Sec. 7. [TRANSFER OF JURISDICTION AND PERSONNEL.]

The jurisdiction of the workers' compensation court of appeals, as provided under Minnesota Statutes, section 175A.01, subdivision 5, is transferred to the court of appeals. All contracts, books, plans, papers, records, and property of every description of the workers' compensation court of appeals relating to its transferred responsibilities and within its jurisdiction or control are transferred to the court of appeals; except that all case files are transferred to the clerk of the appellate courts. All classified employees and staff attorneys of the workers' compensation court of appeals must be given preference in the employment of personnel required to staff the increased caseload of the court of appeals as a result of transfer of jurisdiction under this section.

Sec. 8. [INCREASED JUDGES.]

The number of judges on the court of appeals as of January 1, 1992, shall be increased by five.

Sec. 9. [INSTRUCTION TO REVISOR.]

In every instance in Minnesota Statutes in which the term "workers'

compensation court of appeals" appears, the revisor of statutes shall change that reference to the "court of appeals."

Sec. 10. [REAPPROPRIATION.]

$ . . . . . is reappropriated from the special compensation fund, as a result of the savings to that fund in fiscal years 1992 and 1993 due to the abolition of the workers' compensation court of appeals, to the court of appeals for the purposes of this article.

Sec. 11. [REPEALER.]

Minnesota Statutes 1990, sections 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; and 175A.10, are repealed.

Sec. 12. [EFFECTIVE DATE.]

This article is effective January 1, 1992; except that section 1 is effective July 1, 1991.

ARTICLE 5

WORKERS' COMPENSATION INSURANCE

Section 1. Minnesota Statutes 1990, section 79.095, is amended to read:

79.095 [APPOINTMENT OF ACTUARY.]

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

Sec. 2. Minnesota Statutes 1990, section 79.251, subdivision 1, is amended to read:

Subdivision 1. [ASSIGNED RISK PLAN; PARTICIPATION.] ~~(1) An assigned risk plan review board is created for the purposes of review of the operation of section 79.252 and this section.~~ *The state fund mutual insurance company and all insurers authorized to write workers' compensation and employers' liability insurance in this state shall participate in a plan providing for the equitable apportionment of insurance coverage to employers who have been rejected for insurance coverage by a licensed insurer in the manner set forth in section 79.252.*

Subd. 1a. [BOARD OF GOVERNORS.] *(1) The operation of the assigned risk plan is subject to the supervision of the board of governors of the plan.* The board shall have all the usual powers and authorities necessary for the discharge of its duties under this section and may contract with individuals in discharge of those duties.

(2) The board shall consist of six members to be appointed by the commissioner of commerce. ~~Three members shall be insureds holding policies or contracts~~ *One member shall be an insured holding a policy or contract* of coverage issued pursuant to subdivision 4. ~~Two~~ *Five* members shall be insurers pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b). ~~The commissioner shall be the sixth member and shall vote.~~

Initial appointments *to the board* shall be made by ~~September~~ *January* 1, ~~1981~~ *1992*, and terms shall be for three years duration. Removal, the

filling of vacancies and compensation of the members ~~other than the commissioner~~ shall be as provided in section 15.059.

(3) The ~~assigned risk plan review~~ board shall audit the reserves established (a) for individual cases arising under policies and contracts of coverage issued under subdivision 4 and (b) for the total book of business issued under subdivision 4.

(4) The ~~assigned risk plan review~~ board shall ~~monitor the operations of section 79.252 and this section and shall periodically make recommendations to the commissioner, and to the governor and legislature when appropriate, for improvement in the operation of those sections~~ *prepare a plan of operation for the assigned risk plan subject to the approval of the commissioner. The policy forms, rates, merit rating, rating plans, and classification and rating systems of the assigned risk plan shall be those filed for use by the Minnesota workers' compensation insurers rating association, and approved by the commissioner, subject to the requirements of this chapter.*

The board shall meet quarterly, or more frequently if necessary, to review plan enrollment, plan administration, rate adequacy, loss ratios, and reserving practices. No later than June 30 of each year, the board shall file an annual report with the legislature and the workers' compensation insurers association. The report must be signed by each member of the board. The report must include an actuarial evaluation of the plan by a fellow of the casualty actuarial society who shall be retained and paid by the board.

(5) ~~All insurers and self-insurance administrators issuing policies or contracts under subdivision 4 shall pay to the commissioner a .25 percent assessment on premiums for policies and contracts of coverage issued under subdivision 4 for the purpose of defraying the costs of the assigned risk plan review board. Proceeds of the assessment shall be deposited in the state treasury and credited to the general fund.~~

~~(6)~~ The assigned risk plan and the ~~assigned risk plan review~~ board *of governors* shall not be deemed a state agency.

Sec. 3. Minnesota Statutes 1990, section 79.251, subdivision 2, is amended to read:

Subd. 2. [APPROPRIATE MERIT RATING PLAN.] The *board of governors, subject to approval by the* commissioner *of commerce,* shall develop an appropriate merit rating plan which shall be applicable to all *nonexperience rated* insureds holding policies or contracts of coverage issued pursuant to subdivision 4, and to the insurers or self-insurance administrators issuing those policies or contracts. The plan ~~shall~~ *must* provide a maximum merit *credit or debit* adjustment equal to ten percent of earned premium. The actual adjustment may vary with insured's loss experience.

Sec. 4. Minnesota Statutes 1990, section 79.251, subdivision 3, is amended to read:

Subd. 3. [RATES.] ~~Insureds served by the assigned risk plan shall be charged premiums based upon a rating plan, including a merit rating plan adopted by the commissioner by rule.~~ *(a)* The ~~commissioner~~ *board of governors* shall ~~annually, not later than January 1 of each year, establish the~~ *file with the commissioner a* schedule of rates ~~applicable to~~ *for use in determining premiums charged employers in the* assigned risk plan ~~business~~ *at least 30 days prior to their effective date.* Assigned risk ~~premiums shall~~ *rates must* not be lower than rates generally charged by insurers for the business. ~~The~~

~~commissioner shall fix the compensation received by the agent of record. The establishment of the assigned risk plan rates and agent fees are not subject to chapter 14.~~

(b) The rates filed by the board shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within 30 days after the filing is made. In disapproving a filing made pursuant to this section, the commissioner shall have the same authority, and follow the same procedure, as in disapproving a filing pursuant to section 79.58.

(c) The board shall fix the compensation received by the agent of record. Agent compensation shall be established at a level that is neither an incentive nor a disincentive to place an employer in the assigned risk plan. The establishment of the assigned risk plan rates and agent fees are not subject to chapter 14.

Sec. 5. Minnesota Statutes 1990, section 79.251, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATION.] The ~~commissioner~~ *board of governors* shall enter into service contracts as necessary or beneficial for accomplishing the purposes of the assigned risk plan. Services related to the administration of policies or contracts of coverage shall be performed by one or more qualified insurance companies licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b), or self-insurance administrators licensed pursuant to section 176.181, subdivision 2, clause (2), paragraph (a). A qualified insurer or self-insurance administrator shall possess sufficient financial, professional, administrative, and personnel resources to provide the services contemplated in the contract. Services related to assignments, data management, assessment collection, and other services shall be performed by a licensed data service organization. The cost of those services is an obligation of the assigned risk plan.

Each insurer or self-insured administrator who performs services pursuant to this subdivision shall be required to report loss experience data to the Minnesota workers' compensation insurers association in accordance with the statistical plan and rules of the organization as approved by the commissioner, and shall keep a record of the premium and losses paid under each workers' compensation policy written in Minnesota in the form required by the commissioner.

Sec. 6. Minnesota Statutes 1990, section 79.251, subdivision 5, is amended to read:

Subd. 5. [ASSESSMENTS.] ~~The commissioner shall assess~~ All insurers licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b), *shall be assessed* an amount sufficient to fully fund the obligations of the assigned risk plan, if the ~~commissioner determines that the assets of the assigned risk plan are insufficient to meet its obligations~~ *annual report of the board of governors reveals a deficit in the plan. The assessment must be made within 30 days of the date the annual report of the board is filed.* The assessment of each insurer shall be in a proportion equal to the proportion which the amount of compensation insurance written in this state during the preceding calendar year by that insurer bears to the total compensation insurance written in this state during the preceding calendar year by all licensed insurers.

Sec. 7. Minnesota Statutes 1990, section 79.252, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] The purpose of the assigned risk plan is to provide workers' compensation coverage to employers rejected by ~~a~~ *two nonaffiliated* licensed insurance ~~company~~ *companies*, pursuant to subdivision 2. *One of these two rejections must come from the insurance company that most recently provided workers' compensation coverage to the employer, unless the employer had no previous coverage. Each rejection must be in writing and must be obtained within 60 days before the date of application to the assigned risk plan. In addition, the rejections must also show the name of the insurance company and the representative contacted.*

Sec. 8. Minnesota Statutes 1990, section 79.252, subdivision 3, is amended to read:

Subd. 3. [COVERAGE.] *(a)* Policies and contracts of coverage issued pursuant to section 79.251, subdivision 4, shall contain the usual and customary provisions of workers' compensation insurance policies, and shall be deemed to meet the mandatory workers' compensation insurance requirements of section 176.181, subdivision 2.

(b) Policies issued by the assigned risk plan pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The board of governors may apply for and obtain any licensure required in any other state to issue that coverage.

Sec. 9. Minnesota Statutes 1990, section 79.252, subdivision 5, is amended to read:

Subd. 5. [RULES.] The commissioner may adopt rules, including ~~emergency~~ *temporary* rules, as may be necessary to implement section 79.251 and this section.

Sec. 10. Minnesota Statutes 1990, section 79.55, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVENESS.] ~~No premium is excessive in a competitive market. In the absence of a competitive market.~~ Premiums are excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business.

Sec. 11. Minnesota Statutes 1990, section 79.56, is amended by adding a subdivision to read:

Subd. 5. [RATE REGULATION.] *(a) Whenever an insurer files a change in its existing rate level or rating plan, the commissioner may hold a hearing to determine if the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. The hearing must be conducted pursuant to chapter 14. The commissioner shall give notice of intent to hold a hearing within 90 days of the filing of the change. It is the responsibility of the insurer to show that the rate level or rating plan is not excessive, inadequate, or unfairly discriminatory. The rate level or rating plan is effective unless it is determined as a result of the hearing that the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. Upon such a finding, the rate level or rating plan is retroactively rescinded and any premiums collected under it must be refunded. This subdivision does not apply to any changes resulting from assessments for the assigned risk plan, reinsurance association, guarantee fund, special compensation fund, or statutory benefit level changes*

to sections 176.101, subdivisions 1, 2, and 4, 176.111, 176.132, and 176.645 as a result of annual adjustments in the statewide average weekly wage. The disapproval of a rate level or rating plan under this subdivision must be done in the same manner as under section 70A.11, except that the standards of section 79.55 apply.

(b) Notwithstanding paragraph (a), if the commissioner of labor and industry petitions the commissioner for a hearing pursuant to this subdivision, the commissioner must hold a hearing if the commissioner of labor and industry certifies that the hearing is necessary because a decision of the supreme court or enactment of a statute has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner of labor and industry must make a prima facie showing that law change has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed.

(c) Notwithstanding paragraph (a), the commissioner may hold a hearing if the commissioner determines that the hearing is necessary because of circumstances which result in a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner must make a prima facie showing that the circumstances resulted in a substantial change in the basis upon which the existing rate levels or rating plan was filed.

Sec. 12. [79.565] [PARTICIPATION.]

An employer, or person representing a group of employers, that will be directly affected by a change in an insurer's existing rate level or rating plan filed under section 79.56, subdivision 5, and the commissioner of labor and industry, must be allowed to participate in any hearing under that subdivision challenging the change in rate level or rating plan as being excessive, inadequate, or unfairly discriminatory.

Sec. 13. Minnesota Statutes 1990, section 79.58, subdivision 2, is amended to read:

Subd. 2. [RATING PLANS.] The commissioner may disapprove a rating plan of a data service organization if, after a hearing *conducted pursuant to chapter 14*, the commissioner finds that it is *excessive, inadequate, or* unfairly discriminatory. *The rating plan is effective until disapproved. It is the responsibility of the data service organization to show that the rating plan is not excessive, inadequate, or unfairly discriminatory.* Any order of disapproval shall require the data service organization to use an alternative rating plan until approval of a rating plan by the commissioner. The commissioner shall not approve any rating plan based upon any data other than Minnesota data, except that other data may be utilized as a supplement to Minnesota data when the commissioner determines that an exceptional case requires such data to establish the statistical credibility of an occupational classification.

Sec. 14. Minnesota Statutes 1990, section 79.61, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED ACTIVITY.] Any data service organization shall perform the following activities:

(a) File statistical plans, including classification definitions, amendments to the plans, and definitions, with the commissioner for approval, and assign each compensation risk written by its members to its approved classification

for reporting purposes;

(b) Establish requirements for data reporting and monitoring methods to maintain a high quality data base;

(c) Prepare and distribute a periodic report, in a form prescribed by the commissioner, on ratemaking including, but not limited to the following elements:

(i) development factors and alternative derivations;

(ii) trend factors and alternative derivations and applications;

(iii) pure premium relativities for the approved classification system for which data are reported, provided that the relativities for insureds engaged in similar occupations and presenting substantially similar risks shall, if different, differ by at least ten percent; and

(iv) an evaluation of the effects of changes in law on loss data.

The report shall also include explicit discussion and explanation of methodology, alternatives examined, assumptions adopted, and areas of judgment and reasoning supporting judgments entered into, and the effect of various combinations of these elements on indications for modification of an overall pure premium rate level change. The pure premium relativities and rate level indications shall not include a loading for expenses or profit and no expense or profit data or recommendations relating to expense or profit shall be included in the report or collected by a data service organization;

(d) Collect, compile, summarize, and distribute data from members or other sources pursuant to a statistical plan approved by the commissioner;

(e) Prepare merit rating plan and calculate any variable factors necessary for utilization of the plan. Such a plan may be used by any of its members, at the option of the member provided that the application of a plan shall not result in rates that are unfairly discriminatory;

(f) Provide loss data specific to an insured to the insured at a reasonable cost;

(g) Distribute information to an insured or interested party that is filed with the commissioner and is open to public inspection; ~~and~~

(h) Assess its members for operating expenses on a fair and equitable basis;

(i) Separate the incurred but unreported losses of its members;

(j) Separate paid and outstanding losses of its members;

(k) Provide information indicating cases in which its members have established a reserve in excess of $50,000;

(l) File information based solely on Minnesota data concerning its members' premium income, indemnity, and medical benefits paid.

Sec. 15. [79.65] [DATA SERVICE ORGANIZATIONS; COVERAGE.]

Subdivision 1. [EXAMINATION BY COMMISSIONER.] *Data service organizations are subject to all the provisions of this chapter. The commissioner or an authorized representative of the commissioner may visit the rating association at any reasonable time and examine, audit, or evaluate the rating association's operations, records, and practices. For purposes of this section, "authorized representative of the commissioner" includes*

employees of the department of commerce or labor and industry or other parties retained by the commissioner. An examination under this section may be done of any member of data service organizations for purposes of workers' compensation insurance regulation.

Subd. 2. [COSTS AND EXPENSES.] *The commissioner may order and the data service organization shall pay the costs and expenses of any examination, audit, or evaluation conducted pursuant to subdivision 1. If no order is issued, a sum sufficient to pay these costs and expenses is appropriated from the special compensation fund to the commissioner of commerce.*

Sec. 16. [79.70] [INVESTIGATIONS AND SUBPOENAS.]

Subdivision 1. [GENERAL POWERS.] *In connection with the administration of this chapter, the commissioner of commerce may:*

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter, or in the prescribing of rules or forms under this chapter;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the administration of this chapter;

(4) conduct investigations and hold hearings for the purpose of compiling information with a view to recommending changes in this chapter to the legislature;

(5) examine the books, accounts, records, and files of every licensee under this chapter and of every person who is engaged in any activity regulated under this chapter; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; and

(7) require any person subject to this chapter to report all sales or transactions that are regulated under this chapter. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction.

Subd. 2. [POWER TO COMPEL PRODUCTION OF EVIDENCE.] *For the purpose of any investigation, hearing, or proceeding under this chapter, the commissioner or a designated representative may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner considers relevant or material to the inquiry.*

Subd. 3. [COURT ORDERS.] *In case of a refusal to appear or a refusal to obey a subpoena issued to any person, the district court, upon application by the commissioner, may issue to any person an order directing that person*

to appear before the commissioner, or the officer designated by the commissioner, to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

Subd. 4. [SCOPE OF PRIVILEGE.] *No person is excused from attending and testifying or from producing any document or record before the commissioner, or from obedience to the subpoena of the commissioner or any officer designated by the commissioner or in a proceeding instituted by the commissioner, on the ground that the testimony or evidence required may tend to incriminate that person or subject that person to a penalty or forfeiture. No person may be prosecuted or subjected to a penalty or forfeiture for a transaction, matter, or thing concerning which the person is compelled, after claiming the privilege against self-incrimination, to testify or produce documentary or other evidence except that the individual is not exempt from prosecution and punishment for perjury or contempt committed in testifying.*

Subd. 5. [LEGAL ACTIONS; INJUNCTIONS; CEASE AND DESIST ORDERS.] *(a) Whenever it appears to the commissioner that any person has engaged in or is about to engage in any act or practice constituting a violation of this chapter, or any rule or order adopted under this chapter, the commissioner has the powers indicated under paragraphs (b) and (c).*

(b) The commissioner may bring an action in the name of the state in the district court of the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter, or any rule or order adopted or issued under this chapter, or the commissioner may refer the matter to the attorney general or the county attorney of the appropriate county. Upon a proper showing, a permanent or temporary injunction, restraining order, or other appropriate relief must be granted.

(c) The commissioner may issue and serve an order requiring a person to cease and desist from violations of this chapter, or any rule or order adopted or issued under this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order. A hearing must be held not later than seven days after the request for the hearing is received by the commissioner. Within 20 days after receiving the administrative law judge's report, the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. Unless otherwise provided, all hearings must be conducted in accordance with chapter 14. If a person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted under this paragraph.

Subd. 6. [VIOLATIONS AND PENALTIES.] *The commissioner may impose a civil penalty not to exceed $2,000 per violation upon a person who violates this chapter, unless a different penalty is specified under this chapter.*

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 this chapter,*

or censure that person if the commissioner finds that the order is in the public interest or the person has violated this chapter.

Subd. 8. [POWERS ADDITIONAL.] *The powers contained in subdivisions 1 to 8 are in addition to all other powers of the commissioner.*

Sec. 17. [79.75] [ACCESS TO INSURER.]

The commissioner, or the designated person, shall have free access during normal business hours to all books, records, securities, documents, and any or all papers relating to the property, assets, business, and affairs of any company, applicant, association, or person that may be examined pursuant to this chapter for the purpose of ascertaining, appraising, and evaluating the assets, conditions, affairs, operations, ability to fulfill obligations, and compliance with all the provisions of law of the company or person insofar as any of the above pertain to the business of insurance of a person, organization, or corporation transacting, having transacted, or being organized to transact business in this state. Every company or person being examined including officers, directors, and agents, shall provide to the commissioner or the designated person convenient and free access at all reasonable hours at its office to all books, records, securities, documents, and any or all papers relating to the property, assets, business, and affairs of the company or person. The officers, directors, and agents of the company or person shall facilitate the examination and aid in the examination so far as it is in their power to do so.

Sec. 18. Minnesota Statutes 1990, section 176A.03, is amended by adding a subdivision to read:

Subd. 3. [COVERAGE OUTSIDE STATE.] *Policies issued by the fund pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The fund may apply for and obtain any licensure required in any other state in order to issue the coverage.*

Sec. 19. Minnesota Statutes 1990, section 221.141, subdivision 1, is amended to read:

Subdivision 1. [FINANCIAL RESPONSIBILITY OF CERTAIN CARRIERS.] No motor carrier and no interstate carrier shall operate a vehicle until it has obtained and has in effect the minimum amount of financial responsibility required by this section. Policies of insurance, surety bonds, other types of security, and endorsements must be continuously in effect and must remain in effect until canceled. Before providing transportation, the motor carrier or interstate carrier shall secure and cause to be filed with the commissioner and maintain in full effect, *both* a certificate of insurance in a form required by the commissioner, evidencing public liability insurance in the amount prescribed, *and acceptable evidences of compliance with the workers' compensation insurance coverage requirements of section 176.181, subdivision 2, by providing the name of the insurance company, the policy number, and the dates of coverage, or the permit to self-insure*. The insurance must cover injuries and damage to persons or property resulting from the operation or use of motor vehicles, regardless of whether each vehicle is specifically described in the policy. This insurance does not apply to injuries or death to the employees of the motor carrier or to property being transported by the carrier. The commissioner shall require cargo insurance for certificated carriers, except those carrying passengers exclusively. The commissioner may require a permit carrier to file cargo insurance when the

commissioner deems necessary to protect the users of the service.

Sec. 20. [NOTICE OF INTENT TO CHALLENGE RATE LEVEL CHANGE.]

Notwithstanding Minnesota Statutes, section 79.56, subdivision 5, the commissioner shall have an additional 90 days to give notice of intent to hold a hearing pursuant to that section. This section applies only to challenges to an insurer's change in existing rate levels or rating plan filed between the date the 1992 report required under Minnesota Statutes, section 79.60, is approved by the commissioner of commerce and six months thereafter.

Sec. 21. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in articles 1 to 4 and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of rates in effect on October 1, 1991, must be reduced by 17 percent and applied by the insurer to all policies issued, renewed, or outstanding on or after that date. An insurer may not adjust its filed rating plan to recoup the 17 percent mandated rate reduction under this section. The reduction must be computed on the basis of a 17 percent premium reduction prorated to the expiration of that policy. An insurer shall provide a written notice by November 1, 1991, to all employers having an outstanding policy with the insurer as of October 1, 1991, that reads as follows: "As a result of the changes in the workers' compensation insurance system enacted by the 1991 legislature, you are entitled to a credit or refund to your current premium in an amount of $ . . . . . which reflects a 17 percent mandated premium reduction prorated to the expiration of your policy."

(b) No rate increases may be filed between April 1, 1991, and January 1, 1992.

(c) The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under this section have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner shall present a report detailing the findings and conclusions to the legislature by March 1, 1992.

Sec. 22. [ADJUSTMENT.]

Within 60 days of final enactment of this legislation, the board shall determine whether any adjustment in the assigned risk rates in effect as of the date of enactment are required by this section.

Sec. 23. [REPEALER.]

Minnesota Statutes 1990, sections 79.54; 79.57; and 79.58, subdivision 1, are repealed.

Sec. 24. [EFFECTIVE DATE.]

This article is effective January 1, 1992; except that section 21, paragraphs (a) and (c), are effective October 1, 1991; and section 21, paragraph (b), is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to workers' compensation; regulating benefits,

providers, dispute resolution, and insurance; appropriating money; imposing penalties; amending Minnesota Statutes 1990, sections 15A.083, subdivision 7; 79.095; 79.251, subdivisions 1, 2, 3, 4, and 5; 79.252, subdivisions 1, 3, and 5; 79.55, subdivision 2; 79.56, by adding a subdivision; 79.58, subdivision 2; 79.61, subdivision 1; 175.007; 176.011, subdivisions 3, 11a, 18, 27, and by adding a subdivision; 176.021, subdivision 3; 176.041, subdivision 1a; 176.061, subdivision 10, and by adding a subdivision; 176.081, subdivisions 1, 2, and 3; 176.101, subdivisions 1, 2, 4, 5, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 3a, 4, 6, 7, 9, and 11; 176.105, subdivisions 1 and 4; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 18, 20, and 21; 176.131, subdivision 8, and by adding a subdivision; 176.132, subdivisions 1, 2, and 3; 176.135, subdivisions 1, 1a, 5, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.179; 176.183, subdivision 1; 176.215, by adding a subdivision; 176.221, subdivision 6a; 176.305, subdivision 1; 176.351, subdivision 2a; 176.421, subdivision 7; 176.442; 176.461; 176.645, subdivisions 1 and 2; 176.66, subdivision 11; 176.82; 176.83, subdivisions 5, 6, and by adding a subdivision; 176A.03, by adding a subdivision; 221.141, subdivision 1; 268.08, subdivision 3; 353.33, subdivision 5; and 480A.06, subdivisions 3 and 4; proposing coding for new law in Minnesota Statutes, chapters 79; and 176; repealing Minnesota Statutes 1990, sections 79.54; 79.57; 79.58, subdivision 1; 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; 175A.10; 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; 176.106; 176.111, subdivision 8a; 176.135, subdivision 3; and 176.136, subdivision 5."

Mr. Frank questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

CALL OF THE SENATE

Mr. Gustafson imposed a call of the Senate for the balance of the proceedings on S.F. No. 985. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Gustafson appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

Mr. Gustafson moved that those not voting be excused from voting.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 29 and nays 23, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Halberg	Larson	Pariseau
Beckman	Davis	Johnson, D.E.	McGowan	Renneke
Belanger	Day	Johnston	Mehrkens	Sams
Benson, J.E.	DeCramer	Knaak	Morse	Storm
Berg	Frederickson, D.R.	Laidig	Neuville	Vickerman
Bertram	Gustafson	Langseth	Olson	

Those who voted in the negative were:

Berglin	Frank	Lessard	Mondale	Solon
Chmielewski	Hottinger	Luther	Pappas	Traub
Dahl	Hughes	Merriam	Piper	Waldorf
Finn	Johnson, J.B.	Metzen	Riveness	
Flynn	Kroening	Moe, R.D.	Samuelson	

The motion did not prevail.

The roll was called on the appeal of the decision of the President.

There were yeas 32, and nays 32, as follows.

Those who voted in the affirmative were:

Berglin	Frederickson, D.J.	Lessard	Pappas	Solon
Chmielewski	Hottinger	Luther	Piper	Spear
Cohen	Hughes	Marty	Pogemiller	Traub
Dahl	Johnson, D.J.	Metzen	Price	Waldorf
Finn	Johnson, J.B.	Moe, R.D.	Reichgott	
Flynn	Kelly	Mondale	Riveness	
Frank	Kroening	Novak	Samuelson	

Those who voted in the negative were:

Adkins	Bertram	Halberg	McGowan	Sams
Beckman	Brataas	Johnson, D.E.	Mehrkens	Storm
Belanger	Davis	Johnston	Merriam	Stumpf
Benson, D.D.	Day	Knaak	Neuville	Vickerman
Benson, J.E.	DeCramer	Laidig	Olson	
Berg	Frederickson, D.R.	Langseth	Pariseau	
Bernhagen	Gustafson	Larson	Renneke	

The decision of the President was sustained.

S.F. No. 985 was then progressed.

SPECIAL ORDER

H.F. No. 2: A bill for an act relating to health care; creating a bureau of health care access; establishing the Minnesotans' health care plan; establishing an office of rural health; requiring rural health initiatives; requiring data and research initiatives; restricting underwriting and premium rating practices; providing a health insurance plan for small employees; requiring initiatives related to health professional education; appropriating money; amending Minnesota Statutes 1990, sections 16A.124, subdivision 4; 43A.17, subdivision 9; 43A.23, by adding a subdivision; 136A.1355, subdivisions 2 and 3; 144.147, subdivisions 1 and 4; 144.581, subdivision 1; 144.698, subdivision 1; 144.8093; 145.61, subdivision 5; 145.64; 176.011, subdivision 9; 256.969, subdivision 6a; 290.01, subdivision 19b; and 447.31, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapters 16B; 62A; 62J; 144; and 144A; proposing coding for new law as Minnesota Statutes, chapter 62K.

Ms. Berglin moved to amend H.F. No. 2, the unofficial engrossment, as follows:

Pages 1 to 12, delete article 1 and insert:

"ARTICLE 1

HEALTH DEPARTMENT DUTIES

Section 1. [16B.065] [STATE CONTRACTORS AND VENDORS; HEALTH COVERAGE FOR EMPLOYEES.]

To participate in a state contract or otherwise provide goods or services

to a state agency, the contractor, vendor, or service provider must offer health coverage to its employees that meets the terms and conditions for employer eligibility in the Minnesotans' health care plan in article 2, section 4. The contractor, vendor, or service provider may obtain health coverage through the Minnesotans' health care plan or an alternative source.

Sec. 2. [62A.301] [UNIFORM POLICY FORMS.]

The commissioner shall adopt rules prescribing uniform policy forms for all policies of accident and health insurance, health maintenance contracts regulated under chapter 62D, health benefit certificates offered through a fraternal beneficiary association regulated under chapter 64B, and group subscriber contracts offered by nonprofit health service plan corporations regulated under chapter 62C, in order to give the insurance purchaser a reasonable opportunity to compare the cost of insuring with various insurers. This section does not apply to policies designed primarily to provide coverage payable on a per diem, fixed indemnity, or nonexpense incurred basis, or policies that provide only accident coverage.

Sec. 3. [62J.03] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *For purposes of this chapter, the following terms have the meanings given them.*

Subd. 2. [GROUPS; DEFINITIONS.] *The definitions of small group, medium-sized group, large group, and group sponsor in this section are subject to United States Code, title 26, sections 414(b), 414(c), and 414(m), and federal regulations related to those sections, when a group sponsor or sponsors alter, reform, or redefine a group or groups to avoid or to take advantage of community rating. The commissioners of commerce and health may adopt rules to supplement those federal statutes and regulations to prevent qualification as a large, medium-sized, or small group through the use of separate organizations, multiple organizations, employee leasing, or other arrangements.*

Subd. 3. [ADULT.] *"Adult" means a person 18 years of age or older.*

Subd. 4. [CHILD.] *"Child" means a person under 18 years of age.*

Subd. 5. [COMMISSIONER.] *"Commissioner" means the commissioner of health.*

Subd. 6. [DEPARTMENT.] *"Department" means the department of health.*

Subd. 7. [GROUP SPONSOR.] *"Group sponsor" means an employer or other entity described in section 62A.10, subdivision 1, as an eligible purchaser of health coverage.*

Subd. 8. [HEALTH COVERAGE.] *"Health coverage" means a policy or contract providing health and accident benefit under chapter 62A, 62C, 62D, 62E, 62H, or 64B; under section 471.617, subdivision 2; or through the state plan. Health coverage does not include a policy or contract designed primarily to provide coverage on a per diem, fixed annuity, or nonexpense-incurred basis, or that provides only accident coverage.*

Subd. 9. [HEALTH PLAN COMPANY.] *"Health plan company" means any entity governed by chapter 62A, 62C, 62D, 62E, 62H, or 64B, or section 471.617, subdivision 2, that offers, sells, issues, or renews health coverage in this state. Health plan company does not include an entity that sells only policies designed primarily to provide coverage on a per diem, fixed annuity,*

or nonexpense-incurred basis, or policies that provide only accident coverage.

Subd. 10. [HEALTH PROFESSIONAL.] *In benefit set descriptions, references to services performed by "health professionals" include services performed by any qualified health professionals acting within their licensed, certified, or registered scope of practice, including but not limited to: medical doctors, nurse practitioners, physician assistants, certified nurse midwives, chiropractors, podiatrists, physical therapists, occupational therapists, speech therapists, and audiologists.*

Subd. 11. [INDIVIDUAL.] *"Individual" means an individual or family that applies to a health plan company or the state plan for health coverage on an individual or family basis.*

Subd. 12. [INTERMEDIATE BENEFIT SET.] *"Intermediate benefit set" means the health care benefits specified in article 3, sections 2 to 11.*

Subd. 13. [INTERMEDIATE BENEFIT SET, PART A.] *"Intermediate benefit set, part A" means the health care benefits specified in article 3, sections 2 to 7, as limited by section 11.*

Subd. 14. [INTERMEDIATE BENEFIT SET, PART B.] *"Intermediate benefit set, part B" means the health care benefits specified in article 3, sections 8 to 10, as limited by section 11.*

Subd. 15. [LARGE GROUP.] *"Large group" means a group of 100 or more employees or members of a group sponsor that applies for or obtains health coverage from a health plan company or the state plan. Owners of sole proprietorships, partnerships, and other unincorporated entities are employees for purposes of this definition. Dependents of employees or members do not count for purposes of this definition.*

Subd. 16. [MEDIUM-SIZED GROUP.] *"Medium-sized group" means a group of not fewer than 30 nor more than 99 employees or members of a group sponsor that applies for or obtains health coverage from a health plan company or the state plan. Owners of sole proprietorships, partnerships, and other unincorporated entities are employees for purposes of this definition. Dependents of employees or members do not count for purposes of this definition.*

Subd. 17. [MINIMUM INSURANCE BENEFIT SET.] *"Minimum insurance benefit set" means the health care benefits that must be included in health coverage offered, sold, issued, or renewed by health plan companies, as specified in article 3, section 14.*

Subd. 18. [MINNESOTA RESIDENT.] *"Minnesota resident" means a person whose principal place of residence is Minnesota and who (1) is employed in Minnesota; or (2) has resided in Minnesota for at least 90 consecutive days.*

Subd. 19. [SMALL GROUP.] *"Small group" means a group of not fewer than two nor more than 29 employees or members of a group sponsor that applies for or obtains health coverage from a health plan company or the state plan. Owners of sole proprietorships, partnerships, and other unincorporated entities are employees for purposes of this definition. Dependents of employees or members do not count for purposes of this definition.*

Subd. 20. [STATE PLAN.] *"State plan" means the Minnesotans' health care plan administered by the commissioner of health.*

Subd. 21. [SUPPLEMENTAL BENEFIT SET.] *"Supplemental benefit set" means the health care benefits available through the state plan that exceed the intermediate benefit set, as specified in article 3, section 15.*

Subd. 22. [UNIVERSAL BASIC BENEFIT SET.] *"Universal basic benefit set" means the health care benefits specified in article 3, section 12.*

Sec. 4. [62J.04] [BUREAU OF HEALTH CARE ACCESS.]

Subdivision 1. [DUTIES.] *The bureau of health care access in the department shall undertake the design and implementation of the Minnesotans' health care plan and perform the duties assigned under this chapter. The bureau of health care access is under the supervision of a deputy commissioner appointed by the commissioner of health. The commissioner may also use any powers granted under other laws to carry out the duties assigned in this chapter.*

Subd. 2. [CONTRACTS.] *When entering into contracts with health plans and health care providers, the department is not subject to the competitive bidding requirements in section 16B.07.*

Subd. 3. [EMPLOYEES.] *The commissioner shall hire employees to carry out the duties of the department specified under this chapter.*

Subd. 4. [RULES.] *The commissioner may adopt permanent and emergency rules as necessary to carry out the duties assigned in this chapter.*

Sec. 5. [62J.05] [HEALTH CARE PLAN ADMINISTRATION.]

Subdivision 1. [GENERAL POWERS AND DUTIES.] *The commissioner shall:*

(1) administer the Minnesotans' health care plan;

(2) contract with providers, insurers, and health plans to provide coverage or health care to participants in state health programs administered by the commissioner and specify or negotiate the terms of the contracts;

(3) administer the reinsurance pool in article 2, section 9;

(4) coordinate the health care programs administered by the commissioner with the medical assistance program administered by the commissioner of human services;

(5) have the authority to clarify and refine the terms of the intermediate benefit set, the supplemental benefit set, the minimum insurance benefit set, and the universal basic benefit set, including the authority to waive copayments, or establish a sliding scale copayment schedule that will result in reduced copayments, for enrollees with federal adjusted gross incomes below 185 percent of the federal poverty guideline;

(6) coordinate the mental health benefits of the health care programs administered by the commissioner with county-based mental health programs provided under the community social services act, and recommend changes to the state plan and community social services act programs that will improve the state plan's mental health benefits and minimize duplication with county-based programs;

(7) provide assistance to the commissioner of human services in order to secure waivers of federal requirements for federally subsidized health care programs as necessary to further the state's health care access goals and improve coordination between governmental health care programs;

(8) coordinate the health care programs administered by the commissioner with other state and local health care programs in order to make the most effective use of the state's market leverage and expertise in contracting and working with health plans and health care providers, and recommend to the legislature any changes needed to: (i) improve the effectiveness of public health care purchasing; and (ii) streamline and consolidate government health care programs;

(9) with the advice of the health care expenditure advisory committee, establish an overall, statewide limit on total public and private health care spending in Minnesota and limits on annual health care spending increases, require compliance of all participants in the health care system with the spending limits, and make recommendations to the governor and the legislature regarding legislation or other actions that are needed to contain health care spending within the limits established by the commissioner. All participants in the health care system are required to take action necessary to ensure that total health care spending and increases in spending remain within the limits established by the commissioner; and

(10) incorporate practice standards developed by the health care analysis unit under article 4, section 1, into the administration of the Minnesotans' health care plan and specifications for contracts with health plans and providers for coverage and services to enrollees.

Subd. 2. [MONITORING OF EMPLOYERS.] *The commissioner shall conduct surveys and other activities to monitor changes over time, if any, in employers' behavior in providing subsidized health coverage. Detailed surveys of employer behavior must be conducted at least annually. After each survey is completed, the findings and an analysis of the positive or negative impact, if any, on the costs of the Minnesotans' health care plan resulting from changes in employers' behavior, and recommendations regarding actions necessary to address changes, must be reported to the commissioners of finance and revenue and to the chairs of the senate finance and house of representatives appropriations committees and the senate and house of representatives tax committees. If the commissioner anticipates that there will be increased state costs associated with a significant decrease in employer-subsidized health coverage, the commissioner shall submit draft legislation to raise additional revenues through an employer-paid payroll tax to the chairs of the senate finance and house of representatives appropriations committees and the senate and house of representatives tax committees.*

Subd. 3. [CHANGES IN FEDERAL HEALTH CARE PROGRAMS.] *The commissioner, in cooperation with the commissioner of human services, shall identify and pursue changes in federal health care programs that would allow them to be merged or more effectively coordinated with the health care programs administered by the department of commerce. The commissioner of commerce and the commissioner of human services may seek federal waivers, develop partnerships with federal health programs, and seek changes in federal programs.*

Sec. 6. [62J.06] [TECHNOLOGY AND BENEFITS ADVISORY COMMITTEE.]

Subdivision 1. [MEMBERSHIP.] *The commissioner shall convene a technology and benefits advisory committee consisting of 15 members including consumers, health care providers and payors, a representative of the medical technology industry, and experts in medical ethics. Advisory committee*

members are appointed by the governor. The governor shall ensure that appointments result in a balance of interests on the committee. The commissioner shall make recommendations for appointments. The advisory committee is governed by section 15.059 except that it does not expire.

Subd. 2. [DUTIES.] *The technology and benefits advisory committee is responsible for periodically reviewing, analyzing, and evaluating health care technology, benefits, and coverage and making recommendations to the commissioner and the legislature. The committee's recommendations must be based on the following principles: (1) universal and equitable access to health care procedures and technologies; (2) maintenance of an appropriate balance between expenditures for primary and preventive care, and expenditures for high-cost cases; (3) promotion of high quality and cost-effective health care; and (4) adherence to budget targets. The committee shall solicit comments and recommendations from interested persons during its deliberations. The committee is responsible for reviewing, analyzing, and making recommendations concerning at least the following:*

(i) the universal basic benefit set;

(ii) the intermediate benefit set;

(iii) the supplemental benefit set;

(iv) the minimum insurance benefit set;

(v) coverage for new procedures and technologies;

(vi) state mandated benefits applicable to insurers and other health plan companies;

(vii) benefit levels in other state health coverage programs; and

(viii) coverage and health care standards for cases subject to the reinsurance pool in article 2, section 9, which would be binding on the reinsurance pool.

Sec. 7. [62J.07] [HEALTH CARE EXPENDITURES ADVISORY COMMITTEE.]

Subdivision 1. [MEMBERSHIP.] *The health care expenditures advisory committee is a permanent committee consisting of 15 members appointed by the governor. Committee members include representatives of health insurers, health maintenance organizations, and other health plan companies; state agencies that administer government health programs; health care providers; labor; business; and consumer groups. The commissioner shall make recommendations to the governor regarding appointments to the committee. The governor shall ensure that appointments result in a balance of interests on the committee. The committee is governed by section 15.059, except that it does not expire.*

Subd. 2. [DUTIES.] *The health care expenditures advisory committee shall make recommendations to the commissioner for an overall statewide limit on total public and private health care spending in Minnesota and limits on annual health care spending increases.*

Subd. 3. [STAFF AND SUPPLIES.] *The commissioner shall provide the advisory committee with staff support and supplies.*

Sec. 8. [62J.08] [PLANNING AND DEVELOPMENT.]

Subdivision 1. [REQUIRED ACTIVITIES.] *The commissioner shall*

begin planning and development for the state plan July 1, 1991. The commissioner shall use an implementation schedule that will lead to enrollment of eligible individuals, families, and employee groups statewide beginning January 1, 1993. Planning and development activities include:

(1) development of outreach, enrollment, and eligibility determination procedures;

(2) commencement of outreach activities;

(3) planning, development, and acquisition of necessary computer systems, including forms, software, and training;

(4) development of health plan contractor specifications and issuance of requests for proposals;

(5) negotiating and executing health plan contracts;

(6) planning, development, and preparation of systems for direct health care delivery management by the state or planning for the use of existing administrative systems in the department of human services, as necessary;

(7) preparations, requests for proposals, contract negotiations, and other activities relating to the reinsurance pool; and

(8) other appropriate planning and development activities.

Subd. 2. [TERMS OF PROGRAM CONSOLIDATION.] *In carrying out the merger, transfer, or reconfiguration of existing health care and health coverage programs, as described in this section, the commissioner shall:*

(1) ensure that health care benefits will not be diminished for enrollees and clients of current programs;

(2) assist current program enrollees and clients with the procedures necessary to maintain comparable health care benefits;

(3) ensure that financial obligations for public hospitals and other health care providers that serve the enrollees and clients of current programs will not increase as a result of the merger or transfer; and

(4) ensure coordination between the state plan, local public health departments, public hospitals, and other health care providers that serve the enrollees and clients of current programs in the areas of outreach, patient education, case management, and related services.

Subd. 3. [SHORT-TERM PROGRAM MERGERS.] *(a) By July 1, 1993, or six months after the state plan begins statewide enrollment, whichever is later, the commissioner, with assistance from the commissioner of human services, shall take action necessary to merge the children's health plan into the state plan.*

(b) By July 1, 1994, the commissioner, with assistance from the commissioner of human services, shall take action necessary to merge the general assistance medical care program into the state plan.

Subd. 4. [SHORT-TERM PROGRAM TRANSFERS.] *By July 1, 1994, or one year after the state plan begins statewide enrollment, whichever is later, the commissioner, with assistance from the commissioner of human services, shall take action necessary to transfer part of the responsibilities and functions of the following programs to the state plan, to the extent that the state plan provides or will provide duplicate services: the services for children with handicaps program, the maternal and child health program,*

and the consolidated chemical dependency treatment fund. For chemical dependency coverage under the state plan, the commissioner shall:

(1) adopt the consolidated chemical dependency treatment fund's process for patient evaluation and referral, to the extent possible within the state plan's managed care arrangements; and

(2) coordinate services with the consolidated chemical dependency treatment fund to ensure nonduplication of services and ease of transfer between the programs.

Subd. 5. [MINNESOTA COMPREHENSIVE HEALTH ASSOCIATION.] *Effective January 1, 1993, or when the state plan begins statewide enrollment, whichever is later, no additional enrollments are permitted in the Minnesota comprehensive health association; and current enrollees may remain enrolled in the Minnesota comprehensive health association, may enroll in the state plan, or may obtain health care coverage in the private market. By January 1, 1992, the commissioner, with assistance from the commissioner of commerce, shall make recommendations to the legislature on whether this requirement should be changed to allow new enrollees in the Minnesota comprehensive health association after January 1, 1993, or the date of statewide enrollment in the state plan. Enrollees in the state plan may choose the intermediate benefit set or both the intermediate and the supplemental benefit sets. The commissioner, with assistance from the commissioner of commerce, shall determine whether or not to include the Minnesota comprehensive health association in longer-term program transfers as stated in subdivision 7, after evaluating the rate of disenrollment from the Minnesota comprehensive health association. If the commissioner recommends merger, transfer, reconfiguration, or other changes to the Minnesota comprehensive health association, the changes must be made consistent with the requirements in subdivision 2.*

Subd. 6. [MEDICAL ASSISTANCE.] *By July 1, 1995, the commissioner, with assistance from the commissioner of human services, shall take action necessary to merge all or part of the medical assistance program into the state plan, to the extent that a merger is permitted by federal waivers and will improve the cost-effectiveness of public health care purchasing and streamline and consolidate government health care programs.*

Subd. 7. [LONGER-TERM PROGRAM TRANSFERS.] *By July 1, 1995, the commissioner, with assistance from the commissioners of employee relations, corrections, and other affected agencies, shall take action necessary to transfer part of the responsibilities and functions of the following programs to the state plan: state and local government employee health benefits programs, corrections system health programs, the health care component of the Minnesota crime victims reparations board program, and other health care and health coverage programs sponsored by state or local government. The transfers must be limited to responsibilities and functions that the state plan provides or will provide, and to transfers that will improve the cost-effectiveness of public health care purchasing and streamline and consolidate government health care programs. The transfers must not limit the scope of collective bargaining concerning health benefits, or require community rating of employee health benefits.*

Subd. 8. [LONGER-TERM PROGRAM RECONFIGURATION.] *By July 1, 1995, the commissioner of health, with assistance from the commissioners of labor and industry, commerce, and other affected agencies, shall take action necessary to reconfigure the following programs: the health care*

component of workers' compensation coverage, and the health care component of motor vehicle and motorcycle coverage. The program reconfigurations must be carried out in a way that significantly improves the cost-effectiveness of public and private health care purchasing and streamlines and consolidates public and private health care programs.

Subd. 9. [LEGISLATION.] *The commissioner shall submit proposed legislation to the legislature by January 1, 1994, concerning the transfer of responsibilities and functions of state employee health benefits programs. In preparing this legislation the commissioner shall consult with, and obtain the agreement of, the commissioner of employee relations and the joint labor-management committee on health plans. If the commissioner determines that additional legislation is necessary to fully implement the Minnesotans' health care plan and other activities and requirements established in this chapter, the commissioner shall submit proposed legislation to the legislature by the dates indicated. The proposed legislation must include, but is not limited to, technical changes necessary to:*

(1) merge into the state plan the children's health plan, to be submitted by January 1, 1992, and the general assistance medical care program, to be submitted by January 1, 1993;

(2) transfer to the state plan part of the responsibilities and functions of the services for children with handicaps program, the maternal and child health program, and the consolidated chemical dependency treatment fund, to be submitted by January 1, 1993;

(3) enforce the spending limits established under section 5, subdivision 1, clause (9), to be submitted by January 1, 1992;

(4) transfer to the department part of the responsibilities and functions of local government employee health benefits programs, corrections system health programs, the health care component of the Minnesota crime victims reparations board program, and other health care and health coverage programs sponsored by state and local government, to be submitted by January 1, 1994;

(5) reconfigure the health care components of the workers' compensation coverage and motor vehicle coverage, as described in subdivision 8, to be submitted by January 1, 1994; and

(6) transfer to the department all or part of the responsibilities and functions of the medical assistance program, and to support the state's efforts to secure waivers of federal requirements for federally subsidized health care programs, to be submitted by January 1, 1994.

Subd. 10. [ASSISTANCE FROM OTHER AGENCIES.] *At the request of the commissioner of health, the commissioners of commerce, state planning, human services, employee relations, labor and industry, corrections, finance, and other affected agencies shall provide assistance in planning, development, and implementation.*

Sec. 9. [STUDIES AND REPORTS.]

Subdivision 1. [HEALTH CARE DELIVERY SYSTEM REFORM.] *The health care expenditures advisory committee shall study and make recommendations regarding further reforms to the health care delivery system in Minnesota. The advisory committee shall solicit the comments, advice, and participation from communities with an interest in accessible, affordable health care. The commissioner shall submit a report on the recommendations*

of the advisory committee to the legislature by January 1, 1993.

Subd. 2. [HEALTH PLAN REGULATION.] *The commissioner of health and the commissioner of commerce shall develop a plan for the functional division of regulatory authority over health plans. This plan must be presented to the legislature by January 1, 1992. The plan must allow each commissioner to exercise independent authority to the greatest extent possible and must minimize jurisdictional overlaps. The plan must provide the commissioner of commerce with primary authority for regulating the financial integrity and corporate structure of health plans and must provide the commissioner of health with primary authority for regulating health care delivery and health care quality.*

Subd. 3. [STANDARD CLAIM FORMS AND UTILIZATION REVIEW PROCEDURES.] *The commissioner shall recommend to the legislature a standard claim form for ambulatory care by January 1, 1993, and standards for certain types of utilization review procedures by January 1, 1994. These recommendations must not have the effect of limiting innovation and improvement in health care delivery management, or compromising the purposes for which information is collected.*

Sec. 10. [REPEALER.]

Minnesota Statutes, sections 62E.51, 62E.52, 62E.53, 62E.531, 62E.54, and 62E.55, relating to the catastrophic health expense protection program, are repealed.

Sec. 11. [EFFECTIVE DATE.]

Section 1 is effective July 1, 1996, and applies to contracts entered into or renewed, or goods or services provided, after that date. Sections 4 and 7 are effective July 1, 1991. Section 6 is effective January 1, 1992. Section 8 is repealed effective July 1, 1995. Section 9 is repealed effective January 1, 1994.

ARTICLE 2

MINNESOTANS' HEALTH CARE PLAN

Section 1. [62J.09] [CREATION.]

The Minnesotans' health care plan is created to provide health coverage to individuals, families, and employers who do not have access to other affordable health coverage.

Sec. 2. [62J.10] [ELIGIBILITY OF INDIVIDUALS AND FAMILIES.]

To be eligible to obtain coverage through the state plan, individuals and families must be Minnesota residents and have no other health coverage or must have coverage that primarily supplements, rather than duplicates, the intermediate benefit set. A Minnesota resident individual or family may switch from private health coverage to the state plan provided the transfer does not result in simultaneous coverage under both the state plan and another health care plan. The individual or family must contribute to the cost of health coverage as provided in section 3.

Sec. 3. [62J.11] [INDIVIDUAL AND FAMILY PREMIUMS.]

Subdivision 1. [SLIDING SCALE AND ENROLLEE PREMIUMS.] *Each individual and family enrolled in the state plan shall pay a premium set in relation to income and family size. The commissioner shall establish a sliding scale to determine the amount of the premium each individual or family*

must pay to obtain health coverage through the state plan. The sliding scale must use the federal poverty guidelines as the primary unit of measurement, and must be based on an individual's or family's income, as defined in section 290A.03, subdivision 3, clauses (1) and (2). The commissioner shall determine income on the basis of a period of time, such as the prior four months, which takes into account an applicant's current financial status. The sliding scale must be designed so that individuals and families with incomes less than 25 percent of the federal poverty level pay 0.75 percent of their income, and those with incomes between 250 percent and 275 percent of the federal poverty level pay 4.5 percent of their income. Individuals and families with incomes over 275 percent of the federal poverty guideline or $40,000, whichever is less, are not eligible for a subsidized premium and must pay 100 percent of the cost of coverage through the state plan. In addition to payments under the sliding scale, enrollees may be required to make greater payments depending on the health plan chosen. The commissioner shall pass on differences in premiums between health plans to enrollees, except that the commissioner may limit differences in charges to enrollees if necessary to prevent enrollment that exceeds the capacity of certain plans.

Subd. 2. [ADJUSTMENTS TO THE INCOME LIMIT AND SLIDING SCALE.] *The commissioner shall adjust the sliding scale and the maximum income limit for subsidized coverage to reflect changes in prevailing income levels, health coverage costs, and benefit levels.*

Subd. 3. [MUST NOT HAVE ACCESS TO EMPLOYER-SUBSIDIZED COVERAGE.] *To be eligible for subsidized coverage, an individual or family must not have access to subsidized health coverage through an employer, unless the amount of employer subsidy toward the cost of coverage is less than an amount determined by the commissioner. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The commissioner must treat employer contributions to Internal Revenue Code Section 125 plans as qualified employer subsidies toward the cost of health coverage for employees for purposes of this section.*

Subd. 4. [NO SUBSIDY AVAILABLE FOR MEDICARE SUPPLEMENT COVERAGE.] *An individual eligible for Medicare benefits must pay 100 percent of the cost of obtaining Medicare supplement coverage through the state plan, regardless of income.*

Subd. 5. [STATE FUNDS MAY NOT BE USED FOR ABORTION.] *State funds must not be used to pay for an abortion, except as allowed under section 256B.0625, subdivision 16.*

Subd. 6. [COVERAGE MUST NOT DISPLACE FEDERALLY SUBSIDIZED HEALTH COVERAGE.] *Subsidized state plan coverage must not displace subsidized health coverage through a federally supported health program. The commissioner shall establish procedures and requirements to allow coordinated, limited, or supplemental participation in the Minnesotans' health care plan, including limited subsidies, of participants in federally supported health programs to the extent necessary to provide coverage comparable to coverage provided to other state plan enrollees without displacing federal benefits.*

Subd. 7. [MUST BE A PERMANENT MINNESOTA RESIDENT.] *To be eligible for a subsidy, individuals and families must be permanent residents of Minnesota. A permanent Minnesota resident is a Minnesota resident who considers Minnesota to be the person's principal place of residence and*

intends to remain in the state permanently or for a long period of time and not as a temporary or short-term resident. An individual or family that moved to Minnesota primarily to obtain medical treatment or health coverage for a preexisting condition is not a permanent resident and is not entitled to subsidized coverage through the state plan.

Subd. 8. [PERIOD UNINSURED.] *To be eligible for a subsidy, individuals must have had no health coverage for at least four months prior to application. The commissioner may change this eligibility criterion for subsidized coverage without complying with rulemaking requirements in order to remain within the limits of available appropriations.*

Subd. 9. [SUBSIDIZED COVERAGE.] *The intermediate benefit set, part A, shall be provided on a subsidized basis through the state plan to qualified individuals and families. The provision of, and terms of eligibility for, subsidized health coverage are subject to the limits of available appropriations.*

Subd. 10. [ASSET LIMITATIONS AND TRANSFER PROHIBITIONS.] *The commissioner shall adopt by rule asset limitations and transfer prohibitions to be applied in determining an individual's or family's eligibility for a subsidy.*

Sec. 4. [62J.12] [ELIGIBILITY OF EMPLOYERS.]

Subdivision 1. [GROUP COVERAGE.] *An employer is eligible to enroll its employees in the state plan as a group in order to offer its employees health coverage under the Minnesotans' health care plan. To be eligible to participate, an employer must pay Minnesota unemployment insurance premiums and have two or more covered employees, including the owner, or, if a sole proprietor, have at least one employee covered by unemployment insurance and include himself or herself in the group for purposes of health coverage. A self-employed person with no employees may not participate as an employer but may participate as an individual or family. The employer must collect employees' share of premiums and remit them to the commissioner along with the employer's contribution. Sliding scale premium subsidies as described in section 3 do not apply to group coverage. The commissioner shall establish conditions for enrollment of employer groups. Conditions may include, but are not limited to, minimum employer contributions toward coverage for employees and their families, minimum standards for employee eligibility, and eligibility waiting periods for new employees. The commissioner may establish special conditions and procedures for employers who are health care providers participating in state health care programs after considering the impact of article 1, section 1, and of different levels of employer contributions toward employee health coverage, on state health care program reimbursement rates and obligations. The commissioner shall make use of administrative systems for group coverage for employers that will identify and enroll enrollees in a manner comparable to individual, nongroup enrollment in order to enhance the portability of coverage to an individual policy or to another employer covered through the state plan, and to minimize administrative costs associated with frequent reissuing of policies.*

Subd. 2. [COVERAGE OF PART-TIME AND SEASONAL EMPLOYEES.] *The commissioner shall establish conditions, procedures, and a special accounting mechanism to allow employers to defray the cost of coverage for part-time and seasonal employees through the state plan without including these employees in the employer's health benefits program. This is the only circumstance under which an employer subsidy toward the cost of*

employee health coverage and a state subsidy for health coverage through the state plan may be combined. Employers that have terminated health benefits for part-time or seasonal employees within the three years before application are not eligible to participate in the part-time or seasonal employee enrollment system. Part-time or seasonal employees on whose behalf employer contributions have been submitted must obtain coverage through the state plan as individuals or families rather than as an employee group. The employer contributions must be used to reduce the premium that the employee would otherwise have owed, and will be in addition to any individual premium subsidy to which the employee would otherwise be entitled. The commissioner shall establish definitions and standards for part-time and seasonal employees as necessary to implement this subdivision.

Sec. 5. [62J.13] [PROVISION OF HEALTH CARE SERVICES; MANAGED CARE.]

In areas of the state where managed care health plans operate, the commissioner must deliver health care through contracts with managed care health plans. The commissioner may solicit bids and contract separately for dental care services, which may be provided by the same health plan that provides other services. Health plans may bid and contract to provide only dental care services or to provide only non-dental services. In order to qualify for participation in the state plan, a managed care health plan must meet the specifications in this section.

(a) The health plan must demonstrate to the satisfaction of the commissioner that it is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees.

(b) The health plan must have sufficient provider network capacity to adequately serve enrollees and prospective enrollees.

(c) The health plan must have established procedures adequate to manage the delivery of health care. The procedures must incorporate clear standards of practice or protocols where they exist. The procedures must also require enrollees to register with a specific primary care clinic which will coordinate referrals, hospitalizations, and other health care delivery. A plan that has not established these procedures may participate in the program if the plan demonstrates to the satisfaction of the commissioner that an alternative, comparably effective system of case management has been established. A managed care health plan that has not established procedures satisfactory to the commissioner may participate in the program if the plan agrees to implement satisfactory procedures within three years from the date it is accepted for participation by the commissioner.

(d) The health plan must demonstrate a long-term commitment to improving the quality and efficiency of health care.

(e) The health plan must have established programs to educate enrollees about appropriate use of the health care system. The programs may include self-care education, telephone nurse access, encouragement of healthy lifestyles, and encouragement of conformance to prescribed courses of treatment.

(f) Health plans must notify enrollees by mail when coverage limits under the intermediate benefit set have been reached and explain that payment for future services in excess of the coverage limits are the responsibility of the patient.

(g) The health plan must include appropriate use of nonphysician providers within its overall framework of managed care. Nothing in this section is intended to limit access to chiropractic care under article 3, section 3, subdivision 2, subject to reasonable managed care protocols and criteria for determining appropriate use of chiropractic care.

Sec. 6. [62J.14] [AREAS WITHOUT SATISFACTORY MANAGED CARE HEALTH PLANS.]

In areas of the state where the commissioner determines satisfactory managed care health plans are not available, the commissioner shall make health care available using one or more of the options specified in this section.

(a) The commissioner may recruit or encourage managed care health plans to serve the area.

(b) The commissioner may establish managed care health plans through direct contracts with existing clinics or other health care providers in the area consistent with the specifications and objectives of the state plan.

(c) The commissioner may pay providers on a fee-for-service basis, using the department of human services claims processing system, health care utilization review system, and other managed care procedures. When developing the payment system, the commissioner shall investigate the proposed Medicare resource-based relative value scale as the basis for a new fee schedule and the possibility of collective bargaining with health care providers. Participating providers must be required to operate under the department's managed care standards and procedures. Payment will be based on a fee schedule to be established by the commissioner with payments established at a level to ensure that program costs in the area are lower than under a managed care system. Providers must be required to accept program enrollees as a condition of serving patients covered by any health coverage program financed by state or local government, including public employee health benefit programs. Providers must be prohibited from billing enrollees for any portion of health care charges not reimbursed by the commissioner, except to collect copayments and deductibles or to charge for services that exceed coverage limits, to the extent these are specified in the state plan.

(d) The commissioner may establish health care clinics to provide services using managed care procedures.

Sec. 7. [62J.15] [ENCOURAGEMENT OF PARTICIPATION OF PROVIDERS SERVING LOW-INCOME PERSONS.]

The commissioner shall encourage expansion or development of health plans that include providers currently serving low-income, uninsured state residents, including nonprofit community clinics, public health departments, and public hospitals. The commissioner's managed care specifications must apply to these providers when serving program enrollees.

Sec. 8. [62J.16] [HEALTH PLAN COMPENSATION; RESERVE FUND; PREMIUM DETERMINATION.]

Subdivision 1. [HEALTH PLAN COMPENSATION.] *The commissioner shall establish health plan payment arrangements in order to create financial incentives to improve the effectiveness and efficiency of health care delivery. Health plan companies under contract with the state plan may not vary the benefits included in the intermediate benefit set in order to reduce the cost*

of premiums. Participating health plan companies must assume responsibility for health care delivery and must assume financial risk, subject to the limits established through the reinsurance pool. To prevent uncertainty regarding the mix and cost of enrollees from resulting in higher charges in the state plan during the plan's first three years of operation, the commissioner may share risk above or below the health plan company's expected costs for state plan enrollees, to the extent that such risk sharing would reduce charges in the state plan. The commissioner is responsible for collecting premium payments from individuals, families, and employers, and health plan reimbursement may not be linked to collection of premium payments.

Subd. 2. [RESERVE FUND.] *The commissioner shall establish a reserve fund to ensure that state funding will be available to fully satisfy the state's payment and risk-sharing obligations in the event the costs of coverage through the state plan are higher than expected. The reserve fund shall be established as an account within the general fund, and shall not exceed 8.33 percent of estimated total premiums for state plan coverage in the current fiscal year. The reserve fund shall include funds appropriated for this purpose, and any excess of state plan revenues more than expenses. The reserve fund shall remain available from year to year and does not cancel, except for funds in excess of the designated limit at the end of each fiscal year.*

Subd. 3. [PREMIUM DETERMINATION.] *The commissioner shall establish the premium rates charged in the state plan. In establishing premium rates the commissioner shall take into account differences in administrative costs for different classes of enrollment, and the need to maintain rates in the state plan that are competitive with the private market. The premium rates shall include: (1) an amount for health care delivery and health plan administration determined for each health plan company through bids or negotiations; (2) an amount for state plan administrative services provided by the department or other state agencies, not to exceed five percent of total premium; and (3) any additional amount determined to be necessary by the commissioner to ensure that funds will be available to fully satisfy the state's payment and risk-sharing obligations.*

Sec. 9. [62J.17] [OUTREACH ACTIVITIES.]

Subdivision 1. [OUTREACH TO INDIVIDUALS.] *The commissioner shall establish outreach activities to inform state residents about public and private sources of health coverage and to assist them in obtaining coverage. Outreach activities must include the following:*

(1) health coverage information and counseling services provided throughout the state and through a toll-free telephone number; and

(2) ongoing publicity and advertising activities.

Subd. 2. [OUTREACH TO EMPLOYERS.] *The commissioner shall establish outreach activities to inform employers about the Minnesotans' health care plan and other sources of health care coverage and to assist them to obtain or expand coverage for their employees. Outreach activities must be directed at the types of employers determined by the commissioner to be most interested in joining the state plan.*

Sec. 10. [62J.18] [ENROLLMENT EDUCATION AND ASSISTANCE.]

The commissioner shall provide enrollment education and assistance to

state residents. The assistance may include written materials, workshops, and individual assistance. Educational programs and assistance must be designed to serve persons who are not proficient in English or who have special communication needs. The program must provide information on the following topics in addition to information provided at the discretion of the commissioner:

(1) basic and supplemental coverage offered by the state plan;

(2) features of specific health plans offered by the state plan, including information on obtaining health care within health plans and descriptions of provider networks;

(3) differences between individual and group coverage;

(4) premiums associated with each plan and premium payment procedures and obligations; and

(5) actions enrollees must take if eligibility status changes.

Sec. 11. [62J.19] [APPLICATION FORMS AND PROCEDURES.]

Subdivision 1. [PROCEDURES.] *The commissioner shall accept application forms submitted by mail or in person. Applicants must include payment equal to one month of premium costs with the completed application. Applicants who are employed full-time by an employer who participates in the state plan must apply through the employer. Part-time and seasonal employees of an employer who participates in the state plan may participate on an individual basis as provided in section 4, subdivision 2.*

Subd. 2. [FORMS.] *Application must be made on forms supplied by the commissioner. The commissioner shall design the form in order to collect the minimum amount of information necessary to administer the program. A more detailed form may be designed for use by applicants potentially eligible for federally subsidized health care programs and other state programs.*

Subd. 3. [AVAILABILITY OF FORMS.] *The commissioner shall make application forms available throughout Minnesota at state government offices; at hospitals, clinics, and other health care provider offices, especially where large numbers of low-income persons are served; with individual income tax forms; with applications for a driver's license, state identification card, or motor vehicle registration; with school and college registration materials; at food shelves; at the offices of insurers, health maintenance organizations, and other health plan companies; at school district offices; at public and private elementary schools; at community health offices; and at women, infants, and children (WIC) program sites.*

Sec. 12. [62J.20] [ELIGIBILITY DETERMINATION.]

Subdivision 1. [ELIGIBILITY VERIFICATION.] *The emphasis of eligibility verification procedures must be on achieving enrollment and coverage as soon after application as possible. To this end, confirmation of income and other information provided by the applicant shall be on a random check or special case basis, and shall occur primarily through use of personal data that the state gathers, such as income tax and property tax records, for other purposes. The commissioner may use individuals' social security numbers as identifiers for purposes of administering the plan.*

Subd. 2. [APPLICANT INFORMATION.] *Applicants shall submit evidence of family income, earned and unearned, for use in determining the*

amount of the premium and eligibility for a subsidy. Enrollees shall report changes in eligibility status as they occur.

Subd. 3. [FRAUD.] *If subsequent to enrollment an enrollee in the state plan is found to have provided fraudulent information, the commissioner may disenroll the enrollee if the enrollee has sufficient, alternate coverage, but must maintain enrollment for those without alternate coverage. In all cases, the commissioner may recover premiums not paid due to fraud.*

Subd. 4. [REVERIFICATION.] *Eligibility for the state plan must be redetermined annually. The commissioner must use mail and other, simple means of obtaining information from enrollees, then engage in random checkups of the accuracy of information provided.*

Sec. 13. [62J.21] [ENROLLMENT.]

Subdivision 1. [COVERAGE EFFECTIVE DATE.] *Coverage becomes effective on the next first or 15th of a month, whichever comes first, after the commissioner transfers enrollment information to the health plan selected by the applicant. The transfer to the health plan must occur no later than two weeks after the commissioner receives a completed application and payment of one month of premium costs.*

Subd. 2. [ENROLLMENT CONFIRMATION.] *No more than two weeks shall elapse between the time the commissioner receives a completed application and the applicant is notified of acceptance, rejection, or unusual delay and the reasons why. Refusal to provide a health history will not disqualify an applicant from the state plan. The commissioner shall operate a toll-free telephone service to confirm individual enrollment in the state plan. The service must be available to assist enrollees, health plans, and providers.*

Sec. 14. [62J.22] [OPEN ENROLLMENT.]

The commissioner shall establish an annual open enrollment period during which enrollees must be allowed to transfer between health plans. Enrollees may not transfer between plans during other periods unless their place of residence changes and their current plan does not provide coverage in the new location.

Sec. 15. [62J.23] [PREMIUM PAYMENTS; APPLICATION.]

The premium payment procedures established in sections 16 and 17 apply to coverage purchased through the Minnesotans' health care plan by an individual or an employer. State plan coverage shall be canceled for failure to pay premiums.

Sec. 16. [62J.24] [PAYMENTS FROM INDIVIDUALS.]

Subdivision 1. [AUTOMATIC PAYMENTS.] *The commissioner shall establish an automatic premium payment system and shall require enrollees not receiving group coverage through an employer to make payments through the automatic system whenever practical. The system may include automatic payment through:*

(1) automatic bank account debiting;

(2) automatic income withholding for employees, modeled after the system used for child support enforcement;

(3) automatic collections through the state income tax system, including

automatic deductions for employees and estimated payments for self-employed enrollees;

(4) automatic deductions from unemployment compensation benefits; or

(5) other methods developed by the commissioner.

Subd. 2. [MANUAL PAYMENTS.] *The commissioner may allow manual payments directly from enrollees to the commissioner for enrollees:*

(1) making their initial premium payment with their application form;

(2) expected to remain on the program for a short period of time; or

(3) for whom automatic payments are impractical.

Subd. 3. [PAYMENT PERIODS.] *Premiums shall be paid on a monthly basis. The commissioner shall encourage enrollees to make premium payments covering longer periods of time whenever practical.*

Sec. 17. [62J.25] [EMPLOYER ENROLLMENT.]

Subdivision 1. [ENROLLMENT OF EMPLOYEES.] *Employers seeking to participate in the state plan must apply to the commissioner to enroll their employees. A person enrolled under this method ceases to be covered as a member of the employer's group when employment with the employer is discontinued. The commissioner shall establish procedures to convert enrollees from group coverage to individual coverage when they cease employment with an employer who participates in the program unless the enrollee can provide evidence of coverage through a new employer or through some other plan.*

Subd. 2. [COLLECTION OF PREMIUMS.] *The commissioner shall require employers participating in the state plan to collect the employees' share of premiums and pay the employees' share and the employers' share directly to the commissioner.*

Subd. 3. [TECHNICAL ASSISTANCE TO EMPLOYERS.] *The commissioner must provide technical assistance to employers participating in the state plan. Technical assistance must be targeted to employers who do not currently offer employee health benefits or for whom technical assistance services are not readily available. The assistance must be provided at cost and may include assistance on the following:*

(1) designing and establishing a health benefit program;

(2) administering state and federal continuation coverage requirements; and

(3) establishing tax-sheltered premium accounts for employees.

ARTICLE 3

COVERED SERVICES

THE INTERMEDIATE BENEFIT SET

Section 1. [62J.29] [AUTHORITY TO OFFER COVERAGE.]

Health plan companies participating in the state plan are authorized to offer, sell, issue, and renew the intermediate benefit set, parts A and B, and the supplemental benefit set subject to the terms established by the commissioner, notwithstanding any contrary provisions of chapter 62A, 62C, 62D, 62E, 62J, or other laws governing health coverage.

Sec. 2. [62J.30] [PART A COVERED SERVICES: PREVENTIVE CARE.]

(a) The intermediate benefit set covers expenses for the following preventive care services for all intermediate benefit set enrollees:

(1) prenatal and postnatal care;

(2) well baby exams for children under one year of age;

(3) immunizations; and

(4) selected tests, screenings, and examinations that are demonstrated to be cost-effective components of a preventive care program, including but not limited to: Pap tests for women age 18 and older at intervals recommended by the American Cancer Society; and mammograms for women age 50 and older at intervals recommended by the American Cancer Society.

(b) The intermediate benefit set covers the following services for children, if the services are provided as part of an early and periodic screening, diagnosis, and treatment (EPSDT) regimen:

(1) routine physical exams and well child exams, including the cost of laboratory and X-ray services associated with the exam;

(2) eye exams conducted by a licensed ophthalmologist or optometrist;

(3) hearing exams; and

(4) speech exams.

Sec. 3. [62J.31] [PART A COVERED SERVICES: PRIMARY MEDICAL CARE; CHIROPRACTIC AND PODIATRIC CARE; PRESCRIPTION DRUGS; INJECTIONS; SUPPLIES.]

Subdivision 1. [PRIMARY MEDICAL CARE.] *The intermediate benefit set covers a total of up to eight visits per year provided by primary care physicians, nurse practitioners, and physician assistants. "Visits" include office visits, home visits, and visits in a custodial facility. For the purpose of this benefit, "primary care physicians" include only general and family practitioners, internists, pediatricians, obstetricians, and gynecologists, when serving in a primary care, rather than a consultative, capacity. Additional visits are covered when they are an alternative to inpatient care. The limit on visits does not apply to children.*

Subd. 2. [CHIROPRACTIC AND PODIATRIC CARE.] *The intermediate benefit set covers care provided by doctors of chiropractic and podiatry. The total number of visits provided by doctors of chiropractic, podiatry, and health professionals is subject to the visit limits in section 4, subdivision 1.*

Subd. 3. [PRESCRIPTION DRUGS.] *The intermediate benefit set covers outpatient prescription drugs ordered by an authorized prescriber, including the dispensing fee, from a formulary specified by the commissioner. Adult prescriptions are subject to a $5 copayment. The commissioner shall establish a broader formulary for children. There is no copayment for prescriptions for children.*

Subd. 4. [THERAPEUTIC INJECTIONS.] *The intermediate benefit set covers therapeutic injections administered by a qualified health professional from a formulary specified by the commissioner. Therapeutic injections administered to adults are subject to a $5 copayment. The commissioner*

shall establish a broader formulary for children. There is no copayment for therapeutic injections administered to children.

Subd. 5. [MEDICAL EQUIPMENT AND SUPPLIES FOR CHILDREN.] *The intermediate benefit set covers the following medical equipment and supplies for children:*

(1) appliances and equipment, including but not limited to orthotics, canes, crutches, glucosan, glucometers, intermittent positive pressure machines, rib belts for the treatment of an accident or illness, walkers, and wheelchairs;

(2) prosthetics and artificial parts that replace missing body parts or improve body function;

(3) one pair of eyeglasses every two years, unless more often if recommended by a qualified health professional. Contact lenses are not covered; and

(4) hearing aids.

Sec. 4. [62J.32] [PART A COVERED SERVICES: ADDITIONAL OUTPATIENT SERVICES.]

Subdivision 1. [OUTPATIENT SPECIALIST AND THERAPY SERVICES.] *The intermediate benefit set covers a total of up to eight visits and consultations per year, excluding visits as defined in section 3, subdivision 1, provided by qualified health professionals, including but not limited to: medical doctors, nurse practitioners, physician assistants, certified nurse midwives, chiropractors, podiatrists, physical therapists, occupational therapists, speech therapists, and audiologists. Additional visits are covered when they are an alternative to inpatient care. The limit on visits and consultations does not apply to children.*

Subd. 2. [OUTPATIENT SURGICAL SERVICES.] *The intermediate benefit set covers health professional and institutional outpatient surgical services, including surgery performed in a hospital outpatient department, physician's office, or freestanding surgical facility. This benefit includes services by an anesthesiologist or anesthetist for outpatient surgeries.*

Subd. 3. [RADIOLOGY AND PATHOLOGY SERVICES.] *The intermediate benefit set covers radiology and pathology services performed by a hospital outpatient department or a freestanding surgical facility. This benefit also provides for professional services provided by a qualified health professional when X-rays and laboratory procedures are performed in a physician's office, hospital outpatient department, or freestanding surgical facility.*

Subd. 4. [CARDIOVASCULAR TESTS AND PROCEDURES.] *The intermediate benefit set covers therapeutic services, cardiography, cardiac catheterization, and other cardiovascular services performed or ordered by a qualified health professional.*

Subd. 5. [ALLERGY TESTING AND IMMUNOTHERAPY FOR CHILDREN.] *The intermediate benefit set covers professional services and materials associated with allergy testing and immunotherapy provided to children, when administered by a qualified health professional.*

Subd. 6. [DIALYSIS PROCEDURES.] *The intermediate benefit set covers services by a qualified health professional for dialysis treatment, including hemodialysis, peritoneal dialysis, and miscellaneous dialysis procedures.*

Subd. 7. [MISCELLANEOUS TESTS AND PROCEDURES.] *The intermediate benefit set covers the following additional professional services: biofeedback services, gastroenterology services, otorhinolaryngology services, vestibular functions tests, noninvasive peripheral vascular diagnostic studies, pulmonary services, neurology services, chemotherapy services, and dermatology services.*

Sec. 5. [62J.33] [PART A COVERED SERVICES: MENTAL HEALTH AND ALCOHOL OR DRUG DEPENDENCY CARE; OUTPATIENT.]

Subdivision 1. [OUTPATIENT MENTAL HEALTH.] *The intermediate benefit set covers up to ten hours per year of outpatient mental health therapy by a qualified professional. Two hours of group therapy count as one hour of individual therapy. Additional hours are covered when they are an alternative to inpatient care.*

Subd. 2. [OUTPATIENT ALCOHOL AND DRUG DEPENDENCY TREATMENT.] *The intermediate benefit set covers up to ten hours per year of outpatient treatment of alcohol or drug dependency by a qualified health professional or outpatient treatment program. Two hours of group treatment count as one hour of individual treatment.*

Sec. 6. [62J.34] [COVERED SERVICES: MATERNITY.]

Subdivision 1. [INPATIENT MATERNITY; HOSPITAL SERVICES.] *The intermediate benefit set covers 80 percent of the cost of maternity inpatient care, consisting of room, board, and ancillary services. After a patient's total copayment for covered hospital services for inpatient maternity care reaches $500 per pregnancy, the intermediate benefit set covers 100 percent of additional services. This copayment is separate from the copayment for nonmaternity inpatient care. This benefit covers vaginal and caesarean deliveries, complications of pregnancy, miscarriages, and other medically necessary services. This subdivision includes only hospital inpatient services. This subdivision does not cover neonatal care or services associated with premature birth.*

Subd. 2. [OUTPATIENT MATERNITY; HOSPITAL SERVICES.] *The intermediate benefit set covers outpatient treatment of miscarriages, testing procedures such as amniocentesis and ultrasound, and other medically necessary procedures. This subdivision covers only use of hospital facilities and services by hospital employees.*

Subd. 3. [HEALTH PROFESSIONALS; OBSTETRICAL CARE.] *The intermediate benefit set covers health professional services for vaginal and caesarean deliveries, complications of pregnancy, miscarriages, and other medically necessary procedures. This benefit includes delivery care, surgical care, and anesthesia. This benefit does not include standard prenatal and postnatal visits, which the intermediate benefit set covers as preventive care in section 2.*

Sec. 7. [62J.35] [PART A COVERED SERVICES: CHILDREN'S DENTAL CARE.]

This benefit provides for preventive and nonpreventive services for children.

(a) The intermediate benefit set covers preventive services which include oral examinations, X-rays, fluoride applications, teeth cleaning, and other laboratory and diagnostic tests.

(b) The intermediate benefit set covers 80 percent of the cost of basic nonpreventive services which include emergency treatment, space maintainers, simple extractions, surgical extractions, oral surgery, anesthesia services, restorations, periodontics, and endodontics.

(c) The intermediate benefit set covers 50 percent of the cost of major nonpreventive services which include inlays and crowns, dentures and other removable prosthetics, bridges and other fixed prosthetics, denture and bridge repair, and other prosthetics.

Sec. 8. [62J.36] [PART B COVERED SERVICES: MENTAL HEALTH AND ALCOHOL OR DRUG DEPENDENCY CARE; INPATIENT.]

Subdivision 1. [INPATIENT HOSPITAL SERVICES.] *The intermediate benefit set covers 80 percent of the cost of inpatient hospitalization for treatment of mental disorders and alcohol and drug dependency. After a family's total copayment for all covered inpatient benefits, including mental health and drug dependency and all other categories of covered inpatient care, except maternity, exceeds $2,500 in one calendar year, the intermediate benefit set covers 100 percent of additional services. After the intermediate benefit set has paid $70,000 in inpatient benefits of any kind except maternity for a person within a calendar year, the intermediate benefit set will cover no further inpatient benefits, except maternity, of any kind for that person for that calendar year.*

Subd. 2. [INPATIENT HEALTH PROFESSIONAL SERVICES; VISITS AND CONSULTATIONS.] *The intermediate benefit set covers, subject to subdivision 1, physician services for visits, consultations, and other care provided for treatment of mental disorders and alcohol and drug dependency on an inpatient basis at a hospital or approved extended care facility. This benefit also provides for the care of critically ill patients in a variety of settings that require the constant attention of a qualified health professional. Consultations by nonphysicians are covered if provided by appropriate health professionals.*

Sec. 9. [62J.37] [PART B COVERED SERVICES: EMERGENCY CARE.]

Subdivision 1. [HOSPITAL EMERGENCY ROOM.] *After a $50 copayment paid by the insured, the intermediate benefit set covers hospital services for outpatient emergency medical care performed on an emergency basis in the emergency area of a hospital outpatient department or urgent care center. The $50 copayment is waived if the person is admitted to a hospital within 24 hours for a condition related to the emergency care. This subdivision does not include health professional services, which are covered in subdivision 2.*

Subd. 2. [HEALTH PROFESSIONALS; EMERGENCY ROOM CARE.] *The intermediate benefit set covers emergency services by qualified health professionals performed in the emergency area of a hospital outpatient department or urgent care center.*

Subd. 3. [AMBULANCE.] *The intermediate benefit set covers 80 percent of the cost of licensed ambulance service. Ambulance service for maternity care is not covered except when medically necessary.*

Sec. 10. [62J.38] [PART B COVERED SERVICES: HOSPITAL INPATIENT AND HOME HEALTH CARE.]

Subdivision 1. [GENERAL COPAYMENT AND BENEFIT LIMIT; HOSPITALIZATION.] *The intermediate benefit set covers 80 percent of the cost of general inpatient hospitalization. After a family's total copayment for all covered inpatient benefits, including mental health and all other categories of covered inpatient care, except maternity, exceeds $2,500 in one calendar year, the intermediate benefit set covers 100 percent of additional services. After the intermediate benefit set has paid $70,000 in inpatient benefits of any kind except maternity for a person within a calendar year, the intermediate benefit set will cover no further inpatient benefits, except maternity, of any kind for that person for that calendar year.*

Subd. 2. [HOSPITAL INPATIENT SERVICES.] *The intermediate benefit set covers, subject to subdivision 1, hospital services, including inpatient room, board, and ancillary services. The covered room charges are for a semiprivate room, except as otherwise provided in section 62E.06, subdivision 1, paragraph (c), clause (4). Ancillary services include use of surgical and intensive care facilities, inpatient nursing care, pathology and radiology procedures, drugs, supplies, physical therapy, and other services normally provided by hospitals. Ancillary services do not include care by health professionals, whether or not employed by the hospital. This subdivision does not include maternity and related neonatal care, alcohol and drug abuse treatment, or inpatient confinement for nursing or custodial care.*

Subd. 3. [INPATIENT HEALTH PROFESSIONAL SURGERY.] *The intermediate benefit set covers, subject to subdivision 1, services by surgeons, assistant surgeons, anesthesiologists, anesthetists, and other qualified health professionals for surgery and related procedures, including normal presurgical and postsurgical examinations, for inpatient nonmaternity surgery.*

Subd. 4. [INPATIENT HEALTH PROFESSIONAL RADIOLOGY AND PATHOLOGY.] *The intermediate benefit set covers, subject to subdivision 1, services by physicians for radiology and pathology evaluation performed on an inpatient basis.*

Subd. 5. [INPATIENT HEALTH PROFESSIONAL SERVICES; VISITS AND CONSULTATIONS.] *The intermediate benefit set covers, subject to subdivision 1, physician services for visits, consultations, and other care provided on an inpatient basis at a hospital or approved extended care facility. This benefit also provides for the care of critically ill patients in a variety of settings that require the constant attention of the physician. Consultations by nonphysicians are covered if provided by appropriate health professionals.*

Subd. 6. [EXTENDED CARE FACILITIES.] *The intermediate benefit set covers, subject to subdivision 1, room, board, and ancillary services at an approved extended care facility that is the extended care unit of a hospital or an independent skilled nursing facility. This benefit covers only noncustodial care.*

Subd. 7. [PRIVATE DUTY NURSING; HOME HEALTH CARE.] *The intermediate benefit set covers, subject to subdivision 1, private duty nursing and home health visits by a home health professional if prescribed by the attending physician. Custodial care is not covered.*

Sec. 11. [62J.39] [EXCLUDED SERVICES.]

Subdivision 1. [MEDICAL NECESSITY.] *The intermediate benefit set does not cover services that are not medically necessary.*

Subd. 2. [OTHER EXCLUDED SERVICES.] *Regardless of medical necessity, the intermediate benefit set does not cover the following services:*

(1) expenses listed under section 62E.06, subdivision 1, paragraph (c);

(2) inpatient treatment of alcoholism, chemical dependency, or drug addiction;

(3) treatment of temporomandibular joint disorder;

(4) treatment of craniomandibular disorder;

(5) orthodontia care;

(6) experimental procedures;

(7) custodial care;

(8) personal comfort or beautification;

(9) treatment for obesity;

(10) in vitro fertilization;

(11) artificial insemination;

(12) reversal of voluntary sterilization; and

(13) transsexual surgery.

Sec. 12. [62J.40] [UNIVERSAL BASIC BENEFIT SET.] *The universal basic benefit set is a uniform standard of health coverage that will be available to all Minnesotans. The commissioner shall determine the content of the universal basic benefit set, with the advice of the technology and benefits advisory committee. The universal basic benefit set must include:*

(1) the benefits contained in the intermediate benefit set, including but not limited to full coverage for prenatal care, immunizations, and other preventive care as currently mandated for health maintenance organizations; and

(2) all or part of the mandated benefits currently required under chapters 60A, 62A, 62C, 62D, and 62E, as appropriate, based on an analysis of the requirements using the principles stated in article 1, section 6, subdivision 2.

Sec. 13. [62J.41] [AVAILABILITY OF INTERMEDIATE BENEFIT SET.]

The intermediate benefit set is available only to individuals and to small groups containing no more than 29 employees or members. The intermediate benefit set may be offered through the state plan, and through the private market only by health plan companies participating in the state plan. Health plan companies participating in the state plan and providing dental coverage only may offer through the private market the dental care component of the intermediate benefit set or the universal basic benefit set without being required to offer the nondental components of the benefit sets.

The intermediate benefit set, part A, is available only to individuals and families who receive a state premium subsidy for participation in the state plan, under article 2, section 3. Individuals and families covered by the intermediate benefit set, part A, may purchase the intermediate benefit set, part B, at their own expense, under terms established by the commissioner.

Sec. 14. [62J.42] [MINIMUM INSURANCE BENEFIT SET.]

For all health plan companies except those governed by chapter 62D, the minimum insurance benefit set is a number two qualified plan, as defined in section 62E.06, subdivision 2. For the purposes of this requirement, actuarial equivalence must not be used. For health plan companies governed by chapter 62D, the minimum insurance benefit set is the set of benefits required under chapter 62D. Except as provided in section 13, no health coverage may be offered, sold, issued, or renewed to any Minnesota resident or to any group in Minnesota unless the coverage meets or exceeds the requirements of the minimum insurance benefit set.

Sec. 15. [62J.43] [SUPPLEMENTAL BENEFIT SET.]

The supplemental benefit set includes the benefits commonly included in group health coverage offered by health maintenance organizations operating under chapter 62D that are not included in the intermediate benefit set. The commissioner shall establish, by rule, uniform provisions for the supplemental benefit set. The state plan and health plan companies participating in the state plan must make the supplemental benefit set available as an option to any individual or group covered by the intermediate benefit set. For groups too large to qualify for the intermediate benefit set, the intermediate benefit set combined with the supplemental benefit set will be the only benefit set available through the state plan.

Sec. 16. [62J.44] [MEDICARE SUPPLEMENT COVERAGE.]

The commissioner shall make arrangements for medicare supplement coverage to be offered through the state plan, subject to the managed care and other provisions of article 2.

Sec. 17. [EFFECTIVE DATE.]

Sections 1 to 16 are effective on July 1, 1992."

Page 50, after line 11, insert:

"*Subd. 3.* [COMMISSIONER OF HEALTH.] *$6,130,000 the first year and $11,250,000 the second year is appropriated from the general fund to the commissioner of health for the biennium ending June 30, 1993, for the costs of implementing the Minnesotans' health care plan and other duties established in this act.*

Subd. 4. [COMMISSIONER OF HUMAN SERVICES.] *$109,000 the first year and $502,000 the second year is appropriated from the general fund to the commissioner of human services for the biennium ending June 30, 1993, for duties established in this act. Of this appropriation, $400,000 the second year is for the costs associated with increased enrollments in the medical assistance program.*

Subd. 5. [COMMISSIONER OF COMMERCE.] *$164,000 the first year and $152,000 the second year is appropriated from the general fund to the commissioner of commerce for the biennium ending June 30, 1993, for duties established in this act.*"

Renumber the articles in sequence and correct the internal references

Amend the title accordingly

CALL OF THE SENATE

Ms. Berglin imposed a call of the Senate for the balance of the proceedings on H.F. No. 2. The Sergeant at Arms was instructed to bring in the absent

members.

Mr. Vickerman moved to amend the Berglin amendment to H.F. No. 2 as follows:

Page 7, line 6, delete everything after the period

Page 7, delete lines 7 to 13

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

The question recurred on the Berglin amendment, as amended.

Mr. Moe, R.D. moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 35 and nays 22, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, D.J.	Luther	Piper
Beckman	Finn	Johnson, J.B.	Marty	Pogemiller
Berglin	Flynn	Kelly	Metzen	Riveness
Bertram	Frederickson, D.J.	Knaak	Moe, R.D.	Sams
Chmielewski	Hottinger	Kroening	Morse	Traub
Cohen	Hughes	Larson	Novak	Vickerman
Davis	Johnson, D.E.	Lessard	Pappas	Waldorf

Those who voted in the negative were:

Belanger	Brataas	Gustafson	McGowan	Pariseau
Benson, D.D.	Dahl	Halberg	Mehrkens	Storm
Benson, J.E.	Day	Johnston	Merriam	
Berg	Frank	Laidig	Neuville	
Bernhagen	Frederickson, D.R.	Langseth	Olson	

The motion prevailed. So the Berglin amendment, as amended, was adopted.

Mr. Riveness moved to amend H.F. No. 2, the unofficial engrossment, as follows:

Page 23, line 33, delete "*and*"

Page 24, line 3, before the period, insert "*; and*

(11) Chiropractic services for the diagnosis or treatment of illnesses, injuries, or conditions within the chiropractic scope of practice as defined in section 148.01. Examination by, or referral from, a medical physician shall not be a condition of receipt of chiropractic care under this subdivision"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 46 and nays 4, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Johnson, J.B.	Metzen	Sams
Beckman	Flynn	Johnston	Morse	Solon
Belanger	Frank	Kelly	Novak	Storm
Benson, J.E.	Frederickson, D.R.	Knaak	Olson	Stumpf
Bernhagen	Gustafson	Kroening	Pappas	Traub
Bertram	Halberg	Laidig	Pariseau	Vickerman
Cohen	Hottinger	Larson	Pogemiller	
Davis	Hughes	Lessard	Price	
Day	Johnson, D.E.	Luther	Renneke	
DeCramer	Johnson, D.J.	Mehrkens	Riveness	

Ms. Berglin, Mrs. Brataas, Mr. Merriam and Ms. Piper voted in the negative.

The motion prevailed. So the amendment was adopted.

Mr. Luther moved to amend the Berglin amendment to H.F. No. 2, adopted by the Senate May 17, 1991, as follows:

Page 25, line 16, delete "*The emphasis of*"

Page 25, delete lines 17 and 18

Page 25, line 19, delete "*To this end,*"

Page 25, line 20, delete everything after "*shall*"

Page 25, line 21, delete "*case basis, and shall*"

Page 25, line 31, delete "*subsequent to enrollment*"

Page 25, line 32, delete "*fraudulent*" and insert "*false information or failed to update required*"

Page 25, line 33, delete "*may*" and insert "*shall*" and delete "*if the*"

Page 25, delete line 34

Page 25, line 35, delete everything before the period

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

Mr. Luther then moved to amend H.F. No. 2, the unofficial engrossment, as follows:

Page 19, line 1, before the period, insert ", *except that a small employer plan may be offered through a domiciled association to self-employed individuals and small employers who are members of the association, even if the self-employed individual or small employer has fewer than two employees or the employees are family members*"

Page 22, after line 9, insert:

"*Subd. 7.* [MINIMUM ANTICIPATED LOSS RATIO.] *No health plan company may offer a small employer plan based on a minimum anticipated loss ratio of less than 75 percent.*"

Page 23, line 2, after the period, insert "*Each small employer plan may also offer eligible employees the option of purchasing coverage with a deductible of up to $1,500 per individual and $3,000 per family, at a reduced cost.*"

The motion prevailed. So the amendment was adopted.

Mr. Luther then moved to amend the Berglin amendment to H.F. No. 2, adopted by the Senate May 17, 1991, as follows:

Page 18, line 5, after the period, insert "*By January 1, 1992, the commissioner shall develop, and submit to the legislature in a report, the specific asset limitations and transfer prohibitions the commissioner proposes to adopt by rule.*"

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

Mr. Waldorf moved to amend the Berglin amendment to H.F. No. 2, adopted by the Senate May 17, 1991, as follows:

Page 17, line 4, after "*abortion*" insert "*and abortion related services*"

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

Mr. Luther moved to amend the Berglin amendment to H.F. No. 2, adopted by the Senate May 17, 1991, as follows:

Page 11, delete lines 9 to 14

Page 11, line 15, delete "*market.*"

Page 11, line 17, delete "*this requirement should be changed*" and after "*to*" insert "*continue to*"

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

Mr. Luther then moved to amend the Berglin amendment to H.F. No. 2, adopted by the Senate May 17, 1991, as follows:

Pages 14 and 15, delete section 10

Renumber the sections of article 1 in sequence

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

Mr. Benson, D.D. moved to amend H.F. No. 2, the unofficial engrossment, as follows:

Page 43, line 27, after the period, insert "*In addition, if a resident participating in the loan forgiveness program serves at least four weeks during a year of residency substituting for a rural physician to temporarily relieve the rural physician of his or her rural practice commitments to enable the rural physician to take a vacation, engage in activities outside the practice area, or otherwise be relieved of his or her rural practice commitments, the participating resident may designate up to an additional $2,000, above the $10,000 maximum, for each year of residency during which the resident substitutes for a rural physician for four or more weeks.*"

The motion prevailed. So the amendment was adopted.

H.F. No. 2 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 51 and nays 12, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Knaak	Mondale	Sams
Beckman	Flynn	Kroening	Morse	Solon
Benson, J.E.	Frank	Laidig	Novak	Spear
Berg	Frederickson, D.J.	Langseth	Olson	Stumpf
Berglin	Frederickson, D.R.	Larson	Pappas	Traub
Bertram	Hottinger	Lessard	Piper	Vickerman
Chmielewski	Hughes	Luther	Pogemiller	Waldorf
Cohen	Johnson, D.E.	Marty	Price	
Dahl	Johnson, D.J.	McGowan	Reichgott	
Davis	Johnson, J.B.	Merriam	Renneke	
DeCramer	Kelly	Moe, R.D.	Riveness	

Those who voted in the negative were:

Belanger	Brataas	Johnston	Neuville	Samuelson
Benson, D.D.	Day	Mehrkens	Pariseau	Storm
Bernhagen	Gustafson			

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

SUSPENSION OF RULES

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the Calendar and that the rules of the Senate be so far suspended as to waive the lie-over requirement. The motion prevailed.

Pursuant to Rule 22, Mr. Laidig moved to be excused from voting on H.F. No. 303. The motion prevailed.

CALENDAR

H.F. No. 303: A bill for an act relating to waste management; making changes to state and local government responsibility and authority for waste management; placing emphasis on waste reduction and recycling; adjusting waste facility siting processes; amending Minnesota Statutes 1990, sections 3.195, subdivision 1; 16B.122; 16B.61, subdivision 3a; 115A.02; 115A.03, subdivision 17a; 115A.06, subdivision 2; 115A.14, subdivision 4; 115A.15, subdivisions 7 and 9; 115A.151; 115A.411, subdivision 1; 115A.46, subdivision 1, and by adding a subdivision; 115A.49; 115A.53; 115A.551, subdivisions 1 and 4; 115A.552, subdivisions 1, 2, and by adding a subdivision; 115A.554; 115A.557, subdivision 4; 115A.64, subdivision 2; 115A.67; 115A.83; 115A.84, subdivision 2; 115A.86, subdivision 5, and by adding a subdivision; 115A.882; 115A.9162, subdivision 2; 115A.919; 115A.923, subdivisions 1 and 1a; 115A.931; 115A.94, subdivision 4; 115A.9561; 115A.96, subdivision 6; 115B.04, subdivision 4; 115B.22, subdivision 8; 116.07, subdivision 4j; 325E.042, subdivision 2; 325E.115, subdivision 1; 325E.1151, subdivision 3; 400.08, subdivision 1; 473.803, subdivision 2; 473.811, subdivisions 1, 3, and 5; 473.823, subdivision 5; 473.845, subdivision 4; 473.848, subdivision 2, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 115A; 116; 325E; and 473; repealing Minnesota Statutes 1990, sections 16B.125; 325E.045; and 473.844, subdivision 3; Laws 1989, chapter 325, section 72, subdivision 2.

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 58 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	Moe, R.D.	Riveness
Beckman	Davis	Johnson, D.J.	Mondale	Sams
Belanger	Day	Johnson, J.B.	Morse	Samuelson
Benson, D.D.	DeCramer	Johnston	Neuville	Solon
Benson, J.E.	Finn	Knaak	Novak	Spear
Berg	Flynn	Larson	Olson	Storm
Berglin	Frank	Lessard	Pappas	Stumpf
Bernhagen	Frederickson, D.J.	Luther	Pariseau	Traub
Bertram	Frederickson, D.R.	Marty	Piper	Vickerman
Brataas	Gustafson	McGowan	Pogemiller	Waldorf
Chmielewski	Hottinger	Mehrkens	Price	
Cohen	Hughes	Merriam	Renneke	

So the bill passed and its title was agreed to.

H.F. No. 543: A bill for an act relating to human services; providing funding for various pilot projects.

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 61 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Moe, R.D.	Sams
Beckman	Day	Johnston	Mondale	Samuelson
Belanger	DeCramer	Kelly	Morse	Solon
Benson, D.D.	Finn	Knaak	Neuville	Spear
Benson, J.E.	Flynn	Kroening	Novak	Storm
Berg	Frank	Laidig	Olson	Stumpf
Berglin	Frederickson, D.J.	Larson	Pappas	Traub
Bernhagen	Frederickson, D.R.	Lessard	Pariseau	Vickerman
Bertram	Gustafson	Luther	Piper	Waldorf
Brataas	Hottinger	Marty	Pogemiller	
Chmielewski	Hughes	McGowan	Price	
Cohen	Johnson, D.E.	Mehrkens	Renneke	
Dahl	Johnson, D.J.	Merriam	Riveness	

So the bill passed and its title was agreed to.

H.F. No. 1009: A bill for an act relating to natural resources; authorizing additions to and deletions from certain state parks; authorizing nonpark use of a portion of certain parks; authorizing the sale of certain deleted lands.

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 60 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	Mehrkens	Price
Beckman	Davis	Johnson, D.J.	Merriam	Renneke
Belanger	Day	Johnson, J.B.	Moe, R.D.	Riveness
Benson, D.D.	DeCramer	Johnston	Mondale	Sams
Benson, J.E.	Finn	Kelly	Morse	Samuelson
Berg	Flynn	Knaak	Neuville	Solon
Berglin	Frank	Laidig	Novak	Spear
Bernhagen	Frederickson, D.J.	Larson	Olson	Storm
Bertram	Frederickson, D.R.	Lessard	Pappas	Stumpf
Brataas	Gustafson	Luther	Pariseau	Traub
Chmielewski	Hottinger	Marty	Piper	Vickerman
Cohen	Hughes	McGowan	Pogemiller	Waldorf

So the bill passed and its title was agreed to.

H.F. No. 930: A bill for an act relating to economic development; changing the name of the Greater Minnesota Corporation; adding duties; providing for a new structure for the board of directors; amending Minnesota Statutes 1990, sections 116O.03, subdivision 2; 116O.04, subdivision 2; 116O.05, subdivision 2; and 116O.09, subdivision 3, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 116O; repealing Minnesota Statutes 1990, sections 116J.970; 116J.971; and 116O.03, subdivision 2a.

With the unanimous consent of the Senate, Mr. Bernhagen moved to amend H.F. No. 930, as amended pursuant to Rule 49, adopted by the Senate May 16, 1991, as follows:

(The text of the amended House File is identical to S.F. No. 982.)

Page 3, delete section 5

Page 8, after line 2, insert:

"Sec. 17. [TRANSFER.]

The following programs are transferred from the department of trade and economic development to Minnesota Technology, Inc.: Minnesota Project Outreach Corporation, Minnesota Project Innovation, Inc., Minnesota Quality Council, Minnesota Inventors' Congress, Minnesota High Technology Corridor Corporation, and the office of science and technology. The provisions of Minnesota Statutes, section 15.039, apply to this transfer."

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 930 was read the third time, as amended, and placed on its final passage.

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

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

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Mondale	Sams
Beckman	Day	Johnston	Morse	Samuelson
Belanger	DeCramer	Kelly	Neuville	Solon
Benson, D.D.	Finn	Knaak	Novak	Spear
Benson, J.E.	Flynn	Kroening	Olson	Storm
Berg	Frank	Laidig	Pappas	Stumpf
Berglin	Frederickson, D.J.	Lessard	Pariseau	Traub
Bernhagen	Frederickson, D.R.	Marty	Piper	Vickerman
Bertram	Gustafson	McGowan	Pogemiller	Waldorf
Brataas	Hottinger	Mehrkens	Price	
Chmielewski	Hughes	Merriam	Reichgott	
Cohen	Johnson, D.E.	Metzen	Renneke	
Dahl	Johnson, D.J.	Moe, R.D.	Riveness	

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

S.F. No. 1317: A bill for an act relating to employment; modifying the family leave law; amending Minnesota Statutes 1990, sections 181.940, subdivision 2; and 181.9413.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Merriam	Reichgott
Beckman	Day	Johnston	Metzen	Renneke
Belanger	DeCramer	Kelly	Moe, R.D.	Riveness
Benson, D.D.	Finn	Knaak	Mondale	Sams
Benson, J.E.	Flynn	Kroening	Morse	Samuelson
Berg	Frank	Laidig	Neuville	Solon
Berglin	Frederickson, D.J.	Langseth	Novak	Spear
Bernhagen	Frederickson, D.R.	Larson	Olson	Storm
Bertram	Gustafson	Lessard	Pappas	Stumpf
Brataas	Hottinger	Luther	Pariseau	Traub
Chmielewski	Hughes	Marty	Piper	Vickerman
Cohen	Johnson, D.E.	McGowan	Pogemiller	Waldorf
Dahl	Johnson, D.J.	Mehrkens	Price	

So the bill passed and its title was agreed to.

H.F. No. 321: A bill for an act relating to marriage dissolution; requiring

a summons to contain certain information; providing for court approval of certain items without a hearing; providing for payment of investigation costs; limiting joint custody; creating a summary dissolution pilot project; appropriating money for marriage dissolution education and orientation; amending Minnesota Statutes 1990, sections 518.13, by adding a subdivision; 518.167, by adding a subdivision; and 518.17, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 518.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Merriam	Reichgott
Beckman	Day	Johnston	Metzen	Renneke
Belanger	DeCramer	Kelly	Moe, R.D.	Riveness
Benson, D.D.	Finn	Knaak	Mondale	Sams
Benson, J.E.	Flynn	Kroening	Morse	Samuelson
Berg	Frank	Laidig	Neuville	Solon
Berglin	Frederickson, D.J.	Langseth	Novak	Spear
Bernhagen	Frederickson, D.R.	Larson	Olson	Storm
Bertram	Gustafson	Lessard	Pappas	Stumpf
Brataas	Hottinger	Luther	Pariseau	Traub
Chmielewski	Hughes	Marty	Piper	Vickerman
Cohen	Johnson, D.E.	McGowan	Pogemiller	Waldorf
Dahl	Johnson, D.J.	Mehrkens	Price	

So the bill passed and its title was agreed to.

H.F. No. 783: A bill for an act relating to health; modifying requirements for drilling, sealing, and construction of wells, borings, and elevator shafts; amending Minnesota Statutes 1990, sections 103I.005, subdivisions 2, 22, and by adding a subdivision; 103I.101, subdivisions 2, 4, 5, and 6; 103I.105; 103I.111, subdivisions 2b, 3, and by adding a subdivision; 103I.205, subdivisions 1, 3, 4, 7, 8, and 9; 103I.208, subdivision 2; 103I.231; 103I.235; 103I.301, subdivision 1, and by adding a subdivision; 103I.311, subdivision 3; 103I.331, subdivision 2; 103I.525, subdivisions 1, 4, 8, and 9; 103I.531, subdivisions 5, 8, and 9; 103I.535, subdivisions 8 and 9; 103I.541, subdivisions 4 and 5; 103I.545, subdivision 2; 103I.621, subdivision 3; 103I.701, subdivisions 1 and 4; 103I.705, subdivisions 2, 3, 4, and 5; and 103I.711, subdivision 1; repealing Minnesota Statutes 1990, section 103I.005, subdivision 18.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Merriam	Reichgott
Beckman	Day	Johnston	Metzen	Renneke
Belanger	DeCramer	Kelly	Moe, R.D.	Riveness
Benson, D.D.	Finn	Knaak	Mondale	Sams
Benson, J.E.	Flynn	Kroening	Morse	Samuelson
Berg	Frank	Laidig	Neuville	Solon
Berglin	Frederickson, D.J.	Langseth	Novak	Spear
Bernhagen	Frederickson, D.R.	Larson	Olson	Storm
Bertram	Gustafson	Lessard	Pappas	Stumpf
Brataas	Hottinger	Luther	Pariseau	Traub
Chmielewski	Hughes	Marty	Piper	Vickerman
Cohen	Johnson, D.E.	McGowan	Pogemiller	Waldorf
Dahl	Johnson, D.J.	Mehrkens	Price	

So the bill passed and its title was agreed to.

S.F. No. 780: A bill for an act relating to the secretary of state; requiring that certain information be provided without a fee; amending Minnesota Statutes 1990, section 336.9-411.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnston	Metzen	Renneke
Beckman	DeCramer	Kelly	Moe, R.D.	Riveness
Belanger	Finn	Knaak	Mondale	Sams
Benson, J.E.	Flynn	Kroening	Morse	Samuelson
Berg	Frank	Laidig	Neuville	Solon
Berglin	Frederickson, D.J.	Langseth	Novak	Spear
Bernhagen	Frederickson, D.R.	Larson	Olson	Storm
Bertram	Gustafson	Lessard	Pappas	Stumpf
Brataas	Hottinger	Luther	Pariseau	Traub
Chmielewski	Hughes	Marty	Piper	Vickerman
Cohen	Johnson, D.E.	McGowan	Pogemiller	Waldorf
Dahl	Johnson, D.J.	Mehrkens	Price	
Davis	Johnson, J.B.	Merriam	Reichgott	

So the bill passed and its title was agreed to.

S.F. No. 93: A bill for an act relating to natural resources; limiting certain fees charged to towns in connection with town road projects; amending Minnesota Statutes 1990, section 103G.301, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	Mehrkens	Reichgott
Beckman	Davis	Johnson, D.J.	Metzen	Renneke
Belanger	Day	Johnson, J.B.	Mondale	Riveness
Benson, D.D.	DeCramer	Johnston	Morse	Sams
Benson, J.E.	Finn	Kelly	Neuville	Samuelson
Berg	Flynn	Knaak	Novak	Spear
Berglin	Frank	Laidig	Olson	Storm
Bernhagen	Frederickson, D.J.	Langseth	Pappas	Stumpf
Bertram	Frederickson, D.R.	Larson	Pariseau	Traub
Brataas	Gustafson	Lessard	Piper	Vickerman
Chmielewski	Hottinger	Marty	Pogemiller	Waldorf
Cohen	Hughes	McGowan	Price	

Mr. Merriam voted in the negative.

So the bill passed and its title was agreed to.

S.F. No. 494: A bill for an act relating to crimes; driving while intoxicated; authorizing counties to create pilot programs to provide intensive probation for repeat violators of the driving while intoxicated laws; increasing the chemical dependency assessment charge for repeat violators of the driving while intoxicated laws; appropriating money; amending Minnesota Statutes 1990, section 169.121, subdivision 5a.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnston	Metzen	Riveness
Beckman	DeCramer	Kelly	Moe, R.D.	Sams
Belanger	Finn	Knaak	Mondale	Samuelson
Benson, D.D.	Flynn	Kroening	Morse	Solon
Benson, J.E.	Frank	Laidig	Neuville	Spear
Berg	Frederickson, D.J.	Langseth	Novak	Storm
Berglin	Frederickson, D.R.	Larson	Olson	Stumpf
Bernhagen	Gustafson	Lessard	Pariseau	Traub
Bertram	Hottinger	Luther	Piper	Vickerman
Brataas	Hughes	Marty	Pogemiller	Waldorf
Chmielewski	Johnson, D.E.	McGowan	Price	
Cohen	Johnson, D.J.	Mehrkens	Reichgott	
Dahl	Johnson, J.B.	Merriam	Renneke	

So the bill passed and its title was agreed to.

S.F. No. 414: A bill for an act relating to alcohol and drug abuse; establishing a community prevention grant program; proposing coding for new law in Minnesota Statutes, chapter 144.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Merriam	Reichgott
Beckman	Day	Johnston	Metzen	Renneke
Belanger	DeCramer	Kelly	Moe, R.D.	Riveness
Benson, D.D.	Finn	Knaak	Mondale	Sams
Benson, J.E.	Flynn	Kroening	Morse	Samuelson
Berg	Frank	Laidig	Neuville	Solon
Berglin	Frederickson, D.J.	Langseth	Novak	Spear
Bernhagen	Frederickson, D.R.	Larson	Olson	Storm
Bertram	Gustafson	Lessard	Pappas	Stumpf
Brataas	Hottinger	Luther	Pariseau	Traub
Chmielewski	Hughes	Marty	Piper	Vickerman
Cohen	Johnson, D.E.	McGowan	Pogemiller	Waldorf
Dahl	Johnson, D.J.	Mehrkens	Price	

So the bill passed and its title was agreed to.

S.F. No. 666: A bill for an act relating to agriculture; lowering the fee for licensed lawn service applicators; authorizing a surcharge on sanitizers and disinfectants; abolishing surcharges on pesticides that are less than $10; changing certain reimbursement figures and deadlines of the agricultural chemical response compensation board; continuing integrated pest management and groundwater research; appropriating money; amending Minnesota Statutes 1990, sections 18E.03, subdivisions 4 and 5; 18E.04, subdivisions 4 and 5; and 18E.05, subdivision 3.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Merriam	Reichgott
Beckman	Day	Johnston	Metzen	Renneke
Belanger	DeCramer	Kelly	Moe, R.D.	Riveness
Benson, D.D.	Finn	Knaak	Mondale	Sams
Benson, J.E.	Flynn	Kroening	Morse	Samuelson
Berg	Frank	Laidig	Neuville	Solon
Berglin	Frederickson, D.J.	Langseth	Novak	Spear
Bernhagen	Frederickson, D.R.	Larson	Olson	Storm
Bertram	Gustafson	Lessard	Pappas	Stumpf
Brataas	Hottinger	Luther	Pariseau	Traub
Chmielewski	Hughes	Marty	Piper	Vickerman
Cohen	Johnson, D.E.	McGowan	Pogemiller	Waldorf
Dahl	Johnson, D.J.	Mehrkens	Price	

So the bill passed and its title was agreed to.

H.F. No. 1353: A bill for an act relating to economic development; establishing an international partnership program in the Minnesota trade office; authorizing a partnership program project; proposing coding for new law in Minnesota Statutes, chapter 116J.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 2, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Merriam	Renneke
Beckman	Day	Johnston	Metzen	Riveness
Belanger	DeCramer	Kelly	Moe, R.D.	Sams
Benson, D.D.	Finn	Knaak	Mondale	Samuelson
Benson, J.E.	Flynn	Kroening	Morse	Solon
Berg	Frank	Laidig	Novak	Spear
Berglin	Frederickson, D.J.	Langseth	Olson	Stumpf
Bernhagen	Frederickson, D.R.	Larson	Pappas	Traub
Bertram	Gustafson	Lessard	Pariseau	Vickerman
Brataas	Hottinger	Luther	Piper	Waldorf
Chmielewski	Hughes	Marty	Pogemiller	
Cohen	Johnson, D.E.	McGowan	Price	
Dahl	Johnson, D.J.	Mehrkens	Reichgott	

Messrs. Neuville and Storm voted in the negative.

So the bill passed and its title was agreed to.

H.F. No. 99: A bill for an act relating to transportation; designating trunk highway No. 61 and the Lake City rest area as disabled American veterans highway and rest area; authorizing special license plates for certain military personnel; amending Minnesota Statutes 1990, sections 161.14, by adding a subdivision; 168.12, subdivision 2c, and by adding a subdivision; and 168.123, subdivision 2.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Merriam	Renneke
Beckman	Day	Johnston	Metzen	Riveness
Belanger	DeCramer	Kelly	Moe, R.D.	Sams
Benson, D.D.	Finn	Knaak	Mondale	Samuelson
Benson, J.E.	Flynn	Kroening	Morse	Spear
Berg	Frank	Laidig	Neuville	Storm
Berglin	Frederickson, D.J.	Langseth	Novak	Stumpf
Bernhagen	Frederickson, D.R.	Larson	Pappas	Traub
Bertram	Gustafson	Lessard	Pariseau	Vickerman
Brataas	Hottinger	Luther	Piper	Waldorf
Chmielewski	Hughes	Marty	Pogemiller	
Cohen	Johnson, D.E.	McGowan	Price	
Dahl	Johnson, D.J.	Mehrkens	Reichgott	

So the bill passed and its title was agreed to.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Messages From the House, First Reading of House Bills, Reports of Committees, Second Reading of Senate Bills and Second Reading of House Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 858, 1129, 1238, 84, 820, 971 and 1064.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

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. 449: A bill for an act relating to retirement; Duluth teachers retirement fund association and St. Paul teachers retirement fund association; proposing coding for new law in Minnesota Statutes, chapter 354A; repealing Laws 1985, chapter 259, sections 2 and 3; and Laws 1990, chapter 570, article 7, section 4.

Senate File No. 449 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

Mr. Solon moved that S.F. No. 449 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 31.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

FIRST READING OF HOUSE BILLS

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

H.F. No. 31: A bill for an act relating to public safety; creating the Minnesota advisory council on fire protection systems; requiring licensing and certifying of the fire protection industry; providing for rules and an exemption; providing for fees; imposing a penalty; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 299M.

Referred to the Committee on Governmental Operations.

REPORTS OF COMMITTEES

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

Mr. Merriam from the Committee on Finance, to which was re-referred

S.F. No. 1517: A bill for an act relating to taxation; authorizing the department of trade and economic development to issue obligations to finance construction of aircraft maintenance and repair facilities; providing tax credits for job creation; providing an exemption from sales tax for certain equipment and materials; authorizing establishment of tax increment financing districts in the cities of Duluth and Hibbing; authorizing the metropolitan airports commission to operate outside the metropolitan area; amending Minnesota Statutes 1990, sections 290.06, by adding a subdivision; and 473.608, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 297A; proposing coding for new law as Minnesota Statutes, chapter 116R.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

AIRCRAFT MAINTENANCE AND ENGINE

REPAIR FACILITIES: STATE FINANCING

Section 1. [116R.01] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] *The definitions in this section apply to sections 1 to 16.*

Subd. 2. [BONDS.] *"Bonds" means the bonds authorized under section 2, subdivision 1, or bonds issued to refund these bonds, except for deficiency bonds.*

Subd. 3. [COMMISSIONER.] *"Commissioner" means the commissioner of finance.*

Subd. 4. [DEFICIENCY BONDS.] *"Deficiency bonds" means the bonds authorized under section 13, subdivision 3, or bonds issued to refund these bonds.*

Sec. 2. [116R.02] [BOND ISSUE; SALE AUTHORIZATION.]

Subdivision 1. [SALE AUTHORIZATION.] *The commissioner of finance, upon the request of the commissioner of trade and economic development, may issue and sell revenue bonds as provided under sections 1 to 15 in one or more series or issues for the purposes provided in this section in the aggregate principal amount of up to $350,000,000. Proceeds of the bonds and investment income on the proceeds are appropriated in the amounts and for the purposes specified in subdivisions 2, 5, and 6 and section 4.*

Subd. 2. [LOAN, LEASE, AND REVENUE AGREEMENTS.] *(a) The commissioner may loan the proceeds of the bonds or make other loans or enter into lease agreements or other revenue agreements for the facilities described in subdivisions 5 and 6. The commissioner may provide for servicing of the loans and agreements, the times they are payable and the amounts of payments, the amount of the loans and agreements, their security, and other terms, conditions, and provisions necessary or convenient in connection with them and may enter into all necessary contracts and security instruments in connection with them. The commissioner shall seek to obtain the best available security for the loans or agreements. The facilities described in subdivisions 5 and 6 may be pledged as collateral for the loans made and bonds issued under sections 1 to 15.*

(b) To reduce the risk that state general funds will be needed to pay debt service on the state guaranteed bonds, the commissioner must require that the financing arrangements include a coverage test satisfactory to the commissioner so that the sum of the value of the assets and other security pledged to the payment of bonds is no less than 125 percent of the outstanding state guaranteed bonds. Assets and other security that may be taken into account include (1) net unencumbered value of the project and any collateral or third party guaranty, including a letter of credit, pledged or otherwise furnished by a user of the project or by a benefitted airline company as security for the payment of rent, (2) bond proceeds, including earnings thereon, and (3) prepayments of rent, after making such adjustments the commissioner determines to be appropriate to take into account any outstanding bonds secured by a lien on the project or rent that is prior to the lien thereon that is securing the state guaranteed bonds. The commissioner may adopt the method of valuing the assets and other security as the commissioner determines to be appropriate, including valuation of the project as its original cost less depreciation.

Subd. 3. [APPLICATION; DATA PRACTICES.] *(a) An applicant may file a written application with the commissioner and the commissioner of trade and economic development for a loan or lease agreement or other revenue agreement for either or both of the aircraft facilities described in subdivisions 5 and 6. The commissioner and the commissioner of trade and economic development shall exercise due diligence in the review and approval of each application. In general, an application must provide information similar to that required by an investment banking or other financial institution considering a project for debt financing. The applicant shall submit a report prepared by a nationally recognized consultant familiar with the airline industry and its financing to the commissioner and the commissioner of trade and economic development with the written application. The selection of the consultant must be approved by the commissioner. The report must project the available revenues of the lessees of both of the facilities described in subdivisions 5 and 6, or either of them, that are at least sufficient during each year of the term of the proposed applicable bonds to pay when due all financial obligations of the lessee or lessees*

under the leases. The report must include the factors on which the projection is based.

(b) Except as otherwise provided in this subdivision, the following data required under sections 1 to 16 or submitted in connection with the application or any agreement authorized under this act is nonpublic data: business plans, financial statements, customer lists, and market and feasibility studies paid for with nonpublic money. The commissioner or the commissioner of trade and economic development may make the data accessible to any person, agency, or public entity if the commissioner or the commissioner of trade and economic development determines that access is required under state or federal securities law or is necessary for the person, agency, or public entity to perform due diligence in connection with the provision of financial assistance to the facilities described in subdivisions 5 and 6.

Subd. 4. [SECURITY.] *(a) If so provided in the commissioner's order or any indenture authorizing the applicable series of bonds, up to $125,000,000 principal amount of bonds for the facility described in subdivision 5 and up to $50,000,000 principal amount of bonds for the facility described in subdivision 6 may be secured by either of the following methods:*

(1) upon the occurrence of any deficiency in a debt service reserve fund for a series of bonds as provided in section 13, subdivision 3, the commissioner shall issue and sell deficiency bonds in a principal amount not to exceed the lesser of $175,000,000 or the outstanding principal amount of the bonds secured by the debt service reserve fund; or

(2) the bonds may be directly secured by a pledge of the full faith, credit, and taxing power of the state and issued as general obligation revenue bonds of the state in accordance with the Minnesota Constitution, article XI, sections 4 to 7.

Deficiency bonds and bonds issued under clause (2) must be issued in accordance with and subject to sections 16A.641, 16A.66, 16A.672, and 16A.675, except for subdivision 5 of section 16A.641 and except that the bonds may be sold at public or private sale at a price or prices determined by the commissioner as provided in section 13, subdivision 3.

(b) At the request of the commissioner, St. Louis county shall by resolution of its county board, unconditionally and irrevocably pledge as a general obligation, its full faith, credit, and taxing power to pay or secure payment of principal and interest due on up to $12,600,000 principal amount of revenue bonds for the facility described in subdivision 5 and principal and interest due on up to $15,000,000 principal amount of revenue bonds for the facility described in subdivision 6. The general obligation and pledge of St. Louis county are not subject to and shall not be taken into account for purposes of any debt limitation. A levy of taxes for the St. Louis county general obligation is not subject to and shall not be taken into account for purposes of any levy limitations. The general obligation and the bonds secured by the general obligation may be issued without an election. Except for sections 475.61 and 475.64, chapter 475 does not apply to the general obligation or the bonds secured by the general obligation.

(c) Bonds and deficiency bonds issued under sections 1 to 15 and any indenture entered into in connection with the issuance of the bonds are not subject to section 16B.06.

Subd. 5. [USE OF PROCEEDS; AIRCRAFT MAINTENANCE FACILITY.] *The proceeds of the bonds issued in a principal amount not to exceed*

$250,000,000 must be used to finance the costs related to the planning, construction, improvement, or equipping of a heavy maintenance facility for aircraft and facilities subordinate and related to the facility to be located at the Duluth international airport and any costs of issuance, reserves, credit enhancement, or an initial period of interest payments related to the bonds or the facility. The bond proceeds are appropriated to the commissioner for the purposes specified in this subdivision. The facility must be owned by the metropolitan airports commission and leased for the benefit of an airline company for use as a heavy maintenance base. With the approval of the commissioner, the owner of the facility may place a mortgage or security interest lien on the facility or any interest in or part of the facility. The mortgage is exempt from the mortgage registry tax imposed under chapter 287. In the event of a default under the loan, lease agreement, or other revenue agreement, the facility, or any part of the facility, may be leased or sold to another person for any lawful purpose, subject to the approval of the commissioner, provided that the approval of the commissioner is not required if a bond trustee has taken possession of the facility as a result of the default.

The ownership of the facility by the owner must not create any liability of the owner for payment of the debt service on the bonds. The owner may require as a condition of entering the lease of the facility that the lessee or other party pay all costs, expenses, or any other obligations of ownership.

Subd. 6. [USE OF PROCEEDS; AIRCRAFT ENGINE REPAIR FACILITY.] *The proceeds of the bonds issued in a principal amount not to exceed $100,000,000 must be used to finance the costs related to the planning, construction, improvement, or equipping of an aircraft engine repair facility and facilities subordinate and related to the facility to be located at the Chisholm-Hibbing municipal airport in the city of Hibbing and any costs of issuance, reserves, credit enhancement, or an initial period of interest payments related to the bonds or the facility. The bond proceeds are appropriated to the commissioner for the purposes specified in this subdivision. The facility must be owned by the owner of the Chisholm-Hibbing municipal airport, but may be leased, with or without a purchase option, to any person for the primary purpose of repairing aircraft engines or components. With the approval of the commissioner, the owner of the facility may place a mortgage or security interest lien on the facility. The mortgage is exempt from the mortgage registry tax imposed under chapter 287. In the event of a default under the loan, lease agreement, or other revenue agreement, the facility may be leased to another person for any lawful purpose or sold, subject to the approval of the commissioner.*

Subd. 7. [AGREEMENT OF LESSEE.] *Before issuing the bonds for the facilities, approving financial assistance, or entering into loan, lease, or other revenue agreements for the facilities described in subdivisions 5 and 6, the commissioner shall determine that the lessee and, if necessary, other corporations affiliated with by common ownership with the lessee have agreed to requirements satisfactory to the commissioner respecting: (1) aircraft noise abatement, and (2) the retention and location in the state, for at least the term of the lease, of employees, domestic and international operations, and facilities, including headquarters facilities, of the lessee or other affiliated corporation.*

Subd. 8. [ENVIRONMENTAL ASSESSMENT.] *Notwithstanding any other law or rule, no environmental review must be completed prior to the approval of an application and the issuance of a conditional commitment*

for the loan, or the taking of any other action permitted by sections 1 to 15, including the issuance of bonds, which is considered necessary or desirable by the commissioner to prepare for a final commitment and to make it effective. Environmental review, to the extent required by law, shall be made in conjunction with the issuance by state agencies of environmental permits for the project. Permits may be applied for prior to the issuance of a conditional commitment. Action shall be taken as expeditiously as possible on environmental review and all permits required.

Sec. 3. [116R.03] [GENERAL POWERS.]

For the purpose of exercising the specific powers authorized under sections 1 to 15 and effectuating the other purposes of sections 1 to 15, the commissioner may:

(1) acquire, hold, pledge, assign, or dispose of real or personal property or any interest in property, including a mortgage or security interest in a facility described in section 2, subdivision 5 or 6;

(2) enter into agreements, contracts, or other transactions with any federal or state agency, any person, and any domestic or foreign partnership, corporation, association, or organization, including contracts or agreements for administration and implementation of all or part of sections 1 to 15;

(3) acquire real property, or an interest therein, by purchase or foreclosure, where the acquisition is necessary or appropriate;

(4) enter into agreements with lenders, borrowers, or the issuers of securities for the purpose of regulating the development and management of any facility financed in whole or in part by the proceeds of bonds or loans;

(5) enter into agreements with other appropriate federal, state, or local governmental units; and

(6) contract with, use, or employ any federal, state, regional, or local public or private agency or organization, legal counsel, financial advisors, investment bankers or others, upon terms the commissioner considers necessary or desirable, to assist in the exercise of any of the powers authorized under sections 1 to 15 and to carry out the objectives of sections 1 to 15 and may pay for the services from bond proceeds or otherwise available department money.

Sec. 4. [116R.04] [REVENUE BONDS; PURPOSES, TERMS, APPROVAL.]

Subdivision 1. [BONDS.] *The commissioner from time to time may issue negotiable bonds in one or more series or issues in a principal amount which, in the opinion of the commissioner of trade and economic development, is necessary to provide sufficient funds for achieving the purposes of sections 1 to 15, including the construction of a heavy maintenance facility for aircraft to be located at the Duluth international airport, the financing of an aircraft engine repair facility in the city of Hibbing, the payment of interest on bonds of the commissioner, the establishment of reserves to secure the bonds, and the payment of all other expenditures of the commissioner and the owner of a financed facility incident to and necessary or convenient to carry out the purposes and powers of sections 1 to 15. The bonds may be issued as bonds or notes or in any other form authorized by law. Except as provided in section 2, subdivision 4, paragraph (a), and section 4, subdivision 3, sections 16A.31 to 16A.675 do not apply to the bonds authorized under section 2.*

Subd. 2. [REFUNDING OF BONDS.] *The commissioner from time to time may issue bonds for the purpose of refunding any bonds then outstanding, including the payment of any redemption premiums thereon, any interest accrued or to accrue to the redemption date, and costs related to the issuance and sale of the bonds. The proceeds of any refunding bonds may, in the discretion of the commissioner, be applied to the purchase or payment at maturity of the bonds to be refunded, to the redemption of such outstanding bonds on any redemption date, or to pay interest on the refunding bonds and may, pending such application, be placed in escrow to be applied to such purchase, payment, retirement, or redemption. Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations that are authorized investments under section 11A.24. The income earned or realized on any such investment may also be applied to the payment of the bonds to be refunded, interest or premiums on the refunded bonds, or to pay interest on the refunding bonds. After the terms of the escrow have been fully satisfied, any balance of such proceeds and any investment income may be returned to the general fund or, if applicable, the state bond fund, for use in any lawful manner. All refunding bonds issued under the provisions of this subdivision must be issued and secured in the manner provided by order of the commissioner, provided that any refunding bonds may be secured in any manner by which the refunded bonds were secured and payable from any source from which the refunded bonds were secured.*

Subd. 3. [KIND OF BONDS.] *All bonds issued under this section must be issued in the form and manner provided in section 16A.672.*

Subd. 4. [COMPLIANCE WITH FEDERAL LAW.] *The commissioner may covenant and agree with the holders of the bonds issued under this section that the state will comply, insofar as possible, with the provisions of the United States Internal Revenue Code now or hereafter enacted that are applicable to the bonds and that establish conditions under which the interest to be paid on the bonds will not be includable in gross income for federal tax purposes.*

Subd. 5. [TAXABILITY OF INTEREST.] *Interest on the bonds authorized by this section may be issued without regard to whether the interest to be paid on them is includable in gross income for federal tax purposes.*

Sec. 5. [116R.05] [BONDS; ORDERS AUTHORIZING, ADDITIONAL TERMS, SALE.]

Subdivision 1. [TERMS.] *The bonds must be authorized by an order or orders of the commissioner, bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States, at such place or places within or without the state, and be subject to such terms of redemption or purchase prior to maturity as the order or orders may provide, or as may be provided in any indenture or indentures of trust. If, for any reason, whether existing at the date of issue of any bonds or at the date of making or purchasing any loan or securities from the proceeds or after that date, the interest on any bonds is or becomes subject to federal income taxation, this shall not impair or affect the validity of the provisions made for the security of the bonds. The bonds may be sold at public or private sale at a price or prices determined by the commissioner. The underwriting discount, spread, or commission paid or allowed to the underwriters of the bonds, however, must be an amount not in excess of the amount determined by the*

commissioner to be reasonable in the light of the risk assumed and the expenses of issuance, if any, required to be paid by the underwriters or prevailing market conditions and practices.

Subd. 2. [SOURCES OF PAYMENT.] *Except as otherwise provided for bonds issued under section 2, subdivision 4, paragraph (a), the bonds are payable solely from the following sources and only to the extent provided in the order or indenture authorizing or securing the bonds:*

(1) revenues of any nature derived from the ownership, lease, operation, sale, foreclosure, or refinancing of a facility described in section 2, subdivision 5 or 6;

(2) repayments of any loans made under sections 1 to 15;

(3) proceeds of any bonds or deficiency bonds;

(4) amounts in any account or accounts authorized by section 11 or 12;

(5) amounts paid by St. Louis county under its obligations referred to in section 2, subdivision 4;

(6) investment income on any of the sources specified in clauses (1) to (7);

(7) amounts payable under any insurance policy, guaranty, letter of credit, or other instrument securing the bonds; and

(8) any other revenues which the commissioner may pledge, but not including state appropriations unless the appropriation is specifically designated for that purpose.

Subd. 3. [NOT A STATE DEBT.] *Except as provided in section 2, subdivision 4, paragraph (a), no bond shall constitute a debt of the state within the meaning of any statutory or constitutional limitation or pledge the full faith and credit of the state, and no holder of any bonds may compel any exercise of the taxing power of the state to pay principal, premiums, or interest for the bonds, nor to enforce payment of principal, premiums, or interest against any property of the state, except for property expressly pledged, mortgaged, encumbered, or appropriated for this purpose.*

Sec. 6. [116R.06] [BONDS; OPTIONAL ORDER AND CONTRACT PROVISIONS.]

Any order authorizing any bonds or any issue of bonds or any indenture may contain provisions, which may be a part of the contract with the holders of the bonds, as to the matters referred to in this section.

(a) It may pledge or create a lien on money or property and any money held in trust or otherwise by others to secure the payment of the bonds or of any series or issue of bonds, subject to any agreements with bondholders which exist.

(b) It may provide for the custody, collection, securing, investment, and payment of money.

(c) It may set aside reserves or sinking funds and provide for their regulation and disposition and may create other special funds into which money may be deposited.

(d) It may limit the loans and securities to which the proceeds of sale of bonds may be applied and may pledge repayments thereon to secure the payment of the notes or bonds or of any series or issue of notes or bonds.

(e) It may limit the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds.

(f) It may prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to the amendment or abrogation, and the manner in which that consent may be given.

(g) It may vest in a trustee or trustees property, rights, powers, and duties in trust determined by the commissioner, which may include any or all of the rights, powers, and duties of the bondholders, or may limit the rights, powers, and duties of the trustee. It may make contracts with a trustee or trustees authorizing the trustee or trustees to invest in investments that may be invested in by the state board of investment under section 11A.24, and apply, or dispose of and use money in any account.

(h) It may define the acts or omissions to act which constitute a default in the obligations and duties of the commissioner and may provide for the rights and remedies of the holders of bonds in the event of a default, and provide any other matters of like or different character, consistent with the general laws of the state and other provisions of sections 1 to 15, which in any way affect the security or protection of the bonds and the rights of the bondholders.

Sec. 7. [116R.07] [PLEDGES.]

Any pledge made by the commissioner is valid and binding from the time the pledge is made. The money or property pledged and later received by the commissioner is immediately subject to the lien of the pledge without any physical delivery of the property or money or further act, and the lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the commissioner, whether or not those parties have notice of the lien or pledge. Neither the order nor any other instrument by which a pledge is created need be recorded.

Sec. 8. [116R.08] [BONDS; NONLIABILITY OF INDIVIDUALS.]

The commissioner and the commissioner's staff and any person executing the bonds are not personally liable on the bonds or subject to any personal liability or accountability by reason of their issuance.

Sec. 9. [116R.09] [BONDS; PURCHASE AND CANCELLATION.]

The commissioner, subject to agreements with bondholders which may then exist, has power out of any funds available for the purpose to purchase bonds of the commissioner at a price not exceeding (a) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the bonds are not redeemable, the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption plus accrued interest to that date.

Sec. 10. [116R.10] [STATE PLEDGE AGAINST IMPAIRMENT OF CONTRACTS.]

The state pledges and agrees with the holders of any bonds issued under sections 1 to 15, that the state will not limit or alter the rights vested in the commissioner to fulfill the terms of any agreements made with the bondholders, or in any way impair the rights and remedies of the holders

until the bonds, together with interest on them, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged. The commissioner may include this pledge and agreement of the state in any agreement with the holders of bonds issued under sections 1 to 15.

Sec. 11. [116R.11] [AIRCRAFT FACILITIES FUNDS AND DEBT SERVICE ACCOUNTS.]

Subdivision 1. [FUNDS.] *The commissioner or any trustee appointed by the commissioner under sections 1 to 15 shall establish and maintain an aircraft facilities fund for each of the facilities described in section 2, subdivisions 5 and 6. Except for amounts required by the commissioner to be deposited in a debt service account, proceeds of each issue of bonds authorized under section 2, subdivision 1, must be deposited in a separate account, debt service reserve, or other account designated by the commissioner. Money in the account is appropriated to the commissioner. The commissioner or the owner of each facility described in section 2, subdivisions 5 and 6, may withdraw proceeds of bonds for application to the appropriated purposes in the manner provided by order of the commissioner or in any indenture authorized by order of the commissioner. The commissioner may establish whatever accounts might be necessary to carry out sections 1 to 15.*

Subd. 2. [ACCOUNTS.] *The state treasurer or any trustee appointed by the commissioner under sections 1 to 15 shall maintain permanently on official books and records debt service accounts separate from all other funds and accounts, to record all receipts and disbursements of money for principal and interest payments on each series of bonds. No later than the due date of each principal and interest payment on the bonds, the commissioner shall withdraw from the proceeds of the bonds, or from revenues on hand and available for the purpose, and shall deposit in the debt service accounts the amount, if any, required in the account by the order of the commissioner or any indenture authorized by an order of the commissioner. All amounts in any debt service account are appropriated for the payment of principal, premiums, and interest for the bonds to which the account relates.*

Sec. 12. [116R.12] [POWERS AND DUTIES OF TRUSTEE.]

Subdivision 1. [GENERAL.] *The trustee, if any, designated in any indenture or order securing an issue of bonds may, in the trustee's own name, if so provided in the indenture or order:*

(1) enforce all rights of the bondholders, including the right to require the commissioner to collect fees, charges, interest, and payments on leases, loans, or interests therein held by the commissioner and eligible securities purchased by it adequate to carry out any agreement as to, or pledge of, those fees, charges, and payments, and to require the commissioner to carry out any other agreements with the holders of the bonds and to perform the duties required under sections 1 to 15;

(2) bring suit upon the bonds;

(3) require the commissioner to account as if it were the trustee of any express trust for the holders of the bonds;

(4) enjoin any acts or things which may be unlawful or in violation of

the rights of holders of the bonds; or

(5) upon a default as defined in any bond, order, or indenture, declare all the bonds due and payable, enforce any remedy available under law, and if all defaults are made good, the trustee may annul the declaration and consequences.

Subd. 2. [ADDITIONAL POWERS.] *In addition to the powers in subdivision 1, the trustee has all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of bondholders in the enforcement and protection of their rights.*

Subd. 3. [VENUE.] *The venue of any action or proceedings brought by a trustee is in Ramsey county.*

Sec. 13. [116R.13] [DEBT SERVICE RESERVE ACCOUNT.]

Subdivision 1. [AUTHORITY.] *The commissioner or a trustee appointed by the commissioner may create, maintain, and establish a special account or accounts for the security of one or more or all series of the bonds, which accounts are known as debt service reserve accounts. The commissioner may pay into each debt service reserve account:*

(1) any money appropriated by the state only for the purposes of that account;

(2) any proceeds of sale of bonds to the extent provided in the order or indenture authorizing their issuance;

(3) any money directed to be transferred by the commissioner to that debt service reserve account; and

(4) any other money made available to the commissioner for the purpose of that account from any other source.

Subd. 2. [USE OF MONEY.] *The money held in or credited to each debt service reserve account, except as provided in this section, must be used solely for the payment of the principal of bonds of the commissioner as the bonds mature or otherwise become due, the purchase of the bonds, the payment of interest on the bonds, the payment of any premium required when the bonds are redeemed before maturity, or any rebate amounts owing to the United States government in accordance with any applicable covenant to comply with federal tax laws; provided, that money in a debt service reserve account may not be withdrawn at any time in an amount which would reduce the amount of the account to less than any amount which the commissioner determines to be reasonably necessary for the purposes of the account, except for the purpose of paying principal, premium, or interest due on bonds secured by the account, for the payment of which other money is not available.*

Subd. 3. [GENERAL OBLIGATION BONDS.] *(a) If the amount in any debt service reserve account falls below the minimum required in an order of the commissioner or indenture for the applicable series of bonds and the order or indenture so provides, the commissioner shall issue as promptly as practicable, but in no event later than six months after the occurrence of the deficiency, general obligation bonds in accordance with the Minnesota Constitution, article XI, section 7, and section 2, subdivision 4; section 16A.641, subdivisions 1 to 4 and 6 to 13; sections 16A.66, section 16A.672; and section 16A.675, except as otherwise provided in this section and unless*

provision is made for restoring the deficiency from other sources. Section 16A.641, subdivision 5, does not apply to the issuance of bonds authorized under this subdivision. Proceeds of the bonds not required for payment of costs related to the issuance of the bonds must be deposited in the debt service reserve account, except that accrued interest must be deposited as provided in section 16A.641, subdivision 7, paragraph (b).

(b) The underwriting discount, spread, or commission paid or allowed to the underwriters or placement agents of deficiency bonds and bonds described in section 2, subdivision 4, paragraph (a), must be an amount not in excess of the amount determined by the commissioner to be reasonable in light of the risk assumed and the expense of issuance, if any, required to be paid by the underwriters, placement agents, or prevailing market conditions and practices.

Subd. 4. [LIMITATION.] *If the commissioner creates a debt service reserve account for the security of any series of bonds, the commissioner may not issue any additional bonds which are similarly secured if the amount of any of the debt service reserve accounts at the time of issuance does not equal or exceed the minimum amount, if any, required by the resolution creating that account, unless the commissioner deposits in each account at the time of issuance, from the proceeds of the bonds or otherwise, an amount which, together with the amount then in the account, will not be less than the minimum amount required.*

Subd. 5. [EXCESS MONEY.] *To the extent consistent with the orders and indentures securing outstanding bonds, the commissioner may, at the close of any fiscal year, transfer to any other account from any debt service reserve account, any excess in that account over the amount considered by the commissioner to be reasonably necessary for the purpose of the account.*

Subd. 6. [CONSTRUCTION.] *Nothing in this section may be construed to limit the right of the commissioner to create and establish by order or indenture other accounts or security in addition to debt service reserve accounts which are necessary or desirable in connection with any bonds or programs.*

Sec. 14. [116R.14] [CONSTRUCTION.]

Sections 1 to 15 are necessary for the welfare of the state of Minnesota and its inhabitants; therefore, they shall be liberally construed to effect their purpose.

Sec. 15. [116R.15] [SEVERABILITY; ACTIONS.]

Each of the provisions of sections 1 to 15, and each application thereof to particular circumstances, is severable. If any provision or application is found to be unconstitutional and void, it is the intention that the remaining provisions and applications shall be valid and enforceable to the full extent possible under section 645.20.

Sec. 16. [116R.16] [TECHNICAL ADVISORY COMMITTEE.]

Subdivision 1. [MEMBERSHIP.] *The commissioner of trade and economic development shall establish a technical advisory committee. For the facility described in section 2, subdivision 5, the advisory committee shall provide project oversight to the affected jurisdictions regarding project status, effectiveness, and financial conditions. The advisory committee consists of the following members:*

(1) a representative of the department of trade and economic development appointed by the commissioner to act as chairperson of the advisory committee;

(2) a representative of the metropolitan airports commission appointed by the metropolitan airports commission;

(3) a representative of the city of Duluth appointed by the mayor of Duluth; and

(4) two representatives of St. Louis county appointed by the St. Louis county board of commissioners.

Subd. 2. [TERMS.] *The membership terms, removal, and filling of vacancies is as provided in section 15.059.*

Subd. 3. [DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT DUTIES.] *The commissioner of trade and economic development shall monitor, evaluate, and prepare reports on the progress and financial status of the facility described in section 2, subdivision 5; convene meetings of the advisory committee on a quarterly basis; and provide information and assistance to the advisory committee as is reasonably necessary.*

Subd. 4. [REPORTS.] *The commissioner of trade and economic development shall submit an annual report to the legislature by January 1 of each year and provide other reports to the individually represented jurisdictions as appropriate.*

Sec. 17. Minnesota Statutes 1990, section 290.06, is amended by adding a subdivision to read:

Subd. 24. [CREDIT FOR JOB CREATION.] *A corporation that leases and operates a heavy maintenance base for aircraft that is owned by the state of Minnesota or one of its political subdivisions, or an engine repair facility described in section 2, subdivision 6, or both, may take a credit against the tax due under this chapter. For the first taxable year when the facility has been in operation for at least three consecutive months, the credit is equal to $5,000 multiplied by the number of persons employed by the corporation on a full-time basis at the facility on the last day of the taxable year, not to exceed the number of persons employed by the corporation on a full-time basis at the facility on the date 90 days before the last day of the taxable year. For each of the succeeding four taxable years, the credit is equal to $5,000 multiplied by the number of persons employed by the corporation on a full-time basis at the facility on the last day of the taxable year, not to exceed the number of persons employed by the corporation on a full-time basis at the facility on the date 90 days before the last day of the taxable year. If the credit provided under this subdivision exceeds the tax liability of the corporation for the taxable year, the excess amount of the credit may be carried over to each of the ten taxable years succeeding the taxable year. The entire amount of the credit must be carried to the earliest taxable year to which the amount may be carried. The unused portion of the credit must be carried to the following taxable year. No credit may be carried to a taxable year more than ten years after the taxable year in which the credit was earned.*

Sec. 18. [297A.2571] [AIRCRAFT FACILITY MATERIALS; EXEMPTIONS.]

Materials, equipment, and supplies used or consumed in constructing, or incorporated into the construction of, a heavy maintenance facility for

aircraft that is to be owned by the state of Minnesota or one of its political subdivisions and leased by an airline company, or an aircraft engine repair facility described in section 2, subdivision 6, are exempt from the taxes imposed under this chapter and from any sales and use tax imposed by a local unit of government, notwithstanding any ordinance or city charter provision. Except for equipment owned or leased by a contractor, all machinery, equipment, tools, accessories, appliances, contrivances, furniture, fixtures, and all tangible personal property of any other nature or description necessary to the construction and equipping of that facility in order to provide those services is also exempt.

Sec. 19. Minnesota Statutes 1990, section 360.013, subdivision 5, is amended to read:

Subd. 5. "Airport" means any area, of land or water, except a restricted landing area, which is designed for the landing and takeoff of aircraft, whether or not facilities are provided for the shelter, surfacing, or repair of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, *including facilities described in section 2, subdivision 6,* and all appurtenant rights of way, whether heretofore or hereafter established.

Sec. 20. Minnesota Statutes 1990, section 360.032, subdivision 1, is amended to read:

Subdivision 1. [ACQUISITION.] Every municipality is hereby authorized, through its governing body, to acquire property, real or personal, for the purpose of establishing, constructing, and enlarging airports and other air navigation facilities and to acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate such airports and other air navigation facilities and structures and other property incidental to their operation, either within or without the territorial limits of such municipality and within or without this state; to make, prior to any such acquisition, investigations, surveys, and plans; to construct, install, and maintain airport facilities for the servicing *and repair* of aircraft *and facilities authorized under section 2, subdivision 6,* and for the comfort and accommodation of air travelers; and to purchase and sell equipment and supplies as an incident to the operation of its airport properties. It may not acquire, or take over any airport or other air navigation facility owned or controlled by any other municipality of the state without the consent of such municipality. It may use for airport purposes any available property that is now or may at any time hereafter be owned or controlled by it. Such air navigation facilities as are established on airports shall be supplementary to and coordinated in design and operation with those established and operated by the federal and state governments. It may assist other municipalities in the construction of approach roads leading to any airport or restricted landing area owned or controlled by it. *In financing the facility described under section 2, subdivision 6, it may borrow money from the state or otherwise assist in the financing of the facility and for that purpose may exercise the powers specified under sections 469.152 to 469.165.*

Sec. 21. Minnesota Statutes 1990, section 360.038, subdivision 4, is amended to read:

Subd. 4. [LEASED PROPERTY.] To lease for a term not exceeding 30 years such airports ~~or~~, other air navigation facilities *or facilities authorized under section 2, subdivision 6,* or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or

the national government, or any department of either thereof, for operation; to lease or assign for a term not exceeding 99 years to private parties, any municipal or state government, or the national government, or any department of either thereof, for operation or use consistent with the purposes of sections 360.011 to 360.076, space, area, improvements, or equipment on such airports; notwithstanding any other provisions in this subdivision, to lease ground area for a term not exceeding 99 years to private persons for the construction of structures which in its opinion are essential and necessary to serve aircraft, persons and things engaged in or incidental to aeronautics, including but not limited to shops, hangars, offices, restaurants, hotels, motels, factories, storage space, and any and all other structures necessary or essential to and consistent with the purposes of sections 360.011 to 360.076, to sell any part of such airports, other air navigation facilities, or real property to any municipal or state government, or to the United States or any department or instrumentality thereof, for aeronautical purposes incidental thereto, and to confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities; provided that in each case in so doing the public is not deprived of its rightful, equal, and uniform use thereof.

Sec. 22. Minnesota Statutes 1990, section 473.608, subdivision 1, is amended to read:

Subdivision 1. The corporation, subject to the conditions and limitations prescribed by law, shall possess all the powers as a body corporate necessary and convenient to accomplish the objects and perform the duties prescribed by sections 473.601 to 473.679, including but not limited to those hereinafter specified. These powers, except as limited by section 473.622, may be exercised at any place within 35 miles of the city hall of either Minneapolis or St. Paul, and in the metropolitan area, *and in the city of Duluth for the purpose of owning, leasing, constructing, equipping, operating, borrowing money from the state for, or otherwise financing the facility described in section 2, subdivision 5.*

A state loan to finance the facility described in section 2, subdivision 5, must be made on terms and conditions as the commissioner of finance, the commissioner of trade and economic development, and the commission determine to be appropriate. The state loan is not subject to and may not be counted against any limitation on the principal amount of revenue bonds or general obligation revenue bonds that the commission may issue under sections 473.601 to 473.679.

Sec. 23. [CITY OF DULUTH; TAX INCREMENT FINANCING DISTRICT.]

Subdivision 1. [AUTHORIZATION.] *The city of Duluth may create a tax increment financing district, as provided in this subdivision, on property located at the Duluth international airport. Except as provided otherwise in this section, the provisions of Minnesota Statutes, sections 469.174 to 469.179, shall apply to the district. The district shall consist of parcels on which the facility described in section 2, subdivision 5, is proposed to be located. The city or any of its authorities or agencies listed in Minnesota Statutes, section 469.174, subdivision 2, may be the "authority" for purposes of Minnesota Statutes, sections 469.174 to 469.179.*

Subd. 2. [CHARACTERISTICS OF THE DISTRICT.] *(a) The district shall be a redevelopment district as defined in Minnesota Statutes, section 469.174, subdivision 10, except that the durational limit under Minnesota*

Statutes, section 469.176, subdivision 1, paragraph (e), shall be extended to 30 years.

(b) Notwithstanding Minnesota Statutes, section 469.176, subdivision 4j, the revenue derived from tax increments from this district and money in any of the funds specified in section 54(a) of the Duluth City Charter that are pledged by the governing body of the city of Duluth for this purpose must be used to pay debt service on the obligations or debt incurred to finance any portion of the facilities described in section 2, subdivision 5, in a principal amount not to exceed $47,600,000.

(c) The provisions of Minnesota Statutes, section 273.1399, do not apply to the district.

Sec. 24. [CITY OF HIBBING; TAX INCREMENT FINANCING DISTRICT.]

Subdivision 1. [AUTHORIZATION.] *(a) The city of Hibbing may create a tax increment financing district, as provided in this subdivision, on property located in the city of Hibbing. Except as provided otherwise in this section, the provisions of Minnesota Statutes, sections 469.174 to 469.179, shall apply to the district. The district shall consist of parcels on which the facility described in section 2, subdivision 6, is proposed to be located and with the approval of the St. Louis county board, any other adjoining areas into which expansion of the facility or development caused by the facility may be expected to occur. The city or any of its authorities or agencies listed in Minnesota Statutes, section 469.174, subdivision 2, may be the "authority" for purposes of Minnesota Statutes, sections 469.174 to 469.179.*

(b) By resolution of the governing bodies of St. Louis county and the city of Chisholm and without an election, either or both St. Louis county and the city of Chisholm may treat an obligation or any portion thereof, of the city of Hibbing issued under Minnesota Statutes, section 469.178, subdivision 2, as a general obligation of St. Louis county or the city of Chisholm, by unconditionally and irrevocably pledging their full faith and credit and taxing power. Except for Minnesota Statutes, sections 475.61 and 475.64, the pledge is not subject to Minnesota Statutes, chapter 475. The obligations, the pledge of St. Louis county, and the pledge of the city of Chisholm are not subject to and shall not be taken into account for purposes of any debt limitation. A levy of taxes for the obligations is not subject to and shall not be taken into account for purposes of any levy limitations. The obligations may be sold at public or private sale.

Subd. 2. [CHARACTERISTICS OF THE DISTRICT.] *(a) The district shall be a redevelopment district as defined in Minnesota Statutes, section 469.174, subdivision 10, except that the durational limit under Minnesota Statutes, section 469.176, subdivision 1, paragraph (e), shall be extended to 30 years.*

(b) Notwithstanding Minnesota Statutes, section 469.176, subdivision 4j, the revenue derived from tax increments from this district and the proceeds of obligations secured by or payable from the tax increments, after reduction for costs of issuance, reserves, and capitalized interest, may be used to pay debt service on the obligations or debt incurred to finance any portion of the facilities described in section 2, subdivision 6.

(c) The provisions of Minnesota Statutes, section 273.1399, do not apply to the district.

Sec. 25. [PURPOSE.]

The purpose of sections 1 to 18 is to foster long-term economic growth and job creation by financing an aircraft maintenance facility and an aircraft engine repair facility, to encourage and facilitate the retention and expansion of airports and other air navigation facilities, airline corporations' facilities, operations and services in the state; to prevent the loss of jobs, and encourage and promote the creation of additional jobs in the state in the airline industry and in other businesses in the state served or affected by the airline industry; to promote the continued growth, and reduce the potential for and effects of a decline of economic activity in the state; and to ensure the preservation, growth, and diversification of the tax base of the state. State bonds are authorized to be issued and the proceeds of their sale are appropriated under the authority of article XI, section 5, clauses (a) and (g), of the Minnesota Constitution. In authorizing the financing of the aircraft facilities, the legislature is acting in all respects for the benefit of the people of the state of Minnesota to serve the public purpose of fostering economic development within the state.

Sec. 26. [EFFECTIVE DATE; LOCAL APPROVAL.]

Section 2, subdivision 4, paragraph (b), is effective on the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of St. Louis county. Section 17 is effective for taxable years beginning after December 31, 1991.

ARTICLE 2

METROPOLITAN AIRPORTS COMMISSION

Section 1. [473.6021] [PUBLIC NECESSITY AND PURPOSE FOR ISSUANCE OF BONDS.]

In order to accomplish the public purposes set forth in section 473.602; to encourage and facilitate the retention and expansion of airline corporations' facilities, operations, and services in the metropolitan area and the state; to prevent the loss of jobs and encourage and promote the creation of additional jobs in the state in the airline industry and in other businesses in the state served or affected by the airline industry; to promote the continued growth, and reduce the potential for and effects of a decline of economic activity in the metropolitan area and the state; and to ensure the preservation, growth, and diversification of the tax base of the metropolitan area and the state; it is necessary and appropriate and in the public interest to authorize the commission to take the actions described in section 473.667, subdivision 11, and section 3.

Sec. 2. Minnesota Statutes 1990, section 473.667 is amended by adding a subdivision to read:

Subd. 11. [ADDITIONAL BONDS.] *(a) With the approval of the commissioner of finance and the commissioner of trade and economic development, the commission may issue general obligation revenue bonds for the purposes of:*

(1) acquiring by purchase real and personal properties located within the metropolitan area that are related to airline operations to be leased to airline corporations, or to other corporations affiliated by common ownership with airline corporations, for use in connection with their airline operations, including real and personal properties for use as flight training facilities; and

(2) financing or refinancing the costs of real and personal properties owned by the commission to be leased to airline corporations and used in connection with the operations of the airline corporations at airports under the commission's jurisdiction.

Prior to the issuance of the general obligation revenue bonds, the commission shall enter into a lease with the airline corporations, or with other corporations affiliated by common ownership with airline corporations, for the use of the acquired real and personal properties referenced in clause (1), and shall enter into a revenue agreement with the airline corporation for the use of the properties financed or refinanced referenced in clause (2).

(b) In addition to the covenants and agreements otherwise required or negotiated by the commission, the leases and revenue agreements for the properties must contain covenants and agreements by the airline corporation, and if the user is not the airline corporation, also by the airline corporation, satisfactory to the commission providing for:

(1) the payment of rents in amounts and at times adequate to pay the principal and interest as due on the general obligation revenue bonds issued to acquire, finance, or refinance the properties and to pay the commission's costs and expenses of issuing the bonds and acquiring and owning the properties, and otherwise satisfying the requirements of section 469.155, subdivision 5;

(2) the adequate security for payment of rents so that the net unencumbered value of the leased property described in paragraph (a), clause (1), and other collateral pledged to the commission from time to time by the airline corporation, as independently appraised at the time of issuance and periodically to the satisfaction of the commission during the term of the general obligation revenue bonds, is a percentage of the principal amount of the outstanding general obligation revenue bonds under this subdivision as determined by the commission; provided that the percentage determined by the commission must not be less than 125 percent;

(3) the retention and location of employees, operations, domestic and international, and facilities, including headquarters, of the airline corporation in the metropolitan area and the state for periods that may exceed the term of the lease and aircraft noise abatement; and

(4) early repayment, or the establishment of a defeasance account to provide for timely repayment, of the general obligation revenue bonds upon the occurrence of events and upon terms and conditions as are satisfactory to the commission, together with financial requirements and covenants satisfactory to the commission.

(c) The purchase price of the acquired properties described in paragraph (a), clause (1), must be in an amount equivalent to a percentage of its then fair market value as determined by the commission; provided that the percentage shall not exceed 85 percent. The portion of the general obligation revenue bonds attributable to the financing or refinancing of the property described in paragraph (a), clause (2), must be in an amount equivalent to a percentage of its then fair market value as determined by the commission; provided that the percentage shall not exceed 85 percent. The principal amount of the general obligation revenue bonds issued under this subdivision, including any debt service reserve account or other reserve account, is limited to $270,000,000 in excess of the amount authorized by subdivision 2; provided that the sum of the original principal amounts of the general

obligation revenue bonds issued under this subdivision, and the revenue bonds issued under section 3, shall not exceed $390,000,000. Before the commission may issue the general obligation revenue bonds described in this subdivision, the commission shall have received, in form and substance satisfactory to the commission, reports described in section 3, subdivision 3, relating to the general obligation revenue bonds.

Sec. 3. [473.6671] [REVENUE BONDS.]

Subdivision 1. [AUTHORIZATION.] *(a) With the approval of the commissioner of finance and the commissioner of trade and economic development, the commission may issue revenue bonds for the purpose of:*

(1) acquiring by purchase real and personal properties located within the metropolitan area that are related to airline operations to be leased to airline corporations, or to other corporations affiliated by common ownership with airline corporations, for use in connection with their airline operations, including real and personal properties for use as flight training facilities; and

(2) financing or refinancing the costs of real and personal properties owned by the commission to be leased to airline corporations and used in connection with the operations of the airline corporations at airports under the commission's jurisdiction.

Prior to the issuance of the revenue bonds, the commission shall enter into a lease with the airline corporations, or with other corporations affiliated by common ownership with airline corporations, for the use of such acquired real and personal properties referenced in clause (1), and shall enter into a revenue agreement with the airline corporation for the use of the properties financed or refinanced referenced in clause (2).

(b) In addition to the covenants and agreements otherwise required or negotiated by the commission, the leases and revenue agreements for the properties must contain covenants and agreements by the airline corporation, and if the user is not the airline corporation, also by the airline corporation, satisfactory to the commission providing for:

(1) the payment of rents in amounts and at times adequate to pay the principal and interest as due on the revenue bonds issued to acquire, finance, or refinance the properties and to pay the commission's costs and expenses of issuing the bonds and acquiring and owning the properties, and otherwise satisfying the requirements of section 469.155, subdivision 5;

(2) the retention and location of employees, operations, domestic and international, and facilities, including headquarters, of the airline corporation in the metropolitan area and the state for periods that may exceed the term of the lease and aircraft noise abatement; and

(3) early repayment, or the establishment of a defeasance account to provide for timely repayment, of the general obligation revenue bonds upon the occurrence of events and upon terms and conditions as are satisfactory to the commission, together with financial requirements and covenants satisfactory to the commission.

(c) The sum of the original principal amounts of the revenue bonds issued under this subdivision, and the general obligation revenue bonds issued under section 473.667, subdivision 11, shall not exceed $390,000,000. Except as provided in this section, the revenue bonds must be issued in the manner and are subject to the requirements of chapter 475; provided that

compliance with the requirements of section 475.60 is at the discretion of the commission.

Subd. 2. [SECURITY AND SOURCE OF PAYMENT.] *The revenue bonds described in subdivision 1 are payable solely from and secured by the revenues derived by the commission from the leases upon the properties described in subdivision 1, paragraph (a), clause (1), the revenue agreements upon the properties described in subdivision 1, paragraph (a), clause (2), and other revenues as the commission may designate and pledge which are derived from the ownership and operation of its airports, air navigation facilities, and other facilities; provided that the pledge and application of all revenues to the payment and security of the revenue bonds are subject and subordinate to the first and prior charge thereon for the payment and security of the commission's general obligation revenue bonds as provided in section 473.667. The revenue bonds shall not be payable from or charged upon any funds or assets of the commission other than the commission revenues expressly pledged to their payment. An owner of the revenue bonds may not compel any exercise of the taxing power of the commission, the state, or any other taxing jurisdiction. Each bond must state in substance the limited nature of the obligations. The revenue bonds may be further secured by an assignment of leases with respect to the properties acquired, financed, or refinanced by the revenue bonds, and (i) with respect to the properties described in subdivision 1, paragraph (a), clause (1), by a mortgage and security agreement upon the properties and by other collateral as is pledged to secure the obligations of the airline corporation or other lessee under the leases on the properties, and (ii) with respect to the properties described in subdivision 1, paragraph (a), clause (2), by other collateral as is pledged to secure the obligations of the airline corporation under the revenue agreements. In the resolution or other instrument providing for the issuance of the revenue bonds, the commission may provide for or require the creation of accounts from sources specified by the commission for the payment and security of the revenue bonds, including a debt service reserve account, separate from the accounts maintained for payment of the general obligation revenue bonds. The sources specified by the commission may include a portion of the proceeds of the revenue bonds or payment by the airline corporation. The leases described in subdivision 1, paragraph (a), clause (1), and the revenue agreements described in subdivision 1, paragraph (a), clause (2), must provide that if the commission determines to pledge any of its revenues to secure the revenue bonds, including revenues deposited into a debt service reserve account for the revenue bonds, the airline corporation concurrently shall pledge assets to the commission as security for repayment of the pledged revenues so that the net unencumbered values of the pledged assets, as independently appraised at the time of issuance and periodically to the satisfaction of the commission during the term of the revenue bonds, is a percentage of the amount of commission revenues so pledged as determined by the commission; provided that the percentage shall not be less than 125 percent.*

Subd. 3. [DUE DILIGENCE CONDITIONS.] *Before the commission may issue the revenue bonds described in subdivision 1, the commission must receive, in form and substance satisfactory to the commission:*

(1) a report of audit of the commission's financial records for the fiscal year most recently ended or, if this is not yet available, a report for the preceding year, prepared by a nationally recognized firm of certified public accountants, showing that the net revenues received that year, computed as

the gross receipts less any refunds of rates, fees, charges, and rentals for airport and air navigation facilities and service, and less the aggregate amount of current expenses, paid or accrued, of operation and maintenance of property and carrying on the commission's business and activities, equaled or exceeded the maximum amount of then outstanding bonds of the commission and interest thereon to become due in any future fiscal year;

(2) a written report prepared by a nationally recognized consultant on airport management and financing, projecting available revenues of the airline corporation at least sufficient during each year of the term of the proposed revenue bonds to pay when due all financial obligations of the airline corporation under the revenue agreements and leases described in subdivision 1 and stating the factors on which the projection is based; and

(3) a written report prepared by a nationally recognized consultant on airport management and financing, projecting available revenues of the commission at least sufficient during each year of the term of the proposed revenue bonds to pay all principal and interest when due on the revenue bonds, and stating the estimates of air traffic, rate increases, inflation, and other factors on which the projection is based.

The commission shall submit the reports required under this subdivision to the commissioner of finance and the commissioner of trade and economic development.

Sec. 4. Minnesota Statutes, section 473.667, is amended by adding a subdivision to read:

Subd. 12. [BONDS FOR HEAVY MAINTENANCE FACILITY.] *With the approval of the commissioner of finance and the commissioner of trade and economic development, the commission may issue general obligation revenue bonds for the purpose of constructing a heavy maintenance facility for aircraft to be located at Minneapolis-St. Paul International Airport. The heavy maintenance facility must be owned by the commission and leased to and operated by airline corporations, for use by airline corporations in connection with their airline operations. The principal amount of the general obligation revenue bonds issued under this subdivision, including any debt service reserve account or any other reserve account, is limited to $230,000,000 in excess of the amount authorized by subdivision 2.*

Sec. 5. [473.680] [TAX INCREMENT FINANCING DISTRICT FOR HEAVY MAINTENANCE FACILITY.]

Subdivision 1. [AUTHORIZATION.] *The commission may create a tax increment financing district as provided in this subdivision on property located at the Minneapolis-St. Paul International Airport. Except as otherwise provided in this section, the provisions of sections 469.174 to 469.179 apply to the district. The district shall consist of parcels on which the heavy maintenance facility described in section 473.667, subdivision 12, is proposed to be located. The commission is the "authority" for purposes of sections 469.174 to 469.179.*

Subd. 2. [CHARACTERISTICS OF THE DISTRICT.] *(a) The district shall be an economic development district as defined in section 469.174, subdivision 12.*

(b) Notwithstanding section 469.176, subdivision 4c, the revenue derived from tax increment from the district must be used to pay debt service on general obligation revenue bonds issued by the commission under section

473.667, subdivision 12.

Sec. 6. [EFFECTIVE DATES; APPLICATION.]

Sections 1 to 5 are effective the day following final enactment and shall apply to bonds issued under sections 1 to 5 and bonds issued to refund the bonds. This act applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington."

Amend the title as follows:

Page 1, line 3, delete "trade and economic development" and insert "finance"

Page 1, line 9, after "Hibbing" insert "and on property located at the Minneapolis-St. Paul International Airport"

Page 1, line 11, after the semicolon, insert "authorizing the metropolitan airports commission to issue obligations to finance construction of aircraft maintenance facilities;"

Page 1, line 12, delete "and" and insert "360.013, subdivision 5; 360.032, subdivision 1; 360.038, subdivision 4;"

Page 1, line 13, after the semicolon, insert "and 473.667, by adding subdivisions;"

Page 1, line 14, delete "chapter 297A" and insert "chapters 297A and 473"

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

Mr. Merriam from the Committee on Finance, to which was re-referred

S.F. No. 1174: A bill for an act relating to water; setting a minimum water use processing fee for water use permits issued for irrigation; amending Minnesota Statutes 1990, section 103G.271, subdivision 6.

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

Mr. Merriam from the Committee on Finance, to which was referred

H.F. No. 1109: A bill for an act relating to economic development; creating Advantage Minnesota, Inc.; requiring a report to the legislature; proposing coding for new law in Minnesota Statutes, chapter 116J.

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

Mr. Merriam from the Committee on Finance, to which was referred

H.F. No. 761: A bill for an act relating to education; permitting the state board of technical colleges to develop training materials for people who provide services to people with developmental disabilities; creating an advisory task force; requiring a report.

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

Page 1, line 8, delete "TRAINING" and insert "EDUCATION"

Page 1, line 12, delete "*training*" in both places and insert "*education*"

Page 1, line 15, delete "TRAINING AND"

Page 1, line 17, delete "*training and*"

Page 1, line 20, delete "*training*" and insert "*education*"

Page 2, lines 4 and 7, delete "*training*" and insert "*education*"

Page 2, line 12, delete "*and training*"

Amend the title as follows:

Page 1, line 3, delete "training" and insert "education"

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

Mr. Merriam from the Committee on Finance, to which was re-referred

S.F. No. 513: A bill for an act relating to the military; providing for issuance of a state ribbon to certain participants in the Persian Gulf War; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 190.

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

Page 1, line 17, delete "*$ . . . . . .* " and insert "*$750*"

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

Mr. Merriam from the Committee on Finance, to which was referred

H.F. No. 222: A bill for an act relating to international trade; establishing a regional international trade service center pilot project; appropriating money.

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

Delete everything after the enacting clause and insert:

"Section 1. [44A.12] [REGIONAL INTERNATIONAL TRADE SERVICE CENTERS.]

Subdivision 1. [ESTABLISHMENT.] *A regional international trade service center is established in each of the six regions designated under section 116N.08, subdivision 2, to provide assistance in the area of international trade to area businesses and businesses within the metropolitan area, as defined in section 473.121, subdivision 2. Overall administration of the centers shall be provided by the Minnesota World Trade Center Corporation.*

Subd. 2. [DUTIES.] *The regional international trade service centers shall have at least the following duties:*

(1) to provide timely personalized assistance to businesses exporting or planning to export goods and services, and to concentrate on providing direct assistance at the place of business;

(2) to establish and maintain access to a current library and resource center containing material relating to international trade and trade lead

information;

(3) to establish contractual relationships with the Greater Minnesota Corporation; small business development centers; and public higher education institutions, their foreign-based campuses, and affiliates, for referrals between these entities and the regional center for technical assistance;

(4) to enter into a formal agreement with the National Association of Small Business International Trade Educators as a state chapter, thus accessing a national pool of small business international trade expertise;

(5) to provide a calendar of regularly scheduled trade workshops and seminars for regional businesses, and establish and act as regional recruiters for a privately funded international education academy, in cooperation with the United States Department of Commerce, small business development centers, the Small Business Administration, and public higher education institutions;

(6) to conduct annual regional surveys of the international trade service requirements of all existing exporters in the region, to perform a needs assessment of new-to-export companies that are beginning to export or participate in an international trade program, to research regional product and service firms that have export potential and to contact and contract with them for service programs, and to contract with each of the entities in this clause for an annual program;

(7) to design with available local, state, and federal service providers a computer-based service menu and annual service program for each client;

(8) to organize and conduct six regional trade workshops each year to provide international trade and export education, and participate in other trade workshops;

(9) to recruit businesses and economic development professionals in the region for the full schedule of United States Department of Commerce foreign trade missions, catalog shows, and foreign international trade fairs;

(10) to establish direct FAX communication links for business communication with United States Department of Commerce overseas posts in 154 countries;

(11) to act as the "hot line" regional export information center for regional businesses, higher educational institutions, and economic development offices, small business development commissions, and chambers of commerce;

(12) to create partnerships with regional higher education institutions to expand international business, trade, and world cultural curriculum; and

(13) to follow up on an individual basis on trade leads.

Subd. 3. [STAFF.] *Each center shall have a professional staff that is experienced in providing expert international trade assistance to small businesses, with prior experience in the private sector in exporting goods and services.*

Subd. 4. [MATCHING FUNDS.] *Each center must seek matching money from federal, state, and local public and private sources."*

Delete the title and insert:

"A bill for an act relating to international trade; establishing regional

international trade service centers; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 44A."

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

Mr. Merriam from the Committee on Finance, to which was re-referred

S.F. No. 862: A bill for an act relating to retirement; Minneapolis municipal employees; changing interest and salary assumptions and the target date for amortization of unfunded liabilities; providing for certain postretirement adjustments; providing for lawsuits brought by the state and political subdivisions for breaches of fiduciary duty; providing for certain optional annuities; increasing survivor benefits; amending Minnesota Statutes 1990, sections 356.215, subdivisions 4d and 4g; 422A.05, by adding subdivisions; 422A.101; 422A.17; and 422A.23, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 356.

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

Page 1, after line 15, insert:

"Section 1. Minnesota Statutes 1990, section 275.125, subdivision 6a, is amended to read:

Subd. 6a. [MINNEAPOLIS CIVIL SERVICE RETIREMENT LEVY.] (1) In addition to the excess levy authorized in subdivision 6, in 1976 any district within a city of the first class which was authorized in 1975 to make a retirement levy under Minnesota Statutes 1974, section 275.127 and chapter 422A may levy an amount per pupil unit which is equal to the amount levied in 1975 payable 1976, under Minnesota Statutes 1974, section 275.127 and chapter 422A, divided by the number of pupil units in the district in 1976-1977.

(2) In 1979 and each year thereafter, any district which qualified in 1976 for an extra levy under clause (1) shall be allowed to levy the same amount as levied for retirement in 1978 under this clause reduced each year by ten percent of the difference between the amount levied for retirement in 1971 under Minnesota Statutes 1971, sections 275.127 and 422.01 to 422.54 and the amount levied for retirement in 1975 under Minnesota Statutes 1974, section 275.127 and chapter 422A.

(3) In 1991 and each year thereafter, a district to which this subdivision applies may levy an additional amount required for contributions to the Minneapolis employees retirement fund as a result of the maximum dollar amount limitation on state contributions to the fund imposed under section 422A.101, subdivision 3. The additional levy shall not exceed the most recent amount certified by the board of the Minneapolis employees retirement fund as the district's share of the contribution requirement in excess of the maximum state contribution under section 422A.101, subdivision 3.

Sec. 2. Minnesota Statutes 1990, section 275.50, subdivision 5a, is amended to read:

Subd. 5a. [SPECIAL LEVIES; LOCAL.] "Special levies" also includes those portions of ad valorem taxes levied by the following governmental subdivisions for the years and purposes given in the cited laws:

(1) Goodhue county for the county historical society as provided in Laws

1990, chapter 604, article 3, section 50;

(2) the city of Windom for a municipal hospital as provided in Laws 1990, chapter 604, article 3, section 51;

(3) Koochiching county for ambulance service as provided in Laws 1990, chapter 604, article 3, section 52;

(4) Douglas county for solid waste management as provided in Laws 1990, chapter 604, article 3, section 53;

(5) the city of Bemidji and Beltrami county to pay bonds for an airport terminal as provided in Laws 1990, chapter 604, article 3, section 57;

(6) Ramsey county to pay bonds for a facility for the arts and sciences as provided in Laws 1990, chapter 604, article 3, section 58;

(7) the city of Rosemount for an armory as provided in Laws 1990, chapter 604, article 3, section 59;

(8) the cities of Maple Grove, Brooklyn Park, Brooklyn Center, and Coon Rapids for peace officer salaries and benefits as provided in Laws 1990, chapter 604, article 3, section 60; ~~and~~

(9) a city described in and for debt service as provided in Laws 1990, chapter 604, article 3, section 61; *and*

(10) the city of Minneapolis for certain retirement fund contributions as provided in section 18."

Page 6, line 25, after "*subdivision*" insert "*or suits by the retirement board on behalf of one or more of the funds*"

Page 6, after line 31, insert:

"Sec. 8. Minnesota Statutes 1990, section 422A.06, subdivision 1, is amended to read:

Subdivision 1. [CREATION; DIVISIONS OF FUND.] For the purposes of this chapter, there ~~shall be a~~ *is established the* Minneapolis employees retirement fund~~, hereafter referred to as the retirement fund~~. ~~The~~ *That* retirement fund ~~shall be~~ *is* subdivided into (1) a deposit accumulation fund, (2) a survivor benefit fund, (3) a disability benefit fund, and (4) a retirement benefit fund. The expense of the administration of the retirement fund ~~shall~~ *must* be paid from the deposit accumulation fund~~, less the amount as the retirement board may charge against income of the retirement fund from investments as the cost of handling the investments of the retirement fund~~.

Sec. 9. Minnesota Statutes 1990, section 422A.06, subdivision 3, is amended to read:

Subd. 3. [DEPOSIT ACCUMULATION FUND.] The deposit accumulation fund ~~shall consist~~ *consists* of the assets held in the fund, increased by amounts contributed by or for employees, amounts contributed by the city, amounts contributed by municipal activities supported in whole or in part by revenues other than taxes and amounts contributed by any public corporation, amounts paid by the state and by income from investments. There ~~shall~~ *must* be paid from the fund the amounts required to be transferred to the retirement benefit fund, or the disability benefit fund, refunds of contributions, death benefits payable on death before retirement ~~which~~ *that* are not payable from the survivors' benefit fund, postretirement increases in retirement allowances granted ~~pursuant to~~ *under* Laws 1965, chapter 688,

or Laws 1969, chapter 859, and expenses of the administration of the retirement fund ~~which were not charged by the retirement board against the income of the retirement fund from investments as the cost of handling the investments of the retirement fund~~."

Page 6, line 32, after "422A.101," insert "subdivision 1,"

Page 6, delete lines 34 and 35

Page 7, line 18, after "actuary" insert ", *including any amounts related to investment activities other than actual investment transaction amounts*"

Page 7, line 28, strike "June 30," and delete "*2020*" and insert "*the applicable amortization target date*" and strike "an" and insert "*the applicable*"

Page 7, line 29, strike "of" and delete "*six*" and strike "percent compounded annually" and insert "*assumption specified in section 356.215, subdivision 4d,*"

Page 7, line 35, strike "(5)" and insert "*(6)*"

Page 8, after line 7, insert:

"Sec. 11. Minnesota Statutes 1990, section 422A.101, subdivision 1a, is amended to read:"

Page 8, line 34, strike "June 30," and delete "*2020*" and insert "*the applicable amortization target date*"

Page 9, line 7, strike "June 30," and delete "*2020*" and insert "*the applicable amortization target date*"

Page 9, after line 24, insert:

"Sec. 12. Minnesota Statutes 1990, section 422A.101, subdivision 2, is amended to read:"

Page 10, line 11, strike "June 30," and delete "*2020*" and insert "*the applicable amortization target date*"

Page 11, after line 17, insert:

"Sec. 13. Minnesota Statutes 1990, section 422A.101, subdivision 2a, is amended to read:"

Page 11, line 24, strike "June 30," and delete "*2020*" and insert "*the applicable amortization target date*"

Page 12, delete lines 5 to 32 and insert:

"Sec. 14. Minnesota Statutes 1990, section 422A.101, is amended by adding a subdivision to read:"

Page 12, line 34, before "*If*" insert "*(a) If the total of contributions under subdivisions 1a, 2, and 2a and any state appropriation to the Minneapolis employees retirement fund is less than the financial requirements of the fund under subdivision 1, the difference must be allocated by the retirement board to the employers identified in subdivisions 1a and 2, other than units of metropolitan government, and paid to the fund by them. Each employer's share of the excess is proportionate to the employer's share of the fund's unfunded actuarial accrued liability, as disclosed in the annual*

actuarial valuation prepared by the actuary retained by the legislative commission on pensions and retirement, compared to the total unfunded actuarial accrued liability attributed to all employers identified in subdivisions 1a and 2, other than units of metropolitan government. Payments must be made in four equal installments, occurring on March 15, July 15, September 15, and November 15 annually.

(b)"

Page 15, after line 31, insert:

"Sec. 18. [CITY OF MINNEAPOLIS; SPECIAL LEVY.]

For taxes levied in 1991, payable in 1992, the city of Minneapolis may levy an amount equal to the amount required to be paid by the city for contributions to the Minneapolis employees retirement fund as a result of the maximum dollar amount limitation on state contributions to the fund imposed under Minnesota Statutes, section 422A.101, subdivision 3. The levy under this section shall not exceed the most recent amount certified by the board of the Minneapolis employees retirement fund as the city's share of the contribution requirement in excess of the maximum state contribution under Minnesota Statutes, section 422A.101, subdivision 3.

Sec. 19. [APPROPRIATION; SUPPLEMENTAL BENEFITS.]

$550,000 for fiscal year 1992 and $550,000 for fiscal year 1993 is appropriated from the general fund to the commissioner of finance for payment of the supplemental benefits authorized by section 5.

Sec. 20. [APPROPRIATION.]

There is appropriated from the general fund to the Minneapolis employees retirement fund for the fiscal years indicated the following:

Fiscal Year Ending	*Fiscal Year Ending*
June 30, 1992	*June 30, 1993*
$10,455,000	*$10,455,000*

Payment of the appropriation must be made in four equal installments, occurring on March 15, July 15, September 15, and November 15, annually.

Sec. 21. [REPEALER.]

Minnesota Statutes 1990, sections 422A.101, subdivision 3, is repealed."

Page 15, delete lines 33 to 36 and insert:

"*(a) Sections 6 to 10, 14, and 21 are effective on the day following final enactment. Sections 3, 4, 11, and 13 are effective following approval of all of those sections by the city council of the city of Minneapolis and compliance with Minnesota Statutes, section 645.021. Sections 4, 15, 16, and 17 are effective following approval by the city council of the city of Minneapolis and compliance with Minnesota Statutes, section 645.021.*

(b) Section 6 applies to all claims pending on the effective date of the section or filed on or after that date. Section 16, if approved, applies to all benefit payments made after the effective date of the section, including payments to persons who became surviving spouses or surviving children before that date."

Page 16, delete lines 1 to 4

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, after the second semicolon, insert "providing for additional employer contributions; providing levy authority to pay for additional contributions to retirement funds; appropriating money;"

Page 1, line 10, after "sections" insert "275.125, subdivision 6a; 275.50, subdivision 5a;"

Page 1, line 12, after the first semicolon, insert "422A.06, subdivisions 1 and 3;" and before the second semicolon, insert ", subdivisions 1, 1a, 2, 2a, and by adding a subdivision"

Page 1, line 14, before the period, insert "; repealing Minnesota Statutes 1990, section 422A.101, subdivision 3"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 1174, 513 and 862 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 1109, 761 and 222 were read the second time.

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

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Hottinger introduced—

S.F. No. 1583: A bill for an act relating to the municipal board; providing for the composition of boards to consider annexations; amending Minnesota Statutes 1990, section 414.031, by adding a subdivision.

Referred to the Committee on Local Government.

Mr. Hottinger introduced—

S.F. No. 1584: A bill for an act relating to the municipal board; providing for hearings of contested annexation matters; amending Minnesota Statutes 1990, section 414.031, by adding a subdivision.

Referred to the Committee on Local Government.

Messrs. Solon, Hottinger, Belanger, Larson and Metzen introduced—

S.F. No. 1585: A bill for an act relating to insurance; credit life; regulating the amount of insurance that is sold; amending Minnesota Statutes 1990, section 62B.04, subdivision 1.

Referred to the Committee on Commerce.

Messrs. Davis, Bertram and Sams introduced—

S.F. No. 1586: A bill for an act proposing an amendment to the Minnesota Constitution, article X, requiring use of a portion of the proceeds of the state lottery for property tax relief programs.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Bertram and Samuelson introduced—

S.F. No. 1587: A bill for an act relating to human services; authorizing medical assistance coverage of nursing care provided to a patient in the last stage of a terminal illness; amending Minnesota Statutes 1990, section 256B.0625, subdivision 2.

Referred to the Committee on Health and Human Services.

Mr. DeCramer introduced—

S.F. No. 1588: A bill for an act relating to transportation; authorizing municipalities to create transportation utilities; proposing coding for new law in Minnesota Statutes, chapter 444.

Referred to the Committee on Transportation.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Merriam moved that H.F. No. 459 be taken from the table. The motion prevailed.

H.F. No. 459: A bill for an act relating to crimes; providing that a claimant in a forfeiture proceeding does not have to pay a filing fee; providing for appointment of qualified interpreters in forfeiture proceedings; amending Minnesota Statutes 1990, sections 609.5314, subdivisions 2 and 3; 611.31; and 611.32.

Mr. Merriam moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 459, 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 appointed on the part of the House. The motion prevailed.

Mr. Merriam moved that S.F. No. 1178 be taken from the table. The motion prevailed.

S.F. No. 1178: A bill for an act relating to elections; allowing school meetings on certain election days; amending Minnesota Statutes 1990, section 204C.03, subdivision 3.

CONCURRENCE AND REPASSAGE

Mr. Merriam moved that the Senate concur in the amendments by the House to S.F. No. 1178 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1178 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 60 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	McGowan	Piper
Beckman	Davis	Johnson, J.B.	Mehrkens	Pogemiller
Belanger	Day	Johnston	Merriam	Price
Benson, D.D.	DeCramer	Kelly	Metzen	Reichgott
Benson, J.E.	Finn	Knaak	Moe, R.D.	Riveness
Berg	Flynn	Kroening	Mondale	Sams
Berglin	Frank	Laidig	Morse	Solon
Bernhagen	Frederickson, D.J.	Langseth	Neuville	Storm
Bertram	Frederickson, D.R.	Larson	Novak	Stumpf
Brataas	Gustafson	Lessard	Olson	Traub
Chmielewski	Hottinger	Luther	Pappas	Vickerman
Cohen	Hughes	Marty	Pariseau	Waldorf

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Solon moved that S.F. No. 449 be taken from the table. The motion prevailed.

S.F. No. 449: A bill for an act relating to retirement; Duluth teachers retirement fund association and St. Paul teachers retirement fund association; proposing coding for new law in Minnesota Statutes, chapter 354A; repealing Laws 1985, chapter 259, sections 2 and 3; and Laws 1990, chapter 570, article 7, section 4.

CONCURRENCE AND REPASSAGE

Mr. Solon moved that the Senate concur in the amendments by the House to S.F. No. 449 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 449 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:

Adkins	Davis	Johnson, J.B.	Mehrkens	Reichgott
Beckman	Day	Johnston	Metzen	Riveness
Belanger	DeCramer	Kelly	Moe, R.D.	Sams
Benson, D.D.	Finn	Knaak	Morse	Solon
Benson, J.E.	Flynn	Kroening	Neuville	Storm
Berg	Frank	Laidig	Novak	Stumpf
Bernhagen	Frederickson, D.J.	Langseth	Olson	Traub
Bertram	Frederickson, D.R.	Larson	Pappas	Vickerman
Brataas	Gustafson	Lessard	Pariseau	Waldorf
Chmielewski	Halberg	Luther	Piper	
Cohen	Hottinger	Marty	Pogemiller	
Dahl	Johnson, D.E.	McGowan	Price	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Ms. Reichgott moved that H.F. No. 317 be taken from the table. The motion prevailed.

H.F. No. 317: A bill for an act relating to marriage dissolution; clarifying

procedure for modification of certain custody orders; providing for additional child support payments; providing an alternative form of satisfaction of child support obligation; imposing a fiduciary duty and providing for compensation in cases of breach of that duty; clarifying certain mediation procedures; providing for attorneys' fees in certain cases; clarifying language concerning certain motions; imposing penalties; amending Minnesota Statutes 1990, sections 518.18; 518.551, subdivision 5; 518.57, by adding a subdivision; 518.58, subdivision 1, and by adding a subdivision; 518.619, subdivision 6; 518.64, subdivision 2; and 518.641, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 518.

Ms. Reichgott moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 317, 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 appointed on the part of the House. The motion prevailed.

Mr. Davis moved that H.F. No. 1 be taken from the table. The motion prevailed.

H.F. No. 1: A bill for an act relating to waters; establishing a program for the enhancement, preservation, and protection of wetlands within the state; providing penalties; appropriating money; amending Minnesota Statutes 1990, sections 103A.201; 103B.311, subdivision 6; 103E.701, by adding a subdivision; 103G.005, subdivisions 15 and 18, and by adding subdivisions; 103G.221, subdivision 1; 103G.231, by adding subdivisions; and 446A.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 84; 103F; and 103G; repealing Minnesota Statutes 1990, section 103G.221, subdivisions 2 and 3.

Mr. Davis moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. Kelly moved that S.F. No. 520 be taken from the table. The motion prevailed.

S.F. No. 520: A bill for an act relating to legal services; requesting the supreme court to study the feasibility of adopting rules governing the delivery of legal services by specialized legal assistants; amending Minnesota Statutes 1990, section 481.02, subdivision 3.

Mr. Kelly moved that the Senate do not concur in the amendments by the House to S.F. No. 520, 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.

Mr. Merriam moved that S.F. No. 822 be taken from the table. The motion prevailed.

S.F. No. 822: A bill for an act relating to the environment; responsible person for removal and remediation of hazardous waste; providing that the state, an agency of the state, or a political subdivision that acquires property through eminent domain or through negotiated purchase following the filing of eminent domain petition, or any person acquiring from the condemning

authority, is not liable as a responsible person solely because of the acquisition; clarifying the status of mortgagees and contract for deed vendors as responsible persons; amending Minnesota Statutes 1990, section 115B.03, by adding subdivisions.

CONCURRENCE AND REPASSAGE

Mr. Merriam moved that the Senate concur in the amendments by the House to S.F. No. 822 and that the bill be placed on its repassage as amended.

Mr. Knaak moved that the Senate do not concur in the amendments by the House to S.F. No. 822, 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 did not prevail.

The question recurred on the motion of Mr. Merriam. The motion prevailed.

S.F. No. 822: A bill for an act relating to the environment; clarifying that certain persons who own or have the capacity to influence operation of property are not responsible persons under the environmental response and liability act solely because of ownership or the capacity to influence operation; amending Minnesota Statutes 1990, section 115B.03, by adding subdivisions.

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 43 and nays 10, as follows:

Those who voted in the affirmative were:

Adkins	Day	Hughes	Merriam	Price
Beckman	DeCramer	Johnson, D.E.	Metzen	Riveness
Benson, J.E.	Finn	Johnson, J.B.	Moe, R.D.	Sams
Bertram	Flynn	Kelly	Mondale	Stumpf
Brataas	Frank	Langseth	Morse	Traub
Chmielewski	Frederickson, D.J.	Lessard	Novak	Vickerman
Cohen	Frederickson, D.R.	Luther	Pappas	Waldorf
Dahl	Gustafson	Marty	Piper	
Davis	Hottinger	McGowan	Pogemiller	

Those who voted in the negative were:

Belanger	Bernhagen	Knaak	Neuville	Pariseau
Benson, D.D.	Johnston	Laidig	Olson	Storm

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 236,

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

House File No. 236 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 236

A bill for an act relating to eminent domain; allowing entry onto land for environmental testing before beginning eminent domain proceedings; amending Minnesota Statutes 1990, section 117.041.

May 15, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 236, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment and that H.F. No. 236 be further amended as follows:

Page 4, line 5, of the unofficial engrossment (UEH0236-1), delete "*assumed*" and insert "*estimated*"

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

House Conferees: (Signed) Loren A. Solberg, Jean Wagenius, Art Seaberg

Senate Conferees: (Signed) Randy C. Kelly, William P. Luther, Fritz Knaak

Mr. Kelly moved that the foregoing recommendations and Conference Committee Report on H.F. No. 236 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. 236 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 56 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnston	Merriam	Price
Beckman	Finn	Kelly	Metzen	Riveness
Belanger	Flynn	Knaak	Moe, R.D.	Sams
Benson, D.D.	Frank	Kroening	Mondale	Storm
Benson, J.E.	Frederickson, D.J.	Laidig	Morse	Stumpf
Bernhagen	Frederickson, D.R.	Langseth	Neuville	Traub
Bertram	Gustafson	Larson	Novak	Vickerman
Brataas	Halberg	Lessard	Olson	Waldorf
Chmielewski	Hottinger	Luther	Pappas	
Cohen	Hughes	Marty	Pariseau	
Davis	Johnson, D.E.	McGowan	Piper	
Day	Johnson, J.B.	Mehrkens	Pogemiller	

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

House File No. 633 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 633

A bill for an act relating to watercraft; regulating the use and operation of personal watercraft; amending Minnesota Statutes 1990, section 86B.005, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 86B.

May 15, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 633, 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. 633 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 86B.005, is amended by adding a subdivision to read:

Subd. 14a. [PERSONAL WATERCRAFT.] *"Personal watercraft" means a motorboat that:*

(1) is powered by an inboard motor powering a water jet pump or by an outboard or propeller-driven motor; and

(2) is designed to be operated by a person or persons sitting, standing,

or kneeling on the craft, rather than in the conventional manner of sitting or standing inside a motorboat.

Sec. 2. Minnesota Statutes 1990, section 86B.005, is amended by adding a subdivision to read:

Subd. 16a. [SLOW-NO WAKE.] *"Slow-no wake" means operation of a watercraft at the slowest possible speed necessary to maintain steerage, but in no case greater than five miles per hour.*

Sec. 3. [86B.313] [PERSONAL WATERCRAFT REGULATIONS.]

Subdivision 1. [GENERAL REQUIREMENTS.] *In addition to requirements of other laws relating to watercraft, it is unlawful to operate or to permit the operation of a personal watercraft:*

(1) without each person on board the personal watercraft wearing a United States Coast Guard approved Type I, II, III, or V personal flotation device;

(2) between sunset and 8:00 a.m.;

(3) within 100 feet of a shoreline, dock, swimmer, or swimming diving raft or a moored, anchored, or nonmotorized watercraft at greater than slow-no wake speed;

(4) while towing a person on water skis, a kneeboard, an inflatable craft, or any other device unless an observer is on board;

(5) without the lanyard-type engine cutoff switch being attached to the person, clothing, or personal flotation device of the operator, if the personal watercraft is equipped by the manufacturer with such a device;

(6) if any part of the spring-loaded throttle mechanism has been removed, altered, or tampered with so as to interfere with the return-to-idle system;

(7) to chase or harass wildlife;

(8) through emergent or floating vegetation at other than a slow-no wake speed;

(9) in a manner that unreasonably or unnecessarily endangers life, limb, or property, including weaving through congested watercraft traffic, jumping the wake of another watercraft within 100 feet of the other watercraft; or

(10) in any other manner that is not reasonable and prudent.

Subd. 2. [AGE OF OPERATOR.] *Except in the case of an emergency, a person under the age of 13 years may not operate or be permitted to operate a personal watercraft, regardless of horsepower, unless there is a person 18 years of age or older on board the craft. It is unlawful for the owner of a personal watercraft to permit the personal watercraft to be operated contrary to this subdivision.*

Subd. 3. [OPERATOR'S PERMIT.] *Except in the case of an emergency, a person 13 years of age or over but less than 18 years of age may not operate a personal watercraft, regardless of horsepower, without possessing a valid watercraft operator's permit as required by section 86B.305, unless there is a person 18 years of age or older on board the craft. In addition to the permit requirement, a person 13 years of age operating a personal watercraft must maintain unaided observation by a person 18 years of age or older. It is unlawful for the owner of a personal watercraft to permit the personal watercraft to be operated contrary to this subdivision.*

Subd. 4. [DEALERS AND RENTAL OPERATIONS.] *(a) A dealer of personal watercraft shall distribute a summary of the laws and rules governing the operation of personal watercraft and, upon request, shall provide instruction to a purchaser regarding:*

(1) the laws and rules governing personal watercraft; and

(2) the safe operation of personal watercraft.

(b) A person who offers personal watercraft for rent:

(1) shall provide a summary of the laws and rules governing the operation of personal watercraft and provide instruction regarding the laws and rules and the safe operation of personal watercraft to each person renting a personal watercraft; and

(2) shall provide a United States Coast Guard approved Type I, II, III, or V personal flotation device and any other required safety equipment to all persons who rent a personal watercraft at no additional cost.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective 30 days after final enactment, except that section 3, subdivision 4, paragraph (b), clause (1), is effective 60 days after final enactment."

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

House Conferees: (Signed) Anthony G. "Tony" Kinkel, Mary Jo McGuire, Kevin P. Goodno

Senate Conferees: (Signed) Bob Lessard, Harold R. "Skip" Finn, Gen Olson

Mr. Lessard that the foregoing recommendations and Conference Committee Report on H.F. No. 633 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. 633 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 53 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.E.	McGowan	Pariseau
Beckman	Day	Johnson, J.B.	Mehrkens	Pogemiller
Belanger	DeCramer	Kelly	Merriam	Price
Benson, D.D.	Finn	Knaak	Metzen	Riveness
Benson, J.E.	Flynn	Kroening	Moe, R.D.	Sams
Berg	Frank	Laidig	Mondale	Storm
Bernhagen	Frederickson, D.J.	Langseth	Morse	Stumpf
Bertram	Frederickson, D.R.	Larson	Neuville	Vickerman
Brataas	Gustafson	Lessard	Novak	Waldorf
Chmielewski	Hottinger	Luther	Olson	
Cohen	Hughes	Marty	Pappas	

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

House File No. 809 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 809

A bill for an act relating to counties; fixing various fees for documents; amending Minnesota Statutes 1990, sections 357.18, subdivision 1; 508.82; and 508A.82.

May 14, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 809, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment

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

House Conferees: (Signed) Edgar Olson, Bill Schreiber, Marvin K. Dauner

Senate Conferees: (Signed) John C. Hottinger, Betty A. Adkins, Thomas M. Neuville

Mr. Hottinger moved that the foregoing recommendations and Conference Committee Report on H.F. No. 809 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. 809 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 50 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.E.	McGowan	Pappas
Beckman	Day	Johnson, J.B.	Mehrkens	Piper
Belanger	DeCramer	Johnston	Merriam	Pogemiller
Benson, D.D.	Finn	Kelly	Metzen	Price
Benson, J.E.	Flynn	Kroening	Moe, R.D.	Riveness
Bernhagen	Frank	Laidig	Mondale	Sams
Bertram	Frederickson, D.J.	Langseth	Morse	Storm
Brataas	Frederickson, D.R.	Lessard	Neuville	Stumpf
Cohen	Hottinger	Luther	Novak	Vickerman
Dahl	Hughes	Marty	Olson	Waldorf

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

House File No. 478 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 478

A bill for an act relating to elections; changing requirement of absentee ballot applications for deer hunters; facilitating voting by certain students; defining certain terms; providing for use of certain facilities for elections; clarifying uses to be made of lists of registered voters; requiring commissioner of health to report deaths to secretary of state; authorizing facsimile applications for absentee ballots; authorizing certain experimental procedures for absentee ballots and mail balloting; requiring notarized affidavits of candidacy; providing for voting methods in combined local elections; providing order of counting gray box ballots; changing time for issuance of certificates of election; clarifying effect of changing the year of municipal elections; changing certain deadlines; authorizing an experimental school board election; changing procedures for hospital district elections; amending Minnesota Statutes 1990, sections 97A.485, subdivision 1a; 200.02, by adding a subdivision; 201.061, subdivision 3; 201.091, subdivisions 1 and 4; 201.13, subdivision 1; 203B.02, by adding a subdivision; 203B.04, subdivision 1; 204B.09, subdivision 1; 204B.16, subdivision 6, and by adding a subdivision; 204B.32; 204B.35, by adding a subdivision; 204B.45, by adding a subdivision; 204C.19, subdivision 2; 204C.40, subdivision 2; 205.07, subdivision 1, and by adding a subdivision; 205.16, subdivision 4; 205A.04; 205A.07, subdivision 3; and 447.32, subdivisions 2, 3, and 4; proposing coding for new law in Minnesota Statutes, chapters 135A and 201.

May 16, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes

President of the Senate

We, the undersigned conferees for H.F. No. 478, 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. 478 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 97A.485, subdivision 1a, is amended to read:

Subd. 1a. [DEER LICENSE; ABSENTEE BALLOT APPLICATION.] The commissioner *and agents* shall ~~include with every license~~ *have available for each person purchasing a license* to take deer with firearms or by archery, sold or issued during a general election year, an application for *an* absentee ~~ballots and a voter registration card~~ *ballot. At the time of purchase, the commissioner or the commissioner's agent shall ask whether the person purchasing the license wants an application for an absentee ballot.* The commissioner shall obtain absentee ballot application forms from the secretary of state *and distribute them to the commissioner's agents.*

Sec. 2. [135A.16] [PROVISIONS TO FACILITATE VOTING.]

Subdivision 1. [IDENTIFICATION CARDS.] *All post-secondary institutions that enroll students accepting state or federal financial aid may provide every full-time student a student identification card that contains the enrolling student's photograph and name.*

Subd. 2. [RESIDENTIAL HOUSING LIST.] *All post-secondary institutions that enroll students accepting state or federal financial aid may prepare a current list of students enrolled in the institution and residing in the institution's housing or within ten miles of the institution's campus. The list shall include each student's current address. The list shall be certified and sent to the appropriate county auditor or auditors for use in election day registration as provided under section 201.061, subdivision 3.*

Sec. 3. Minnesota Statutes 1990, section 200.02, is amended by adding a subdivision to read:

Subd. 21. [LOCAL ELECTION OFFICIAL.] *"Local election official" means the municipal clerk or principal officer charged with duties relating to elections.*

Sec. 4. Minnesota Statutes 1990, section 201.061, subdivision 3, is amended to read:

Subd. 3. [ELECTION DAY REGISTRATION.] An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration card, making an oath in the form prescribed by the secretary of state and providing proof of residence. An individual may prove residence for purposes of registering by:

(1) showing a ~~drivers~~ *driver's* license or Minnesota identification card issued pursuant to section 171.07;

(2) showing any document approved by the secretary of state as proper identification; ~~or~~

(3) *showing one of the following:*

(i) a current valid student identification card from a post-secondary educational institution in Minnesota, if a list of students from that institution has been prepared under section 135A.16 and certified to the county auditor in the manner provided in rules of the secretary of state; or

(ii) a current student fee statement that contains the student's valid address in the precinct together with a picture identification card; or

(4) having a voter who is registered to vote in the precinct sign an oath in the presence of the election judge vouching that the voter personally knows that the individual is a resident of the precinct. A voter who has been vouched for on election day may not sign a proof of residence oath vouching for any other individual on that election day.

A county, school district, or municipality may require that an election judge responsible for election day registration initial each completed registration card.

Sec. 5. Minnesota Statutes 1990, section 201.091, subdivision 1, is amended to read:

Subdivision 1. [MASTER LIST.] Each county auditor shall prepare and maintain a current list of registered voters in each precinct in the county which is known as the master list. The master list must be created by entering each completed voter registration card received by the county auditor into the statewide registration system. It must show the name, residence address, and date of birth of each voter registered in the precinct. The information contained in the master list may only be made available to ~~election~~ *public* officials for purposes related to election administration, ~~to the state court administrator for~~ jury selection, and *in response* to ~~public officials authorized to carry out~~ *a* law enforcement ~~duties~~ *inquiry concerning a violation of or failure to comply with any criminal statute or state or local tax statute*.

Sec. 6. Minnesota Statutes 1990, section 201.091, subdivision 4, is amended to read:

Subd. 4. [PUBLIC INFORMATION LISTS.] The county auditor shall make available for inspection a public information list which must contain the name, address, and voting history of each registered voter in the county. The telephone number must be included on the list if provided by the voter. The public information list may also include information on voting districts. The county auditor may adopt reasonable rules governing access to the list. No individual inspecting the public information list shall tamper with or alter it in any manner. No individual who inspects the public information list or who acquires a list of registered voters prepared from the public information list may use any information contained in the list for purposes unrelated to elections, political activities, or law enforcement. The secretary of state may provide copies of the public information lists and other information from the statewide registration system for uses related to elections, political activities, or *in response to a* law enforcement *inquiry from a public official concerning a failure to comply with any criminal statute or any state or local tax statute*.

Before inspecting the public information list or obtaining a list of voters or other information from the list, the individual shall provide identification to the public official having custody of the public information list and shall state in writing that any information obtained from the list will not be used for purposes unrelated to elections, political activities, or law enforcement.

Requests to examine or obtain information from the public information lists or the statewide registration system must be made and processed in the manner provided in the rules of the secretary of state.

Upon receipt of a written request and a copy of the court order, the secretary of state may withhold from the public information list the name of any registered voter placed under court-ordered protection.

Sec. 7. Minnesota Statutes 1990, section 201.13, subdivision 1, is amended to read:

Subdivision 1. [~~LOCAL REGISTRAR OF VITAL STATISTICS~~ *COMMISSIONER OF HEALTH*, REPORTS OF DECEASED RESIDENTS.] The ~~local registrar of vital statistics in each county or municipality~~ *commissioner of health* shall report monthly to the ~~county auditor~~ *secretary of state* the name ~~and~~, address, *date of birth, and county of residence* of each individual 18 years of age or older who has died while maintaining residence in ~~that county or municipality~~ *Minnesota* since the last previous report. *The secretary of state shall determine if any of the persons listed in the report are registered to vote and shall prepare a list of those registrants for each county auditor. The county auditor shall change the status of those registrants to "deceased" in the statewide registration system.* Upon receipt of the ~~report~~ *list*, the county auditor shall remove from the files the ~~original and duplicate~~ registration cards of the voters reported to be deceased and make the appropriate changes in the ~~data base of the central~~ *statewide* registration system.

Sec. 8. [201.1611] [POST-SECONDARY INSTITUTION VOTER REGISTRATION.]

Subdivision 1. [FORMS.] *All post-secondary institutions that enroll students accepting state or federal financial aid shall provide voter registration forms to each student upon payment of tuition, fees, and activities funds at the commencement of fall quarter. The forms must contain spaces for the information required in section 201.071, subdivision 1, and applicable rules of the secretary of state. The institutions may request these forms from the secretary of state.*

Subd. 2. [STUDENT VOTER REGISTRATION.] *Upon registration or receipt of payment of fees, students must be asked if they want to register to vote at the same time. A copy of each completed voter registration form must be sent to the county auditor of the county in which the voter maintains residence or to the secretary of state as soon as possible. All completed voter registration forms must be forwarded to the county auditor within five days and in no case later than 21 days before the general election.*

Sec. 9. Minnesota Statutes 1990, section 203B.02, is amended by adding a subdivision to read:

Subd. 1a. [EXPERIMENTAL PROCEDURES.] *A county board may authorize any eligible voter in the county to vote by absentee ballot without qualification by submitting a written request to the county auditor between August 1, 1991 and November 30, 1992, notwithstanding the provisions of subdivision 1. The county auditor shall notify the secretary of state immediately after the adoption of such a resolution of authorization by the county board.*

The application for absentee ballots must include the voter's name, residence address in the county, address to which the ballots are to be mailed, the date of the request, and the voter's signature.

The county auditor shall maintain a record of the number of applications for absentee ballots submitted under this subdivision. No later than January 15, 1993, the secretary of state shall prepare a report to the legislature on the implementation of this subdivision.

Assistance to voters in marking absentee ballots is subject to section 204C.15, subdivision 1.

Sec. 10. Minnesota Statutes 1990, section 203B.04, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION PROCEDURES.] Except as otherwise allowed by subdivision 2, an application for absentee ballots for any election may be submitted at any time not less than one day before the day of that election. An application submitted pursuant to this subdivision shall be in writing and shall be submitted to:

(a) the county auditor of the county where the applicant maintains residence; or

(b) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

An application shall be accepted if it is signed and dated by the applicant, contains the applicant's residence and mailing addresses, and states that the applicant is eligible to vote by absentee ballot for one of the reasons specified in section 203B.02. *An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device, at the discretion of the auditor or clerk.*

Sec. 11. Minnesota Statutes 1990, section 204B.09, subdivision 1, is amended to read:

Subdivision 1. [CANDIDATES IN STATE AND COUNTY GENERAL ELECTIONS.] Except as otherwise provided by this subdivision, affidavits of candidacy and nominating petitions for county, state and federal offices filled at the state general election shall be filed not more than 70 days nor less than 56 days before the state primary. The affidavit may be prepared and signed at any time between 60 days before the filing period opens and the last day of the filing period. *Notwithstanding other law to the contrary, the affidavit of candidacy must be signed in the presence of a notarial officer.* Candidates for presidential electors may file petitions on or before the state primary day. Nominating petitions to fill vacancies in nominations shall be filed as provided in section 204B.13. No affidavit or petition shall be accepted later than 5:00 p.m. on the last day for filing. Affidavits and petitions for offices to be voted on in only one county shall be filed with the county auditor of that county. Affidavits and petitions for offices to be voted on in more than one county shall be filed with the secretary of state.

Sec. 12. Minnesota Statutes 1990, section 204B.16, subdivision 6, is amended to read:

Subd. 6. [PUBLIC FACILITIES.] Every statutory city, home rule charter city, county, town, school district, and other public agency, including the University of Minnesota and other public colleges and universities, shall make their facilities, including parking, available for the holding of city, county, *school district,* state, and federal elections, *subject to the approval of the local election official.* A charge for the use of the facilities may be imposed in an amount that does not exceed the lowest amount charged to any public or private group.

Sec. 13. Minnesota Statutes 1990, section 204B.16, is amended by adding a subdivision to read:

Subd. 7. [APPROPRIATE FACILITIES.] *The facilities provided in accordance with subdivision 6 shall be sufficient in size to accommodate all election activities and the requirements of subdivision 5. The space must be separated from other activities within the building. The local election official may approve space in two connecting rooms for registration and balloting activities. Except in the event of an emergency making the approved space unusable, the public facility may not move the election from the space approved by the local election official without prior approval. In addition to the requirements of subdivision 5, the public facility must make remaining parking spaces not in use for regularly scheduled activities available for voters.*

Sec. 14. Minnesota Statutes 1990, section 204B.32, is amended to read:

204B.32 [ELECTION EXPENSES; PAYMENT.]

Subdivision 1. [PAYMENT.] *(a)* The secretary of state shall pay the compensation for presidential electors, the cost of printing the pink paper ballots, and all necessary expenses incurred by the secretary of state in connection with elections.

(b) The counties shall pay the compensation prescribed in section 204B.31, clauses (b) and (c), the cost of printing the canary ballots, the white ballots, the pink ballots when machines are used, the state partisan primary ballots, and the state and county nonpartisan primary ballots, all necessary expenses incurred by county auditors in connection with elections, and the expenses of special county elections.

(c) Subject to subdivision 2, the municipalities shall pay the compensation prescribed for election judges and sergeants at arms, the cost of printing the municipal ballots, providing ballot boxes, providing and equipping polling places and all necessary expenses of the municipal clerks in connection with elections, except special county elections.

(d) The school districts shall pay the compensation prescribed for election judges and sergeants-at-arms, the cost of printing the school district ballots, providing ballot boxes, providing and equipping polling places and all necessary expenses of the school district clerks in connection with school district elections not held in conjunction with state elections. When school district elections are held in conjunction with state elections, the school district shall pay the costs of printing the school district ballots, providing ballot boxes and all necessary expenses of the school district clerk.

All disbursements under this section shall be presented, audited, and paid as in the case of other public expenses.

Subd. 2. [ALLOCATION OF COSTS.] *Municipalities or counties may allocate the costs of conducting elections to school districts for payment of their proportionate share of such expenses for elections held at the same time as the regular municipal or county primary and general election. Allocated costs include expenses for election equipment and supplies; polling locations; personnel (including election judge compensation and the portion of salaries of election administrative and technical employees attributable to the preparation and conduct of the election); transportation related to the conduct of the election; required election notices and newspaper publication of election information; communications devices; and postage*

(including mailings to election judges and for absentee voter applications and ballots).

Sec. 15. Minnesota Statutes 1990, section 204B.35, is amended by adding a subdivision to read:

Subd. 5. [COMBINED LOCAL ELECTIONS.] *Municipalities shall determine the voting method in combined local elections when other election jurisdictions located wholly or partially within the municipality schedule elections on the same date as the regular municipal primary or general election.*

Sec. 16. Minnesota Statutes 1990, section 204B.45, is amended by adding a subdivision to read:

Subd. 1a. [EXPERIMENTAL MAIL BALLOTING; AUTHORIZATION.] *The secretary of state may authorize Ramsey and Kittson counties to conduct elections entirely by mail on an experimental basis. A request from a county board seeking authorization to conduct an experimental mail election must be submitted to the secretary of state at least 90 days prior to the election. The county auditor must pay all costs related to mailing the ballots to and from the voters.*

The secretary of state shall prepare a report to the legislature on the implementation of this subdivision by January 15, 1993.

Sec. 17. Minnesota Statutes 1990, 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 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. 18. Minnesota Statutes 1990, section 204C.40, subdivision 2, is amended to read:

Subd. 2. [TIME OF ISSUANCE; CERTAIN OFFICES.] No certificate of election shall be issued until ~~12 days~~ *seven days* after the canvassing board has declared the result of the election. In case of a contest, an election certificate shall not be issued until a court of proper jurisdiction has finally determined the contest. This subdivision shall not apply to candidates elected to the office of state senator or representative.

Sec. 19. Minnesota Statutes 1990, section 205.07, subdivision 1, is amended to read:

Subdivision 1. [DATE.] The municipal general election in each statutory city shall be held on the first Tuesday after the first Monday in November in every even-numbered year~~, except that~~. *Notwithstanding any provision of law to the contrary and subject to the provisions of this section,* the

governing body of a statutory city may, by ordinance passed at a regular meeting held before September 1 of any year, elect to hold the election on the first Tuesday after the first Monday in November in each odd-numbered year. A city which was a village on January 1, 1974 and before that date provided for a system of biennial elections in the odd-numbered year shall continue to hold its elections in that year until changed in accordance with this section. When a city changes its elections from one year to another, and does not provide for the expiration of terms by ordinance, the term of an incumbent expiring at a time when no municipal election is held in the months immediately prior to expiration is extended until the date for taking office following the next scheduled municipal election. If the change results in having three council members to be elected at a succeeding election, the two individuals receiving the highest vote shall serve for terms of four years and the individual receiving the third highest number of votes shall serve for a term of two years. To provide an orderly transition to the odd or even year election plan, the governing body of the city may adopt supplementary ordinances regulating initial elections and officers to be chosen at the elections and shortening or lengthening the terms of incumbents and those elected at the initial election so as to conform as soon as possible to the regular schedule provided in section 412.02, subdivision 1. Whenever the time of the municipal election is changed, the city clerk immediately shall notify in writing the county auditor and secretary of state of the change of date. Thereafter the municipal general election shall be held on the first Tuesday after the first Monday in November in each odd-numbered or even-numbered year until the ordinance is revoked and notification of the change is made.

Sec. 20. Minnesota Statutes 1990, section 205.07, is amended by adding a subdivision to read:

Subd. 3. [EFFECT OF ORDINANCE; REFERENDUM.] *An ordinance changing the year of the municipal election is effective 240 days after passage and publication or at a later date fixed in the ordinance. Within 180 days after passage and publication of the ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition shall be signed by eligible voters equal in number to ten percent of the total number of votes cast in the city at the last municipal general election. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by a majority of the voters voting on the question at a general or special election held at least 60 days after submission of the petition. If the petition is filed, the governing body may reconsider its action in adopting the ordinance.*

Sec. 21. Minnesota Statutes 1990, section 205.16, subdivision 4, is amended to read:

Subd. 4. [NOTICE TO AUDITOR.] At least ~~30~~ *45* days prior to every municipal election, the municipal clerk shall provide a written notice to the county auditor, including the date of the election and the offices and questions to be voted on at the election.

Sec. 22. Minnesota Statutes 1990, section 205A.04, is amended to read:

205A.04 [GENERAL ELECTION.]

Subdivision 1. [SCHOOL DISTRICT GENERAL ELECTION.] Except as may be provided in a special law or charter provision to the contrary, the general election in each school district must be held on the third Tuesday

in May, unless the school board provides by resolution for holding the school district general election on the first Tuesday after the first Monday in November. When the time of a school district's general election is changed from May to November, the terms of all board members shall be lengthened to expire on January 1; when the time of a school district's general election is changed from November to May, the terms of all board members shall be shortened to expire on July 1. Whenever the time of a school district election is changed, the school district clerk shall immediately notify in writing the county auditor or auditors of the counties in which the school district is located and the secretary of state of the change of date.

Subd. 2. [EXPERIMENTAL ELECTION; AUTHORIZATION.] *The school board in independent school district No. 271 may, by resolution, designate the first Tuesday after the first Monday in November of either the odd-numbered or the even-numbered year as the date for its general election, and may reduce the existing terms of school board members to provide for staggered four-year terms thereafter. The resolution shall provide that, to the extent mathematically possible, the same number of board members is chosen at each election, exclusive of those chosen to fill vacancies for unexpired terms. Whenever the year of a school district election is changed, the school district clerk shall immediately notify in writing the county auditors of Hennepin and Scott counties and the secretary of state of the change of date. The secretary of state shall report to the legislature by January 15, 1993, on the implementation of this subdivision.*

Sec. 23. Minnesota Statutes 1990, section 205A.07, subdivision 3, is amended to read:

Subd. 3. [NOTICE TO AUDITOR.] At least ~~30~~ *45* days prior to every school district election, the school district clerk shall provide a written notice to the county auditor of each county in which the school district is located. The notice must include the date of the election and the offices and questions to be voted on at the election. *For the purposes of meeting the timelines of this section, in a bond election, a notice, including a proposed question, may be provided to the county auditor prior to receipt of a review and comment from the commissioner of education and prior to actual initiation of the election.*

Sec. 24. Minnesota Statutes 1990, section 211B.04, is amended to read:

211B.04 [CAMPAIGN LITERATURE MUST INCLUDE DISCLAIMER.]

(a) A person who participates in the preparation or dissemination of campaign material other than as provided in section 211B.05, subdivision 1, that does not prominently include the name and address of the person or committee causing the material to be prepared or disseminated in a disclaimer substantially in the form provided in paragraph (b) or (c) is guilty of a misdemeanor.

(b) Except in cases covered by paragraph (c), the required form of disclaimer is: "Prepared and paid for by the . . . . . committee, ... (address)" *for material prepared and paid for by a principal campaign committee, or "Prepared and paid for by the . . . . . committee, ... (address), in support of . . . . . (insert name of candidate or ballot question)" for material prepared and paid for by a person or committee other than a principal campaign committee.*"

(c) In the case of broadcast media, the required form of disclaimer is:

"Paid for by the . . . . . committee."

(d) Campaign material that is not circulated on behalf of a particular candidate or ballot question must also include in the disclaimer either that it is "in opposition to . . . . . (insert name of candidate or ballot question . . . . .)"; or that "this publication is not circulated on behalf of any candidate or ballot question."

(e) This section does not apply to objects stating only the candidate's name and the office sought, fundraising tickets, or personal letters that are clearly being sent by the candidate.

(f) This section does not modify or repeal section 211B.06.

Sec. 25. Minnesota Statutes 1990, section 447.32, subdivision 2, is amended to read:

Subd. 2. [ELECTIONS.] *Except as provided in this chapter, the Minnesota election law applies to hospital district elections, as far as practicable.* Regular elections must be held in each hospital district at the same time, in the same election precincts, and at the same polling places as general elections of state and county officers. ~~Alternatively, the hospital board may by resolution fix a date for an election, not later than December 7 just before the expiration of board members' terms.~~ It may establish the whole district as a single election precinct or establish two or more different election precincts and polling places for the elections. If there is more than one precinct, the boundaries of the election precincts and the locations of the polling places must be defined in the notice of election, either in full or by reference to a description or map on file in the office of the clerk.

Special elections may be called by the hospital board ~~at any time~~ to vote on any matter required by law to be submitted to the voters. *A special election may not be conducted either during the 30 days before and the 30 days after the state primary or state general election, or during the 20 days before and the 20 days after the regularly scheduled election of any municipality wholly or partially within the hospital district.* Special elections must be held within the election precinct or precincts and at the polling place or places designated by the board. In the case of the first election of officers of a new district, precincts and polling places must be set by the governing body of the most populous city or town included in the district.

Advisory ballots may be submitted by the hospital board on any question it wishes, concerning the affairs of the district, but only at a regular election or at a special election required for another purpose.

Sec. 26. Minnesota Statutes 1990, section 447.32, subdivision 3, is amended to read:

Subd. 3. [ELECTION NOTICES.] *At least two weeks before the first day to file affidavits of candidacy, the clerk of the district shall publish a notice stating the first and last day on which affidavits of candidacy may be filed, the places for filing the affidavits and the closing time of the last day for filing. The clerk shall post a similar notice in at least one conspicuous place in each city and town in the district at least ten days before the first day to file affidavits of candidacy.*

The notice of each election must be posted in at least one public and conspicuous place within each city and town included in the district *at least ten days before the election*. It must be published in the official newspaper of the district or, if a paper has not been designated, in a legal newspaper having

general circulation within the district, at least ~~one week~~ *two weeks* before the election. Failure to give notice does not invalidate the election of an officer of the district. A voter may contest a hospital district election in accordance with chapter 209. Chapter 209 applies to hospital district elections.

Sec. 27. Minnesota Statutes 1990, section 447.32, subdivision 4, is amended to read:

Subd. 4. [CANDIDATES; BALLOTS; CERTIFYING ELECTION.] A person who wants to be a candidate for the hospital board shall file an ~~application to be placed on the ballot as a candidate~~ *affidavit of candidacy* for *the* election either as member at large or as a member representing the city or town where the candidate resides. The ~~application~~ *affidavit of candidacy* must be filed with the city or town clerk not more than ~~60 or less than 45 days~~ *ten weeks nor less than eight weeks* before the election. ~~Applications~~ *The city or town clerk* must ~~be forwarded immediately~~ *forward the affidavits of candidacy* to the clerk of the hospital district or, for the first election, the clerk of the most populous city or town *immediately after the last day of the filing period. A candidate may withdraw from the election by filing an affidavit of withdrawal with the clerk of the district no later than 12:00 p.m. on the day after the last day to file affidavits of candidacy.*

Voting must be by secret ballot. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers. Ballots must contain the names of the proposed candidates for each office, the length of the term of each office, and an additional blank space for the insertion of another name by the voter. The ballots must be marked and initialed by at least two judges as official ballots and used exclusively at the election. Any proposition to be voted on may be printed on the ballot provided for the election of officers or on a different ballot. The hospital board may also authorize the use of voting machines subject to chapter 206. Enough election judges may be appointed to receive the votes at each polling place. They may be paid by the district at a rate set by the board. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

After canvassing the election, the board shall issue a certificate of election to the candidate who received the largest number of votes cast for each office. The clerk shall deliver the certificate to the person entitled to it in person or by certified mail. Each person certified shall file an acceptance and oath of office in writing with the clerk within 30 days after the date of delivery or mailing of the certificate. The board may fill any office as provided in subdivision 1 if the person elected fails to qualify within 30 days, but qualification is effective if made before the board acts to fill the vacancy.

Sec. 28. [EFFECTIVE DATE.]

Sections 19 and 20 are effective the day following final enactment and apply to all ordinances passed within 180 days prior to the day following final enactment."

Delete the title and insert:

"A bill for an act relating to elections; changing requirement of absentee ballot applications for deer hunters; facilitating voting by certain students; defining certain terms; providing for use of certain facilities for elections;

clarifying uses to be made of lists of registered voters; requiring commissioner of health to report deaths to secretary of state; authorizing facsimile applications for absentee ballots; authorizing certain experimental election procedures; requiring notarized affidavits of candidacy; providing for allocation of certain election expenses; providing for voting methods in combined local elections; providing order of counting gray box ballots; changing time for issuance of certificates of election; clarifying effect of changing the year of municipal elections; changing certain deadlines and procedures in school district elections; authorizing an experimental school board election; changing disclaimer language; changing procedures for hospital district elections; amending Minnesota Statutes 1990, sections 97A.485, subdivision 1a; 200.02, by adding a subdivision; 201.061, subdivision 3; 201.091, subdivisions 1 and 4; 201.13, subdivision 1; 203B.02, by adding a subdivision; 203B.04, subdivision 1; 204B.09, subdivision 1; 204B.16, subdivision 6, and by adding a subdivision; 204B.32; 204B.35, by adding a subdivision; 204B.45, by adding a subdivision; 204C.19, subdivision 2; 204C.40, subdivision 2; 205.07, subdivision 1, and by adding a subdivision; 205.16, subdivision 4; 205A.04; 205A.07, subdivision 3; 211B.04; and 447.32, subdivisions 2, 3, and 4; proposing coding for new law in Minnesota Statutes, chapters 135A and 201."

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

House Conferees: (Signed) Harold Lasley, Linda Scheid, Tom Osthoff, Ron Abrams, Loren A. Solberg

Senate Conferees: (Signed) Jerome M. Hughes, William P. Luther, Lawrence J. Pogemiller, Dean E. Johnson, Pat Piper

Mr. Hughes moved that the foregoing recommendations and Conference Committee Report on H.F. No. 478 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. 478 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 51 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Metzen	Price
Beckman	Day	Johnston	Moe, R.D.	Riveness
Belanger	DeCramer	Kelly	Mondale	Sams
Benson, D.D.	Finn	Knaak	Morse	Storm
Benson, J.E.	Flynn	Kroening	Neuville	Stumpf
Bernhagen	Frank	Laidig	Novak	Vickerman
Bertram	Frederickson, D.J.	Langseth	Olson	Waldorf
Brataas	Frederickson, D.R.	Lessard	Pappas	
Chmielewski	Gustafson	Luther	Pariseau	
Cohen	Hottinger	Marty	Piper	
Dahl	Hughes	Mehrkens	Pogemiller	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 800 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 800

A bill for an act relating to natural resources; revising certain provisions relating to the taking, possession, and transportation of wild animals; amending Minnesota Statutes 1990, sections 97A.445, subdivision 2; 97A.535, subdivision 1; 97B.055, subdivision 3; 97B.106; and 97B.935, subdivision 3.

May 16, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 800, 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. 800 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [84.967] [ECOLOGICALLY HARMFUL SPECIES; DEFINITION.]

For the purposes of section 1 to 4, "ecologically harmful exotic species" means non-native aquatic plants or wild animals that can naturalize, have high propagation potential, are highly competitive for limiting factors, and cause displacement of, or otherwise threaten, native plants or native animals in their natural communities.

Sec. 2. [84.968] [ECOLOGICALLY HARMFUL EXOTIC SPECIES MANAGEMENT PLAN.]

By January 1, 1993, a long-term statewide ecologically harmful exotic species management plan must be prepared by the commissioner of natural resources and address the following:

(1) coordinated detection and prevention of accidental introductions;

(2) coordinated dissemination of information about ecologicaly harmful exotic species among resource management agencies and organizations;

(3) a coordinated public awareness campaign regarding ecologically harmful exotic animals and aquatic plants;

(4) a process, where none exists, to designate and classify ecologically harmful exotic species into the following categories:

(i) undesirable wild animals that must not be sold, propagated, possessed, or transported; and

(ii) undesirable aquatic exotic plants that must not be sold, propagated, possessed, or transported;

(5) coordination of control and eradication of ecologically harmful exotic species on public lands and public waters; and

(6) development of a list of exotic wild animal species intended for non-agricultural purposes, or propagation for release by state agencies or the private sector.

Sec. 3. [84.969] [COORDINATING PROGRAM, GRANTS, AND REGIONAL COOPERATION.]

Subdivision 1. [COORDINATING PROGRAM.] *The commissioner of natural resources shall establish a statewide coordinating program to prevent and curb the spread of ecologically harmful exotic animals and aquatic plants.*

Subd. 2. [GRANTS.] *The coordinating program created in subdivision 1 may accept gifts, donations, and grants to accomplish its duties and must seek available federal grants through the federal Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. A portion of these funds shall be used to implement the plan under section 2.*

Subd. 3. [REGIONAL COOPERATION.] *The governor may cooperate, individually and regionally, with other state governors in the midwest for the purposes of ecologically harmful exotic species management and control*

Sec. 4. [84.9691] [RULEMAKING.]

The commissioner of natural resources may adopt rules, including emergency rules, to restrict the introduction, propagation, use, possession, and spread of ecologically harmful exotic animals and aquatic plants in the state.

Sec. 5. Minnesota Statutes 1990, section 97A.445, subdivision 2, is amended to read:

Subd. 2. [ANGLING; INSTITUTIONAL RESIDENTS.] A license is not required to take fish by angling with the written consent of the superintendent or chief executive of the institution for the following persons:

(1) a resident of a state hospital;

(2) a patient of a United States Veterans Administration hospital;

(3) an inmate of a state correctional facility; ~~and~~

(4) a resident of a *licensed* nursing *or boarding care* home, *a person who is enrolled in and regularly participates in an adult day care program or other similar organized activity sponsored by a licensed nursing or boarding care home, or a resident of a licensed board and lodging facility; and*

(5) a resident of a drug or alcohol residential treatment program under the age of 20.

Sec. 6. Minnesota Statutes 1990, section 97A.535, subdivision 1, is amended to read:

Subdivision 1. [TAGS REQUIRED.] A person may not possess or transport deer, bear, elk, or moose taken in the state unless a tag is attached to the carcass in a manner prescribed by the commissioner. The commissioner must prescribe the type of tag that has the license number of the owner, the year of its issue, and other information prescribed by the commissioner. The tag must be attached to the deer, bear, elk, or moose ~~when:~~

~~(1) the animal is in a camp, or a place occupied overnight or the yard surrounding the place; or~~

~~(2) the animal is on a motor vehicle~~ *at the site of the kill before the animal is removed from the site of the kill, and must remain attached to the animal until the animal is processed for storage.*

Sec. 7. Minnesota Statutes 1990, section 97B.055, subdivision 3, is amended to read:

Subd. 3. [HUNTING FROM VEHICLE BY DISABLED HUNTERS.] The commissioner may issue a special permit, without a fee, to discharge a firearm or bow and arrow from a stationary motor vehicle to a licensed hunter that is *temporarily or permanently* physically unable to walk ~~with or~~ without crutches, braces, or other mechanical support, *or who has a physical disability which substantially limits the person's ability to walk. The physical disability and the substantial inability to walk must be established by medical evidence verified in writing by a licensed physician.* A person with a temporary disability may be issued an annual permit and a person with a permanent disability may be issued a permanent permit.

Sec. 8. Minnesota Statutes 1990, section 97B.106, is amended to read:

97B.106 [CROSSBOW PERMITS FOR HUNTING.]

The commissioner may issue a special permit, without a fee, to take deer or turkey with a crossbow to a person that is unable to hunt by archery because of a permanent *or temporary* physical disability. *To qualify a person for a special permit under this section, a temporary disability must render the person unable to hunt by archery for a minimum of two years after application for the permit is made.* The *permanent or temporary* disability, established by medical evidence, and the inability to hunt by archery *for the required period of time* must be verified in writing by a licensed physician. The person must obtain the appropriate license. The crossbow must:

(1) be fired from the shoulder;

(2) deliver at least 42 foot-pounds of energy at a distance of ten feet;

(3) have a stock at least 30 inches long;

(4) have a working safety; and

(5) be used with arrows or bolts at least ten inches long with a broadhead.

Sec. 9. Minnesota Statutes 1990, section 97B.935, subdivision 3, is amended to read:

Subd. 3. [SPECIAL PERMIT FOR DISABLED.] The commissioner may issue a special permit, *in the manner provided in section 97B.055, subdivision 3,* to use a snowmobile or all-terrain vehicle to transport or check beaver or otter traps or to transport beaver or otter carcasses or pelts to a licensed trapper physically unable to walk as specified in section 97B.055, subdivision 3.

Sec. 10. [CHECKS OF TRAILERED BOATS.]

(a) The commissioner of natural resources shall establish a two-year program of at least five checks per year of trailered boats. The purpose of the checks is to inspect boats and trailers for Eurasian water milfoil fragments, and to inform and educate the boat owners about Eurasian water milfoil and other exotic species and how to prevent their spread.

(b) The commissioner shall assess the effectiveness of the program established in paragraph (a), keep records on the occurrence of Eurasian water

milfoil fragments or other exotic species, and report to the legislature by January 1, 1993.

Sec. 11. [PILOT PROJECT FOR TAKING TWO DEER.]

(a) Notwithstanding Minnesota Statutes, section 97B.301, in the 1991 and 1992 hunting seasons, the commissioner must allow a person to take two deer per season, one by firearm and one by archery, in the counties of Marshall, Kittson, and Roseau. A person taking two deer under this section must obtain a license for each method of hunting.

(b) The commissioner shall conduct a study on the provisions of paragraph (a) including, but not limited to, a review of the impact on the deer population, the participation and satisfaction of hunters, and the success ratio. By February 15, 1993, the commissioner must report on the study to the house and senate committees with jurisdiction over natural resources.

Sec. 12. [TAGGING REPORT.]

The commissioner must review the tagging requirement in Minnesota Statutes, section 97A.535, subdivision 1, and report to the house and senate committees with jurisdiction over natural resources by February 15, 1993, on any recommended changes to the requirement.

Sec. 13. [EFFECTIVE DATE.]

Section 5 is effective the day following its final enactment. Sections 7 to 9 are effective August 1, 1991. Section 6 is effective August 1, 1992."

Delete the title and insert:

"A bill for an act relating to natural resources; requiring a plan and program for control of ecologically harmful species of plants and animals; revising certain provisions relating to the taking, possession, and transportation of wild animals; requiring reports; amending Minnesota Statutes 1990, sections 97A.445, subdivision 2; 97A.535, subdivision 1; 97B.055, subdivision 3; 97B.106; and 97B.935, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 84."

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

Senate Conferees: (Signed) Leonard R. Price, Gene Merriam, Bob Lessard

House Conferees: (Signed) Brad Stanius, Wally Sparby, Leo J. Reding

Mr. Price moved that the foregoing recommendations and Conference Committee Report on S.F. No. 800 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. 800 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 52 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, D.E.	McGowan	Price
Beckman	DeCramer	Johnson, J.B.	Metzen	Reichgott
Belanger	Finn	Johnston	Moe, R.D.	Sams
Benson, D.D.	Flynn	Kelly	Mondale	Solon
Benson, J.E.	Frank	Knaak	Morse	Storm
Berg	Frederickson, D.J.	Kroening	Neuville	Stumpf
Bernhagen	Frederickson, D.R.	Langseth	Novak	Vickerman
Bertram	Gustafson	Larson	Olson	Waldorf
Cohen	Halberg	Lessard	Pappas	
Dahl	Hottinger	Luther	Pariseau	
Davis	Hughes	Marty	Pogemiller	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1027 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1027

A bill for an act relating to natural resources; establishing a Minnesota adopt-a-park program; requiring the department of natural resources to report to the legislature on the program; proposing coding for new law in Minnesota Statutes, chapter 85.

May 15, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1027, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1027 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [85.045] [ADOPT-A-PARK PROGRAM.]

Subdivision 1. [CREATION.] *The Minnesota adopt-a-park program is established. The commissioner shall coordinate the program through the regional offices of the department of natural resources.*

Subd. 2. [PURPOSE.] *The purpose of the program is to encourage business and civic groups or individuals to assist, on a volunteer basis, in improving and maintaining state parks, monuments, historic sites, and trails.*

Subd. 3. [AGREEMENTS.] *(a) The commissioner shall enter into informal agreements with business and civic groups or individuals for volunteer services to maintain and make improvements to real and personal property in state parks, monuments, historic sites, and trails in accordance with plans devised by the commissioner after consultation with the groups.*

(b) The commissioner may erect appropriate signs to recognize and express appreciation to groups and individuals providing volunteer services under the adopt-a-park program.

(c) The commissioner may provide assistance to enhance the comfort and safety of volunteers and to facilitate the implementation and administration of the adopt-a-park program.

(d) This section is not subject to chapter 14.

Subd. 4. [WORKER DISPLACEMENT PROHIBITED.] *The commissioner may not enter into any agreement that has the purpose of or results in the displacement of public employees by volunteers participating in the adopt-a-park program under this section. The commissioner must certify to the appropriate bargaining agent that the work performed by a volunteer will not result in the displacement of currently employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits.*

Sec. 2. [STUDY AND REPORT.]

The department of natural resources shall study and report to the appropriate committees of the senate and house of representatives by March 1, 1992, on the implementation of the program established in section 1. The study must focus on major elements of the program, including liability for personal injury or property damage, the relationship between program participants and departmental employees, project selection, program costs, support services for program volunteers, and recognition of accomplishments. The report must be accompanied by recommended legislation for improving the program.

Sec. 3. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; establishing a Minnesota adopt-a-park program; requiring the department of natural resources to report to the legislature on the program; ensuring that the program does not conflict with public employee duties; proposing coding for new law in Minnesota Statutes, chapter 85."

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

Senate Conferees: (Signed) Leonard R. Price, Gene Merriam, Cal Larson

House Conferees: (Signed) Bob Johnson, Virgil J. Johnson, Tom Rukavina

Mr. Price moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1027 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. 1027 as read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Hughes	Marty	Pappas
Beckman	Davis	Johnson, D.E.	McGowan	Pariseau
Belanger	Day	Johnson, J.B.	Mehrkens	Pogemiller
Benson, D.D.	DeCramer	Johnston	Merriam	Price
Benson, J.E.	Finn	Kelly	Metzen	Reichgott
Berg	Flynn	Knaak	Moe, R.D.	Sams
Bernhagen	Frank	Kroening	Mondale	Solon
Bertram	Frederickson, D.J.	Langseth	Morse	Storm
Brataas	Gustafson	Larson	Neuville	Stumpf
Chmielewski	Halberg	Lessard	Novak	Vickerman
Cohen	Hottinger	Luther	Olson	Waldorf

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

Without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 289:

H.F. No. 289: A bill for an act relating to insurance; accident and health; establishing minimum loss ratios for certain noncomprehensive policies; proposing coding for new law in Minnesota Statutes, chapter 62A.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Skoglund, Hartle and Winter have been appointed as such committee on the part of the House.

House File No. 289 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

Mr. Luther moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 289, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 181:

H.F. No. 181: A bill for an act relating to the environment; adding reimbursement requirements for the petroleum tank release cleanup account; providing for insurance subrogation rights; amending Minnesota Statutes 1990, sections 115C.04, subdivision 3; 115C.09, subdivision 3; and 115C.10, subdivision 1.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Sparby, Jennings and Johnson, V. have been appointed as such committee on the part of the House.

House File No. 181 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

Mr. Novak moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 181, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 702:

H.F. No. 702: A bill for an act relating to agriculture; transferring the rural finance authority to the department of agriculture; changing the makeup and certain duties and procedures of the authority; providing for an agricultural development bond program to finance agricultural business enterprises and beginning farmers; establishing a dairy upgrading program; appropriating funds; amending Minnesota Statutes 1990, sections 41B.025, subdivisions 1, 3, 5, and 6; 41B.211; 474A.02, subdivisions 13a and 23a; 474A.03, subdivision 1; 474A.061, subdivisions 1, 2b, 3, and 4; 474A.091; 474A.14; proposing coding for new law in Minnesota Statutes, chapter 41B; proposing coding for new law as Minnesota Statutes, chapter 41C.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Sparby, Nelson, S. and Hugoson have been appointed as such committee on the part of the House.

House File No. 702 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

Mr. Sams moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 702, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 887:

H.F. No. 887: A bill for an act relating to game and fish; setting conditions under which a hunter may take two deer; amending Minnesota Statutes

1990, section 97B.301, subdivision 4.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Reding, Sparby and Stanius have been appointed as such committee on the part of the House.

House File No. 887 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

Mr. Berg moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 887, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1142:

H.F. No. 1142: A bill for an act relating to courts; regulating the use of certain tests; permitting certain punitive damages; directing the supreme court to establish an alternative dispute resolution program and adopt rules; setting conditions for alternative dispute resolution guidelines; providing for interest on arbitration awards; allowing an arbitrator or the court to modify an award based on an error of law; providing arbitration procedures; amending Minnesota Statutes 1990, sections 169.121, subdivision 6, and by adding a subdivision; 494.015; 494.03; 549.09; 572.10; 572.15; and 572.16; proposing coding for new law in Minnesota Statutes, chapter 484; repealing Minnesota Statutes 1990, sections 484.73; 484.74; and 494.01, subdivisions 3 and 5.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Carruthers, Pugh and Swenson have been appointed as such committee on the part of the House.

House File No. 1142 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

Mr. Luther moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1142, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 83, 268 and 1216.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

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. 526: A bill for an act relating to crime; sentencing; clarifying and revising the intensive community supervision program; amending Minnesota Statutes 1990, sections 244.05, subdivision 6; 244.12; 244.13; 244.14; and 244.15.

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

McGuire, Greenfield and Seaberg.

Senate File No. 526 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

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. 351: A bill for an act relating to peace officers; guaranteeing peace officers certain rights when a formal statement is taken for disciplinary purposes; proposing coding for new law in Minnesota Statutes, chapter 626.

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

Carruthers, Macklin and Milbert.

Senate File No. 351 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

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. 1295: A bill for an act relating to Ramsey county; creating a Ramsey county local services study commission; setting its duties.

There has been appointed as such committee on the part of the House: Orenstein, McGuire and Valento.

Senate File No. 1295 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

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. 765: A bill for an act relating to transportation; clarifying parking provisions for physically disabled persons; authorizing special license plates for motorcycles; authorizing tinted windshields for medical reasons; abolishing requirement to impound vehicle registration certificates; making technical changes; amending Minnesota Statutes 1990, sections 168.021, subdivision 1; 168.041; 169.123, subdivision 5b; 169.345, subdivision 1; 169.346, subdivisions 1 and 2; 169.71, subdivision 4; 169.795; and 171.29, subdivision 3.

There has been appointed as such committee on the part of the House: Lynch, Lasley and Kalis.

Senate File No. 765 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

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. 931: A bill for an act relating to waste management; requiring counties to prepare and amend solid waste management plans; requiring counties and solid waste facilities to develop and implement problem materials management plans; prohibiting issuance and renewal of certain permit if plans are not developed and implemented; amending Minnesota Statutes 1990, sections 115A.03, subdivision 24a; 115A.46, subdivisions 1 and 2; 115A.956; 115A.96, subdivision 6; 116.07, subdivisions 4j and 4k; 473.149, subdivision 1; and 473.803, subdivision 1.

There has been appointed as such committee on the part of the House: Orfield, Pugh and Ozment.

Senate File No. 931 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

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. 208: A bill for an act relating to motor vehicles; providing for seven-year, in transit license plates for motor vehicle dealers; amending Minnesota Statutes 1990, sections 168.12, subdivision 1; 168.27, subdivisions 16 and 17; and 297B.035, subdivision 2.

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

Lasley, Hanson and Runbeck.

Senate File No. 208 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Langseth moved that S.F. No. 217, No. 1 on General Orders, be stricken and returned to its author. The motion prevailed.

Mr. Pogemiller moved that S.F. No. 364, No. 19 on General Orders, be stricken and returned to its author. The motion prevailed.

Mr. Pogemiller moved that S.F. No. 363, No. 20 on General Orders, be stricken and returned to its author. The motion prevailed.

Mr. Lessard moved that S.F. No. 441, No. 23 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Mr. Kelly moved that S.F. No. 404, No. 33 on General Orders, be stricken and returned to its author. The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 20: Messrs. Marty, Belanger and Metzen.

H.F. No. 202: Messrs. Chmielewski, Riveness and McGowan.

H.F. No. 606: Ms. Johnston, Messrs. DeCramer and Langseth.

H.F. No. 958: Messrs. Berg; Frederickson, D.R. and Morse.

H.F. No. 1: Messrs. Davis, Merriam, Berg, Vickerman and Renneke.

H.F. No. 317: Ms. Reichgott, Messrs. Spear and Neuville.

H.F. No. 459: Messrs. Merriam, Spear and Neuville.

H.F. No. 1050: Messrs. Marty, Merriam and Frederickson, D.R.

S.F. No. 520: Messrs. Kelly, McGowan and Marty.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Davis moved that the following members be excused for a Conference Committee on H.F. No. 1 at 7:00 p.m.:

Messrs. Berg, Davis, Merriam, Renneke and Vickerman. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Cohen moved that the following members be excused for a Conference Committee on S.F. No. 525 from 2:15 to 4:30 p.m.:

Messrs. Spear, Kelly, McGowan, Marty and Cohen. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 338 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 338: A bill for an act relating to retirement; various public employee pension plans; providing for the continuation of surviving spouse benefits in the event of remarriage in certain circumstances; modifying the surviving spouse benefit of the legislators retirement plan; modifying the duties and functions of the consulting actuary retained by the legislative commission on pensions and retirement; modifying the various public pension plan actuarial reporting requirements; amending Minnesota Statutes 1990, sections 3.85, subdivision 11; 3A.04, subdivision 1; 352B.11, subdivision 2; 352C.04, subdivisions 1 and 4; 353.01, subdivision 20; 353.31, subdivision 1; 353.657, subdivision 2; 353B.11, subdivision 6; 354.05, subdivision 15; 354.46, subdivision 1; 354A.011, subdivision 26; 356.20, subdivision 4; 356.215, subdivisions 1, 2, 3, 4, 4a, 4b, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 5, 6, and 7; repealing Minnesota Statutes 1990, sections 352.85, subdivision 6; 352.86, subdivision 4; and 353A.09, subdivision 7.

Mr. Waldorf moved to amend S.F. No. 338 as follows:

Page 4, line 9, strike everything after "old"

Page 4, line 10, strike everything before the period

Page 11, line 6, delete "*spouse*" and insert "*spouses*"

Page 20, line 20, after the stricken "section" insert "*must*" and reinstate the stricken "be included in the"

Page 20, line 21, reinstate the stricken language

Page 20, line 24, strike the period

Page 20, line 30, delete the new language

Page 20, line 31, delete "*calculations*" "

Page 22, line 23, reinstate the stricken "valuations" and delete "*valuation*"

Page 22, line 24, delete "*calculations*"

Page 23, line 9, reinstate the stricken "valuations" and delete "*valuation*"

Page 23, lines 10, 12, and 34, delete "*calculations*"

Page 23, line 25, reinstate the stricken language and delete the new language

Page 24, lines 2, 6, 8, 16, 18, and 27, delete "*calculations*"

Page 25, lines 2, 9, 19, and 26, delete "*calculations*"

Page 26, lines 4, 12, and 18, delete "*calculations*"

Page 28, line 18, delete "*calculations*"

Page 31, line 6, delete "*calculations*"

Page 32, line 1, delete "*calculations*"

Page 33, lines 7, 13, 29, and 32, delete "*calculations*"

Page 34, line 2, delete everything after the first comma

Page 34, line 3, delete "*results*" and insert "*studies*"

Page 34, lines 25 and 33, delete "*valuation calculations*" and insert "*valuations*"

Page 35, line 1, delete "*calculations*"

Page 35, lines 5, 10, and 13, delete "*valuation calculations*" and insert "*valuations*"

The motion prevailed. So the amendment was adopted.

Mr. Waldorf then moved to amend S.F. No. 338 as follows:

Page 36, after line 1, insert:

"ARTICLE 3

MISCELLANEOUS RETIREMENT PROVISIONS

Section 1. Minnesota Statutes 1990, section 354B.01, is amended by adding a subdivision to read:

Subd. 1a. [SUPPLEMENTAL PLAN.] *"Supplemental plan" means the supplemental retirement plan established in sections 354B.06 to 354B.08.*

Sec. 2. [354B.055] [RULES.]

The state university system and the community college system may adopt rules to administer the provisions of sections 354B.06 to 354B.08. The systems may deposit member contributions in a nontreasury account established under chapter 136, an account or accounts established under section 11A.17, or other appropriate accounts of the state board of investment for investment under procedures established by the state board of investment.

Sec. 3. [354B.06] [SUPPLEMENTAL RETIREMENT PLAN.]

Subdivision 1. [ESTABLISHMENT.] *The supplemental retirement plan for personnel employed by the state university board and the state board for community colleges who are in the unclassified service of the state commencing July 1 following the completion of the second year of their full-time contract is governed by this section. An unclassified employee employed by the state university board or the state board for community colleges in subsidized on-the-job training, work experience, or public service employment as an enrollee under the federal Comprehensive Employment and Training Act is not included in the supplemental retirement plan provided for in this section after March 30, 1978, unless the unclassified employee has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement fund providing primary retirement coverage to meet the minimum vesting requirements for a deferred retirement annuity, or the board agrees in writing to make the employer contribution required by this section on account of that unclassified employee from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, or the unclassified employee agrees in writing to make the employer contribution required by this section in addition to the member contribution.*

Subd. 2. [REDEMPTIONS.] *The chancellor of the state university system and the chancellor of the state community college system shall redeem all shares in the accounts of the Minnesota supplemental investment fund held on behalf of personnel in the supplemental plan who elect an investment option other than the supplemental investment fund, except that shares in the guaranteed return account may not be redeemed until the expiration dates for the guaranteed investment contracts. The chancellors shall transfer the cash realized to the financial institutions selected by the state university board and the community college board under section 354B.05.*

Sec. 4. [354B.07] [SALARY DEDUCTIONS, MATCHING FUNDS.]

Subdivision 1. [DEDUCTIONS.] *The state university board and the state board for community colleges shall deduct from the salary of each person described in section 354B.06 a sum equal to five percent of the person's annual salary paid between $6,000 and $15,000. The deduction must be made in the same manner as other retirement deductions are made from the salary of the person. The employer shall make a contribution to the plan on behalf of every covered person in an amount equal to the deductions made from the salary of the person. If an agreement is made under section 356.24 for additional employer contributions, an amount equal to the additional employer contribution must be deducted from the person's annual salary above $15,000 as specified in this subdivision. Two percent of the amount of the salary deductions and employer contributions may be used by the state university board and the state board for community colleges for payment of necessary and reasonable administrative expenses.*

Subd. 2. [ADMINISTRATION.] *The chancellor of the state university system and the chancellor of the state community college system shall administer the supplemental retirement plan for their employees. The chancellors shall invest contributions made under this section, less amounts used for administrative expenses, as authorized by law. The retirement contributions and death benefits provided by annuity contracts or custodial accounts purchased by the chancellors are owned by the plan and must be paid in accordance with the annuity contracts or custodial accounts.*

Sec. 5. [354B.08] [TAX SHELTER PROVISIONS.]

Subdivision 1. [AGREEMENTS; ADJUSTMENTS.] *For the purpose of, and to permit the participation in a tax shelter under provisions of sections 501(c) and 403(b) and related provisions of the Internal Revenue Code, the state university board and the board for community colleges may enter into agreements to reduce or adjust salaries downward for persons defined in section 354B.06, subdivision 1, and to pay as employer an amount equivalent to the salary reduction in the same manner as deductions would have been paid by the person under section 354B.07, subdivision 1.*

Subd. 2. [RULES.] *Subject to the approval of their governing boards, the chancellors of the state university system and community college system may adopt rules and procedures consistent with sections 354B.06 to 354B.08 which permit, if possible, participation in a tax shelter under provisions of the Internal Revenue Code.*

Sec. 6. [TRANSFER.]

The executive director of the teachers retirement association shall transfer the administrative records of the supplemental retirement plan to the chancellor of the state university system and the chancellor of the state community college system on July 1, 1991.

Sec. 7. [PURCHASE OF PRIOR SERVICE CREDIT.]

Subdivision 1. [ELIGIBILITY.] *Notwithstanding the limitations in Minnesota Statutes, section 353.27, subdivision 12, a member of the public employees retirement association born on August 22, 1956, who was employed by the city of Minneapolis as a construction equipment operator beginning on June 24, 1983, on a temporary or seasonal basis, and who first became eligible for public employees retirement association membership during 1985, but for whom no employee or employer contributions were made until September 1986, may purchase allowable service credit from the public employees retirement association for the period of eligible service between January 1985 and September 1986 upon receipt by the association of the amount specified in subdivision 2.*

Subd. 2. [PURCHASE PAYMENT AMOUNT.] *To purchase credit for prior eligible service under subdivision 1, there must be paid to the public employees retirement association an amount equal to the present value, on the date of payment, of the amount of the additional retirement annuity obtained by purchase of the additional service credit. Calculation of this amount must be made using the applicable preretirement interest rate specified in Minnesota Statutes, section 356.215, subdivision 4d, and the mortality table adopted for the fund. The calculation must assume continuous future service in the association until, and retirement at, the age at which the minimum requirements of the retirement association for normal retirement or retirement with an annuity unreduced for retirement at an early age, including Minnesota Statutes, section 356.30, are met with the additional service credit purchased. The calculation must also assume a future salary history that includes annual salary increases at the salary increase rate specified in section 356.215, subdivision 4d. The member must establish in the records of the association proof of the service for which the purchase of prior service is requested. The manner of the proof of service must be in accordance with procedures prescribed by the executive director of the association. The portion of the total cost of the purchase to be paid by the member is specified in subdivision 3. The remaining portion of total cost*

is to be paid by the employer, as specified in subdivision 4.

Subd. 3. [MEMBER PAYMENT.] *To receive credit for the eligible service between January 1985 and September 1986, the member must pay an amount equal to the employee contribution rate or rates in effect during the period or periods of prior eligible non-credited service, applied to the actual salary rate in effect during the period or periods of prior service, plus six percent interest compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made. Payment must be made in one lump sum before July 1, 1992.*

Subd. 4. [EMPLOYER PAYMENT; SERVICE CREDIT.] *Within 60 days of receipt by the association of the member contribution specified in subdivision 3, the city of Minneapolis shall pay an amount equal to the difference between the amount specified in subdivision 2 and the member payment specified in subdivision 3. This amount must be paid in one lump sum. The period of allowable service may be credited to the account of the person only after the receipt of full payment by the executive director.*

Sec. 8. [REPEALER.]

Minnesota Statutes 1990, sections 136.80; 136.81; 136.82; 136.83; 136.84; 136.85; and 136.87, are repealed.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 6 and 8 are effective July 1, 1991. Section 7 is effective the day following final enactment."

Amend the title as follows:

Page 1, line 10, after the semicolon, insert "recodifying the state university-community college supplemental retirement plan; authorizing a purchase of prior service credit;"

Page 1, line 17, after the first semicolon, insert "354B.01, by adding a subdivision;"

Page 1, line 19, after "7;" insert "proposing coding for new law in Minnesota Statutes, chapter 354B;"

Page 1, line 20, after "sections" insert "136.80; 136.81; 136.82; 136.83; 136.84; 136.85; 136.87;"

The motion prevailed. So the amendment was adopted.

Mr. Waldorf then moved to amend S.F. No. 338 as follows:

Page 1, line 33, reinstate the stricken language and delete the new language

Page 2, line 13, reinstate the stricken language

The motion prevailed. So the amendment was adopted.

S.F. No. 338 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 40 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Hughes	Luther	Olson
Beckman	Finn	Johnson, D.E.	Marty	Pogemiller
Benson, J.E.	Frank	Johnson, D.J.	McGowan	Price
Bernhagen	Frederickson, D.J.	Johnson, J.B.	Mehrkens	Sams
Bertram	Frederickson, D.R.	Knaak	Merriam	Storm
Chmielewski	Gustafson	Laidig	Mondale	Stumpf
Davis	Halberg	Langseth	Morse	Vickerman
Day	Hottinger	Larson	Novak	Waldorf

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 655 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 655: A bill for an act relating to traffic regulations; establishing maximum height for rear bumpers of certain semitrailers; allowing certain equipment to be excluded from computing the maximum allowable length of a semitrailer or trailer used in a three-vehicle combination; providing an exception to the length limitation on certain vehicle combinations; limiting maximum weight allowed on certain vehicle tires; conforming state highway weight limitations to federal requirements; imposing a cost-per-mile fee on certain overweight vehicles; adding an exemption to the motor carrier act; authorizing a variance for small cargo tanks; establishing the initial motor carrier contact program; amending Minnesota Statutes 1990, sections 169.73, subdivision 4a; 169.81, subdivisions 2 and 3; 169.825, subdivisions 8 and 10; 169.86, subdivision 5; 174A.06; 221.025; 221.141, subdivision 4; and 221.033, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 221; repealing Minnesota Statutes 1990, sections 221.011, subdivisions 10, 12, 18, 25, and 28; 221.101; and 221.296.

Mr. DeCramer moved to amend H.F. No. 655, the unofficial engrossment, as follows:

Page 11, lines 19 to 24, reinstate the stricken language

Page 16, after line 4, insert:

"Sec. 8. Minnesota Statutes 1990, section 221.031, is amended by adding a subdivision to read:

Subd. 9. [OUT-OF-SERVICE CRITERIA ADOPTED BY REFERENCE.] *The North American Uniform Driver, Vehicle, and Hazardous Materials Out-Of-Service Criteria developed and adopted by the Federal Highway Administration and the commercial vehicle safety alliance are adopted in Minnesota.*"

Page 17, after line 14, insert:

"Sec. 11. Minnesota Statutes 1990, section 221.605, is amended by adding a subdivision to read:

Subd. 3. [OUT-OF-SERVICE CRITERIA ADOPTED BY REFERENCE.] *The North American Uniform Driver, Vehicle, and Hazardous Materials Out-Of-Service Criteria developed and adopted by the Federal Highway Administration and the commercial vehicle safety alliance are adopted in Minnesota.*

Sec. 12. [REPEALER.]

Minnesota Statutes 1990, section 169.825, subdivision 10, paragraph (d), is repealed July 1, 1992."

Page 17, line 16, delete "9" and insert "*12*"

Renumber the sections in sequence and correct the internal references

Amend the title as follows

Page 1, line 12, after the semicolon, insert "adopting federal out-of-service criteria for motor carriers;"

Page 1, line 18, delete "and" and insert "221.031, by adding a subdivision;"

Page 1, line 19, before "proposing" insert "and 221.605, by adding a subdivision;"

Page 1, line 20, before the period, insert "; repealing Minnesota Statutes 1990, section 169.825, subdivision 10, paragraph (d)"

The motion prevailed. So the amendment was adopted.

Mr. DeCramer then moved to amend H.F. No. 655, the unofficial engrossment, as follows:

Page 14, after line 14, insert:

"Sec. 7. Minnesota Statutes 1990, section 171.12, subdivision 6, is amended to read:

Subd. 6. [CERTAIN CONVICTIONS NOT RECORDED.] The department shall ~~not~~ keep on the record of a driver any conviction for a violation of ~~section 169.141 unless the violation consisted of a speed greater than ten miles per hour in excess of the lawful speed designated under that section~~ *any law regulating the maximum speed at which a vehicle may be driven. However, the commissioner of public safety shall not allow information to be divulged to any person or organization, however organized, that issues private passenger vehicle insurance, as defined in section 65B.001, when the information relates to a violation consisting of driving at a speed of not more than ten miles per hour in excess of the lawful speed.*"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 12, after the semicolon, insert "removing restrictions on recording certain convictions and prohibiting disclosure;"

Page 1, line 17, after the second semicolon, insert "171.12, subdivision 6;"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 25 and nays 21, as follows:

Those who voted in the affirmative were:

Benson, J.E.	Flynn	Johnson, J.B.	Marty	Neuville
Bernhagen	Frank	Knaak	McGowan	Olson
Cohen	Frederickson, D.R.	Laidig	Mehrkens	Price
Davis	Gustafson	Langseth	Merriam	Reichgott
DeCramer	Hughes	Luther	Mondale	Storm

Those who voted in the negative were:

Adkins	Bertram	Hottinger	Moe, R.D.	Vickerman
Beckman	Brataas	Johnson, D.J.	Morse	
Belanger	Day	Johnston	Novak	
Benson, D.D.	Finn	Kroening	Pariseau	
Berg	Frederickson, D.J.	Lessard	Sams	

The motion prevailed. So the amendment was adopted.

Mr. DeCramer then moved to amend H.F. No. 655, the unofficial engrossment, as follows:

Page 1, after line 21, insert:

"Section 1. [169.175] [RADAR DETECTORS.]

Subdivision 1. [PROHIBITION.] *A person shall not sell or use a radar detection device or operate a motor vehicle that is equipped with a radar detection device.*

Subd. 2. [DEFINITION.] *For purposes of this section, a "radar detection device" is a device to detect radar or other devices used by law enforcement personnel to measure the speed of motor vehicles on roads and highways.*

Subd. 3. [EVIDENCE.] *The presence of a radar detection device in or on a motor vehicle is prima facie evidence of a violation of this section.*

Subd. 4. [DEFENSE.] *It is a defense if it is proven by a preponderance of the evidence that the device at the time of the alleged offense had no power source and was not accessible for use by the driver or any passenger in the vehicle. This section does not apply to peace officers in the course of their official duties.*"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "prohibiting radar detectors;"

Page 1, line 20, delete "chapter" and insert "chapters 169 and"

The motion prevailed. So the amendment was adopted.

Mr. Morse moved to amend H.F. No. 655, the unofficial engrossment, as follows:

Page 1, after line 21, insert:

"Section 1. Minnesota Statutes 1990, section 169.64, is amended by adding a subdivision to read:

Subd. 8. [GREEN LIGHTS.] *A privately owned vehicle operated by a first responder may be equipped with a flashing green light. The flashing green light may be displayed on the vehicle only at the site of an emergency. A first responder must apply to the local authority under which the first responder operates for authorization to display a green light.*"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "authorizing the use of flashing green lights by first responders;"

Page 1, line 15, after "sections" insert "169.64, by adding a subdivision;"

The motion prevailed. So the amendment was adopted.

Mr. Morse then moved to amend H.F. No. 655, the unofficial engrossment, as follows:

Page 16, line 4, before the period, insert ";

(p) the delivery of newspapers, as defined in section 331A.01, subdivision 5, for distribution in vehicles of 12,000 pounds gross vehicle weight or less"

Page 17, after line 14, insert:

"Sec. 10. [TEMPORARY AUTHORITY; CHARTER CARRIERS OF PASSENGERS.]

(a) The transportation regulation board may issue a temporary permit to a motor carrier to operate as a charter carrier of passengers within the seven-county metropolitan area if the board finds that:

(1) the service to be provided under the temporary certificate will be provided during the month of January 1992 in connection with or related to the 1992 National Football League championship game or during the last week in March through the second week in April 1992 in connection with or related to the 1992 NCAA Men's Basketball Final Four Tournament;

(2) the petitioner for the temporary permit is fit and able to conduct the proposed operations; and

(3) the petitioner's vehicles meet the applicable safety standards of the commissioner of transportation.

(b) Notwithstanding Minnesota Statutes, section 221.121, subdivision 2, a holder of a temporary permit under this section is not required to seek a permanent permit from the board. The board may charge a registration fee of not more than $10 for each vehicle that will be operated under authority of the permit. All permits issued by the board under this section expire on a date specified in the permit, but not later than January 31, 1992.

(c) All provisions of Minnesota Statutes, chapter 221, not inconsistent with this section, apply to permits issued under this section.

(d) In granting temporary permits under this section, the board shall, to the maximum feasible extent, give priority to Minnesota-based carriers.

Sec. 11. [REPEALER.]

Section 10 is repealed April 15, 1992."

Page 17, line 16, delete "9" and insert "*10*"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 12, delete "an exemption" and insert "exemptions"

Page 1, line 15, after the semicolon, insert "authorizing a temporary charter carrier permit;"

The motion prevailed. So the amendment was adopted.

Mr. Mehrkens moved to amend H.F. No. 655, the unofficial engrossment, as follows:

Page 17, after line 14, insert:

"Sec. 10. [COMMON CARRIER SERVICE; ENFORCEMENT MORATORIUM.]

Subdivision 1. [MORATORIUM.] *Until June 1, 1992, the commissioner of transportation shall not bring an enforcement action, and the transportation regulation board shall not issue nor seek to enforce a cease and desist order under Minnesota Statutes, section 221.293, against a holder of an irregular route common carrier permit on the grounds that the carrier is providing service as a regular route common carrier, as defined in Minnesota Statutes, section 221.011, subdivision 9, if the service is:*

(1) transportation of commodities described in the carrier's irregular route common carrier permit order over a route or in a territory authorized in the order; and

(2) a continuation of service provided by the carrier to customers served at any time during the 12 months preceding the effective date of this act.

Subd. 2. [EXPANSION OF OPERATIONS PROHIBITED.] *Nothing in this section shall be construed to prohibit the commissioner of transportation or the transportation regulation board from enforcing the provisions of Minnesota Statutes or rules governing service provided by the holder of an irregular route common carrier permit that does not conform to the requirements of subdivision 1, clause (1) or (2).*"

Page 17, line 17, after the period, insert "*Section 10 is effective the day following final enactment.*"

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Hottinger moved to amend H.F. No. 655, the unofficial engrossment, as follows:

Page 14, after line 14, insert:

"Sec. 7. Minnesota Statutes 1990, section 221.011, is amended by adding a subdivision to read:

Subd. 33. [ARMORED CARRIER.] *"Armored carrier" means a motor carrier that transports for hire, in armored vehicles occupied by one or more armed guards, currency, coin, securities, precious metals, commercial paper, or other valuable commodities or documents under a contract of carriage.*"

Page 16, after line 16, insert:

"Sec. 10. Minnesota Statutes 1990, section 221.121, is amended by adding a subdivision to read:

Subd. 6c. [ARMORED CARRIERS.] *Notwithstanding subdivision 1, the board shall, after notice and hearing, issue a permit to operate as an armored carrier if it determines that the applicant for the permit is fit and able to conduct the proposed operations and that the applicant's vehicles meet the safety standards established by the department.*"

Page 17, line 16, delete "9" and insert "*11*"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 15, after the semicolon, insert "providing for armored carrier permits;"

Page 1, line 18, before "221.025" insert "221.011, by adding a subdivision;" and delete "and" and after the second semicolon, insert "and 221.121, by adding a subdivision;"

The motion prevailed. So the amendment was adopted.

H.F. No. 655 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 36 and nays 12, as follows:

Those who voted in the affirmative were:

Adkins	Frederickson, D.R.	Kelly	Merriam	Pariseau
Belanger	Gustafson	Knaak	Metzen	Pogemiller
Benson, J.E.	Halberg	Laidig	Moe, R.D.	Price
Bernhagen	Hottinger	Langseth	Mondale	Reichgott
Day	Hughes	Luther	Morse	
DeCramer	Johnson, D.E.	Marty	Neuville	
Flynn	Johnson, J.B.	McGowan	Novak	
Frank	Johnston	Mehrkens	Olson	

Those who voted in the negative were:

Beckman	Chmielewski	Frederickson, D.J.	Lessard	Sams
Berg	Davis	Larson	Pappas	Vickerman
Bertram	Finn			

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

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 12:

H.F. No. 12: A bill for an act relating to insurance; regulating reinsurance and other insurance practices, investments, guaranty funds, and holding company systems; providing examination authority and reporting requirements; adopting various NAIC model acts and regulations; prescribing penalties; amending Minnesota Statutes 1990, sections 60A.02, by adding a subdivision; 60A.03, subdivision 5; 60A.031; 60A.07, subdivision 5d, and by adding a subdivision; 60A.09, subdivision 5, and by adding a subdivision; 60A.10, subdivision 2a; 60A.11, subdivisions 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, and by adding a subdivision; 60A.12, by adding a subdivision; 60A.13, subdivision 1; 60A.14, subdivision 1; 60A.27; 60B.25; 60B.37, subdivision 2; 60C.02, subdivision 1; 60C.03, subdivisions 6, 8, and by adding a subdivision; 60C.04; 60C.06, subdivision 1; 60C.09, subdivision 1; 60C.13, subdivision 1; 60C.14, subdivision 2; 60E.04, subdivision 7; 61A.25, subdivisions 3, 5, 6, and by adding subdivisions; 61A.28, subdivisions 1, 2, 3, 6, 8, 11, 12, and by adding a subdivision; 61A.281, by adding a subdivision; 61A.283; 61A.29; 61A.31; 62E.14, by adding a subdivision; 61B.12, by adding subdivisions; 62D.044; 62D.045, subdivision 1; 68A.01, subdivision 2; 72A.061, subdivision 1; 79.34, subdivision 1; and 609.902, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 60A, 60D, 62A, and 72A; proposing

coding for new law as Minnesota Statutes, chapters 60H, 60I, and 60J; repealing Minnesota Statutes 1990, sections 60A.076; 60A.09, subdivision 4; 60A.12, subdivision 2; 60D.01 to 60D.08; 60D.10 to 60D.13; and 61A.28, subdivisions 4 and 5.

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

Skoglund, Winter, Knickerbocker, Hausman and Carruthers have been appointed as such committee on the part of the House.

House File No. 12 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

Mr. Luther moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 12, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 181: Messrs. Novak, Mondale and Ms. Johnson, J.B.

H.F. No. 289: Messrs. Luther, Hottinger and Larson.

H.F. No. 702: Messrs. Sams, Beckman and Renneke.

H.F. No. 887: Messrs. Berg; Frederickson, D.R. and Lessard.

H.F. No. 1142: Mr. Luther, Ms. Ranum and Mr. Halberg.

H.F. No. 12: Messrs. Luther, Solon, Larson, Hottinger and Ms. Flynn.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Messrs. Bernhagen and Johnson, D.J. were excused from the Session of today. Mr. Frederickson, D.R. was excused from the Session of today from 8:30 to 11:30 a.m. Mr. Storm was excused from the Session of today from 8:30 to 10:45 a.m. Ms. Ranum was excused from the Session of today at 12:30 p.m. Mr. Beckman was excused from the Session of today from 1:15 to 2:15 p.m. Ms. Traub was excused from the Session of today from 10:00 a.m. to 2:00 p.m. and at 6:50 p.m. Mr. Laidig was excused from the Session

of today from 8:30 a.m. to 2:00 p.m. Mr. Mondale was excused from the Session of today from 8:30 to 11:00 a.m. Mr. Dicklich was excused from the Session of today at 2:30 p.m. Mr. Davis was excused from the Session of today from 8:30 a.m. to 1:30 p.m. Mr. Halberg was excused from the Session of today from 5:30 to 6:30 p.m. Mr. Gustafson was excused from the Session of today from 5:00 to 5:30 p.m. Mr. Frederickson, D.J. was excused from the Session of today from 2:30 to 5:00 p.m. Mr. Novak was excused from the Session of today from 2:30 to 3:40 p.m. Mr. Riveness was excused from the Session of today at 7:00 p.m.

The following members were excused from today's Session for brief periods of time: Ms. Reichgott, Messrs. Price; Pogemiller; Frederickson, D.J. and Ms. Johnson, J.B.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 8:30 a.m., Saturday, May 18, 1991. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

FIFTY-SEVENTH DAY

St. Paul, Minnesota, Saturday, May 18, 1991

The Senate met at 8:30 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by Senator Pat Piper.

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

Adkins	Day	Johnson, J.B.	Metzen	Renneke
Beckman	DeCramer	Johnston	Moe, R.D.	Riveness
Belanger	Dicklich	Kelly	Mondale	Sams
Benson, D.D.	Finn	Knaak	Morse	Samuelson
Benson, J.E.	Flynn	Kroening	Neuville	Solon
Berg	Frank	Laidig	Novak	Spear
Berglin	Frederickson, D.J.	Langseth	Olson	Storm
Bernhagen	Frederickson, D.R.	Larson	Pappas	Stumpf
Bertram	Gustafson	Lessard	Pariseau	Vickerman
Brataas	Halberg	Luther	Piper	Waldorf
Chmielewski	Hottinger	Marty	Pogemiller	
Cohen	Hughes	McGowan	Price	
Dahl	Johnson, D.E.	Mehrkens	Ranum	
Davis	Johnson, D.J.	Merriam	Reichgott	

The President declared a quorum present.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 425, 837 and 811.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

Mr. President:

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

the following Senate File:

S.F. No. 525: A bill for an act relating to crimes; expanding the definition of drug free zones to include public housing property; increasing the area affected from within 300 feet to within 1,000 feet of a school or park boundary for purposes of increasing penalties for sale or possession of controlled substances; increasing penalties for sale or possession of methamphetamine ("ice"), amphetamine, and sale of marijuana, within a school zone, park zone, or public housing zone; changing the name and duties of the drug abuse prevention resource council; requiring chemical use assessments of persons convicted of felonies; amending Minnesota Statutes 1990, sections 152.01, subdivisions 12a, 14a, and by adding a subdivision; 152.021, subdivision 1; 152.022, subdivision 1; 152.023, subdivision 2; 152.024, subdivision 1; 152.029; 299A.29, subdivisions 3, 5, and by adding subdivisions; 299A.30; 299A.31, subdivision 1; 299A.32; 299A.34, subdivision 2; 299A.35; 299A.36; and 609.115, by adding a subdivision; repealing Minnesota Statutes 1990, sections 244.095; and 299A.29, subdivisions 2 and 4.

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

Vellenga, Orenstein, Marsh, Solberg and Jefferson.

Senate File No. 525 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

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. 783: A bill for an act relating to health; infectious waste control; transferring responsibility for infectious waste from the pollution control agency to the department of health; clarifying that veterinarians are also covered by the act; clarifying requirements for management and generators' plans; allowing certain medical waste to be mixed with other waste under certain conditions; creating a medical waste task force; appropriating money; amending Minnesota Statutes 1990, sections 116.76, subdivision 5; 116.77; 116.78, subdivision 4; 116.79, subdivisions 1, 3, and 4; 116.80, subdivisions 2 and 3; 116.81, subdivision 1; 116.82, subdivision 3; and 116.83; repealing Minnesota Statutes 1990, sections 116.76, subdivision 2; and 116.81, subdivision 2.

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

Dille, Kahn and Cooper.

Senate File No. 783 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

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. 785: A bill for an act relating to financial institutions; permitting interstate banking with additional reciprocating states; amending Minnesota Statutes 1990, section 48.92, subdivision 7.

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

Jacobs, Skoglund and Boo.

Senate File No. 785 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

Mr. President:

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

S.F. No. 506: A bill for an act relating to lawful gambling; lotteries; providing for teleracing and its operation and regulation; expanding requirements relating to compulsive gambling; exempting lawful gambling profits from the tax on unrelated business income; regulating manufacturers and distributors of gambling devices; changing certain requirements relating to record keeping, reports, audits, and expenditures of gambling profits by licensed gambling organizations; modifying certain licensing, training, and operating requirements for licensed gambling organizations; changing requirements relating to posting of pull-tab winners; authorizing the director of the lottery to enter into joint lotteries outside the United States; expanding certain provisions relating to lottery retailers; designating certain data on lottery prize winners as private; changing requirements relating to lottery advertising; clarifying the prohibitions on video games of chance and lotteries; authorizing dissemination of information about lotteries conducted by adjoining states; imposing surcharges on lawful gambling premises permit fees; establishing a task force on compulsive gambling assessments; appropriating money; amending Minnesota Statutes 1990, sections 240.01, subdivisions 1, 10, and by adding subdivisions; 240.02, subdivision 3; 240.03; 240.05, subdivision 1; 240.06, subdivision 1; 240.09, subdivision 2; 240.10; 240.11; 240.13, subdivisions 1, 2, 3, 4, 5, 6, and 8; 240.15, subdivision 6; 240.16, subdivision 1a; 240.18; 240.19; 240.23; 240.24, subdivision 2; 240.25; 240.27; 240.28, subdivision 1; 240.29; 245.98, by adding a subdivision; 290.05, subdivision 3; 290.92, subdivision 27; 299L.01, subdivision 1; 349.12, subdivision 25, and by adding subdivisions; 349.15; 349.151, subdivision 4; 349.154, subdivision 2; 349.16, subdivision 3; 349.165, subdivisions 1 and 3; 349.167, subdivisions 1, 2, and 4; 349.17, subdivision 5; 349.172; 349.18, subdivision 1; 349.19, subdivisions 2, 5, 9, and by adding subdivisions; 349A.02, subdivision 3; 349A.06, subdivisions 3, 5, and 11; 349A.08, by adding a subdivision;

349A.09, subdivision 2; 349A.10, subdivision 3; 609.115, by adding a subdivision; 609.75, subdivisions 1, 4, and by adding a subdivision; 609.755; 609.76, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 240; and 299L; repealing Minnesota Statutes 1990, sections 240.01, subdivision 13; 240.13, subdivision 6a; 240.14; subdivision 1a; 349.154, subdivision 3; 349A.02, subdivision 5; and 349A.03, subdivision 3.

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

Osthoff, Scheid, Brown, Sviggum and Reding.

Senate File No. 506 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

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. 764: A bill for an act relating to public safety; regulating amusement rides; requiring insurance and inspections; providing penalties; proposing coding for new law as Minnesota Statutes, chapter 184B.

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

Osthoff, Scheid and Gutknecht.

Senate File No. 764 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 977:

H.F. No. 977: A bill for an act relating to the environment; prescribing who must prevent, prepare for, and respond to worst case discharges of oil and hazardous substances; describing response plans; authorizing the commissioners of the pollution control agency and departments of agriculture and public safety to order compliance; providing for good samaritan assistance; authorizing cooperation between public and private responders; requiring the establishment of a single answering point system; authorizing citizens advisory groups; providing penalties; amending Minnesota Statutes 1990, section 116.072, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 115E.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Solberg, Pugh and Johnson, V. have been appointed as such committee

on the part of the House.

House File No. 977 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

Mr. Morse moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 977, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 218:

H.F. No. 218: A bill for an act relating to occupations and professions; requiring residential building contractors, remodelers, and specialty contractors to be licensed by the state; establishing a builders state advisory council; providing penalties; appropriating money; amending Minnesota Statutes 1990, section 45.027, subdivisions 1, 2, 5, 6, 7, and 8; proposing coding for new law in Minnesota Statutes, chapter 326.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Bauerly, Sarna and Goodno have been appointed as such committee on the part of the House.

House File No. 218 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

Mr. Dahl moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 218, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 694:

H.F. No. 694: A bill for an act relating to the environment; establishing an environmental enforcement account; establishing a field citation pilot project for unauthorized disposal of solid waste; authorizing background investigations of environmental permit applicants; expanding current authority to impose administrative penalties for air and water pollution and solid waste management violations; imposing criminal penalties for knowing violations of standards related to hazardous air pollutants and toxic pollutants

in water; providing that certain property is subject to forfeiture in connection with convictions for water pollution and air pollution violations; imposing criminal penalties for unauthorized disposal of solid waste; authorizing prosecution of environmental crimes by the attorney general; providing for environmental restitution as part of a sentence; increasing criminal penalties for false statements on documents related to permits and record keeping; requiring reports; appropriating money; amending Minnesota Statutes 1990, sections 18D.331, subdivision 4; 115.071, by adding a subdivision; 115.072; 115C.05; 116.07, subdivision 4d; 116.072, subdivisions 1, 2, 6, 10, and 11; 609.531, subdivision 1; and 609.671; proposing coding for new law in Minnesota Statutes, chapters 115 and 116.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Long, Orfield and Pauly have been appointed as such committee on the part of the House.

House File No. 694 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

Mr. Riveness moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 694, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 1072 and 1114.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

FIRST READING OF HOUSE BILLS

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

H.F. No. 1072: A bill for an act relating to energy; removing requirement for foundation insulation; providing for energy audits of rental property; requiring landlords to disclose certain energy information to prospective tenants; amending Minnesota Statutes 1990, sections 216C.27, subdivision 3; 216C.31; and 504.22, by adding a subdivision.

Referred to the Committee on Taxes and Tax Laws.

H.F. No. 1114: A bill for an act relating to state government; providing for gender balance in multimember agencies; amending Minnesota Statutes 1990, section 15.0597, by adding subdivisions.

Referred to the Committee on Rules and Administration for comparison

with S.F. No. 768, now on the Calendar.

REPORTS OF COMMITTEES

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

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

H.F. No. 871 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
871	688				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 871 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 871 and insert the language after the enacting clause of S.F. No. 688, the second engrossment; further, delete the title of H.F. No. 871 and insert the title of S.F. No. 688, the second engrossment.

And when so amended H.F. No. 871 will be identical to S.F. No. 688, and further recommends that H.F. No. 871 be given its second reading and substituted for S.F. No. 688, and that the Senate File be indefinitely postponed.

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

SECOND READING OF HOUSE BILLS

H.F. No. 871 was read the second time.

MOTIONS AND RESOLUTIONS

Mr. Hottinger introduced—

Senate Resolution No. 74: A Senate resolution congratulating the soils judging team of the Lake Crystal Wellcome Memorial FFA chapter on placing first in state competition.

Referred to the Committee on Rules and Administration.

Mr. Marty moved that S.F. No. 366, No. 3 on General Orders, be stricken and re-referred to the Committee on Commerce. The motion prevailed.

CONFIRMATION

Mr. Bertram moved that the report from the Committee on Veterans and General Legislation, reported May 13, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Bertram moved that in accordance with the report from the Committee on Veterans and General Legislation, reported May 13, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF VETERANS AFFAIRS
COMMISSIONER

Bernard Melter, 107 Village Avenue, Cannon Falls, Goodhue County, Minnesota, effective January 14, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Novak moved that the reports from the Committee on Energy and Public Utilities, reported February 11, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Novak moved that the foregoing reports be now adopted. The motion prevailed.

Mr. Novak moved that in accordance with the reports from the Committee on Energy and Public Utilities, reported February 11, 1991, the Senate, having given its advice, do now consent to and confirm the appointments of:

DEPARTMENT OF PUBLIC SERVICE
COMMISSIONER

Krista Sanda, 1945 Oakdale Avenue, West St. Paul, Dakota County, Minnesota, effective January 7, 1991, for a term expiring on the first Monday in January, 1995.

PUBLIC UTILITIES COMMISSION

Delores J. Knaak, 4243 Oakmede Lane, White Bear Lake, Ramsey County, Minnesota, effective January 7, 1991, for a term expiring on the first Monday in January, 1997.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Lessard moved that the report from the Committee on Environment and Natural Resources, reported February 14, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Lessard moved that in accordance with the report from the Committee on Environment and Natural Resources, reported February 14, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

ENVIRONMENTAL TRUST FUND
CITIZENS' ADVISORY COMMITTEE

Al Brodie, 2411 Woodland Dr., Faribault, Rice County, effective April 26, 1989, for a term expiring the first Monday in January, 1994.

Robert DeVries, 7213 Major Ave. N., Brooklyn Center, Hennepin County, effective April 26, 1989, for a term expiring the first Monday in January, 1994.

Gena Doyscher, 5801 - 216th St. N., Forest Lake, Washington County, effective April 26, 1989, for a term expiring the first Monday in January, 1992.

Ruth Fitzmaurice, 6400 York Ave. S., Edina, Hennepin County, effective April 26, 1989, for a term expiring the first Monday in January, 1992.

Jack LaVoy, 1725 Kenwood Ave., Duluth, St. Louis County, effective April 26, 1989, for a term expiring the first Monday in January, 1993.

Darby Nelson, 1013 Vera St., Champlin, Hennepin County, effective April 26, 1989, for a term expiring the first Monday in January, 1994.

John Rose, Rt. 1, Box 60, Underwood, Otter Tail County, effective April 26, 1989, for a term expiring the first Monday in January, 1992.

Joseph Sizer, 1974 Shryer Ave. W., Roseville, Ramsey County, effective April 26, 1989, for a term expiring the first Monday in January, 1993.

MINNESOTA ENVIRONMENTAL QUALITY BOARD

Pat Davies, 687 Woodridge Dr., Mendota Heights, Dakota County, effective July 11, 1990, for a term expiring the first Monday in January, 1992.

Robert Dunn, 708 - 4th St. S., Princeton, Mille Lacs County, effective January 16, 1990, for a term expiring the first Monday in January, 1994.

MINNESOTA POLLUTION CONTROL AGENCY

Russell W. Domino, 23 West Rd., Circle Pines, Anoka County, effective April 9, 1990, for a term expiring the first Monday in January, 1994.

Loni Kemp, R.R. 1, Canton, Fillmore County, effective April 24, 1990, for a term expiring the first Monday in January, 1994.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Lessard moved that the report from the Committee on Environment and Natural Resources, reported February 28, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Lessard moved that in accordance with the report from the Committee on Environment and Natural Resources, reported February 28, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

BOARD OF WATER AND SOIL RESOURCES
CHAIR

Donald Ogaard, 705 - 5th St. W., Ada, Norman County, effective January 24, 1990, for a term expiring the first Monday in January, 1994.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Metzen moved that the report from the Committee on Economic Development and Housing, reported March 7, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Metzen moved that in accordance with the report from the Committee on Economic Development and Housing, reported March 7, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT
COMMISSIONER

E. Peter Gillette, 2309 East Lake of the Isles Parkway, Minneapolis, Hennepin County, Minnesota, effective February 1, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Metzen moved that the report from the Committee on Economic Development and Housing, reported April 10, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Metzen moved that in accordance with the report from the Committee on Economic Development and Housing, reported April 10, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

IRON RANGE RESOURCES AND REHABILITATION
COMMISSIONER

Wayne L. Dalke, 808 Northeast 5th Avenue, Chisholm, St. Louis County, Minnesota, effective February 1, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Chmielewski moved that the report from the Committee on Employment, reported February 28, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Chmielewski moved that in accordance with the report from the Committee on Employment, reported February 28, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF JOBS AND TRAINING
COMMISSIONER

R. Jane Brown, 6897 Black Duck Drive, Lino Lakes, Anoka County, Minnesota, effective January 23, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Davis moved that the report from the Committee on Agriculture and Rural Development, reported April 27, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Davis moved that in accordance with the report from the Committee on Agriculture and Rural Development, reported April 27, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF AGRICULTURE
COMMISSIONER

Elton Redalen, P.O. Box 110, Fountain, Fillmore County, Minnesota, effective January 10, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Solon moved that the report from the Committee on Commerce, reported March 7, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Solon moved that in accordance with the report from the Committee on Commerce, reported March 7, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF COMMERCE
COMMISSIONER

Bert McKasy, 716 Round Hill Road, Mendota Heights, Dakota County, Minnesota, effective January 14, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Lessard moved that the report from the Committee on Environment and Natural Resources, reported March 27, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Lessard moved that in accordance with the report from the Committee on Environment and Natural Resources, reported March 27, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF NATURAL RESOURCES
COMMISSIONER

Rodney Sando, Route 1, Box 771, Chisago City, Chisago County, Minnesota, effective January 7, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Lessard moved that the report from the Committee on Environment and Natural Resources, reported March 27, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Lessard moved that in accordance with the report from the Committee on Environment and Natural Resources, reported March 27, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA POLLUTION CONTROL AGENCY
COMMISSIONER

Charles W. Williams, 5591 North Shore Drive, Duluth, St. Louis County, Minnesota, effective January 23, 1991, for a term expiring on the first Monday in January, 1995.

The question was taken on the adoption of the motion of Mr. Lessard to confirm the appointment of Charles W. Williams.

The roll was called, and there were yeas 41 and nays 16, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Johnson, D.E.	Merriam	Samuelson
Beckman	Dahl	Johnson, D.J.	Metzen	Solon
Belanger	DeCramer	Johnston	Moe, R.D.	Storm
Benson, D.D.	Frank	Knaak	Morse	Vickerman
Benson, J.E.	Frederickson, D.J.	Langseth	Olson	Waldorf
Berg	Frederickson, D.R.	Larson	Pariseau	
Bernhagen	Gustafson	Lessard	Renneke	
Bertram	Halberg	McGowan	Riveness	
Brataas	Hughes	Mehrkens	Sams	

Those who voted in the negative were:

Berglin	Johnson, J.B.	Mondale	Piper	Ranum
Cohen	Kelly	Novak	Pogemiller	Reichgott
Finn	Marty	Pappas	Price	Spear
Flynn				

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Metzen moved that the report from the Committee on Economic Development and Housing, reported April 17, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Metzen moved that in accordance with the report from the Committee on Economic Development and Housing, reported April 17, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA HOUSING FINANCE AGENCY

Robert Worthington, 10326 Colorado Road, Bloomington, Hennepin County, Minnesota, effective February 18, 1991, for a term expiring on the first Monday in January, 1995.

Demetrius G. Jelatis, 1161 Oak Street, Red Wing, Goodhue County, Minnesota, effective February 18, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Frank moved that the reports from the Committee on Metropolitan Affairs, reported April 22, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Frank moved that the foregoing reports be now adopted. The motion prevailed.

Mr. Frank moved that in accordance with the reports from the Committee on Metropolitan Affairs, reported April 22, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

METROPOLITAN COUNCIL
CHAIR

Mary Anderson, 3030 Scott Avenue North, Golden Valley, Hennepin County, Minnesota, effective January 7, 1991, for a term expiring on the first Monday in January, 1995.

REGIONAL TRANSIT BOARD
CHAIR

Michael Ehrlichmann, 433 S. 7th St., Minneapolis, Hennepin County, effective November 2, 1990, for a term expiring the first Monday in January, 1993.

REGIONAL TRANSIT BOARD

Doris Caranicas, 2425 E. Franklin Ave., Minneapolis, Hennepin County, effective August 9, 1989, for a term expiring the first Monday in January, 1993.

Terrance O'Toole, 1009 Summit Ave., St. Paul, Ramsey County, effective August 9, 1989, for a term expiring the first Monday in January, 1991.

John Finley, 1050 Mary Ln., St. Paul, MN 55117, appointed July 31,

1989, for a term ending January 1, 1993.

Richard Wedell, 1003 Richmond Ct., Shoreview, MN 55126, appointed July 31, 1989, for a term ending January 1, 1993.

Sandra Hilary, 2306 Fremont Ave. N., Minneapolis, MN 55411, appointed July 31, 1989, for a term ending January 1, 1993.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Merriam moved that the report from the Committee on Finance, reported February 28, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Merriam moved that in accordance with the report from the Committee on Finance, reported February 28, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF FINANCE
COMMISSIONER

John Gunyou, 5208 James Avenue South, Minneapolis, Hennepin County, Minnesota, effective January 7, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Waldorf moved that the report from the Committee on Governmental Operations, reported February 25, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Waldorf moved that in accordance with the report from the Committee on Governmental Operations, reported February 25, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

STATE PLANNING AGENCY
COMMISSIONER

Linda Kohl, 2161 Arcade Street, St. Paul, Ramsey County, Minnesota, effective January 7, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Waldorf moved that the reports from the Committee on Governmental Operations, reported February 28, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Waldorf moved that the foregoing reports be now adopted. The motion prevailed.

Mr. Waldorf moved that in accordance with the reports from the Committee on Governmental Operations, reported February 28, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF ADMINISTRATION
COMMISSIONER

Dana B. Badgerow, 19625 Chartwell Hill, Shorewood, Hennepin County, Minnesota, effective February 11, 1991, for a term expiring on the first Monday in January, 1995.

DEPARTMENT OF EMPLOYEE RELATIONS
COMMISSIONER

Linda Barton, 14905 Oak Ridge Court West, Burnsville, Dakota County, Minnesota, effective January 29, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Johnson, D.J. moved that the report from the Committee on Taxes and Tax Laws, reported May 16, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Johnson, D.J. moved that the foregoing report be now adopted. The motion prevailed.

Mr. Johnson, D.J. moved that in accordance with the report from the Committee on Taxes and Tax Laws, reported May 16, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

TAX COURT

Kathleen Doar, 1617 West 25th Street, Minneapolis, Hennepin County, Minnesota, effective May 6, 1991, for a term expiring on the first Monday in January, 1997.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Johnson, D.J. moved that the report from the Committee on Taxes and Tax Laws, reported March 14, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Johnson, D.J. moved that the foregoing report be now adopted. The motion prevailed.

Mr. Johnson, D.J. moved that in accordance with the report from the Committee on Taxes and Tax Laws, reported March 14, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF REVENUE
COMMISSIONER

Dorothy McClung, 4370 Snelling Avenue North, St. Paul, Ramsey County, Minnesota, effective January 7, 1991, for a term expiring on the

first Monday in January, 1995.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Berg moved that the report from the Committee on Gaming Regulation, reported April 23, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Berg moved that in accordance with the report from the Committee on Gaming Regulation, reported April 23, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

GAMBLING CONTROL BOARD

Sally Howard, 1201 Yale Pl., Minneapolis, Hennepin County, effective November 12, 1989, for a term expiring June 30, 1992.

Anthony Thomas, Sr., 5544 - 34th Ave. S., Minneapolis, Hennepin County, effective July 4, 1990, for a term expiring June 30, 1994.

Nicholas Zuber, 25 S. 26th Ave. E., Duluth, St. Louis County, effective February 10, 1990, for a term expiring June 30, 1992.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. DeCramer moved that the reports from the Committee on Transportation, reported May 3, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. DeCramer moved that the foregoing reports be now adopted. The motion prevailed.

Mr. DeCramer moved that in accordance with the reports from the Committee on Transportation, reported May 3, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF TRANSPORTATION
COMMISSIONER

John H. Riley, 3411 Cypress Drive, Falls Church, Virginia, effective January 10, 1991, for a term expiring on the first Monday in January, 1995.

TRANSPORTATION REGULATION BOARD

Richard Helgeson, 13516 Clinton Place, Burnsville, Dakota County, Minnesota, effective January 7, 1991, for a term expiring on the first Monday in January, 1997.

Lorraine Mayasich, 3421 Kent St., Shoreview, Ramsey County, effective January 24, 1989, for a term expiring the first Monday in January, 1995.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Dahl moved that the reports from the Committee on Education, reported May 6, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Dahl moved that the foregoing reports be now adopted. The motion prevailed.

Mr. Dahl moved that in accordance with the reports from the Committee on Education, reported May 6, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF EDUCATION
COMMISSIONER

Gene Mammenga, 2172 Woodlyn Avenue, Maplewood, Ramsey County, Minnesota, effective January 7, 1991, for a term expiring on the first Monday in January, 1995.

BOARD OF THE MINNESOTA CENTER FOR ARTS EDUCATION

H. Theodore Grindal, 9517 Bennett Pl., Eden Prairie, Hennepin County, effective April 2, 1990, for a term expiring the first Monday in January, 1994.

STATE BOARD FOR COMMUNITY COLLEGES

Ann M. Kruchten, 601 114th Avenue Northwest, Coon Rapids, Anoka County, Minnesota, effective April 7, 1991, for a term expiring on the first Monday in January, 1993.

STATE UNIVERSITY BOARD

William C. Ulland, 1831 South Lake Avenue, Duluth, St. Louis County, Minnesota, effective February 18, 1991, for a term expiring on the first Monday in January, 1995.

Jerry Serfling, 2388 Hidden Valley Lane, Stillwater, Washington County, Minnesota, effective February 18, 1991, for a term expiring on the first Monday in January, 1995.

Corey R. Elmer, 509 State Street, Evansville, Douglas County, Minnesota, effective February 18, 1991, for a term expiring on the first Monday in January, 1993.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Dahl moved that the reports from the Committee on Education, reported May 13, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Dahl moved that the foregoing reports be now adopted. The motion prevailed.

Mr. Dahl moved that in accordance with the reports from the Committee on Education, reported May 13, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

BOARD OF THE MINNESOTA CENTER FOR ARTS EDUCATION

William Jones, 4900 Prescott Cir., Edina, Hennepin County, effective January 4, 1991, for a term expiring the first Monday in January, 1992.

Jonelle Moore, Rt. 1, Box 63, Winona, Winona County, effective April 24, 1990, for a term expiring the first Monday in January, 1994.

Harry A. Sieben, Jr., 90 Valley Ln., Hastings, Dakota County, effective April 2, 1990, for a term expiring the first Monday in January, 1994.

Steven Watson, 4424 W. 70th St., Edina, Hennepin County, effective November 2, 1990, for a term expiring the first Monday in January, 1993.

MINNESOTA HIGHER EDUCATION COORDINATING BOARD

Robert D. Decker, Ph.D., 13321 Wildwood Road Northeast, Bemidji, Beltrami County, Minnesota, effective February 18, 1991, for a term expiring on the first Monday in January, 1997.

Verne E. Long, Rural Route 1, Box 162, Pipestone, Pipestone County, Minnesota, effective February 18, 1991, for a term expiring on the first Monday in January, 1997.

MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY

Tom Martinson, 4536 Oxford Ave., Edina, Hennepin County, effective August 29, 1990, for a term expiring the first Monday in January, 1992.

STATE BOARD FOR COMMUNITY COLLEGES

Robert M. Bigwood, Hoot Lake Drive, Route 6, Fergus Falls, Otter Tail County, Minnesota, effective April 7, 1991, for a term expiring on the first Monday in January, 1995.

Stephen Lloyd Maxwell, 882 Carroll Avenue, St. Paul, Ramsey County, Minnesota, effective April 7, 1991, for a term expiring on the first Monday in January, 1995.

STATE BOARD OF TECHNICAL COLLEGES

Robert L. Cahlander, 4315 Southview Ridge, Red Wing, Goodhue County, Minnesota, effective March 25, 1991, for a term expiring on the first Monday in January, 1995.

F. B. Daniel, 2056 Timmy Street, Mendota Heights, Dakota County, Minnesota, effective March 25, 1991, for a term expiring on the first Monday in January, 1995.

Gary Mohrenweiser, 12772 Gordon Dr., Eden Prairie, Hennepin County, effective July 4, 1990, for a term expiring the first Monday in January, 1993.

Billeigh H. Riser, 2205 Hazelwood, Maplewood, Ramsey County, Minnesota, effective March 25, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Lessard moved that the reports from the Committee on Environment and Natural Resources, reported May 6, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Lessard moved that the foregoing reports be now adopted. The motion prevailed.

Mr. Lessard moved that in accordance with the reports from the Committee on Environment and Natural Resources, reported May 6, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

ENVIRONMENTAL TRUST FUND
CITIZENS' ADVISORY COMMITTEE

C. Merle Anderson, Route 1, Box 171, St. James, Watonwan County, Minnesota, effective February 18, 1991, for a term expiring on the first Monday in January, 1995.

Christine Susan Kneeland, 5256 Oxford Street, Shoreview, Ramsey County, Minnesota, effective February 18, 1991, for a term expiring on the first Monday in January, 1995.

Patricia Baker, 3316 West 34-1/2 Street, Minneapolis, Hennepin County, Minnesota, effective February 18, 1991, for a term expiring on the first Monday in January, 1995.

MINNESOTA ENVIRONMENTAL QUALITY BOARD

Carolyn E. Engebretson, HC 10, Box 93, Rochert, Becker County, Minnesota, effective March 6, 1991, for a term expiring on the first Monday in January, 1995.

Edward C. Oliver, 20230 Cottagewood Road, Deephaven, Hennepin County, Minnesota, effective March 6, 1991, for a term expiring on the first Monday in January, 1995.

OFFICE OF WASTE MANAGEMENT
DIRECTOR

Dottie M. Rietow, 1317 Kilmer Avenue South, St. Louis Park, Hennepin County, Minnesota, effective April 7, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointments were confirmed.

RECONSIDERATION

Having voted on the prevailing side, Ms. Pappas moved that the vote whereby the appointment of Richard Helgeson to the Transportation Regulation Board was confirmed by the Senate on May 18, 1991, be now reconsidered.

Mr. Knaak raised a point of order that the reconsideration motion would apply to all three appointees included in the motion of Mr. DeCramer to confirm.

The President ruled that the point was well taken.

The question was taken on the adoption of the motion of Ms. Pappas.

The roll was called, and there were yeas 16 and nays 40, as follows:

Those who voted in the affirmative were:

Berglin	Johnson, D.J.	Marty	Pogemiller	Riveness
Cohen	Johnson, J.B.	Novak	Price	Spear
Davis	Kelly	Pappas	Reichgott	Vickerman
Frank				

Those who voted in the negative were:

Adkins	Chmielewski	Hottinger	Larson	Morse
Beckman	Dahl	Hughes	Lessard	Neuville
Belanger	Day	Johnson, D.E.	McGowan	Olson
Benson, D.D.	DeCramer	Johnston	Mehrkens	Pariseau
Benson, J.E.	Frederickson, D.J.	Knaak	Merriam	Ranum
Bernhagen	Frederickson, D.R.	Kroening	Metzen	Renneke
Bertram	Gustafson	Laidig	Moe, R.D.	Sams
Brataas	Halberg	Langseth	Mondale	Storm

The motion did not prevail.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Stumpf moved that the following members be excused for a Conference Committee on S.F. No. 1535 at 9:30 a.m.:

Messrs. Dicklich, Stumpf, Waldorf, Mrs. Brataas and Ms. Piper. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Marty moved that the following members be excused for a Conference Committee on H.F. No. 20 at 11:00 a.m.:

Messrs. Belanger, Marty and Metzen. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

CONFIRMATION

Mr. Chmielewski moved that the reports from the Committee on Employment, reported May 13, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Chmielewski moved that the foregoing reports be now adopted. The motion prevailed.

Mr. Chmielewski moved that in accordance with the reports from the Committee on Employment, reported May 13, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

BUREAU OF MEDIATION SERVICES
COMMISSIONER

Peter E. Obermeyer, 5913 Hansen Road, Edina, Hennepin County, Minnesota, effective March 4, 1991, for a term expiring on the first Monday in January, 1995.

WORKERS' COMPENSATION COURT OF APPEALS

Steven D. Wheeler, 101 Norman Ridge Drive, Bloomington, Hennepin County, Minnesota, effective March 20, 1991, for a term expiring on the first Monday in January, 1997.

Debra A. Wilson, 2153 Highland Parkway, St. Paul, Ramsey County, Minnesota, effective March 20, 1991, for a term expiring on the first Monday in January, 1997.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Spear moved that the appointments of notaries public, received March 25, 1991, be taken from the table. The motion prevailed.

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 793 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 793

A bill for an act relating to the environment; establishing maximum content levels of mercury in batteries; prohibiting certain batteries; amending Minnesota Statutes 1990, sections 115A.9155, subdivision 2; 325E.125, subdivision 2, and by adding a subdivision; and 325E.1251.

May 16, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 793, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 793 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115A.9155, subdivision 2, is amended to read:

Subd. 2. [MANUFACTURER RESPONSIBILITY.] (a) A manufacturer of batteries subject to subdivision 1 shall:

(1) ensure that a system for the proper collection, transportation, and processing of waste batteries exists for purchasers in Minnesota; and

(2) clearly inform each *final* purchaser of the prohibition on disposal of waste batteries and of the system or systems for proper collection, transportation, and processing of waste batteries available to the purchaser.

(b) To ensure that a system for the proper collection, transportation, and processing of waste batteries exists, a manufacturer shall:

(1) identify collectors, transporters, and processors for the waste batteries and contract or otherwise expressly agree with a person or persons for the proper collection, transportation, and processing of the waste batteries; or

(2) accept waste batteries returned to its manufacturing facility.

(c) *At the time of sale of a battery subject to subdivision 1, a manufacturer shall provide in a clear and conspicuous manner a telephone number that*

the final consumer of the battery can call to obtain information on specific procedures to follow in returning the battery for recycling or proper disposal.

The manufacturer may include the telephone number and notice of return procedures on an invoice or other transaction document held by the purchaser. The manufacturer shall provide the telephone number to the commissioner of the agency.

(d) A manufacturer shall ensure that the cost of proper collection, transportation, and processing of the waste batteries is included in the sales transaction or agreement between the manufacturer and any purchaser.

~~(d)~~ *(e)* A manufacturer that has complied with this subdivision is not liable under subdivision 1 for improper disposal by a person other than the manufacturer of waste batteries.

Sec. 2. [115A.9157] [RECHARGEABLE BATTERIES AND PRODUCTS.]

Subdivision 1. [DEFINITION.] *For the purpose of this section "rechargeable battery" means a sealed nickel-cadmium battery, a sealed lead acid battery, or any other rechargeable battery, except a rechargeable battery governed by section 115A.9155 or exempted by the commissioner under subdivision 9.*

Subd. 2. [PROHIBITION.] *Effective August 1, 1991, a person may not place in mixed municipal solid waste a rechargeable battery, a rechargeable battery pack, a product with a nonremovable rechargeable battery, or a product powered by rechargeable batteries or rechargeable battery pack, from which all batteries or battery packs have not been removed.*

Subd. 3. [COLLECTION AND MANAGEMENT COSTS.] *A manufacturer of rechargeable batteries or products powered by rechargeable batteries is responsible for the costs of collecting and managing its waste rechargeable batteries and waste products to ensure that the batteries are not part of the solid waste stream.*

Subd. 4. [PILOT PROJECTS.] *By April 15, 1992, manufacturers whose rechargeable batteries or products powered by nonremovable rechargeable batteries are sold in this state shall implement pilot projects for the collection and proper management of all rechargeable batteries and the participating manufacturers' products powered by nonremovable rechargeable batteries. Manufacturers may act as a group or through a representative organization. The pilot projects must run for a minimum of 18 months and be designed to collect sufficient statewide data for the design and implementation of permanent collection and management programs that may be reasonably expected to collect at least 90 percent of waste rechargeable batteries and the participating manufacturers' products powered by rechargeable batteries that are generated in the state.*

By December 1, 1991, the manufacturers or their representative organization shall submit plans for the projects to the legislative commission. At least every six months during the pilot projects the manufacturers shall submit progress reports to the commission. The commission shall review the plans and progress reports.

By November 1, 1993, the manufacturers or their representative organization shall report to the legislative commission the final results of the projects and plans for implementation of permanent programs. The commission shall review the final results and plans.

Subd. 5. [COLLECTION AND MANAGEMENT PROGRAMS.] *By April 15, 1994, the manufacturers or their representative organization shall implement permanent programs, based on the results of the pilot projects required in subdivision 3, that may be reasonably expected to collect 90 percent of the waste rechargeable batteries and the participating manufacturers' products powered by rechargeable batteries that are generated in the state. The batteries and products collected must be recycled or otherwise managed or disposed of properly.*

Subd. 6. [LIST OF PARTICIPANTS.] *A manufacturer or its representative organization shall inform the legislative commission on waste management when they begin participating in the projects and programs and immediately if they withdraw participation. The list of participants shall be available to retailers, distributors, governmental agencies, and other interested persons who provide a self-addressed stamped envelope to the commission.*

Subd. 7. [CONTRACTS.] *A manufacturer or a representative organization of manufacturers may contract with the state or a political subdivision to provide collection services under this section. The manufacturer or organization shall fully reimburse the state or political subdivision for the value of any contractual services rendered under this subdivision.*

Subd. 8. [ANTICOMPETITIVE CONDUCT.] *A manufacturer or organization of manufacturers and its officers, members, employees, and agents who participate in projects or programs to collect and properly manage waste rechargeable batteries or products powered by rechargeable batteries are immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce for activities related to the collection and management of batteries and products required under this section.*

Subd. 9. [EXEMPTIONS.] *To ensure that new types of batteries do not add additional hazardous or toxic materials to the mixed municipal solid waste stream, the commissioner of the agency may exempt a new type of rechargeable battery from the requirements of this section if it poses no unreasonable hazard when placed in and processed or disposed of as part of a mixed municipal solid waste.*

Sec. 3. Minnesota Statutes 1990, section 325E.125, subdivision 2, is amended to read:

Subd. 2. [MERCURY CONTENT.] (a) *Except as provided in paragraph (c),* a manufacturer may not sell, distribute, or offer for sale in this state an alkaline manganese battery that contains more than ~~.30 percent mercury by weight, or after February 1, 1992,~~ 0.025 percent mercury by weight.

(b) On application ~~by a manufacturer~~, the commissioner of the pollution control agency may exempt a specific type of battery from the requirements of paragraph (a) *or (d)* if there is no battery meeting the requirements that can be reasonably substituted for the battery for which the exemption is sought. ~~The manufacturer of~~ A battery exempted by the commissioner under this paragraph is subject to the requirements of section 115A.9155, subdivision 2.

(c) Notwithstanding paragraph (a), a manufacturer may not sell, distribute, or offer for sale in this state ~~after January 1, 1992,~~ a button cell ~~alkaline manganese~~ *nonrechargeable* battery *not subject to paragraph (a)* that contains more than 25 milligrams of mercury.

(d) A manufacturer may not sell, distribute, or offer for sale in this state a dry cell battery containing a mercuric oxide electrode.

(e) After January 1, 1996, a manufacturer may not sell, distribute, or offer for sale in this state an alkaline manganese battery, except an alkaline manganese button cell, that contains mercury unless the commissioner of the pollution control agency determines that compliance with this requirement is not technically and commercially feasible.

Sec. 4. Minnesota Statutes 1990, section 325E.125, is amended by adding a subdivision to read:

Subd. 2a. [APPROVAL OF NEW BATTERIES.] *A manufacturer may not sell, distribute, or offer for sale in this state a nonrechargeable battery other than a zinc air, zinc carbon, silver oxide, lithium, or alkaline manganese battery, without first having received approval of the battery from the commissioner of the pollution control agency. The commissioner shall approve only batteries that comply with subdivision 1 and do not pose an undue hazard when disposed of. This subdivision is intended to ensure that new types of batteries do not add additional hazardous or toxic materials to the state's mixed municipal waste stream.*

Sec. 5. Minnesota Statutes 1990, section 325E.125, is amended by adding a subdivision to read:

Subd. 4. [RECHARGEABLE BATTERIES AND PRODUCTS; NOTICE.] *(a) A person who sells rechargeable batteries or products powered by rechargeable batteries governed by section 115A.9157 at retail shall post the notice in paragraph (b) in a manner clearly visible to a consumer making purchasing decisions.*

(b) The notice must be at least 4 inches by 6 inches and state:

'ATTENTION USERS OF RECHARGEABLE BATTERIES AND CORDLESS PRODUCTS:

Under Minnesota law, manufacturers of rechargeable batteries, rechargeable battery packs, and products powered by nonremovable rechargeable batteries will provide a special collection system for these items by April 15, 1994. It is illegal to put rechargeable batteries in the garbage. Use the special collection system that will be provided in your area. Take care of our environment.

DO NOT PUT RECHARGEABLE BATTERIES OR PRODUCTS POWERED BY NONREMOVABLE RECHARGEABLE BATTERIES IN THE GARBAGE.'

(c) Notice is not required for home solicitation sales, as defined in section 325G.06, or for catalogue sales.

Sec. 6. Minnesota Statutes 1990, section 325E.125, is amended by adding a subdivision to read:

Subd. 5. [PROHIBITIONS.] *A manufacturer of rechargeable batteries or products powered by rechargeable batteries that does not participate in the pilot projects and programs required in section 115A.9157 may not sell, distribute, or offer for sale in this state rechargeable batteries or products powered by rechargeable batteries after January 1, 1992.*

After January 1, 1992, a person who first purchases rechargeable batteries or products powered by rechargeable batteries for importation into the state for resale may not purchase rechargeable batteries or products

powered by rechargeable batteries made by any person other than a manufacturer that participates in the projects and programs required under section 115A.9157.

Sec. 7. Minnesota Statutes 1990, section 325E.1251, is amended to read:

325E.1251 [PENALTY *ENFORCEMENT.*]

Subdivision 1. [PENALTY.] Violation of sections 115A.9155 and 325E.125 is a misdemeanor. A manufacturer who violates section 115A.9155 or 325E.125 is also subject to a minimum fine of $100 per violation.

Subd. 2. [RECOVERY OF COSTS.] *In an enforcement action under this section in which the state prevails, the state may recover reasonable administrative expenses, court costs, and attorney fees incurred to take the enforcement action, in an amount to be determined by the court.*

Sec. 8. [EFFECTIVE DATES.]

(a) Section 3, paragraphs (a), (b), and (d), are effective February 1, 1992, and apply to batteries manufactured on or after that date.

(b) For zinc air batteries that exceed 100 milligrams in weight, section 3, paragraph (c), is effective February 1, 1993, and applies to batteries manufactured on or after that date.

(c) For all other batteries, section 3, paragraph (c), is effective August 1, 1991, and applies to batteries manufactured on or after that date. Section 3, paragraph (e), applies to batteries manufactured on or after January 1, 1996."

Delete the title and insert:

"A bill for an act relating to the environment; establishing maximum content levels of mercury in batteries; prohibiting certain batteries; prohibiting the disposal of rechargeable batteries in mixed municipal solid waste; requiring a notice to consumers; amending Minnesota Statutes 1990, sections 115A.9155, subdivision 2; 325E.125, subdivision 2, and by adding subdivisions; and 325E.1251; proposing coding for new law in Minnesota Statutes, chapter 115A."

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

Senate Conferees: (Signed) Gregory L. Dahl, Gene Merriam, Gary W. Laidig

House Conferees: (Signed) Jean Wagenius, Bob Johnson, Sidney Pauly

Mr. Dahl moved that the foregoing recommendations and Conference Committee Report on S.F. No. 793 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. 793 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 46 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Johnson, J.B.	Mondale	Renneke
Beckman	Flynn	Johnston	Morse	Riveness
Benson, D.D.	Frank	Kelly	Neuville	Sams
Benson, J.E.	Frederickson, D.J.	Kroening	Novak	Spear
Berglin	Frederickson, D.R.	Laidig	Olson	Storm
Bernhagen	Gustafson	Lessard	Pappas	Vickerman
Bertram	Halberg	Luther	Pariseau	
Cohen	Hughes	McGowan	Pogemiller	
Dahl	Johnson, D.E.	Mehrkens	Price	
Davis	Johnson, D.J.	Moe, R.D.	Reichgott	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 880 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 880

A bill for an act relating to checks; increasing bank verification requirements for opening checking accounts; prohibiting service charges for dishonored checks on persons other than the issuer; regulating check numbering procedures; requiring the commissioner of commerce to adopt rules regarding verification procedure requirements; modifying procedures and liability for civil restitution for holders of worthless checks; authorizing service charges for use of law enforcement agencies; clarifying criminal penalties; increasing information that banks must provide to holders of worthless checks; imposing penalties; amending Minnesota Statutes 1990, sections 48.512, subdivisions 3, 4, 5, 7, and by adding subdivisions; 332.50, subdivisions 1 and 2; and 609.535, subdivisions 2a and 7.

May 16, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 880, 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. 880 be further amended as follows:

Page 2, line 12, reinstate the stricken language and delete the new language

Page 3, line 34, after "*charge*" insert "*in excess of $4*"

Page 4, line 8, after the period, insert "*This subdivision no longer applies after the account has been open and in good standing for one year.*"

Page 4, line 11, delete "RULES" and insert "POWERS"

Page 4, after line 19, insert:

"Sec. 7. [48.513] [FINANCIAL INTERMEDIARY FEES.]

A financial intermediary may charge a fee for the assembly, production, and copying of records requested under chapter 13A, not to exceed the schedule established from time to time by the Federal Reserve System under

Regulation S, Code of Federal Regulations, title 12, part 219, except that a fee may not be imposed if the records are requested by a law enforcement agency or prosecuting authority. This section does not apply to requests made under section 609.535. For purposes of this section, "financial intermediary" has the meaning given in section 48.512, subdivision 1."

Page 4, lines 27 and 28, delete "*and includes*" and insert "*but does not include*"

Page 4, line 29, delete "*no valid*" and insert "*a good faith*"

Page 5, line 6, before "amount" insert "*aggregate*" and strike "the check" and insert "*dishonored checks issued by the issuer to all payees within a six-month period*"

Page 5, line 8, before "*Before*" insert "*If the amount of the dishonored check plus any service charges that have been incurred under paragraph (d) or (e) have not been paid within 30 days after having mailed a notice of dishonor in compliance with subdivision 3 but*"

Page 5, line 13, before "*Before*" insert "*After notice has been sent but*"

Page 5, line 17, delete everything after "*if*" and insert "*provided for under paragraph (a), clause (3).*"

Page 5, line 22, delete "*$15*" and insert "*$20*"

Page 5, after line 35, insert:

"Sec. 10. Minnesota Statutes 1990, section 349.2127, subdivision 7, is amended to read:

Subd. 7. [CHECKS FOR GAMBLING PURCHASES.] An organization may not accept checks in payment for the purchase of any gambling equipment or for the chance to participate in any form of lawful gambling. *This subdivision does not apply to gaming activities conducted pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.*"

Page 6, after line 20, insert:

"Sec. 12. Minnesota Statutes 1990, section 609.535, subdivision 6, is amended to read:

Subd. 6. [RELEASE OF ACCOUNT INFORMATION TO LAW ENFORCEMENT AUTHORITIES.] A drawee shall release the information specified below to any state, county, or local law enforcement or prosecuting authority which certifies in writing that it is investigating or prosecuting a complaint against the drawer under this section or section 609.52, subdivision 2, clause (3)(a), and that 15 days have elapsed since the mailing of the notice of dishonor required by subdivisions 3 and 8. This subdivision applies to the following information relating to the drawer's account:

(1) Documents relating to the opening of the account by the drawer;

(2) Notices regarding nonsufficient funds, overdrafts, and the dishonor of any check drawn on the account within a period of six months of the date of request;

(3) Periodic statements mailed to the drawer by the drawee for the periods immediately prior to, during, and subsequent to the issuance of any check which is the subject of the investigation or prosecution; or

(4) The last known home and business addresses and telephone numbers

of the drawer.

The drawee shall release all of the information described in clauses (1) to (4) that it possesses within ten days after receipt of a request conforming to all of the provisions of this subdivision. The drawee may *not* impose a ~~reasonable~~ fee for ~~the cost for~~ furnishing this information to law enforcement or prosecuting authorities~~, not to exceed 15 cents per page~~.

A drawee is not liable in a criminal or civil proceeding for releasing information in accordance with this subdivision."

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 4, delete "prohibiting" and insert "limiting"

Page 1, line 6, delete "requiring" and insert "giving"

Page 1, line 7, delete "to adopt rules" and insert "enforcement powers"

Page 1, line 11, after the semicolon, insert "regulating fees; authorizing checks for gambling under the Indian Gaming Regulatory Act;"

Page 1, line 16, before the second "and" insert "349.2127, subdivision 7;"

Page 1, line 17, after "2a" insert ", 6," and before the period, insert "; proposing coding for new law in Minnesota Statutes, chapter 48"

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

Senate Conferees: (Signed) Allan H. Spear, Carl W. Kroening, Patrick D. McGowan

House Conferees: (Signed) Wally Sparby, Kris Hasskamp, Donald L. Frerichs

Mr. Spear moved that the foregoing recommendations and Conference Committee Report on S.F. No. 880 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. 880 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 45 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Hottinger	Luther	Pogemiller
Beckman	Day	Hughes	McGowan	Price
Benson, D.D.	Finn	Johnson, D.J.	Mehrkens	Reichgott
Berglin	Flynn	Johnson, J.B.	Mondale	Renneke
Bernhagen	Frank	Johnston	Morse	Riveness
Bertram	Frederickson, D.J.	Kroening	Neuville	Sams
Brataas	Frederickson, D.R.	Laidig	Novak	Spear
Cohen	Gustafson	Larson	Pappas	Storm
Dahl	Halberg	Lessard	Pariseau	Vickerman

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

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

House File No. 21 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 21

A bill for an act relating to waste management; requiring air emission permits for new or expanded infectious waste incinerators; requiring environmental impact statements for the incinerators until new rules are adopted; proposing coding for new law in Minnesota Statutes, chapter 116.

May 16, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 21, 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. 21 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section. 1. [116.801] [INCINERATION OF INFECTIOUS WASTE; PERMIT REQUIRED.]

(a) Except as provided in paragraph (b), a person may not construct, or expand the capacity of, a facility for the incineration of infectious waste, as defined in section 116.76, without having obtained an air emission permit from the agency.

(b) This section does not affect permit requirements under the rules of the agency for an incinerator that is upgraded to meet pollution control standards or an incinerator with a capacity of 350 pounds or less per hour that is planned to manage waste generated primarily by the owner or operator of the incinerator.

Sec. 2. [INCINERATION OF INFECTIOUS WASTE; ENVIRONMENTAL IMPACT.]

Until the pollution control agency adopts revisions to its air emission rules for incinerators, a new or expanded facility for the incineration of infectious waste that is subject to the permit requirement in section 1 may

not receive a permit until an environmental impact statement for the facility has been prepared and approved. The pollution control agency is the governmental unit responsible for preparation of an environmental impact statement required under this section.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective March 1, 1991, and applies to construction begun on or after that date. Section 2 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to waste management; requiring air emission permits for new or expanded infectious waste incinerators; requiring environmental impact statements for the incinerators until new rules are adopted; proposing coding for new law in Minnesota Statutes, chapter 116."

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

House Conferees: (Signed) Jeff Bertram, Bob McEachern, Tony Onnen

Senate Conferees: (Signed) Joe Bertram, Sr., John Bernhagen, Janet B. Johnson

Mr. Bertram moved that the foregoing recommendations and Conference Committee Report on H.F. No. 21 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. 21 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 34 and nays 30, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Kelly	Mondale	Riveness
Beckman	DeCramer	Knaak	Morse	Sams
Berglin	Finn	Kroening	Novak	Samuelson
Bernhagen	Frederickson, D.J.	Langseth	Pappas	Solon
Bertram	Hottinger	Marty	Piper	Stumpf
Chmielewski	Johnson, D.J.	Metzen	Price	Vickerman
Cohen	Johnson, J.B.	Moe, R.D.	Ranum	

Those who voted in the negative were:

Belanger	Day	Hughes	McGowan	Pogemiller
Benson, D.D.	Flynn	Johnson, D.E.	Mehrkens	Reichgott
Benson, J.E.	Frank	Johnston	Merriam	Renneke
Berg	Frederickson, D.R.	Laidig	Neuville	Spear
Brataas	Gustafson	Larson	Olson	Storm
Dahl	Halberg	Luther	Pariseau	Waldorf

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. 1549,

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

House File No. 1549 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1549

A resolution memorializing the President and the Congress of the United States to take action to alleviate the crisis in the Midwest dairy industry.

May 16, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1549, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

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

House Conferees: (Signed) Stephen G. Wenzel, Bernie Omann, Jeff Bertram

Senate Conferees: (Signed) Dallas C. Sams, Joe Bertram, Sr., Charles R. Davis

Mr. Sams moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1549 be now adopted, and that the resolution be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1549 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 resolution, as amended by the Conference Committee.

The roll was called, and there were yeas 39 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Hottinger	Marty	Ranum
Beckman	Davis	Hughes	Mehrkens	Reichgott
Berg	Day	Johnson, J.B.	Moe, R.D.	Riveness
Berglin	DeCramer	Laidig	Neuville	Sams
Bernhagen	Flynn	Langseth	Novak	Spear
Bertram	Frank	Larson	Pappas	Vickerman
Chmielewski	Frederickson, D.J.	Lessard	Pogemiller	Waldorf
Cohen	Frederickson, D.R.	Luther	Price	

So the resolution, 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. 53, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 53 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 53

A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and other agencies with certain conditions; providing for regulation of certain activities and practices; providing for certain rights-of-way; requiring studies and reports; fixing and limiting accounts and fees; amending Minnesota Statutes 1990, sections 10A.02, by adding a subdivision; 12.14; 15A.081, subdivision 1; 16A.662, subdivisions 2, 4, and 5; 41A.09, subdivision 3; 60A.14, subdivision 1; 60A.17, subdivision 1d; 72B.04, subdivision 7; 80C.04, subdivision 1; 80C.07; 80C.08, subdivision 1; 82.22, subdivisions 1, 5, 10, and 11; 115C.09, by adding a subdivision; 129D.04, by adding subdivisions; 129D.05; 138.91; 138.94; 162.02, subdivision 12; 168C.04; 171.06, subdivision 2a; 171.26; 182.651, by adding subdivisions; 182.661, subdivisions 1, 2, 2a, 3, 3a, and by adding subdivisions; 182.664, subdivisions 3 and 5; 182.666, subdivisions 1, 2, 3, 4, 5, and 5a; 182.669, subdivision 1; 184.28, subdivision 2; 184.29; 184A.09; 239.78; 240.02, subdivisions 2 and 3; 240.06, subdivision 8; 240.155; 240.28; 297B.09, subdivision 1; 299F.57, subdivision 1a; 299F.641, subdivision 2; 299K.07; 299K.09, subdivision 2; 336.9-413; 349.12, subdivision 10; 349.151, subdivision 2; 349A.01, subdivisions 5 and 9; 349A.02, subdivision 1; 349A.03, subdivision 1; 349A.10, subdivision 5; and 626.861, subdivisions 1 and 4; Laws 1989, chapter 269, sections 11, subdivision 7; and 31; repealing Minnesota Statutes 1990, sections 182.664, subdivision 2; 240.01, subdivision 15; 349.12, subdivision 12; 349A.01, subdivisions 3, 4, and 6; and 349B.01; and Laws 1989, chapter 322, section 7.

May 17, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 53, 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. 53 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [TRANSPORTATION AND OTHER AGENCIES;

APPROPRIATIONS.]

The sums shown 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 act, to be available for the fiscal years indicated for each purpose. The figures "1991," "1992," and "1993," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1991, June 30, 1992, or June 30, 1993, respectively.

SUMMARY BY FUND

	1992	1993	TOTAL
General	$138,143,000	$138,452,000	$276,595,000
Airports	16,069,000	15,818,000	31,887,000
C.S.A.H.	240,000,000	242,000,000	482,000,000
Environmental	461,000	465,000	926,000
Highway User	12,041,000	11,974,000	24,015,000
M.S.A.S.	66,000,000	67,000,000	133,000,000
Special Revenue	2,776,000	2,819,000	5,595,000
Trunk Highway	792,101,000	822,912,000	1,615,013,000
Workers' Compensation	10,839,000	11,229,000	22,068,000
Transfers to Other			
Direct	(2,769,000)	(2,789,000)	(5,558,000)
TOTAL	1,275,661,000	1,309,880,000	2,585,541,000

		APPROPRIATIONS Available for the Year Ending June 30	
		1992	1993
Sec. 2. TRANSPORTATION			
Subdivision 1. Total Appropriation		1,058,366,000	1,091,555,000
Approved Complement -	4,802		
General -	14		
State Airports -	43		
Trunk Highway -	4,735		
Federal -	10		

The appropriations in this section are from the trunk highway fund, except when another fund is named.

	Summary by Fund	
General	8,701,000	8,683,000
Airports	16,069,000	15,818,000
C.S.A.H.	240,000,000	242,000,000
Environmental	200,000	200,000
M.S.A.S.	66,000,000	67,000,000

Trunk Highway	727,316,000	757,774,000
Special Revenue	80,000	80,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Aeronautics	15,814,000	15,562,000

This appropriation is from the state airports fund.

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Airport Development and Assistance

1992	1993
11,892,000	11,645,000

$1,749,000 the first year and $1,752,000 the second year are for navigational aids.

$6,089,000 the first year and $6,089,000 the second year are for airport construction grants.

$1,773,000 the first year and $1,773,000 the second year are for airport maintenance grants.

If the appropriation for either year for navigational aids, airport construction grants, or airport maintenance grants is insufficient, the appropriation for the other year is available for it. The appropriations for construction grants and maintenance grants must be expended only for grant-in-aid programs for airports that are not state owned.

These appropriations must be expended in accordance with Minnesota Statutes, section 360.305, subdivision 4.

The commissioner of transportation may transfer unencumbered balances among the appropriations for airport development and assistance with the approval of the governor after consultation with the legislative advisory commission.

$8,000 the first year and $8,000 the second year are for maintenance of the Pine Creek Airport.

$500,000 the first year and $500,000 the second year are for air service grants.

$15,000 the first year and $15,000 the second year are for the advisory council on metropolitan airport planning.

(b) Civil Air Patrol

65,000	65,000

(c) Aeronautics Administration

3,857,000 3,852,000

Subd. 3. Transit	8,610,000	8,608,000
Summary by Fund		
General	8,364,000	8,363,000
Trunk Highway	246,000	245,000

Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Greater Minnesota Transit Assistance

7,954,000 7,954,000

This appropriation is from the general fund.

(b) Transit Administration

656,000 654,000

Summary by Fund		
General	410,000	409,000
Trunk Highway	246,000	245,000

Subd. 4. Railroads and Waterways

1,189,000 1,186,000

Summary by Fund		
General	263,000	262,000
Trunk Highway	926,000	924,000

Subd. 5. Motor Carrier Regulation

1,680,000 1,619,000

Subd. 6. Local Roads

307,109,000 310,106,000

Summary by Fund		
C.S.A.H.	240,000,000	242,000,000
M.S.A.S.	66,000,000	67,000,000
Trunk Highway	1,109,000	1,106,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) County State Aids

240,000,000 242,000,000

This appropriation is from the county state-aid highway fund and is available until spent.

(b) Municipal State Aids

66,000,000 67,000,000

This appropriation is from the municipal state-aid street fund and is available until spent.

If an appropriation for either county state aids or municipal state aids does not exhaust the balance in the fund from which it is made in the year for which it is made, the commissioner of finance, upon request of the commissioner of transportation, shall notify the committee on finance of the senate and the committee on appropriations of the house of representatives of the amount of the remainder and shall then add that amount to the appropriation. The amount added is appropriated for the purposes of county state aids or municipal state aids, as appropriate.

(c) State Aid Technical Assistance

1,109,000 1,106,000

Subd. 7. State Road Construction	410,821,000	443,033,000
Summary by Fund		
Special Revenue	80,000	80,000
Environmental	200,000	200,000
Trunk Highway	410,541,000	442,753,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) State Road Construction

390,402,000 421,402,000

Summary by Fund		
Environmental	200,000	200,000
Trunk Highway	390,202,000	421,202,000

It is estimated that the appropriation from the trunk highway fund will be funded as follows:

Federal Highway Aid

200,000,000 231,000,000

Highway User Taxes

190,202,000 190,202,000

The commissioner of transportation shall notify the chair of the committee on finance of the senate and chair of the committee on appropriations of the house of representatives promptly of any events that should cause these estimates to change.

This appropriation is for the actual construction, reconstruction, and improvement of trunk highways. This includes the cost of actual payment to landowners for lands acquired for highway right-of-way, payment to lessees, interest

subsidies, and relocation expenses.

(b) Highway Debt Service

14,864,000 16,094,000

$9,274,000 the first year and $10,794,000 the second year are for transfer to the state bond fund.

If this appropriation is insufficient to make all transfers required in the year for which it is made, the commissioner of finance shall notify the committee on finance of the senate and the committee on appropriations of the house of representatives of the amount of the deficiency and shall then transfer that amount under the statutory open appropriation.

Any excess appropriation must be canceled to the trunk highway fund.

(c) Highway Program Administration

2,149,000 2,142,000

Summary by Fund

Special Revenue	80,000	80,000
Trunk Highway	2,069,000	2,062,000

$243,000 the first year and $243,000 the second year are available for grants to regional development commissions outside the seven-county metropolitan area for transportation studies to identify critical concerns, problems, and issues.

$180,000 the first year and $180,000 the second year are available for grants to metropolitan planning organizations outside the seven-county metropolitan area.

(d) Transportation Data Analysis

3,406,000 3,395,000

Subd. 8. Design Engineering	58,474,000	57,875,000

$75,000 the first year and $75,000 the second year are for a transportation research contingent account to finance research projects that are reimbursable from the federal government or from other sources. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 9. Construction Engineering	67,232,000	67,006,000
Subd. 10. State Road Operations	144,665,000	144,312,000
Subd. 11. Equipment	16,966,000	17,429,000

Summary by Fund

General	5,000	5,000
Airports	58,000	59,000
Trunk Highway	16,903,000	17,365,000

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 12. General Administration 25,806,000 24,819,000

Summary by Fund

General	69,000	53,000
Airports	197,000	197,000
Trunk Highway	25,540,000	24,569,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) General Management

14,350,000 14,330,000

(b) General Services

7,002,000 6,057,000

Summary by Fund

General	43,000	44,000
Airports	140,000	140,000
Trunk Highway	6,819,000	5,873,000

$361,000 the first year and $320,000 the second year are for data processing development. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

The commissioner of transportation shall manage the department of transportation in such a manner as to provide seasonal employees of the department with the maximum feasible amount of employment security consistent with the efficient delivery of department programs.

(c) Legal Services

1,116,000 1,116,000

This appropriation is for the purchase of legal services from or through the attorney general.

(d) Electronic Communications

3,281,000 3,259,000

Summary by Fund

General	26,000	9,000
Trunk Highway	3,255,000	3,250,000

$26,000 the first year and $9,000 the second year are for equipment and operation of the

Roosevelt signal tower for Lake of the Woods weather broadcasting.

(e) Air Transportation Services

57,000 57,000

This appropriation is from the state airports fund.

Subd. 13. Transfers

The commissioner of transportation with the approval of the commissioner of finance may transfer unencumbered balances among the appropriations from the trunk highway fund and the state airports fund made in this section. No transfer may be made from the appropriation for trunk highway development. No transfer may be made from the appropriations for debt service to any other appropriation. Transfers may not be made between funds. Transfers must be reported immediately to the committee on finance of the senate and the committee on appropriations of the house of representatives.

Subd. 14. Contingent Appropriation

The commissioner of transportation, with the approval of the governor after consultation with the legislative advisory commission, may transfer all or part of the unappropriated balance in the trunk highway fund to an appropriation for trunk highway design, construction, or inspection in order to take advantage of an unanticipated receipt of income to the trunk highway fund, or to trunk highway maintenance in order to meet an emergency, or to pay tort or environmental claims. The amount transferred is appropriated for the purpose of the account to which it is transferred.

Sec. 3. REGIONAL TRANSIT BOARD 27,129,000 27,130,000

$12,668,000 the first year and $12,668,000 the second year are for Metro Mobility.

The regional transit board must not spend any money for metro mobility outside this appropriation.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Sec. 4. TRANSPORTATION REGULATION BOARD 730,000 757,000

Approved Complement - 9.5

This appropriation is from the trunk highway fund.

$40,000 is appropriated from the trunk highway fund for fiscal year 1991 for unanticipated expenditures for administrative hearings, legal costs, employee severance costs, and rent.

Sec. 5. PUBLIC SAFETY

Subdivision 1. Total Appropriation	106,183,000	106,423,000

	1992	1993
Approved Complement -	1,871.7	1,871.2
General -	449.2	449.2
Environmental -	1	1
Highway User -	173.6	173.6
Special Revenue -	32.5	32.5
Trunk Highway -	1,157.1	1,160.1
Federal -	58.3	54.8

The above approved complement includes 535 for state-funded, unclassified patrol officers and supervisors of the state patrol and eight for capitol security positions required for the Minnesota History Center. Nothing in this provision is intended to limit the authority of the commissioner of public safety to transfer personnel, with the approval of the commissioner of finance, among the various units and divisions within this section, provided that the above complement must be reduced accordingly.

Summary by Fund

General	31,431,000	31,402,000
Highway User	11,916,000	11,849,000
Special Revenue	2,380,000	2,410,000
Trunk Highway	63,184,000	63,510,000
Environmental	41,000	41,000
Transfers to Other Direct	(2,769,000)	(2,789,000)

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Administration and Related Services	4,830,000	4,932,000

Summary by Fund

General	530,000	529,000
Highway User	19,000	19,000
Trunk Highway	4,281,000	4,384,000

$314,000 the first year and $429,000 the second year are for management information systems. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

$326,000 the first year and $326,000 the second year are for payment of public safety officer survivor benefits under Minnesota Statutes, section 299A.44. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 3. Emergency Management

1,478,000 1,458,000

Summary by Fund

General	778,000	758,000
Special Revenue	700,000	700,000

$700,000 the first year and $700,000 the second year are for nuclear plant preparedness. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

$286,000 is appropriated from the general fund for fiscal year 1991 for the remaining state obligations to the federal emergency management assistance agency to match federal aid for flood emergencies of 1987 in the metropolitan area and 1989 in the Red River Valley.

Subd. 4. Criminal Apprehension

15,609,000 15,646,000

Summary by Fund

General	13,929,000	13,968,000
Special Revenue	627,000	627,000
Trunk Highway	1,053,000	1,051,000

$223,000 the first year and $223,000 the second year are for use by the bureau of criminal apprehension for the purpose of investigating cross-jurisdictional criminal activity. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

$171,000 the first year and $171,000 the second year are for grants to local officials for the cooperative investigation of cross-jurisdictional criminal activity. Any unencumbered

balance remaining in the first year does not cancel but is available for the second year of the biennium.

$523,000 the first year and $523,000 the second year from the bureau of criminal apprehension account in the special revenue fund are for laboratory activities.

$104,000 the first year and $104,000 the second year from the bureau of criminal apprehension account in the special revenue fund are for grants to local officials for the cooperative investigation of cross-jurisdictional criminal activity. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

Subd. 5. Fire Marshal

2,277,000 2,269,00

Subd. 6. State Patrol

41,220,000 42,017,000

Summary by Fund

General	442,000	441,000
Highway User	90,000	90,000
Trunk Highway	40,688,000	41,486,000

During the biennium ending June 30, 1993, no more than five positions, excluding the chief patrol officer, in the state patrol support activity may be filled by state troopers.

During the biennium ending June 30, 1993, the commissioner may purchase other motor fuel when gasohol is not available for the operation of state patrol vehicles.

Subd. 7. Capitol Security

1,341,000 1,336,000

Subd. 8. Driver and Vehicle Services

33,064,000 32,407,000

Summary by Fund

General	5,654,000	5,643,000
Highway User	10,344,000	10,271,000
Trunk Highway	16,986,000	16,413,000
Special Revenue	80,000	80,000

This appropriation is from the transportation account in the special revenue fund.

$431,000 the first year and $431,000 the second year are for chemical use assessment reimbursements to counties.

Of the appropriation from the highway user tax distribution fund, $109,000 the first year and $9,000 the second year are for the department's costs related to collegiate plates for the academic excellence scholarship program. The commissioner shall repay these amounts to the highway user tax distribution fund from amounts received from the sale of these license plates.

The commissioner shall substantially increase the department's efforts to (1) recover the value of worthless checks used for payment of motor vehicle license taxes, (2) deter future use of worthless checks for this purpose, and (3) assist deputy registrars in dealing with the problem of worthless checks. The commissioner shall consult with deputy motor vehicle registrars in formulating and administering these policies. The commissioner shall implement this requirement to the maximum feasible extent in the next revision of the commissioner's rules governing deputy motor vehicle registrars. The commissioner shall report by February 1, 1992, to the chairs of the house committee on appropriations and senate committee on finance on actions the commissioner has taken and proposes to take to comply with this requirement.

Subd. 9. Liquor Control

761,000 759,000

Subd. 10. Gambling Enforcement

1,222,000 1,218,000

Subd. 11. Traffic Safety

240,000 240,000

Summary by Fund

General	64,000	64,000
Trunk Highway	176,000	176,000

Subd. 12. Drug Policy

587,000 587,000

Subd. 13. Pipeline Safety

873,000 903,000

This appropriation is from the pipeline safety account in the special revenue fund.

Subd. 14. Crime Victims Services

1,620,000 1,587,000

Notwithstanding any other law to the contrary, the crime victims reparations board shall, to

the extent possible, distribute the appropriation in equal monthly increments. In no case shall the total awards exceed the appropriation made in this subdivision.

Subd. 15. Children's Trust Fund

520,000 520,000

Summary by Fund

General	420,000	420,000
Special Revenue	100,000	100,000

This appropriation is from the children's trust fund account in the special revenue fund.

Subd. 16. Emergency Response Commission

403,000 404,000

Summary by Fund

General	362,000	363,000
Environmental	41,000	41,000

Subd. 17. Private Detective and Security Licensing

68,000 67,000

Subd. 18. Crime Victims Ombudsman

70,000 73,000

Subd. 19. Transfers

The commissioner of public safety with the approval of the commissioner of finance may transfer unencumbered balances not specified for a particular purpose among the programs within a fund. Transfers must be reported immediately to the committee on finance of the senate and the committee on appropriations of the house of representatives.

Subd. 20. Reimbursements

(a) $1,306,000 the first year and $1,320,000 the second year are appropriated from the general fund for transfer by the commissioner of finance to the trunk highway fund on January 1, 1992, and January 1, 1993, respectively, in order to reimburse the trunk highway fund for expenses not related to the fund. These represent amounts appropriated out of the trunk highway fund for general fund purposes in the administration and related services program.

(b) $437,000 the first year and $443,000 the second year are appropriated from the highway user tax distribution fund for transfer by the commissioner of finance to the trunk highway fund on January 1, 1992, and January 1, 1993,

respectively, in order to reimburse the trunk highway fund for expenses not related to the fund. These represent amounts appropriated out of the trunk highway fund for highway user fund purposes in the administration and related services program.

(c) $1,026,000 the first year and $1,026,000 the second year are appropriated from the highway user tax distribution fund for transfer by the commissioner of finance to the general fund on January 1, 1992, and January 1, 1993, respectively, in order to reimburse the general fund for expenses not related to the fund. These represent amounts appropriated out of the general fund for operation of the criminal justice data network related to driver and motor vehicle licensing.

Sec. 6. BOARD OF PEACE OFFICER STANDARDS AND TRAINING 3,983,000 3,982,000

Approved Complement - 11

$500,000 the first year and $500,000 the second year are for the creation and operation of a school of law enforcement.

Sec. 7. MINNESOTA SAFETY COUNCIL 71,000 71,000

This appropriation is from the trunk highway fund.

Sec. 8. COMMERCE

Subdivision 1. Total Appropriation 12,386,000 12,760,000

	1992	1993
Approved Complement -	237	235
General -	229	227
Environmental -	5	5
Special Revenue -	3	3

Summary by Fund

General	11,850,000	12,207,000
Environmental	220,000	224,000
Special Revenue	316,000	329,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Financial Examinations

5,157,000 5,345,000

Subd. 3. Registration and Analysis

1,992,000 2,015,000

Subd. 4. Petroleum Tank Release Cleanup Board

220,000 224,000

This appropriation is from the petroleum tank release cleanup account in the environmental fund for administration.

The commissioners of commerce and the pollution control agency, in cooperation with the petroleum tank release cleanup board, shall study and report to the governor and the legislature by January 1, 1992, on the petroleum tank release cleanup program. The study must include, but need not be limited to, recommendations on program administration, the reasonableness of costs of exploratory drilling, program financing mechanisms, criteria for reimbursements, and program cost controls.

Subd. 5. Administrative Services

1,774,000 1,812,000

Subd. 6. Enforcement and Licensing

3,243,000 3,364,000

Summary by Fund

General	2,927,000	3,035,000
Special Revenue	316,000	329,000

$316,000 the first year and $329,000 the second year are from the real estate education, research, and recovery account in the special revenue fund for the purpose of Minnesota Statutes, section 82.34, subdivision 6. If the appropriation from the special revenue fund for either year is insufficient, the appropriation for the other year is available for it.

Subd. 7. Transfers

The commissioner with the approval of the commissioner of finance may transfer unencumbered balances not specified for a particular purpose among the above programs. Transfers must be reported immediately to the committee on finance of the senate and the committee on appropriations of the house of representatives.

Sec. 9. NON-HEALTH-RELATED BOARDS

Subdivision 1. Total for this section	1,089,000	1,121,000
Subd. 2. Board of Abstractors	8,000	8,000
Subd. 3. Board of Accountancy	441,000	445,000

Approved Complement - 5

Subd. 4. Board of Architecture, Engineering, Land Surveying, and Landscape Architecture		442,000	470,000
Approved Complement -	8		
Subd. 5. Board of Barber Examiners		135,000	135,000
Approved Complement -	2.5		
Subd. 6. Board of Boxing		63,000	63,000
Approved Complement -	1.5		
Sec. 10. PUBLIC UTILITIES COMMISSION		2,415,000	2,471,000
Approved Complement -	40		

Notwithstanding Minnesota Statutes, section 216B.243, subdivision 6, for any certificate of need application for expansion of the storage capacity for spent nuclear fuel rods, the commission and department shall assess actual amounts billed by the office of administrative hearings and up to $300,000 of reasonable costs of the commission and department pursuant to Minnesota Statutes, section 216B.62, subdivision 6, during the biennium, subject to the limitations of Minnesota Statutes, section 216B.62, subdivision 2.

Sec. 11. PUBLIC SERVICE

Subdivision 1. Total Appropriation		7,467,000	7,727,000
Approved Complement -	141.8		
General -	127.8		
Special Revenue -	6		
Federal -	8		

The commissioner shall transfer, from among positions that were transferred to the department from the state energy agency, two positions to areas in which the cost of the positions are recovered from fees on regulated utilities.

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

The legislature intends that of the reduction in anticipated department expenditures as a result of the difference between this appropriation and the department's budget request, $100,000 be achieved through a reduction in activities not funded by fees.

Subd. 2. Telecommunications

626,000	653,000

Subd. 3. Weights and Measures

2,157,000 2,236,000

Subd. 4. Information and Operations Management

1,439,000 1,491,000

Subd. 5. Energy

3,245,000 3,347,000

Subd. 6. Transfers

The department of public service, with the approval of the commissioner of finance, may transfer unencumbered balances not specified for a particular purpose among the above programs. Transfers must be reported immediately to the committee on finance of the senate and the committee on appropriations in the house of representatives.

Sec. 12. GAMING	10,000	-0-
Approved Complement - -0-		
Sec. 13. LAWFUL GAMBLING CONTROL	1,930,000	1,928,000
Approved Complement - 37		
Sec. 14. RACING COMMISSION	1,046,000	1,058,000
Approved Complement - 9		
General - 8		
Special Revenue - 1		

Sec. 15. STATE LOTTERY BOARD

The director of the state lottery shall reimburse the general fund $250,000 the first year and $250,000 the second year for lottery-related costs incurred by the departments of public safety and human services.

Sec. 16. ETHICAL PRACTICES BOARD	340,000	351,000
Approved Complement - 6		
Sec. 17. MINNESOTA MUNICIPAL BOARD	277,000	284,000
Approved Complement - 4		

Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

Sec. 18. MINNESOTA HISTORICAL SOCIETY		
Subdivision 1. Total Appropriation	12,943,000	13,072,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

The Minnesota historical society is eligible for a salary supplement in the same manner as state agencies. The commissioner of finance will determine the amount of the salary supplement based on available appropriations. Employees of the Minnesota historical society will be paid in accordance with the appropriate pay plan.

Subd. 2. Public Programs and Operations	11,438,000	11,783,000

$30,000 the first year and $70,000 the second year are additional funds for the re-opening of the Meighen Store in calendar year 1992, and is in addition to any other funds expended for this purpose.

Any unencumbered balance remaining at the end of the first year must be returned to the state treasury and credited to the general fund.

Subd. 3. Statewide Outreach	615,000	615,000

$223,000 the first year and $223,000 the second year are for historic site grants to encourage local historic preservation projects. To be eligible for a grant, a county or local project group must provide a 50 percent match, in accordance with the historical society's guidelines. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

$27,000 the first year and $27,000 the second year are for the state archaeology function.

Subd. 4. Repair and Replacement	462,000	462,000

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 5. Fiscal Agent	428,000	212,000
(a) Sibley House Association		
	93,000	93,000

This appropriation is available for operation and maintenance of the Sibley house and related buildings on the Old Mendota state historic site owned by the Sibley house association.

Notwithstanding any other law, the Sibley house association may purchase fire, wind, hail, and vandalism insurance, and insurance

coverage for fine art objects from this appropriation.

(b) Minnesota International Center

91,000 50,000

$40,000 the first year is to be divided equally by the Minnesota International Center among the school districts currently participating in the U.S.- U.S.S.R. High School Academic Partnership Program and must be used to help pay the cost of sending Minnesota students to study in the Soviet Union.

(c) Minnesota Military Museum

30,000

(d) Minnesota Air National Guard Museum

20,000

(e) Government Learning Center

69,000 69,000

This appropriation is for Project 120.

(f) Greater Cloquet-Moose Lake forest fire museum

25,000

The society shall spend this amount as a grant to the Carlton county historical society to be spent as a grant to the Greater Cloquet-Moose Lake forest fire museum planning committee for the development of the museum. The legislature intends that no further direct appropriation will be made for this purpose.

(g) Museum of the National Guard

25,000

This amount is for a contribution from the state of Minnesota to the museum of the National Guard in Washington, D.C.

(h) Prairieland Expo Center

25,000

The society shall expend this amount as a grant to the southwest regional development commission for assistance for this project.

(i) Battle Point Cultural Center

50,000

This amount is for the Leech Lake Reservation to complete final planning for the Battle Point Cultural Center.

(j) Balances Forward

Any unencumbered balance remaining in this subdivision the first year does not cancel but is available for the second year of the biennium.

Sec. 19. MINNESOTA HUMANITIES COMMISSION	247,000	247,000
Sec. 20. BOARD OF THE ARTS		
Subdivision 1. Total Appropriation	4,043,000	4,018,000
Approved Complement - 16		
General - 13		
Federal - 3		

Any unencumbered balance remaining in this section the first year does not cancel but is available for the second year of the biennium.

Subd. 2. Operations and Services	587,000	587,000
Subd. 3. Grants Program	2,025,000	2,025,000
Subd. 4. Regional Arts Councils	1,406,000	1,406,000
Subd. 5. Kee Theatre	25,000	

The board shall spend $25,000 of the first year appropriation as a grant for the restoration of the Kee theatre in Kiester. It is the intent of the legislature that no further direct appropriation will be made for this purpose. The board may not use any part of this sum for administrative expenses.

Sec. 21. GREATER MINNESOTA CORPORATION		
Subdivision 1. Total Appropriation	12,600,000	12,400,000

This appropriation is for transfer from the general fund to the greater Minnesota corporation account in the special revenue fund. The corporation shall spend this amount in accordance with the working papers of the appropriate senate and house of representatives standing committees, a true copy of which is on file in the office of the secretary of state.

Subd. 2. Agricultural Utilization Research Institute

(a) The corporation shall make a grant to the agricultural utilization research institute in an amount specified as provided in subdivision 1. The amount for fiscal year 1992 is reduced by $3,500,000 if the corporation has not paid $3,500,000 to the agricultural utilization research institute by July 1, 1991.

(b) Oil overcharge money appropriated to the commissioner of administration for the agricultural utilization research institute for

energy-related grants must be transferred from the greater Minnesota corporation to the institute.

Subd. 3. Institute for Invention and Innovation

The greater Minnesota corporation may make grants to the institute for invention and innovation to develop the program and residential component of a Minnesota-based international product, process and service acquisition and transfer program. The greater Minnesota corporation may not transfer funds to the institute until the corporation (1) has developed a peer review system to evaluate the institute's activities and expenditures, and (2) has approved the institute's plan for spending the amount transferred.

Sec. 22. LABOR AND INDUSTRY

Subdivision 1. Total Appropriation 16,275,000 16,743,000

	1992	1993
Approved Complement -	348.5	345.5
General -	98.9	96.4
Workers' Compensation -	206.5	206.5
Federal -	38.1	37.6
Special Revenue -	5	5

Summary by Fund

General	5,436,000	5,514,000
Workers' Compensation	10,839,000	11,229,000

The legislature intends that the reduction in anticipated department expenditures as a result of the difference between this appropriation and the department's budget request not result in any reduction of activities in areas funded by fees.

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Workers' Compensation Regulation and Enforcement

7,457,000 7,756,000

This appropriation is from the special compensation fund.

Fee receipts collected as a result of providing direct computer access to public workers' compensation data on file with the commissioner must be deposited in the general fund.

Subd. 3. Workplace Regulation and Enforcement

4,106,000 4,172,000

Subd. 4. General Support

4,712,000 4,815,000

Summary by Fund

General	1,330,000	1,342,000
Workers' Compensation	3,382,000	3,473,000

$215,000 the first year and $215,000 the second year are for labor education and advancement program grants.

Subd. 5. Transfers

The commissioner of labor and industry with the approval of the commissioner of finance may transfer unencumbered balances not specified for a particular purpose among the above programs. Transfers must be reported immediately to the committee on finance of the senate and the committee on appropriations of the house of representatives.

Sec. 23. SECRETARY OF STATE

Subdivision 1. Total Appropriation		5,131,000	4,782,000
Approved Complement -	69.5		
General -	63.5		
Special Revenue -	6		

The amounts that may be spent from this appropriation for each activity are specified in the following subdivisions.

Subd. 2. Elections and Publications

1,016,000 567,000

$635,000 the first year is for the presidential primary election.

Subd. 3. Uniform Commercial Code

221,000 220,000

Subd. 4. Business Services

724,000 722,000

Subd. 5. Administration

456,000 459,000

Subd. 6. Fiscal Operations

212,000 212,000

Subd. 7. Data Services

227,000 229,000

Subd. 8. Network Operations
Voter Registration

727,000 817,000

Subd. 9. Network Operations
Uniform Commercial Code

1,041,000 1,078,000

Subd. 10. Reports Renewals
Registration

507,000 478,000

Subd. 11. Transfers

The secretary of state may transfer unencumbered balances among the above programs after notifying the committee on finance of the senate and the committee on appropriations of the house of representatives.

Sec. 24. VETERANS OF FOREIGN WARS	31,000	31,000

For carrying out the provisions of Laws 1945, chapter 455.

Sec. 25. MILITARY ORDER OF THE PURPLE HEART	10,000	10,000
Sec. 26. DISABLED AMERICAN VETERANS	13,000	12,000

For carrying out the provisions of Laws 1941, chapter 425.

Sec. 27. UNIFORM LAWS COMMISSION	21,000	22,000
Sec. 28. TRANSPORTATION STUDY BOARD	125,000	125,000

This appropriation is from the highway user tax distribution fund. This appropriation is available only if no other funds are appropriated to the board.

Sec. 29. GENERAL CONTINGENT ACCOUNTS	325,000	325,000

The appropriations in this section may only be spent with the approval of the governor after consultation with the legislative advisory commission pursuant to Minnesota Statutes, section 3.30.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Summary by Fund

Trunk Highway Fund
200,000 200,000

Highway User Tax Distribution Fund
125,000 125,000

Sec. 30. TORT CLAIMS 600,000 600,000

To be spent by the commissioner of finance.

This appropriation is from the trunk highway fund.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Sec. 31. [TEMPORARY AUTHORITY; CHARTER CARRIERS OF PASSENGERS.]

(a) The transportation regulation board may grant a temporary permit to a motor carrier, or grant a temporary extension of an existing charter carrier permit to authorize operation as a charter carrier of passengers, within the seven-county metropolitan area if the board finds that:

(1) the service to be provided under the temporary permit or temporary extension will be provided during the month of January 1992, in connection with or related to the 1992 National Football League championship game;

(2) the petitioner for the temporary permit or extension is fit and able to conduct the proposed operations; and

(3) the petitioner's vehicles meet the applicable safety standards of the commissioner of transportation.

(b) Notwithstanding Minnesota Statutes, section 221.121, subdivision 2, a holder of a temporary permit under this section is not required to seek a permanent permit from the board. The board may charge a registration fee of not more than $10 for each vehicle that will be operated under authority of the temporary permit or temporary extension. All temporary permits and temporary extensions granted by the board under this section expire on a date specified in the board order granting the temporary permit or extension, but not later than January 31, 1992.

(c) All provisions of Minnesota Statutes, chapter 221, not inconsistent with this section, apply to temporary permits and temporary extensions granted under this section.

(d) In granting temporary permits and temporary extensions under this section, the board shall to the maximum feasible extent give priority to Minnesota-based carriers.

Sec. 32. [EXTENSION OF INSURANCE AGENT LICENSES; EFFECT.]

The commissioner of commerce shall prorate the license fee under Minnesota Statutes, section 60A.17, to reflect the extension of the license term under section 72B.04.

Nothing in section 72B.04 affects continuing education or other requirements imposed by Minnesota Statutes, chapter 60A.

Sec. 33. Laws 1990, chapter 610, article 1, section 13, subdivision 4,

is amended to read:

Subd. 4. Federal Aid Demonstration Program *and Federal Discretionary Bridge Fund Matching* 5,600,000

This appropriation is from the state transportation fund *for a grant to provide the local match for the federal aid demonstration program and for federal discretionary bridge funds for the Bloomington ferry bridge. Any amount used for the federal discretionary bridge match for the Bloomington ferry bridge is intended to reduce the amount available for the federal aid demonstration program, not supplement it.*

Sec. 34. Laws 1989, chapter 269, section 11, subdivision 7, is amended to read:

Subd. 7. [TRANSFERS.]

The commissioner with the approval of the commissioner of finance may transfer unencumbered balances not specified for a particular purpose among the above programs. Transfers must be reported immediately to the committee on finance of the senate and the committee on appropriations of the house of representatives.

Up to $50,000 may be used to study the cost effectiveness of care provided by members of the healing arts, as defined in Minnesota Statutes, chapter 146. ~~The commissioner shall report the findings to the legislature by January 1, 1990.~~ *The commissioner shall retain the results of the study for future research and reference.*

Sec. 35. [TRANSPORTATION STUDY BOARD.]

Subdivision 1. [BOARD EXTENDED; MEMBERSHIP.] *A transportation study board is created. The board shall consist of the following members:*

(1) seven members of the senate, with not more than five of the same political party, appointed by the senate committee on committees; and

(2) seven members of the house of representatives, with not more than five of the same political party, appointed by the speaker of the house. Appointments are for two-year terms beginning July 1 of each odd-numbered year. Vacancies must be filled in the same manner as the original appointments.

Subd. 2. [OFFICERS.] *The board shall elect a chair and vice-chair from among its members. The chair must alternate biennially between a member of the house and a member of the senate. The vice-chair must be a house member when the chair is a senate member, and a senate member when the chair is a house member.*

Subd. 3. [STAFF.] *The board may employ professional, technical, consulting, and clerical services. The board may use legislative staff to provide legal counsel, research, secretarial, and clerical assistance.*

Subd. 4. [EXPENSES AND REIMBURSEMENT.] *The members of the board may receive per diem payments when attending meetings and other commission business. Members, employees, and legislative staff must be reimbursed for expenses actually and necessarily incurred in the performance of their duties under the rules governing legislators and legislative employees.*

Subd. 5. [EXPIRATION.] *This section expires July 1, 1993.*

Sec. 36. Minnesota Statutes 1990, section 10A.02, is amended by adding a subdivision to read:

Subd. 14. Notwithstanding the provisions of section 8.15, the board must not be assessed the cost of legal services rendered to it by the attorney general's office.

Sec. 37. Minnesota Statutes 1990, section 12.14, is amended to read:

12.14 [ASSESSMENT FOR NUCLEAR SAFETY PREPAREDNESS ACT.]

Any person, firm, corporation, or association in the business of owning or operating a nuclear fission electrical generating plant located in Minnesota, shall pay ~~an assessment~~ *quarterly assessments* to cover the cost of nuclear power plant emergency response plans and other programs necessary to deal with incidents resulting from the operation of nuclear fission electrical generating plants. An assessment of ~~$177,500 per plant~~ *up to one quarter of the projected annual cost* shall be paid to the commissioner of public safety on July 1 of each year. *An assessment shall be billed by the commissioner based on actual costs for each quarter of the fiscal year starting with the first quarter ending September 30. The July 1 assessment shall be deducted from the final quarterly billing for the fiscal year. The assessment collected shall be credited to the nuclear safety preparedness account in the special revenue fund.*

Sec. 38. Minnesota Statutes 1990, section 15A.081, subdivision 1, is amended to read:

Subdivision 1. [SALARY RANGES.] The governor shall set the salary rate within the ranges listed below for positions specified in this subdivision, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

Salary Range

Effective

July 1, 1987

$57,500-$78,500

Commissioner of finance;

Commissioner of education;

Commissioner of transportation;

Commissioner of human services;

Commissioner of revenue;

Commissioner of public safety;
Executive director, state board of investment;
~~Commissioner of gaming;~~
Director of the state lottery;

$50,000-$67,500
Commissioner of administration;
Commissioner of agriculture;
Commissioner of commerce;
Commissioner of corrections;
Commissioner of jobs and training;
Commissioner of employee relations;
Commissioner of health;
Commissioner of labor and industry;
Commissioner of natural resources;
Commissioner of trade and economic development;
Chief administrative law judge; office of administrative hearings;
Commissioner, pollution control agency;
Commissioner, state planning agency;
Director, office of waste management;
Commissioner, housing finance agency;
Executive director, public employees retirement association;
Executive director, teacher's retirement association;
Executive director, state retirement system;
Chair, metropolitan council;
Chair, regional transit board;

$42,500-$60,000
Commissioner of human rights;
Commissioner, department of public service;
Commissioner of veterans' affairs;
Commissioner, bureau of mediation services;

Commissioner, public utilities commission;

Member, transportation regulation board;

Ombudsman for corrections;

Ombudsman for mental health and retardation.

Sec. 39. Minnesota Statutes 1990, section 16A.662, subdivision 2, is amended to read:

Subd. 2. [BONDS AUTHORIZED.] When authorized by law enacted in accordance with the constitution, article XI, sections 5 and 7, the commissioner may by order sell and issue ~~infrastructure development~~ bonds of the state evidencing public debt incurred for any purpose stated in the law. The bonds are general obligations of the state, and the full faith and credit of the state are pledged for their payment.

Sec. 40. Minnesota Statutes 1990, section 16A.662, subdivision 4, is amended to read:

Subd. 4. [ESTABLISHMENT OF DEBT SERVICE ACCOUNT; APPROPRIATION OF DEBT SERVICE ACCOUNT MONEY.] There is established within the state bond fund a separate and special account designated as the infrastructure development bond debt service account. ~~There must be transferred to this debt service account in each fiscal year from money in the infrastructure development fund, other than bond proceeds and interest earned on bond proceeds, an amount sufficient to increase the balance on hand in the debt service account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding infrastructure development bonds to and including the second following July 1. The amount necessary to make the transfer is appropriated from the infrastructure development fund.~~ The money on hand in the debt service account must be used solely for the payment of the principal of~~,~~ and interest on~~, the~~ bonds *issued under Laws 1990, chapter 610, article 1, section 30, subdivision 2*, and is appropriated for this purpose. This appropriation does not cancel as long as any of the bonds remain outstanding.

Sec. 41. Minnesota Statutes 1990, section 16A.662, subdivision 5, is amended to read:

Subd. 5. [ASSESSMENT TO HIGHER EDUCATION SYSTEMS.] (a) In order to reduce the amount otherwise required to be transferred ~~under subdivision~~ 4 *to the state bond fund with respect to bonds heretofore or hereafter issued under Laws 1990, chapter 610, article 1, section 30, subdivision 2*, the commissioner of finance shall assess each higher education system for one-third the amount that would otherwise need to be transferred with respect to ~~infrastructure development~~ *those* bonds sold to finance capital improvement projects at institutions under the control of the system; provided that, to the extent that the amount to be transferred is for payment of principal and interest on bonds sold to finance life safety improvements, the commissioner must not assess the higher education systems for the transfer.

(b) After each sale of ~~infrastructure development~~ *the* bonds, the commissioner of finance shall notify the state board for vocational technical education, the state board for community colleges, the state university board, and the regents of the University of Minnesota of the amounts for which each system is responsible for each year for the life of the bonds. The amounts payable each year are reduced by one-third of the net income from

investment of ~~infrastructure development~~ *those* bond proceeds that must be allocated among the systems in proportion to the amount of principal and interest otherwise required to be paid by each. Each higher education system shall pay its annual share of debt service payments to the commissioner of finance by December 1 each year. If a higher education system fails to make a payment when due, the commissioner of finance shall reduce allotments for appropriations from the general fund otherwise payable to the system to cover the amount of the missed debt service payment. The commissioner of finance shall credit the payments received from the higher education systems to the infrastructure development bond debt service account in the state bond fund each December 1 before the transfer is made under subdivision 4.

Sec. 42. Minnesota Statutes 1990, section 60A.14, subdivision 1, is amended to read:

Subdivision 1. [FEES OTHER THAN EXAMINATION FEES.] In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies:

(1) for filing certificate of incorporation $25 and amendments thereto, $10;

(2) for filing annual statements, $15;

(3) for each annual certificate of authority, $15;

(4) for filing bylaws $25 and amendments thereto, $10.

(b) by other domestic and foreign companies including fraternals and reciprocal exchanges:

(1) for filing certified copy of certificate of articles of incorporation, $100;

(2) for filing annual statement, $225;

(3) for filing certified copy of amendment to certificate or articles of incorporation, $100;

(4) for filing bylaws, $75 or amendments thereto, $75;

(5) for each company's certificate of authority, $575, annually.

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, $15;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and $2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, $575;

(4) for receiving and forwarding each notice, proof of loss, summons, complaint or other process served upon the commissioner of commerce, as attorney for service of process upon any nonresident agent or insurance company, including reciprocal exchanges, $15 plus the cost of effectuating service by certified mail, which amount must be paid by the party serving the notice and may be taxed as other costs in the action;

(5) for valuing the policies of life insurance companies, one cent per $1,000 of insurance so valued, provided that the fee shall not exceed ~~$1,000~~ *$13,000* per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(6) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, $50;

(7) for issuing an initial license to an individual agent, ~~$20~~ *$25* per license, for issuing an initial agent's license to a partnership or corporation, $50, and for issuing an amendment (variable annuity) to a license, ~~$20~~ *$25*, and for renewal of amendment, ~~$20~~ *$25*;

(8) for each appointment of an agent filed with the commissioner, a domestic insurer shall remit $5 and all other insurers shall remit $3;

(9) for renewing an individual agent's license, ~~$20~~ *$25* per year per license, and for renewing a license issued to a corporation or partnership, $50 per year;

(10) for issuing and renewing a surplus lines agent's license, $150;

(11) for issuing duplicate licenses, $5;

(12) for issuing licensing histories, $10;

(13) for filing forms and rates, $50 per filing;

(14) for annual renewal of surplus lines insurer license, $300.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 43. Minnesota Statutes 1990, section 60A.17, subdivision 1d, is amended to read:

Subd. 1d. [RENEWAL FEE.] (a) Each agent licensed pursuant to this section shall annually pay in accordance with the procedure adopted by the commissioner a renewal fee as prescribed by section 60A.14, subdivision 1, paragraph (c), clause (10).

(b) Every agent, corporation, and partnership license expires on ~~May~~ *October* 31 of the year for which period a license is issued.

(c) Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are approved for renewal and may continue to transact business whether or not the renewed license has been received on or before ~~June~~ *November* 1. Applications for renewal of a license are timely filed if received by the commissioner on or before ~~May~~ *October* 15 of the year due, on forms duly executed and accompanied by appropriate fees. An application mailed is considered timely filed if addressed to the commissioner, with proper postage, and postmarked by ~~May~~ *October* 15.

(d) The commissioner may issue licenses for agents, corporations, or partnerships for a three-year period. If three-year licenses are issued, the fee is three times the annual license fee.

Sec. 44. Minnesota Statutes 1990, section 72B.04, subdivision 7, is

amended to read:

Subd. 7. [LICENSE TERM.] Every adjuster's and public adjuster solicitor's license shall be for a term expiring on ~~May~~ *October* 31 next following the date of its issuance, and may be renewed for the ensuing calendar year upon the timely filing of an application for renewal.

Sec. 45. Minnesota Statutes 1990, section 80C.04, subdivision 1, is amended to read:

Subdivision 1. An application for registration of a franchise shall be made by filing with the commissioner a proposed public offering statement accompanied by a fee of ~~$250~~ *$400*. The public offering statement shall contain the following:

(a) The name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of any parent or affiliated person that will engage in business transactions with franchisees;

(b) The franchisor's principal business address, the address of its agent in this state authorized to receive service of process, and a consent to service of process as required by section 80C.20, if applicable;

(c) The business form of the franchisor, whether corporate, partnership or otherwise, and the state or other sovereign power under which the franchisor is organized;

(d) Such information concerning the identity and business experiences of persons affiliated with the franchisor as the commissioner may by rule prescribe;

(e) A statement whether the franchisor or any person identified in the public offering statement:

(1) Has during the ten year period immediately preceding the date of the public offering statement been convicted of a felony, pleaded nolo contendere to a felony charge, or been held liable in a civil action by final judgment if such felony or civil action involved fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices or misappropriation of property;

(2) Is subject to any currently effective order of the United States Securities and Exchange Commission or the securities administrator of any state denying registration to or revoking or suspending the license or registration of such person as a securities broker, dealer, agent, or investment adviser, or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange;

(3) Is subject to any currently effective order or ruling of the Federal Trade Commission;

(4) Is subject to any currently effective injunctive or restrictive order relating to the business which is the subject of the franchise offered or any other business activity as a result of an action brought by any public agency or department; or

(5) Has any civil or criminal actions pending against that franchisor or person involving fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices or misappropriation of property.

Such statement shall set forth the court and date of conviction or judgment, any penalty imposed or damages assessed, the date, nature and issuer of any orders, and the court, nature, and current status of any pending action.

(f) The business experience of the franchisor, including the length of time the franchisor has conducted a business of the type to be operated by the franchisees, has granted franchises for such businesses, and has granted franchises in other lines of business.

(g) A balance sheet of the franchisor as of the end of the franchisor's most recent fiscal year and an income statement for the period ending on the date of such balance sheet, both audited by an independent certified public accountant; and, if the fiscal year-end of the franchisor is in excess of 90 days prior to the date of filing the application, a balance sheet and income statement, which may be unaudited, as of a date within 90 days of the date of the application. The commissioner may by rule or order prescribe the form and content of financial statements required under this clause and the circumstances under which consolidated financial statements may or shall be filed, and may waive the requirement of audited financial statements;

(h) A copy of the entire franchise contract or agreement proposed for use, including all amendments thereto;

(i) A statement of the franchise fee charged, the proposed use of the proceeds of such fee by the franchisor, and the method or formula by which the amount of the fee is determined if the fee is not the same in all cases;

(j) A statement describing any payments or fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor, including royalties and payments or fees which the franchisor collects in whole or in part on behalf of a third party;

(k) A statement of the conditions under which the franchise agreement may be terminated or renewal refused or repurchased at the option of the franchisor, any limitations on the right of the franchisee to sell, transfer, assign, move, renew or terminate the franchise, and a description of the provisions regarding franchisee equity upon sale, termination, refusal to renew, or repurchase;

(l) A statement whether, by the terms of the franchise agreement or by other device or practice, the franchisee or subfranchisor is required to purchase from the franchisor or person designated by the franchisor, services, supplies, products, fixtures or other goods relating to the establishment or operation of the franchise business, together with a description thereof;

(m) A statement of any restriction or condition imposed by the franchisor whether by the terms of the franchise agreement or by other device or practice of the franchisor whereby the franchisee is limited in the goods or services offered by the franchisee to the franchisee's customers;

(n) A statement of the terms and conditions of any financing arrangements when offered directly or indirectly by the franchisor or an agent or affiliate;

(o) A statement of any past or present practice or of any intent of the franchisor to sell, assign or discount to a third party any note, contract or other obligation of the franchisee or subfranchisor in whole or in part;

(p) A copy of any statement of estimated or projected franchisee earnings prepared for presentation to prospective franchisees or subfranchisors, or

other persons, together with a statement setting forth the data upon which such estimation or projection is based;

(q) A statement describing the training program, supervision and assistance the franchisor has provided and will provide the franchisee;

(r) A statement of any compensation or other benefit given or promised to a public figure arising, in whole or in part, from the use of the public figure in the name or symbol of the franchise or the endorsement or recommendation of the franchise by the public figure in advertisements, and the extent to which such public figure is involved in the actual management of the franchisor;

(s) A statement of the number of franchises presently operating and proposed to be sold;

(t) A statement whether franchisee or subfranchisors receive an exclusive area and territory, and if so, a map thereof; and

(u) Such other information as the commissioner may require;

(v) When the franchises to be registered are proposed to be offered and sold by a subfranchisor or the subfranchisor's agents, the application shall also include the same information concerning the subfranchisor as is required concerning the franchisor pursuant to this section.

Sec. 46. Minnesota Statutes 1990, section 80C.07, is amended to read:

80C.07 [AMENDMENT OF REGISTRATION.]

A person with a registration in effect shall, within 30 days after the occurrence of any material change in the information on file with the commissioner, notify the commissioner in writing of the change by an application to amend the registration accompanied by a fee of ~~$50~~ *$100*. The commissioner may by rule define what shall be considered a material change for such purposes, and may determine the circumstances under which a revised public offering statement must accompany the application. If the amendment is approved by the commissioner, it shall become effective upon the issuance by the commissioner of an order amending the registration.

Sec. 47. Minnesota Statutes 1990, section 80C.08, subdivision 1, is amended to read:

Subdivision 1. Within 120 days after the fiscal year end of the registrant, the registrant shall file a report in the form prescribed by rule of the commissioner. A fee of ~~$100~~ *$200* shall accompany the annual report.

Sec. 48. Minnesota Statutes 1990, section 82.22, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] Each applicant for a license must pass an examination conducted by the commissioner. The examinations shall be of sufficient scope to establish the competency of the applicant to act as a real estate broker~~, as~~ *or* a real estate salesperson~~, or as a real estate closing agent~~.

Sec. 49. Minnesota Statutes 1990, section 82.22, subdivision 5, is amended to read:

Subd. 5. [PERIOD FOR APPLICATION.] An applicant who obtains an acceptable score on a salesperson's ~~or closing agent's~~ examination must file an application and obtain the license within one year of the date of successful

completion of the examination or a second examination must be taken to qualify for the license. If a new examination is required, prelicense education must be completed in accordance with subdivision 6.

Sec. 50. Minnesota Statutes 1990, section 82.22, subdivision 10, is amended to read:

Subd. 10. [RENEWAL; EXAMINATION.] Except as provided in subdivisions 3 and 7, no examination shall be required for the renewal of any license, provided, however, any licensee having been licensed as a broker~~,~~ *or* salesperson~~, or closing agent~~ in the state of Minnesota and who shall fail to renew the license for a period of two years shall be required by the commissioner to again take an examination.

Sec. 51. Minnesota Statutes 1990, section 82.22, subdivision 11, is amended to read:

Subd. 11. [EXAMINATION ELIGIBILITY; REVOCATION.] No applicant shall be eligible to take any examination if a license as a real estate broker~~,~~ *or* salesperson~~, or closing agent~~ has been revoked in this or any other state within two years of the date of the application.

Sec. 52. Minnesota Statutes 1990, section 115C.09, is amended by adding a subdivision to read:

Subd. 6. [LIMITATION ON REIMBURSEMENT OBLIGATION.] *The amount of the state's obligation to make reimbursement under this chapter is limited to the amount available. Notwithstanding any other provisions of this chapter, there shall be no obligation to the general fund to make a reimbursement if there are not sufficient funds in the petroleum tank release cleanup account.*

Sec. 53. Minnesota Statutes 1990, section 129D.04, is amended by adding a subdivision to read:

Subd. 5. The board may contract as necessary in the performance of its duties.

Sec. 54. Minnesota Statutes 1990, section 129D.04, is amended by adding a subdivision to read:

Subd. 6. The board's receipts from the sale of publications, mailing lists, recordings or media projects, and fees from seminars or workshops are annually appropriated to the board for the purposes of this section.

Sec. 55. Minnesota Statutes 1990, section 129D.05, is amended to read:

129D.05 [PUBLICATIONS; LEGEND.]

Every publication, program, or other graphic material prepared by the board or prepared for use by any other organization in connection with an activity paid for by the board shall bear the legend: "This activity is made possible in part by a grant provided by the Minnesota state arts board through an appropriation by the Minnesota state legislature."

Each publication, program, or other graphic material prepared by an individual artist in connection with an activity paid for by the board shall bear the legend: "(artist's name) is a (fiscal year) recipient of a (program) grant from the Minnesota state arts board from funds appropriated by the Minnesota legislature."

Sec. 56. Minnesota Statutes 1990, section 138.91, is amended to read:

138.91 [MINNESOTA HUMANITIES COMMISSION.]

Subdivision 1. [REPORTS.] ~~From money appropriated to it for this purpose the Minnesota historical society shall make grants to the Minnesota humanities commission for its general operations and management. A grant shall not be made unless matched by an equal amount of federal money. At least 50 percent of the amount appropriated shall be used for cooperation with and service for other groups, agencies, and institutions outside the seven-county metropolitan area for the support and dissemination of the humanities.~~

~~Subd. 2.~~ The Minnesota humanities commission shall report to the legislature by September 1 of each year on the use of ~~these grants~~ *state funds appropriated to the commission*. The report shall include an itemized account of the programs and projects supported and the source of money for each. The report shall show actual expenditures for the fiscal year ending the preceding June 30 and proposed expenditures for the fiscal year beginning the preceding July 1.

Subd. ~~3.~~ 2. [HUMANITIES ~~RESOURCE~~ CENTER.] *(a)* The Minnesota humanities commission may establish a humanities ~~resource~~ center to ensure balance in public education and in the cultural life of the state, *and to improve humanities education through the establishment of two institutes: The Minnesota institute for lifelong learning, and the Minnesota institute for the advancement of teaching*.

(b) The humanities ~~resource~~ center may transport people and resources to small towns, rural communities, and urban settings to provide *grants, technical assistance, and* high quality educational and cultural programs to schools and community organizations throughout Minnesota.

(c) The Minnesota institute for the advancement of teaching may conduct seminars and other activities for the recognition of the teaching profession and the advancement of teaching in Minnesota.

Sec. 57. Minnesota Statutes 1990, section 138.94, is amended to read:

138.94 [STATE ~~HISTORICAL~~ *HISTORY* CENTER.]

Subdivision 1. [DESIGNATION.] The ~~historical~~ building at ~~690 Cedar Street and the land housing the Mechanic Arts gymnasium, parking lot, and any other properties between those entities and the historical building at 690 Cedar Street~~ *160 John Ireland Boulevard* is hereby designated as the state ~~historical~~ *history* center, and is to be used for such purposes notwithstanding any other law to the contrary. Authority for administration and control of the state ~~historical~~ *history* center is conferred on the Minnesota historical society. The society is not exempt from rental or lease costs by the state. The state will maintain and provide custodial, security, and climate control services for the ~~historical~~ *history* center.

Subd. 2. [USER FEES.] *The society may charge fees it deems reasonable for uses relating to the state history center including parking and special exhibits.*

Sec. 58. Minnesota Statutes 1990, section 162.02, subdivision 12, is amended to read:

Subd. 12. [SYSTEM TO INCLUDE FORMER MUNICIPAL STATE-AID STREETS.] Former municipal state-aid streets located in a city that previously received money from the municipal state-aid street fund but whose population fell below 5,000 under the 1980 *or 1990* federal census

must be included in the county state-aid highway system, subject to the approval of the governing bodies of the city and the county. An action taken by a county board approving the inclusion of a former municipal state-aid street in the county state-aid highway system must also include a resolution taking over the street as a county highway under section 163.11. The county state-aid highway system is increased in extent by the addition of the mileage of municipal state-aid streets reverting or turned over to the jurisdiction of the counties under this subdivision.

Sec. 59. Minnesota Statutes 1990, section 168C.04, is amended to read:

168C.04 [REGISTRATION FEE.]

Subdivision 1. The registration fee for bicycles shall be ~~$3 until January 1, 1985, and shall be $5 thereafter~~ *$9 after July 1, 1991*. These fees shall be paid at the time of registration. The fees, and any donations in excess of the fees must be deposited in ~~the general fund~~ *a bicycle transportation account in the special revenue fund*. Proof of purchase is required for registration. Bicycles lacking proof of purchase may be registered if there is no evidence that the bicycle is stolen. However, the registration record must be marked to indicate that no proof of purchase was provided. The registration is valid for three calendar years. A person registering a bicycle may add an additional amount to the registration fee, and all amounts so added must be deposited in the same manner as registration fees. A person registering a bicycle must at the time of registration be informed that a registrant may add an additional amount to the fee and that all such additional amounts will be used for the purposes specified in subdivision 2.

Subd. 2. ~~Funds received from bicycle registration may be expended only by legislative appropriation for the following purposes:~~

~~(a) for the costs incurred by the commissioner in administering the bicycle registration program;~~

~~(b) beginning July 1, 1984, for a program to be conducted by the commissioner to publicize the bicycle registration program and encourage participation in it by bicycle owners and local units of government;~~

~~(c) for the development of bicycle safety education programs and the development of bicycle transportation and recreational facilities including but not limited to bicycle lanes and ways on highway right-of-way, off-road bicycle trails and bicycle mapping.~~ *A bicycle transportation account is created in the special revenue fund. All funds in the account, up to a maximum of $160,000 in a fiscal year, are annually appropriated as follows:*

(1) one-half to the commissioner of transportation for the development of bicycle transportation and recreational facilities on public highways, including but not limited to bicycle lanes and ways on highways, off-road bicycle trails, and bicycle mapping; and

(2) one-half to the commissioner of public safety for bicycle safety programs, administration of the bicycle registration program, and public information and education designed to encourage participation in the program.

Subd. 3. An agency of the state expending funds from the bicycle ~~program~~ *transportation* account must, in making expenditures for the purposes of subdivision 2, paragraph (c) give consideration to participation or nonparticipation by a political subdivision in the bicycle registration program as provided in section 168C.13 and the extent of local public participation in the program before approving a project or expenditure in that political

subdivision.

~~Subd. 4. Not later than March 1, 1985 the commissioner shall report to the legislature on funds expended under subdivision 2, paragraph (b) and accomplishments in carrying out the purposes of that clause.~~

Sec. 60. Minnesota Statutes 1990, section 171.06, subdivision 2a, is amended to read:

Subd. 2a. [FEE INCREASED.] The fee for any duplicate drivers license which is obtained for the purpose of adding a two-wheeled vehicle endorsement is increased by ~~$7.50~~ *$15* for each first such duplicate license and ~~$6~~ *$12* for each renewal thereof. The additional fee shall be paid into the state treasury and credited *as follows:*

(1) $7.50 of the additional fee for each first duplicate license, and $6 of the additional fee for each renewal, must be credited to the motorcycle safety fund which is hereby created; provided that any fee receipts in excess of $500,000 in a fiscal year shall be credited 90 percent to the trunk highway fund and ten percent to the general fund, as provided in section 171.26.

(2) The remainder of the additional fee must be credited to the general fund.

All application forms prepared by the commissioner for two-wheeled vehicle endorsements shall clearly contain the information that of the total fee charged for the endorsement, $6 is dedicated to the motorcycle safety fund.

Sec. 61. Minnesota Statutes 1990, section 171.26, is amended to read:

171.26 [MONEY CREDITED TO TRUNK HIGHWAY FUND AND TO GENERAL FUND.]

All money received under the provisions of this chapter shall be paid into the state treasury with 90 percent of such money credited to the trunk highway fund, and ten percent credited to the general fund, except as provided in ~~section~~ *sections 171.06, subdivision 2a; and* 171.29, subdivision 2.

Sec. 62. Minnesota Statutes 1990, section 174.24, is amended by adding a subdivision to read:

Subd. 2a. [ELIGIBLE ACTIVITIES.] *Activities eligible for assistance under the program include but are not limited to:*

(1) planning and engineering design for transit services and facilities;

(2) capital assistance to purchase or refurbish transit vehicles and other capital expenditures necessary to provide a transit service;

(3) operating assistance as provided under subdivision 3; and

(4) other assistance for public transit services that furthers the purposes of section 174.21.

Sec. 63. Minnesota Statutes 1990, section 182.651, is amended by adding a subdivision to read:

Subd. 21. [AFFECTED EMPLOYEE.] *"Affected employee" means a current employee of a cited employer who is exposed within the scope of employment to the alleged hazard described in the citation.*

Sec. 64. Minnesota Statutes 1990, section 182.651, is amended by adding

a subdivision to read:

Subd. 22. [AUTHORIZED EMPLOYEE REPRESENTATIVE.] *"Authorized employee representative" means a labor organization that has a collective bargaining relationship with the cited employer and that represents affected employees.*

Sec. 65. Minnesota Statutes 1990, section 182.651, is amended by adding a subdivision to read:

Subd. 23. [RESPONDENT.] *"Respondent" means a person against whom a complaint has been issued or served.*

Sec. 66. Minnesota Statutes 1990, section 182.661, subdivision 1, is amended to read:

Subdivision 1. If, after an inspection or investigation, the commissioner issues a citation under section 182.66, the commissioner shall notify the employer by certified mail of the penalty, if any, proposed to be assessed under section 182.666 and that the employer has ~~15 working~~ *20 calendar* days within which to ~~notify the commissioner in writing~~ *file a notice of contest and certification of service, on a form provided by the commissioner, indicating* that the employer wishes to contest the citation, *type of violation,* proposed assessment of penalty, or the period of time fixed in the citation given for correction of violation. A copy of the citation and the proposed assessment of penalty shall also be mailed to the ~~bargaining~~ *authorized employee* representative and, in the case of the death of an employee, to the next of kin if requested ~~and designated representative of the employee if known to the department of labor and industry~~. If within ~~15 working~~ *20 calendar* days from the receipt of the *penalty* notice issued by the commissioner the employer fails to ~~notify the commissioner in writing that the employer intends to contest the citation or proposed assessment of penalty~~ *file the notice of contest*, and no notice ~~contesting either the citation, the type of violation, proposed penalty, or the time fixed for abatement in the citation~~ *of contest* is filed by any employee or *authorized* representative of employees under subdivision 3 within such time, the citation and assessment, as proposed, shall be deemed a final order of the ~~board~~ *commissioner* and not subject to review by any court or agency.

Sec. 67. Minnesota Statutes 1990, section 182.653, subdivision 9, is amended to read:

Subd. 9. [STANDARD INDUSTRIAL CLASSIFICATION LIST.] The commissioner shall adopt, in accordance with section 182.655, a rule specifying a list of standard industrial classifications of employers who must comply with subdivision 8. The commissioner shall demonstrate the need to include each industrial classification on the basis of the safety record or workers' compensation record of that industry segment. An employer must comply with subdivision 8 six months following the date the standard industrial classification that applies to the employee is placed on the list. *An employer having less than 51 employees must comply with subdivision 8 six months following the date the standard industrial classification that applies to the employee is placed on the list or by July 1, 1993, whichever is later.* The list shall be updated every two years.

Sec. 68. Minnesota Statutes 1990, section 182.661, subdivision 2, is amended to read:

Subd. 2. If the commissioner has reason to believe that an employer has

failed to correct a violation for which a citation has been issued within the period permitted for its correction, which period shall not begin to run until the entry of a final order by the ~~board~~ *commissioner* in case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, the commissioner shall notify the employer by certified mail of such failure and of the penalty proposed to be assessed under section 182.666 by reason of such failure, and that the employer has ~~15 working~~ *20 calendar* days within which to ~~notify in writing the commissioner~~ *file a notice of contest and certification of service, on a form provided by the commissioner, indicating* that the employer wishes to contest the commissioner's notification or the proposed assessment of penalty. If, within ~~15 working~~ *20 calendar* days from the receipt of *penalty* notification issued by the commissioner, the employer fails to ~~notify in writing the commissioner~~ *file the notice of contest indicating* that the employer intends to contest the notification or proposed assessment of penalty, the *penalty* notification and assessment, as proposed, shall be deemed a final order of the ~~board~~ *commissioner* and not subject to review by any court or agency.

Sec. 69. Minnesota Statutes 1990, section 182.661, subdivision 2a, is amended to read:

Subd. 2a. The commissioner may bring an action in district court for injunctive or other appropriate relief including monetary damages if the employer fails to comply with a final order of the ~~board~~ *commissioner*.

Sec. 70. Minnesota Statutes 1990, section 182.661, subdivision 3, is amended to read:

Subd. 3. If an employer notifies the commissioner that the employer intends to contest the citation or the proposed assessment of penalty or the employee or the *authorized* employee representative notifies the commissioner that the employee intends to contest the time fixed for abatement in the citation issued under section 182.66, the citation, the type of alleged violation, the proposed penalty, or notification issued under subdivisions 1 or 2, the ~~board~~ *commissioner* shall ~~conduct~~ *resolve the matter by settlement agreement, petition the board for a decision based on stipulated facts, or refer the matter to an administrative law judge for* a hearing in accordance with the applicable provisions of chapter 14~~, for hearings in contested cases~~. *Where the commissioner refers a matter for a contested case hearing, the administrative law judge shall make findings of fact, conclusions of law, and any appropriate orders. The determinations shall be the final decision of the commissioner and may be appealed to the board by any party.* The rules of procedure prescribed by the ~~board~~ *commissioner* shall provide affected employees or *authorized* representatives of affected employees an opportunity to participate as parties to hearings under this subdivision. *Upon receipt of notice of hearing under this subdivision, the employer shall serve such notice as required by rule.*

Sec. 71. Minnesota Statutes 1990, section 182.661, subdivision 3a, is amended to read:

Subd. 3a. As prescribed in rules issued by the ~~board~~ *commissioner*, each notice of intent to contest the citation, proposed assessment of penalty, or period of time fixed in the citation for correction of the violation shall be prominently posted at or near each place a violation referred to in the citation occurred or served on affected employers, employees, and *authorized*

employee representatives. If the contesting employer, employee, or *authorized* employee ~~representation~~ *representative* fails to post or serve the notice of intent to contest the citation, the proposed assessment of penalty, or the period of time fixed for correction of the violation within the time prescribed in rules issued by the ~~board~~ *commissioner*, the ~~board~~ *administrative law judge* may render a default judgment in favor of the commissioner.

Sec. 72. Minnesota Statutes 1990, section 182.661, is amended by adding a subdivision to read:

Subd. 3b. [SERVICE OF NOTICES.] *The contesting party shall serve a copy of the notice of contest and notice to employees, on forms provided by the commissioner, upon unrepresented affected employees and authorized employee representatives on or before the date the notice of contest is filed with the commissioner. For purposes of this section, a document is considered filed upon receipt by the commissioner.*

Sec. 73. Minnesota Statutes 1990, section 182.661, is amended by adding a subdivision to read:

Subd. 5. [SETTLEMENT.] *Where the parties resolve a contested matter by settlement agreement, the contesting party shall serve a copy of the agreement upon affected employees and authorized employee representatives. Affected employees and authorized employee representatives may file, with the commissioner, an objection to the settlement agreement. The objections must be filed within ten calendar days after service of the agreement. Upon receipt of an objection to a settlement agreement, the commissioner may refer the agreement to the office of administrative hearings for assignment to an administrative law judge who shall give consideration to the objection before approving or disapproving the agreement. If no timely objection is made, the settlement agreement becomes a final order of the commissioner.*

Sec. 74. Minnesota Statutes 1990, section 182.661, is amended by adding a subdivision to read:

Subd. 6. [COMPLAINT AND ANSWER.] *The commissioner shall serve a complaint on all parties no later than 90 calendar days after receiving a notice of contest. The contesting party shall serve an answer on all the parties within 20 calendar days after service of the complaint.*

Sec. 75. Minnesota Statutes 1990, section 182.664, subdivision 3, is amended to read:

Subd. 3. The review board ~~or its appointed administrative law judges may hold hearings at places of convenience to the parties concerned~~ *shall review and decide appeals from final decisions and orders of the commissioner, including decisions issued by administrative law judges, petitions to vacate final orders of the commissioner, and with the agreement of the parties, may review and decide petitions for decisions based on stipulated facts.* The powers of the board in the conduct of hearings, including the power to ~~administer oaths and subpoena persons~~ *sign decisions and orders*, may be ~~exercised on its behalf by~~ *delegated to* a member, members, or ~~an administrative law judge appointed by~~ the board chair. The board may ~~administer oaths and subpoena persons, including parties, as witnesses and may compel them to produce documentary evidence for hearings~~ *schedule a hearing for purposes of taking oral argument*. A notice stating the time and place of the hearing must be given ten days in advance of such a hearing to the parties and copies of the notice of such hearing shall be ~~posted~~ *served* by the employer ~~at such places~~ as *rules of* the board shall require. The hearings

shall be open to the public and the ~~records of hearings~~ *board's decisions and orders* shall be maintained and available for examination. ~~The hearing shall be conducted in compliance with rules contained in chapter 14. The rules of the board shall provide affected employers, employees or their representatives an opportunity to participate as parties provided they file notice at least five days before the start of the hearing.~~

Sec. 76. Minnesota Statutes 1990, section 182.664, subdivision 5, is amended to read:

Subd. 5. For the purpose of carrying out its functions under this chapter, two members of the board shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members. The ~~findings~~ *decisions* and ~~decision~~ *orders* of an administrative law judge, *or final orders of the commissioner,* may be appealed to the review board by the employer, employee, or their authorized representatives *or any party*, within 30 days following ~~publication~~ *service by mail* of the administrative law judge's ~~findings~~ *decision* and ~~decision~~ *order, or final order of the commissioner*. The review board shall have authority to revise, confirm, or reverse the ~~findings~~ *decision* and ~~decision~~ *order* of administrative law judges, *or to vacate and remand final orders of the commissioner. The board shall only vacate a final order of the commissioner upon a showing of good cause. For purposes of this section, good cause is limited to fraud, mistake of fact or law, or newly discovered evidence.*

Sec. 77. Minnesota Statutes 1990, section 182.666, subdivision 1, is amended to read:

Subdivision 1. Any employer who willfully or repeatedly violates the requirements of section 182.653, or any standard, rule, or order ~~promulgated~~ *adopted* under the authority of the commissioner as provided in this chapter, may be assessed a fine not to exceed ~~$20,000~~ *$70,000* for each violation. *The minimum fine for a willful violation is $5,000.*

Sec. 78. Minnesota Statutes 1990, section 182.666, subdivision 2, is amended to read:

Subd. 2. Any employer who has received a citation for a serious violation of its duties under section 182.653, or any standard, rule, or order ~~promulgated~~ *adopted* under the authority of the commissioner as provided in this chapter, shall be assessed a fine not to exceed ~~$2,000~~ *$7,000* for each ~~such~~ violation. If ~~such~~ *the* violation causes or contributes to the cause of the death of an employee, the employer shall be assessed a fine of up to $10,000.

Sec. 79. Minnesota Statutes 1990, section 182.666, subdivision 3, is amended to read:

Subd. 3. Any employer who has received a citation for a violation of its duties under section 182.653, subdivisions 2 to 4, where ~~such~~ *the* violation is specifically determined not to be of a serious nature as provided in section 182.651, subdivision 12, may be assessed a fine of up to ~~$2,000~~ *$7,000* for each ~~such~~ violation.

Sec. 80. Minnesota Statutes 1990, section 182.666, subdivision 4, is amended to read:

Subd. 4. Any employer who fails to correct a violation for which a citation has been issued under section 182.66 within the period permitted for its correction, which period shall not begin to run until the date of the final

order of the ~~board~~ *commissioner* in the case of any review proceedings under this chapter initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a fine of not more than ~~$2,000~~ *$7,000* for each day during which ~~such~~ *the* failure or violation continues.

Sec. 81. Minnesota Statutes 1990, section 182.666, subdivision 5, is amended to read:

Subd. 5. Any employer who violates any of the posting requirements, as prescribed under this chapter, except those prescribed under section 182.661, subdivision 3a, shall be assessed a fine of up to ~~$2,000~~ *$7,000* for each violation.

Sec. 82. Minnesota Statutes 1990, section 182.666, subdivision 5a, is amended to read:

Subd. 5a. Any employer who knowingly violates section 182.6575 shall be assessed a fine of up to ~~$2,000~~ *$7,000* for each violation. The employer shall also be liable to each aggrieved employee for civil punitive damages of $400.

Sec. 83. Minnesota Statutes 1990, section 182.669, subdivision 1, is amended to read:

Subdivision 1. Any employee believed to have been discharged or otherwise discriminated against by any person because such employee has exercised any right authorized under the provisions of sections 182.65 to 182.674, may, within 30 days after such alleged discrimination occurs, file a complaint with the commissioner alleging the discriminatory act. Upon receipt of such complaint, the commissioner shall cause such investigation to be made as the commissioner deems appropriate. If upon such investigation the commissioner determines that a discriminatory act was committed against an employee, the commissioner shall refer the matter to the office of administrative hearings for a hearing before an administrative law judge pursuant to the provisions of chapter 14. *For purposes of this section, the commissioner shall file with the administrative law judge and serve upon the respondent, by registered or certified mail, a complaint and written notice of hearing. The respondent shall file with the administrative law judge and serve upon the commissioner, by registered or certified mail, an answer within 20 days after service of the complaint.* In all cases where the administrative law judge finds that an employee has been discharged or otherwise discriminated against by any person because the employee has exercised any right authorized under sections 182.65 to 182.674, the administrative law judge may order payment to the employee of back pay and compensatory damages. The administrative law judge may also order rehiring of the employee; reinstatement of the employee's former position, fringe benefits, and seniority rights; and other appropriate relief. In addition, the administrative law judge may order payment to the commissioner or to the employee of costs, disbursements, witness fees, and attorney fees. Interest shall accrue on, and be added to, the unpaid balance of an administrative law judge's order from the date the order is signed by the administrative law judge until it is paid, at the annual rate provided in section 549.09, subdivision 1, paragraph (c). An employee may bring a private action in the district court for relief under this section.

Sec. 84. Minnesota Statutes 1990, section 184.28, subdivision 2, is amended to read:

Subd. 2. The department shall hold such examinations at such times and

places as it shall determine. An examination fee of ~~$10~~ *$20* shall be paid by each applicant in addition to the license fee, which examination fee shall be retained by the department whether or not the applicant passes the examination. The examination fee shall be forfeited if the applicant does not take the examination within six months of the application date. The examination fee of ~~$10~~ *$20* shall cover the costs of preparing and printing the examinations and the cost of giving each person taking the examination a copy of the latest rules. Rules shall be kept on the premises readily available to the counselor, manager, or agent.

Sec. 85. Minnesota Statutes 1990, section 184.29, is amended to read:

184.29 [FEES.]

Before a license is granted to an applicant, the applicant shall pay the following fee:

(a) An employment agent shall pay an annual license fee of ~~$200~~ *$250* for each license.

(b) A search firm exempt under section 184.22, subdivision 2, shall pay an annual registration fee of ~~$200~~ *$250*, accompanying the annual statement to the commissioner.

(c) An applicant for a counselor's license shall pay a license fee of ~~$10~~ *$20* and a renewal fee of ~~$5~~ *$10*.

(d) An applicant for an employment agency manager's license shall pay a license fee of ~~$10~~ *$20* and a renewal fee of ~~$5~~ *$10*.

Sec. 86. Minnesota Statutes 1990, section 184A.09, is amended to read:

184A.09 [LICENSE FEES.]

Before a license shall be granted to an applicant, the applicant shall pay a filing fee of $25 and a license fee of ~~$200~~ *$250*.

An application for consent to transfer or assign a license shall be accompanied by a $25 filing fee.

Sec. 87. Minnesota Statutes 1990, section 239.78, is amended to read:

239.78 [INSPECTION FEES.]

An inspection fee shall be charged on petroleum products when received by the distributor, and on petroleum products received and held for sale or use by any person when the petroleum products have not previously been received by a licensed distributor. The department shall adjust the inspection fee to recover the ~~amount~~ *amounts* appropriated for petroleum product quality inspection expenses ~~and the amount appropriated~~, for the inspection and testing of petroleum product measuring devices as required by this chapter, *and for petroleum supply monitoring under chapter 216C*. The department shall review and adjust the inspection fee as required by section 16A.128, except the review of the fee shall occur annually on or before January 1.

The commissioner of revenue shall credit the distributor for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report in a manner approved by the department. The commissioner of revenue is authorized to collect the inspection fees along with any taxes due under chapter 296.

Sec. 88. Minnesota Statutes 1990, section 240.02, subdivision 2, is amended to read:

Subd. 2. [QUALIFICATIONS.] A member of the commission~~, other than the commissioner,~~ must have been a resident of Minnesota for at least five years before appointment, and must have a background and experience as would qualify for membership on the commission. A member must, before taking a place on the commission, file a bond in the principal sum of $100,000 payable to the state, conditioned upon the faithful performance of duties. No commissioner, nor any member of the commissioner's immediate family residing in the same household, may hold a license issued by the commission or have a direct or indirect financial interest in a corporation, partnership, or association which holds a license issued by the commission.

Sec. 89. Minnesota Statutes 1990, section 240.02, subdivision 1, is amended to read:

Subdivision 1. [COMMISSION.] A Minnesota racing commission is established ~~within the division of pari-mutuel racing~~ with the powers and duties specified in this section. ~~Until the effective date of the first vacancy on the commission that occurs after the effective date of Laws 1989, chapter 334, including a vacancy caused by the expiration of a term,~~ The commission consists of nine members appointed by the governor with the advice and consent of the senate ~~and the commissioner of gaming as a nonvoting member. After the date of the first vacancy, the commission consists of eight members appointed by the governor with the advice and consent of the senate, plus the commissioner as a voting member.~~ Not more than five of the members may belong to the same political party. The governor shall designate the chair of the commission. Appointments by the governor are for terms of six years. An appointment to fill a vacancy in an unexpired term is for the remainder of the term and is with the advice and consent of the senate.

Sec. 90. Minnesota Statutes 1990, section 240.02, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION.] The compensation of commission members ~~is $35 per~~ *for each* day spent on commission activities, when authorized by the commission, *shall be the same as compensation provided for other members of boards and commissions under section 15.0575, subdivision 3,* plus expenses in the same manner and amount as provided in the commissioner's plan adopted according to section 43A.18, subdivision 2.

Sec. 91. Minnesota Statutes 1990, section 240.06, subdivision 8, is amended to read:

Subd. 8. [WORK AREAS.] A class A licensee must provide at no cost to the ~~division~~ *commission* suitable work areas for commission members, officers, employees, and agents, including agents of the division of gambling enforcement, who are directed or requested by the commission to supervise and control racing at the licensed racetrack.

Sec. 92. Minnesota Statutes 1990, section 240.155, is amended to read:

240.155 [REIMBURSEMENT ~~ACCOUNT~~ *ACCOUNTS AND PROCEDURES.*]

Subdivision 1. [REIMBURSEMENT ACCOUNT CREDIT.] Money received by the commission as reimbursement for the costs of services provided by assistant veterinarians and stewards must be deposited in the state treasury and credited to a racing commission reimbursement account, *except as provided under subdivision 2.* Receipts are appropriated to the commission to pay the costs of providing the services.

Subd. 2. [GENERAL FUND CREDIT.] *Money received by the commission as reimbursement for the compensation of a steward who is an employee of the commission for which a general fund appropriation has been made must be credited to the general fund.*

Sec. 93. Minnesota Statutes 1990, section 240.28, is amended to read:

240.28 [CONFLICT OF INTEREST.]

Subdivision 1. [FINANCIAL INTEREST.] No person may serve on *or be employed by* the commission ~~or be employed by the division~~ who has an interest in any corporation, association, or partnership which holds a license from the commission or which holds a contract to supply goods or services to a licensee or at a licensed racetrack, including concessions contracts. No member *or employee* of the commission ~~or employee of the division~~ may own, wholly or in part, or have an interest in a horse which races at a licensed racetrack in Minnesota. No member *or employee* of the commission ~~or employee of the division~~ may have a financial interest in or be employed in a profession or business which conflicts with the performance of duties as a member or employee.

Subd. 2. [BETTING.] No member *or employee* of the commission ~~or employee of the division~~ may bet or cause a bet to be made on a race at a licensed racetrack while serving on *or being employed by* the commission ~~or being employed by the division~~. No person appointed or approved by the director as a steward may bet or cause a bet to be made at a licensed racetrack during a racing meeting at which the person is serving as a steward. The commission shall by rule prescribe such restrictions on betting by its licensees as it deems necessary to protect the integrity of racing.

Subd. 3. [VIOLATION.] A violation of subdivisions 1 and 2 is grounds for removal from the commission or termination of employment. A bet made directly or indirectly by a licensee in violation of a rule made by the commission under subdivision 2 is grounds for suspension or revocation of the license.

Sec. 94. Minnesota Statutes 1990, section 297B.09, subdivision 1, is amended to read:

Subdivision 1. [GENERAL FUND SHARE.] (a) Money collected and received under this chapter must be deposited in the state treasury and credited to the general fund. The amounts collected and received shall be credited as provided in this subdivision, and transferred from the general fund on July 15 and ~~January~~ *February* 15 of each fiscal year. The commissioner of finance must make each transfer based upon the actual receipts of the preceding six calendar months and include the interest earned during that six-month period. The commissioner of finance may establish a quarterly or other schedule providing for more frequent payments to the transit assistance fund if the commissioner determines it is necessary or desirable to provide for the cash flow needs of the recipients of money from the transit assistance fund.

(b) ~~Twenty-five~~ *Ten and sixty-seven hundreths* percent of the money collected and received under this chapter after June 30, ~~1990, and before July 1, 1991,~~ *1993* must be transferred to the ~~highway user tax distribution~~ *trunk highway* fund and the transit assistance fund for apportionment as follows: 75 percent must be transferred to the ~~highway user tax distribution~~ *trunk highway* fund for ~~apportionment in the same manner and for~~ the same purposes as other money in that fund, and the remaining 25 percent of the money

must be transferred to the transit assistance fund to be appropriated to the commissioner of transportation for transit assistance within the state and to the regional transit board.

(c) ~~Five percent of the money collected and received under this chapter after June 30, 1989, and before July 1, 1991, must be transferred as follows: 75 percent must be transferred to the trunk highway fund and 25 percent must be transferred to the transit assistance fund.~~

~~(d) Thirty percent of the money collected and received under this chapter after June 30, 1991, must be transferred as follows: 75 percent must be transferred to the trunk highway fund and 25 percent must be transferred to the transit assistance fund.~~

~~(e)~~ The distributions under this subdivision to the ~~highway user tax distribution fund until June 30, 1991, and to the~~ trunk highway fund ~~thereafter~~, must be reduced by the amount necessary to fund the appropriation under section 41A.09, subdivision 1. ~~For the fiscal years ending June 30, 1988, and June 30, 1989,~~ the commissioner of finance, before making the transfers required on July 15 and ~~January~~ *February* 15 of each year, shall estimate the amount required to fund the appropriation under section 41A.09, subdivision 1, for the six-month period for which the transfer is being made. The commissioner shall then reduce the amount transferred to the ~~highway user tax distribution~~ *trunk highway* fund by the amount of that estimate. The commissioner shall reduce the estimate for any six-month period by the amount by which the estimate for the previous six-month period exceeded the amount needed to fund the appropriation under section 41A.09, subdivision 1, for that previous six-month period. If at any time during a six-month period ~~in those fiscal years~~ the amount of reduction in the transfer to the ~~highway user tax distribution~~ *trunk highway* fund is insufficient to fund the appropriation under section 41A.09, subdivision 1 for that period, the commissioner shall transfer to the general fund from the ~~highway user tax distribution~~ *trunk highway* fund an additional amount sufficient to fund the appropriation for that period, but the additional amount so transferred to the general fund in a six-month period may not exceed the amount transferred to the ~~highway user tax distribution~~ *trunk highway* fund for that six-month period.

Sec. 95. Minnesota Statutes 1990, section 299F.57, subdivision 1a, is amended to read:

Subd. 1a. [ADOPTION OF FEDERAL STANDARDS.] The federal safety standards adopted as Code of Federal Regulations, title 49, parts 191, 192, ~~and~~ 193, *and 199*, and standards that may be adopted that amend parts 191, 192, ~~and~~ 193, *and 199*, are adopted as minimum safety standards.

Sec. 96. Minnesota Statutes 1990, section 299F.641, subdivision 2, is amended to read:

Subd. 2. [FEDERAL STANDARDS ADOPTED.] The federal safety standards adopted as Code of Federal Regulations, title 49, ~~part~~ *parts* 195 *and 199*, and standards that may be adopted that amend ~~part~~ *parts* 195 *and 199*, are adopted as minimum safety standards. The commissioner may by rule adopt additional or more stringent safety standards for intrastate hazardous liquid pipeline facilities and the transportation of hazardous liquids associated with those facilities, if the state standards are compatible with the federal standards. The standards may not prescribe the location or routing of a pipeline facility.

Sec. 97. Minnesota Statutes 1990, section 299K.07, is amended to read:

299K.07 [NOTIFICATION TO EMERGENCY ~~RESPONSE~~ *MANAGEMENT* CENTER.]

(a) The notification of the commission required under the federal act shall be made to the state emergency ~~response~~ *management* center. The owner or operator of a facility shall immediately notify the state emergency ~~response~~ *management* center of the release of a reportable quantity of the following materials:

(1) a hazardous substance on the list established under United States Code, title 42, section 9602; or

(2) an extremely hazardous substance on the list established under United States Code, title 42, section 11002.

(b) This section does not apply to a release that results in exposure to persons solely within the site or sites on which a facility is located or to a release specifically authorized by state law.

(c) A person who is required to report to or notify a state agency of a discharge, release, or incident under section 221.034, chapter 18B, 18C, 18D, 115, 115A, 115B, 115C, 115D, 116, 299J, or 299K, or any other statute, administrative rule or federal rule may satisfy the requirement to report by notifying the emergency management center established in this section. The commissioner of the department of public safety shall ensure that the center is staffed with adequate personnel to answer all calls 24 hours a day and that those staff are adequately trained to efficiently notify all appropriate state and federal agencies with jurisdiction over the discharge or release, and provide emergency responder information. No state agency may adopt a rule or guideline that requires a person who notifies the emergency management center to also notify that agency. The commissioner of each affected state agency shall include the telephone number of the emergency management center in all files, permits, correspondence, educational publications, and other communications with the public and other persons, and shall designate personnel to coordinate receipt of reports or notifications with emergency management center personnel.

Sec. 98. Minnesota Statutes 1990, section 299K.09, subdivision 2, is amended to read:

Subd. 2. [FEE STRUCTURE.] The fee established under subdivision 1 may not exceed, in the aggregate, the amount necessary to cover the costs for all data management, including administration of fees, by the commission and regional review committees, *and a portion of the costs of operation of the emergency management center.*

Sec. 99. Minnesota Statutes 1990, section 336.9-413, is amended to read:

336.9-413 [UNIFORM COMMERCIAL CODE ACCOUNT.]

(a) The uniform commercial code account is established as an account in the state treasury.

(b) The filing officer with whom a financing statement, amendment, assignment, statement of release, or continuation statement is filed, or to whom a request for search is made, shall collect a ~~$3~~ *$4* surcharge on each filing or search. By the 15th day following the end of each fiscal quarter, each county recorder shall forward the receipts from the surcharge accumulated during that fiscal quarter to the secretary of state. The surcharge

does not apply to a search request made by a natural person who is the subject of the data to be searched except when a certificate is requested as a part of the search.

(c) The surcharge amounts received from county recorders and the surcharge amounts collected by the secretary of state's office must be deposited in the state treasury and credited to the general fund.

(d) Fees that are not expressly set by statute but are charged by the secretary of state to offset the costs of providing a service under sections 336.9-411 to 336.9-413 must be deposited in the state treasury and credited to the uniform commercial code account.

(e) Fees that are not expressly set by statute but are charged by the secretary of state to offset the costs of providing information contained in the computerized records maintained by the secretary of state must be deposited in the state treasury and credited to the uniform commercial code account.

(f) Money in the uniform commercial code account is continuously appropriated to the secretary of state to implement and maintain the computerized uniform commercial code filing system under section 336.9-411 and to provide electronic-view-only access to other computerized records maintained by the secretary of state.

Sec. 100. Minnesota Statutes 1990, section 349.12, subdivision 10, is amended to read:

Subd. 10. [DIRECTOR.] "Director" is the director of the ~~division of~~ gambling control *board*.

Sec. 101. Minnesota Statutes 1990, section 349.151, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] *(a) Until July 1*, the board consists of six members appointed by the governor with the advice and consent of the senate and the commissioner of gaming as a voting member. ~~Of the members first appointed, one is for a term expiring June 30, 1990, two are for a term expiring June 30, 1991, two are for a term expiring June 30, 1992, and one is for a term expiring June 30, 1993.~~

(b) On and after July 1, 1991, the board consists of seven members, as follows: (1) those members appointed by the governor before July 1, 1991, whose terms expire June 30, 1992, June 30, 1993, and June 30, 1994; (2) one member appointed by the governor for a term expiring June 30, 1994; (3) one member appointed by the commissioner of public safety for a term expiring June 30, 1995; and (4) one member appointed by the attorney general for a term expiring June 30, 1995.

(c) All appointments under this subdivision are with the advice and consent of the senate.

(d) After expiration of the initial terms, appointments are for four years.

(e) The board shall select one of its members~~, other than the commissioner,~~ to serve as chair. No more than three members appointed by the governor under this subdivision may belong to the same political party.

Sec. 102. Minnesota Statutes 1990, section 349A.01, subdivision 5, is amended to read:

Subd. 5. [DIRECTOR.] "Director" is the director of the state lottery

~~division~~.

Sec. 103. Minnesota Statutes 1990, section 349A.01, subdivision 9, is amended to read:

Subd. 9. [LOTTERY.] "Lottery" is the state lottery ~~operated by the state lottery division of the department~~.

Sec. 104. Minnesota Statutes 1990, section 349A.02, subdivision 1, is amended to read:

Subdivision 1. [DIRECTOR.] A state lottery ~~division~~ is established ~~in the department of gaming,~~ under the supervision and control of the director of the state lottery appointed by the governor with the advice and consent of the senate. The governor shall appoint the first director from a list of at least three persons recommended to the governor by the governor's commission on the lottery which was appointed by the governor on December 8, 1988. The director must be qualified by experience and training to supervise the lottery. The director serves in the unclassified service.

Sec. 105. Minnesota Statutes 1990, section 349A.03, subdivision 1, is amended to read:

Subdivision 1. [BOARD CREATED.] There is created ~~within the division~~ a state lottery board. The board consists of ~~six~~ *seven* members appointed by the governor ~~plus the commissioner as a voting member~~. Not more than ~~three~~ *four* of the members ~~appointed by the governor under this subdivision~~ may belong to the same political party and at least three members must reside outside the seven-county metropolitan area. The terms of office, removal from office, and compensation of members of the board~~, other than the commissioner,~~ are as provided in section 15.059 except the board does not expire as provided under section 15.059, subdivision 5. The members of the board shall select the chair of the board~~, who shall not be the commissioner~~.

Sec. 106. Minnesota Statutes 1990, section 349A.10, subdivision 5, is amended to read:

Subd. 5. [DEPOSIT OF NET PROCEEDS.] Within 30 days after the end of each month, the director shall deposit in the state treasury the net proceeds of the lottery, which is the balance in the lottery fund after transfers to the lottery prize fund and credits to the lottery operations account. Of the net proceeds, 40 percent must be credited to the Minnesota environment and natural resources trust fund, ~~28.3 percent must be credited to the infrastructure development fund for capital improvement projects at state institutions of higher education, 6.7 percent must be credited to the infrastructure development fund for capital improvement projects to develop or protect the state's environment and natural resources, and, through the first ten full fiscal years during which proceeds from the lottery are received, 25 percent must be credited to the Greater Minnesota account in the special revenue fund~~ *and the remainder must be credited to the general fund.*

Sec. 107. Minnesota Statutes 1990, section 626.861, subdivision 1, is amended to read:

Subdivision 1. [LEVY OF ASSESSMENT.] There is levied a penalty assessment of ~~ten~~ *12* percent on each fine imposed and collected by the courts of this state for traffic offenses in violation of chapters 168 to 173 or equivalent local ordinances, other than a fine or forfeiture for a violation of a local ordinance or other law relating to the parking of a vehicle. In

cases where the defendant is convicted but a fine is not imposed, or execution of the fine is stayed, the court shall impose a penalty assessment of not less than $5 nor more than $10 when the conviction is for a misdemeanor or petty misdemeanor, and shall impose a penalty assessment of not less than $10 but not more than $50 when the conviction is for a gross misdemeanor or felony. Where multiple offenses are involved, the penalty assessment shall be assessed separately on each offense for which the defendant is sentenced. If imposition or execution of sentence is stayed for all of the multiple offenses, the penalty assessment shall be based upon the most serious offense of which the defendant was convicted. Where the court suspends a portion of a fine, the suspended portion shall not be counted in determining the amount of the penalty assessment unless the offender is ordered to pay the suspended portion of the fine. Suspension of an entire fine shall be treated as a stay of execution for purposes of computing the amount of the penalty assessment.

Sec. 108. Minnesota Statutes 1990, section 626.861, subdivision 4, is amended to read:

Subd. 4. [PEACE OFFICERS TRAINING ACCOUNT.] Receipts from penalty assessments must be credited to the general fund. The peace officers standards and training board may allocate from funds appropriated as follows:

(a) Up to 30 percent may be provided for reimbursement to board approved skills courses.

(b) *Up to 15 percent may be used for the school of law enforcement.*

(c) The balance may be used to pay each local unit of government an amount in proportion to the number of licensed peace officers and constables employed, at a rate to be determined by the board. The disbursed amount must be used exclusively for reimbursement of the cost of in-service training required under this chapter and chapter 214.

Sec. 109. [REVISOR INSTRUCTIONS.]

Subdivision 1. The revisor shall change the following terms in Minnesota Statutes and Minnesota Rules to reflect the intent of this act to abolish the department of gaming and the divisions within it:

(1) "division" or similar term to "commission" or similar term wherever it appears in reference to the Minnesota racing commission;

(2) "division" or similar term to "board" or similar term in reference to the gambling control board; and

(3) "division" or similar term to "lottery" or similar term in reference to the state lottery board.

Subd. 2. In the next edition of Minnesota Statutes, the revisor of statutes shall delete the term "division" where it appears:

(1) in Minnesota Statutes, sections 349.153; 349.163, subdivision 4; 349.167, subdivision 4; 349.169, subdivision 2; and 349.18, subdivision 1, and insert the term "board"; and

(2) in Minnesota Statutes, sections 349A.02, subdivisions 4, 5, 6, and 8; 349A.06, subdivisions 2 and 5; 349A.08, subdivision 7; 349A.10, subdivisions 3 and 4; 349A.11; and 349A.12, and insert the term "lottery".

Sec. 110. [REPEALER.]

(a) Laws 1989, chapter 322, section 7, is repealed.

(b) Minnesota Statutes 1990, section 182.664, subdivision 2, is repealed.

(c) Minnesota Statutes 1990, sections 240.01, subdivision 15; 349.12, subdivision 12; 349A.01, subdivisions 3, 4, and 6; and 349B.01, are repealed.

Sec. 111. [EFFECTIVE DATE.]

(a) Sections 33 and 110, paragraph (a), are effective the day following final enactment.

(b) Sections 63; 64; 65; 66; 67; 68; 69; 70; 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 82; 83; and 110, paragraph (b), are effective August 1, 1991.

(c) Sections 43 and 44 are effective July 1, 1992.

(d) All other provisions of this article are effective July 1, 1991."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and other agencies with certain conditions; providing for regulation of certain activities and practices; providing for certain rights-of-way; requiring studies and reports; fixing and limiting accounts and fees; amending Minnesota Statutes 1990, sections 10A.02, by adding a subdivision; 12.14; 15A.081, subdivision 1; 16A.662, subdivisions 2, 4, and 5; 60A.14, subdivision 1; 60A.17, subdivision 1d; 72B.04, subdivision 7; 80C.04, subdivision 1; 80C.07; 80C.08, subdivision 1; 82.22, subdivisions 1, 5, 10, and 11; 115C.09, by adding a subdivision; 129D.04, by adding subdivisions; 129D.05; 138.91; 138.94; 162.02, subdivision 12; 168C.04; 171.06, subdivision 2a; 171.26; 174.24, by adding a subdivision; 182.651, by adding subdivisions; 182.653, subdivision 9; 182.661, subdivisions 1, 2, 2a, 3, 3a, and by adding subdivisions; 182.664, subdivisions 3 and 5; 182.666, subdivisions 1, 2, 3, 4, 5, and 5a; 182.669, subdivision 1; 184.28, subdivision 2; 184.29; 184A.09; 239.78; 240.02, subdivisions 1, 2, and 3; 240.06, subdivision 8; 240.155; 240.28; 297B.09, subdivision 1; 299F.57, subdivision 1a; 299F.641, subdivision 2; 299K.07; 299K.09, subdivision 2; 336.9-413; 349.12, subdivision 10; 349.151, subdivision 2; 349A.01, subdivisions 5 and 9; 349A.02, subdivision 1; 349A.03, subdivision 1; 349A.10, subdivision 5; and 626.861, subdivisions 1 and 4; Laws 1989, chapter 269, sections 11, subdivision 7; and Laws 1990, chapter 610, article 1, section 13, subdivision 4; repealing Minnesota Statutes 1990, sections 182.664, subdivision 2; 240.01, subdivision 15; 349.12, subdivision 12; 349A.01, subdivisions 3, 4, and 6; and 349B.01; and Laws 1989, chapter 322, section 7."

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

House Conferees: (Signed) James I. Rice, Bernard L. "Bernie" Lieder, John J. Sarna, Henry J. Kalis, Art Seaberg

Senate Conferees: (Signed) Keith Langseth, Gary M. DeCramer, Tracy L. Beckman, Lyle G. Mehrkens, James P. Metzen

Mr. Langseth moved that the foregoing recommendations and Conference Committee Report on H.F. No. 53 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.

RECESS

Mr. Luther 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.

The question recurred on H.F. No. 53.

H.F. No. 53 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 38 and nays 11, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.E.	Mehrkens	Renneke
Beckman	Day	Johnson, D.J.	Merriam	Sams
Benson, J.E.	DeCramer	Johnston	Metzen	Samuelson
Bernhagen	Finn	Kelly	Moe, R.D.	Spear
Bertram	Flynn	Laidig	Morse	Storm
Chmielewski	Frederickson, D.J.	Langseth	Novak	Vickerman
Cohen	Frederickson, D.R.	Lessard	Pappas	
Dahl	Hughes	Luther	Price	

Those who voted in the negative were:

Berglin	Hottinger	Larson	Olson	Ranum
Brataas	Knaak	McGowan	Pariseau	Riveness
Frank				

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Berg moved that the following members be excused for a Conference Committee on H.F. No. 887 from 9:30 to 11:30 a.m.:

Messrs. Berg; Frederickson, D.R. and Lessard. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Ms. Ranum moved that the following members be excused for a Conference Committee on S.F. No. 802 from 10:45 a.m. to 12:40 p.m.:

Messrs. Knaak, Merriam and Ms. Ranum. The motion prevailed.

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

House File No. 922 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 922

A bill for an act relating to crimes; imposing a duty to investigate and render aid when a person is injured in a shooting accident; imposing penalties; providing immunity from civil liability under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 609.

May 16, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 922, 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. 922 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 97A.051, subdivision 2, is amended to read:

Subd. 2. [SUMMARY OF FISH AND GAME LAWS.] *(a)* The commissioner shall prepare a summary of the hunting and fishing laws and deliver a sufficient supply to county auditors to furnish one copy to each person obtaining a hunting, fishing, or trapping license.

(b) At the beginning of the summary, under the heading "Trespass," the commissioner shall summarize the trespass provisions under sections 97B.001 to 97B.945, state that conservation officers and peace officers must enforce the trespass laws, and state the penalties for trespassing.

(c) In the summary the commissioner shall, under the heading "Duty to Render Aid," summarize the requirements under section 609.662 and state the penalties for failure to render aid to a person injured by gunshot.

Sec. 2. [609.662] [SHOOTING VICTIM; DUTY TO RENDER AID.]

Subdivision 1. [DEFINITION.] *As used in this section, "reasonable assistance" means aid appropriate to the circumstances, and includes obtaining or attempting to obtain assistance from a conservation or law enforcement officer, or from medical personnel.*

Subd. 2. [DUTY TO RENDER AID.] *(a) A person who discharges a firearm and knows or has reason to know that the discharge has caused bodily harm to another person, shall:*

(1) immediately investigate the extent of the person's injuries; and

(2) render immediate reasonable assistance to the injured person.

(b) A person who violates this subdivision is guilty of a crime and may be sentenced as follows:

(1) if the injured person suffered death or great bodily harm as a result

of the discharge, to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both;

(2) if the injured person suffered substantial bodily harm as a result of the discharge, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both;

(3) otherwise, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(c) Notwithstanding section 609.035 or 609.04, a prosecution for or conviction under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 3. [DUTY OF WITNESS.] *(a) A person who witnesses the discharge of a firearm and knows or has reason to know that the discharge caused bodily harm to a person shall:*

(1) immediately investigate the extent of the injuries; and

(2) render immediate reasonable assistance to the injured person.

(b) A person who violates this subdivision is guilty of a crime and may be sentenced as follows:

(1) if the defendant was a companion of the person who discharged the firearm at the time of the discharge, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both;

(2) otherwise, to imprisonment for not more than 90 days or to payment of a fine of not more than $700, or both.

Subd. 4. [DEFENSE.] *It is an affirmative defense to a charge under this section if the defendant proves by a preponderance of the evidence that the defendant failed to investigate or render assistance as required under this section because the defendant reasonably perceived that these actions could not be taken without a significant risk of bodily harm to the defendant or others.*

Subd. 5. [WITNESSES; IMMUNITY FROM CIVIL LIABILITY.] *Any person who is subject to the duty imposed by subdivision 3 who, without compensation or expectation of compensation, renders assistance to the injured person, is not liable for any civil damages as a result of acts or omissions by that person in rendering the assistance unless that person acts in a willful and wanton or reckless manner in rendering the assistance. Any person who is subject to the duty imposed by subdivision 3 who renders assistance during the course of regular employment and receives compensation or expects to receive compensation for rendering the assistance, shall be excluded from the protection of this subdivision.*

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective August 1, 1991. Section 2 is effective August 1, 1991, and applies to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; imposing a duty to investigate and render aid when a person is injured in a shooting incident; imposing penalties; providing immunity from civil liability under certain circumstances; amending Minnesota Statutes 1990, section 97A.051, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 609."

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

House Conferees: (Signed) Don Ostrom, Kathleen Vellenga, Bill Macklin

Senate Conferees: (Signed) Dennis R. Frederickson, William P. Luther, Bob Lessard

Mr. Frederickson, D.R. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 922 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. 922 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 45 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Hottinger	Luther	Olson
Beckman	Day	Johnson, D.E.	Marty	Pappas
Belanger	DeCramer	Johnson, J.B.	Mehrkens	Pariseau
Benson, J.E.	Finn	Johnston	Merriam	Pogemiller
Berglin	Flynn	Kelly	Metzen	Price
Bernhagen	Frank	Knaak	Moe, R.D.	Ranum
Bertram	Frederickson, D.R.	Laidig	Mondale	Samuelson
Chmielewski	Gustafson	Larson	Morse	Storm
Cohen	Halberg	Lessard	Novak	Vickerman

Mr. Neuville voted in the negative.

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 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. 1128: A bill for an act relating to insurance; providing for replacement cost insurance coverage for personal property; prohibiting insurers from requiring more than one residential renter's insurance policy be written to cover a single household; amending Minnesota Statutes 1990, section 65A.10; proposing coding for new law in Minnesota Statutes, chapter 65A.

Senate File No. 1128 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1991

CONCURRENCE AND REPASSAGE

Mr. Luther moved that the Senate concur in the amendments by the House to S.F. No. 1128 and that the bill be placed on its repassage as amended.

The motion prevailed.

S.F. No. 1128 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 45 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Hughes	Luther	Olson
Belanger	DeCramer	Johnson, D.E.	Marty	Pappas
Benson, D.D.	Finn	Johnson, J.B.	Mehrkens	Pariseau
Benson, J.E.	Flynn	Johnston	Metzen	Price
Berglin	Frank	Kelly	Moe, R.D.	Ranum
Bernhagen	Frederickson, D.R.	Knaak	Mondale	Riveness
Bertram	Gustafson	Laidig	Morse	Samuelson
Chmielewski	Halberg	Larson	Neuville	Storm
Cohen	Hottinger	Lessard	Novak	Vickerman

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 that the House has adopted the recommendation and report of the Conference Committee on House File No. 326, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 326 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 326

A bill for an act relating to elections; providing for time off to vote in primaries; amending Minnesota Statutes 1990, section 204C.04.

May 16, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 326, 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. 326 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 204C.04, is amended to read:

204C.04 [EMPLOYEES; TIME OFF TO VOTE.]

Subdivision 1. [RIGHT TO BE ABSENT.] Every employee who is eligible

to vote ~~at a state general~~ *in an* election ~~or at an election to fill a vacancy in the office of United States senator or United States representative~~ has the right to be absent from work for the purpose of voting during the morning of ~~election~~ *the* day *of that election*, without penalty or deduction from salary or wages because of the absence. An employer or other person may not directly or indirectly refuse, abridge, or interfere with this right or any other election right of an employee.

Subd. 2. [ELECTIONS COVERED.] *For purposes of this section, "election" means a regularly scheduled state primary or general election, an election to fill a vacancy in the office of United States senator or United States representative, or a presidential primary as described in section 207A.01 unless it is conducted by mail.*

Subd. 3. [PENALTY.] A person who violates this section is guilty of a misdemeanor, and the county attorney shall prosecute the violation."

Delete the title and insert:

"A bill for an act relating to elections; providing for time off to vote in state primaries and the presidential primary; amending Minnesota Statutes 1990, section 204C.04."

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

House Conferees: (Signed) Tom Osthoff, Linda Scheid, Ron Abrams

Senate Conferees: (Signed) Jerome M. Hughes, Lawrence J. Pogemiller, Dean E. Johnson

Mr. Hughes moved that the foregoing recommendations and Conference Committee Report on H.F. No. 326 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. 326 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 43 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, J.B.	Mehrkens	Price
Belanger	Finn	Johnston	Metzen	Ranum
Benson, D.D.	Flynn	Kelly	Moe, R.D.	Riveness
Benson, J.E.	Frank	Knaak	Mondale	Samuelson
Berglin	Frederickson, D.R.	Kroening	Morse	Solon
Bernhagen	Gustafson	Larson	Neuville	Storm
Bertram	Halberg	Lessard	Olson	Vickerman
Cohen	Hottinger	Luther	Pappas	
Day	Hughes	Marty	Pariseau	

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 Senate File No. 800,

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

S.F. No. 800: A bill for an act relating to natural resources; revising certain provisions relating to the taking, possession, and transportation of wild animals; amending Minnesota Statutes 1990, sections 97A.445, subdivision 2; 97A.535, subdivision 1; 97B.055, subdivision 3; 97B.106; and 97B.935, subdivision 3.

Senate File No. 800 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

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. 1027, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1027: A bill for an act relating to natural resources; establishing a Minnesota adopt-a-park program; requiring the department of natural resources to report to the legislature on the program; proposing coding for new law in Minnesota Statutes, chapter 85.

Senate File No. 1027 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

CONFIRMATION

Mr. DeCramer moved that the report from the Committee on Transportation, reported May 3, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. DeCramer moved that in accordance with the reports from the Committee on Transportation, reported May 3, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF PUBLIC SAFETY
COMMISSIONER

Ralph Church, 2328 145th Avenue Northwest, Andover, Anoka County, Minnesota, effective January 7, 1991, for a term expiring on the first Monday in January, 1995.

CALL OF THE SENATE

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

The question was taken on the adoption of the motion of Mr. DeCramer.

The roll was called, and there were yeas 38 and nays 22, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Halberg	Lessard	Renneke
Beckman	Chmielewski	Johnson, D.E.	McGowan	Sams
Belanger	Dahl	Johnston	Mehrkens	Solon
Benson, D.D.	Day	Knaak	Merriam	Storm
Benson, J.E.	Frank	Kroening	Neuville	Stumpf
Berg	Frederickson, D.J.	Laidig	Novak	Vickerman
Bernhagen	Frederickson, D.R.	Langseth	Olson	
Bertram	Gustafson	Larson	Pariseau	

Those who voted in the negative were:

Berglin	Flynn	Marty	Pogemiller	Spear
Cohen	Hottinger	Metzen	Price	Waldorf
Davis	Johnson, J.B.	Mondale	Ranum	
DeCramer	Kelly	Morse	Reichgott	
Dicklich	Luther	Pappas	Riveness	

The motion prevailed. So the appointment was confirmed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Sams moved that the following members be excused for a Conference Committee on H.F. No. 702 at 12:30 p.m.:

Messrs. Sams, Beckman and Renneke. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Luther moved that the following members be excused for a Conference Committee on H.F. No. 1142 at 2:00 p.m.:

Messrs. Luther, Halberg and Ms. Ranum. The motion prevailed.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills.

REPORTS OF COMMITTEES

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

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was re-referred

S.F. No. 1517: A bill for an act relating to taxation; authorizing the department of finance to issue obligations to finance construction of aircraft maintenance and repair facilities; providing tax credits for job creation; providing an exemption from sales tax for certain equipment and materials; authorizing establishment of tax increment financing districts in the cities of Duluth and Hibbing and on property located at the Minneapolis-St. Paul International Airport; authorizing the metropolitan airports commission to operate outside the metropolitan area; authorizing the metropolitan airports commission to issue obligations to finance construction of aircraft maintenance facilities; amending Minnesota Statutes 1990, sections 290.06, by adding a subdivision; 360.013, subdivision 5; 360.032, subdivision 1; 360.038, subdivision 4; 473.608, subdivision 1; and 473.667, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters

297A and 473; proposing coding for new law as Minnesota Statutes, chapter 116R.

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

Page 1, after line 25, insert:

"Section 1. Minnesota Statutes 1990, section 3.885, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The legislative commission on planning and fiscal policy consists of ~~18~~ *20* members of the senate and the house of representatives appointed by the legislative coordinating commission. Vacancies on the commission are filled in the same manner as original appointments. The commission shall elect a chair and a vice-chair from among its members. The chair alternates between a member of the senate and a member of the house in January of each odd-numbered year."

Page 1, line 28, delete "*1 to 16*" and insert "*2 to 17*"

Page 1, line 30, delete "*2*" and insert "*3*"

Page 2, line 2, delete "*13*" and insert "*14*"

Page 2, line 6, delete "*commissioner of trade and*"

Page 2, line 7, delete "*economic development*" and insert "*governor and with the approval of the legislative commission on planning and fiscal policy*"

Page 2, lines 8 and 27, delete "*1 to 15*" and insert "*2 to 16*"

Page 2, line 10, after "*bonds*" insert "*and deficiency bonds*"

Page 2, line 13, delete "*and*" and insert a comma and delete " *4*" and insert "*5, and section 14, subdivision 3*"

Page 3, line 35, delete "*1 to 16*" and insert "*2 to 17*"

Page 4, lines 20 and 34, delete "*13*" and insert "*14*"

Page 4, line 22, delete "*the lesser of*"

Page 4, line 23, delete "*or*" and insert "*with such terms and rates as shall produce proceeds from the sale thereof equal to not less than*"

Page 4, line 24, before the semicolon, insert "*plus all costs related to the issuance and sale*"

Page 5, lines 16 and 17, delete "*1 to 15*" and insert "*2 to 16*"

Page 6, line 8, delete "*may*" and insert "*shall*"

Page 6, line 9, delete "*or other party*"

Page 6, line 10, after the period, insert "*All revenues derived from the lease must be used to pay the principal of and interest on the bonds described in section 3, subdivision 1, until the bonds are fully retired or defeased.*"

Page 6, line 32, before the period, insert ", *provided that the approval of the commissioner is not required if a bond trustee has taken possession of the facility as a result of the default*"

Page 6, line 33, before "*Before*" insert "*(a)*"

Page 7, line 3, delete "*: (1)*" and insert "*aircraft noise abatement.*"

Page 7, delete lines 4 to 8 and insert:

"*(b) The leases for each of the facilities described in subdivisions 5 and 6 must contain covenants and agreements by the airline corporation and any successor in interest providing for the retention and location of employees, operations, domestic and international, and facilities, including headquarters, of the airline corporation in the state until the principal and interest on the last series of deficiency bonds and general obligation revenue bonds issued under subdivision 4, paragraph (a), clause (2), are paid.*"

Page 7, lines 13, 24, and 25, delete "*1 to 15*" and insert "*2 to 16*"

Page 7, after line 21, insert:

"*Subd. 9.* [PROJECT COST REPORT.] *Before the commissioner of finance issues bonds, approves financial assistance, or enters into loan, lease, or other revenue agreements for the facilities described in subdivisions 5 and 6, the commissioner of trade and economic development shall report to the governor and the legislative commission on planning and fiscal policy on total public costs related to the construction of the facilities. The report must include: an estimate of the total state and local tax costs for the project; and an estimate of the total state and local capital costs, and method of financing, of any airport and off-airport improvements related to the construction of the facilities but not included in the cost of the facilities, including any runway or taxiway improvements and road, highway, sewer, or other public facility or utility improvement costs.*"

Page 7, line 29, delete "*2*" and insert "*3*"

Page 7, lines 34 and 35, delete "*1 to 15*" and insert "*2 to 16*"

Page 8, line 14, delete "*1 to 15*" and insert "*2 to 16*" and delete "*1*"

Page 8, line 15, delete "*to 15*" and insert "*2 to 16*"

Page 8, line 23, delete "*1 to 15*" and insert "*2 to 16*"

Page 8, lines 31 and 32, delete "*1 to 15*" and insert "*2 to 16*"

Page 8, lines 33 and 36, delete "*2*" and insert "*3*"

Page 8, line 34, delete "*and*" and delete the second "*4*" and insert "*5*" and after "*3,*" insert "*and an order of the commissioner or indenture authorizing the bonds,*"

Page 9, line 27, delete "*secured*" and insert "*payable*"

Page 10, line 33, delete "*2*" and insert "*3*"

Page 11, lines 3, 9, and 18, delete "*2*" and insert "*3*"

Page 11, line 4, delete "*1 to 15*" and insert "*2 to 16*"

Page 11, line 7, delete "*11 or 12*" and insert "*12 or 13*"

Page 11, after line 9, insert:

"*(6) amounts for payment of the bonds described in section 24, subdivision 2, and section 25, subdivision 2;*"

Page 11, line 10, delete "*(6)*" and insert "*(7)*"

Page 11, line 11, delete "*(7)*" and insert "*(9)*"

Page 11, line 12, delete "*(7)*" and insert "*(8)*"

Page 11, line 14, delete "*(8)*" and insert "*(9)*"

Page 12, lines 32 and 33, delete "*1 to 15*" and insert "*2 to 16*"

Page 13, line 28, delete "*1 to 15*" and insert "*2 to 16*"

Page 14, lines 1, 5, 19, and 21, delete "*1 to 15*" and insert "*2 to 16*"

Page 14, line 4, before "FUNDS" insert "AIRCRAFT FACILITIES"

Page 14, lines 7, 10, and 14, delete "*2*" and insert "*3*"

Page 14, line 20, before "ACCOUNTS" insert "DEBT SERVICE"

Page 15, line 10, delete "*1 to 15*" and insert "*2 to 16*"

Page 16, line 30, delete the first comma and insert a semicolon and delete "*2*" and insert "*3*"

Page 17, line 6, delete "*2*" and insert "*3*"

Page 17, line 35, delete "*1 to 15*" and insert "*2 to 16*"

Page 18, line 3, delete "*1 to 15*" and insert "*2 to 16*"

Page 18, lines 12 and 31, delete "*2*" and insert "*3*"

Page 19, after line 2, insert:

"Sec. 18. Minnesota Statutes 1990, section 272.01, subdivision 2, is amended to read:

Subd. 2. (a) When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.

(b) The tax imposed by this subdivision shall not apply to:

(1) property leased or used as a concession in or relative to the use in whole or part of a public park, market, fairgrounds, port authority, economic development authority established under chapter 458C, municipal auditorium, municipal parking facility, municipal museum, or municipal stadium;

(2) property of an airport owned by a city, town, county, or group thereof which is:

(i) leased to or used by any person or entity including a fixed base operator; and

(ii) used as a hangar for the storage or repair of aircraft or to provide aviation goods, services, or facilities to the airport or general public;

the exception from taxation provided in this clause does not apply to:

(i) property located at an airport owned or operated by the metropolitan airports commission, or *property constituting facilities described in section 3, subdivision 6,* by a city of over 50,000 population according to the most recent federal census or such a city's airport authority; or

(ii) hangars leased by a private individual, association, or corporation in

connection with a business conducted for profit other than an aviation-related business;

(3) property constituting or used as a public pedestrian ramp or concourse in connection with a public airport; or

(4) property constituting or used as a passenger check-in area or ticket sale counter, boarding area, or luggage claim area in connection with a public airport but not the airports owned or operated by the metropolitan airports commission or cities of over 50,000 population or an airport authority therein. Real estate owned by a municipality in connection with the operation of a public airport and leased or used for agricultural purposes is not exempt.

(c) Taxes imposed by this subdivision are payable as in the case of personal property taxes and shall be assessed to the lessees or users of real or personal property in the same manner as taxes assessed to owners of real or personal property, except that such taxes shall not become a lien against the property. When due, the taxes shall constitute a debt due from the lessee or user to the state, township, city, county, and school district for which the taxes were assessed and shall be collected in the same manner as personal property taxes. If property subject to the tax imposed by this subdivision is leased or used jointly by two or more persons, each lessee or user shall be jointly and severally liable for payment of the tax.

(d) The tax on real property of the state or any of its political subdivisions that is leased by a private individual, association, or corporation and becomes taxable under this subdivision or other provision of law must be assessed and collected as a personal property assessment. The taxes do not become a lien against the real property."

Page 19, line 9, delete "2" and insert "3"

Page 19, line 17, after "*year*" insert ", *provided that the maximum amount of the credit for any taxable year for each employee shall not exceed an amount equal to 20 percent of the amount paid to each employee at the facility by the corporation during that year*"

Page 20, lines 3 and 21, delete "2" and insert "3"

Page 20, line 11, after the period, insert "*The exemption provided in this subdivision is available for purchases made before January 1, 1995.*"

Page 21, lines 1, 16, and 24, delete "2" and insert "3"

Page 22, lines 27 and 29, delete "2" and insert "3"

Page 23, lines 8, 24, and 36, delete "2" and insert "3"

Page 23, line 13, after "DISTRICT" insert "WITH CITY FUNDS PLEDGE"

Page 23, line 35, before "*The*" insert "*With the consent of St. Louis county,*"

Page 24, line 1, delete everything after "*and*"

Page 24, line 2, delete "*board,*"

Page 24, line 11, after "*obligation*" insert a comma

Page 24, line 35, delete "2" and insert "3"

Page 25, line 3, delete "*18*" and insert "*26*" and after "*is*" insert "*to*

promote the public welfare and national security; serve public interest, convenience, and necessity; promote air navigation and transportation, international, national, state, and local, in and through this state; promote the efficient, safe, and economical handling of air commerce; ensure the inclusion of this state in national and international programs of air transportation; and to those ends to develop the full potentialities of this state as an aviation center, and to correlate all aviation facilities in the entire state so as to provide for the most economical and effective use of aeronautic facilities and services in the state;"

Page 25, line 24, delete "2" and insert "*3*"

Page 25, line 27, delete "*17*" and insert "*19*"

Renumber the sections of article 1 in sequence

Page 26, line 14, after "*of*" insert "*the legislative commission on planning and fiscal policy,*"

Page 26, line 15, after "*finance*" insert a comma

Page 28, line 24, after "*of*" insert "*the legislative commission on planning and fiscal policy,*"

Page 28, line 25, after "*finance*" insert a comma

Page 31, line 25, after "*commission*" insert "*and the commissioners of finance and revenue*"

Page 32, line 24, after the first "*of*" insert "*the legislative commission on planning and fiscal policy,*" and after "*finance*" insert a comma

Page 32, line 31, after the period, insert "*The lease must contain covenants and agreements by the airline corporation and any successor in interest providing for: (1) the retention and location of employees, operations, domestic and international, and facilities, including headquarters, of the airline corporation in the state until the principal and interest on the last series of bonds are paid; and (2) aircraft noise abatement.*"

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "expanding the membership of the legislative commission on planning and fiscal policy;"

Page 1, line 10, after the semicolon, insert "authorizing the pledge of city funds by the city of Duluth to pay debt service on certain obligations;"

Page 1, line 15, after "sections" insert "3.885, subdivision 1; 272.01, subdivision 2;"

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

SECOND READING OF SENATE BILLS

S.F. No. 1517 was read the second time.

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. 1571.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

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. 520: A bill for an act relating to legal services; requesting the supreme court to study the feasibility of adopting rules governing the delivery of legal services by specialized legal assistants; amending Minnesota Statutes 1990, section 481.02, subdivision 3. relating to legal services; requesting the supreme court to study the feasibility of adopting rules governing the delivery of legal services by specialized legal assistants; amending Minnesota Statutes 1990, section 481.02, subdivision 3.

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

Dawkins, Pugh and Swenson.

Senate File No. 520 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 303:

H.F. No. 303: A bill for an act relating to waste management; making changes to state and local government responsibility and authority for waste management; placing emphasis on waste reduction and recycling; adjusting waste facility siting processes; amending Minnesota Statutes 1990, sections 3.195, subdivision 1; 16B.122; 16B.61, subdivision 3a; 115A.02; 115A.03, subdivision 17a; 115A.06, subdivision 2; 115A.14, subdivision 4; 115A.15, subdivisions 7 and 9; 115A.151; 115A.411, subdivision 1; 115A.46, subdivision 1, and by adding a subdivision; 115A.49; 115A.53; 115A.551, subdivisions 1 and 4; 115A.552, subdivisions 1, 2, and by adding a subdivision; 115A.554; 115A.557, subdivision 4; 115A.64, subdivision 2; 115A.67; 115A.83; 115A.84, subdivision 2; 115A.86, subdivision 5, and by adding a subdivision; 115A.882; 115A.9162, subdivision 2; 115A.919; 115A.923, subdivisions 1 and 1a; 115A.931; 115A.94, subdivision 4; 115A.9561; 115A.96, subdivision 6; 115B.04, subdivision 4; 115B.22, subdivision 8; 116.07, subdivision 4j; 325E.042, subdivision 2; 325E.115, subdivision 1; 325E.1151, subdivision 3; 400.08, subdivision 1; 473.803, subdivision 2; 473.811, subdivisions 1, 3, and 5; 473.823, subdivision 5;

473.845, subdivision 4; 473.848, subdivision 2, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 115A; 116; 325E; and 473; repealing Minnesota Statutes 1990, sections 16B.125; 325E.045; and 473.844, subdivision 3; Laws 1989, chapter 325, section 72, subdivision 2.

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

Wagenius, Rukavina, Ozment, McGuire and Hausman have been appointed as such committee on the part of the House.

House File No. 303 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

Mr. Merriam moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 303, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

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. 1422, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1422 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1422

A bill for an act relating to workers' compensation; regulating benefits and insurance; establishing a permanent commission on workers' compensation; providing penalties; appropriating money; amending Minnesota Statutes 1990, sections 79.252, by adding a subdivision; 176.011, subdivisions 3, 11a, and 18; 176.101, subdivisions 1, 2, and 3f; 176.102, subdivisions 1, 2, 3, 3a, 4, 6, 9, and 11; 176.111, subdivision 18; 176.135, subdivisions 1, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.155, subdivision 1; 176.645, subdivisions 1 and 2; 176.83, subdivisions 5, 6, and by adding a subdivision; 176A.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 175 and 176; repealing Minnesota Statutes 1990, sections 175.007; and 176.136, subdivision 5; and chapters 79, 175A, and 176.

May 16, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1422, 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. 1422 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

COMPENSATION BENEFITS

Section 1. Minnesota Statutes 1990, section 176.011, subdivision 3, is amended to read:

Subd. 3. [DAILY WAGE.] "Daily wage" means the daily wage of the employee in the employment engaged in at the time of injury but does not include tips and gratuities paid directly to an employee by a customer of the employer and not accounted for by the employee to the employer. If the amount of the daily wage received or to be received by the employee in the employment engaged in at the time of injury was irregular or difficult to determine, or if the employment was part time, the daily wage shall be computed by dividing the total amount the employee actually earned in such employment in the last 26 weeks, by the total number of days in which the employee actually performed any of the duties of such employment~~, provided further, that~~. *For the purpose of this computation where the wage is irregular or difficult to determine or the employment part time, holiday pay and vacation pay actually received and the corresponding days for which it is paid shall be included in the total amount actually earned and the total days actually performing duties, respectively.* In the case of the construction industry, mining industry, or other industry where the hours of work are affected by seasonal conditions, the weekly wage shall not be less than five times the daily wage. Where board or allowances other than tips and gratuities are made to an employee in addition to wages as a part of the wage contract they are deemed a part of earnings and computed at their value to the employee. In the case of persons performing services for municipal corporations in the case of emergency, then the normal working day shall be considered and computed as eight hours, and in cases where such services are performed gratis or without fixed compensation the daily wage of the person injured shall, for the purpose of calculating compensation payable under this chapter, be taken to be the usual going wage paid for similar services in municipalities where such services are performed by paid employees. If, at the time of injury, the employee was regularly employed by two or more employers, the employee's earnings in all such employments shall be included in the computation of daily wage.

Sec. 2. Minnesota Statutes 1990, section 176.011, subdivision 9, is amended to read:

Subd. 9. [EMPLOYEE.] "Employee" means any person who performs services for another for hire including the following:

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, constable, marshal, police officer, firefighter,

county highway engineer, and peace officer while engaged in the enforcement of peace or in the pursuit or capture of a person charged with or suspected of crime;

(4) a person requested or commanded to aid an officer in arresting or retaking a person who has escaped from lawful custody, or in executing legal process, in which cases, for purposes of calculating compensation under this chapter, the daily wage of the person shall be the prevailing wage for similar services performed by paid employees;

(5) a county assessor;

(6) an elected or appointed official of the state, or of a county, city, town, school district, or governmental subdivision in the state. An officer of a political subdivision elected or appointed for a regular term of office, or to complete the unexpired portion of a regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(7) an executive officer of a corporation, except those executive officers excluded by section 176.041;

(8) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioners of human services and corrections similar to those of officers and employees of the institutions, and whose services have been accepted or contracted for by the commissioner of human services or corrections as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(9) a voluntary uncompensated worker engaged in peace time in the civil defense program when ordered to training or other duty by the state or any political subdivision of it. The daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed by paid employees;

(10) a voluntary uncompensated worker participating in a program established by a county welfare board. In the event of injury or death of the worker, the wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid in the county at the time of the injury or death for similar services performed by paid employees working a normal day and week;

(11) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 84.089. The daily wage of the worker for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(12) *a voluntary uncompensated worker in the building and construction industry who renders services for joint labor-management nonprofit community service projects. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;*

~~(12)~~ *(13)* a member of the military forces, as defined in section 190.05,

while in state active service, as defined in section 190.05, subdivision 5a. The daily wage of the member for the purpose of calculating compensation under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

~~(13)~~ *(14)* a voluntary uncompensated worker, accepted by the director of the Minnesota historical society, rendering services as a volunteer, pursuant to chapter 138. The daily wage of the worker, for the purposes of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

~~(14)~~ *(15)* a voluntary uncompensated worker, other than a student, who renders services at the Minnesota state academy for the deaf or the Minnesota state academy for the blind, and whose services have been accepted or contracted for by the state board of education, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

~~(15)~~ *(16)* a voluntary uncompensated worker, other than a resident of the veterans home, who renders services at a Minnesota veterans home, and whose services have been accepted or contracted for by the commissioner of veterans affairs, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

~~(16)~~ *(17)* a worker who renders in-home attendant care services to a physically handicapped person, and who is paid directly by the commissioner of human services for these services, shall be an employee of the state within the meaning of this subdivision, but for no other purpose;

~~(17)~~ *(18)* students enrolled in and regularly attending the medical school of the University of Minnesota in the graduate school program or the postgraduate program. The students shall not be considered employees for any other purpose. In the event of the student's injury or death, the weekly wage of the student for the purpose of calculating compensation under this chapter, shall be the annualized educational stipend awarded to the student, divided by 52 weeks. The institution in which the student is enrolled shall be considered the "employer" for the limited purpose of determining responsibility for paying benefits under this chapter;

~~(18)~~ *(19)* a faculty member of the University of Minnesota employed for an academic year is also an employee for the period between that academic year and the succeeding academic year if:

(a) the member has a contract or reasonable assurance of a contract from the University of Minnesota for the succeeding academic year; and

(b) the personal injury for which compensation is sought arises out of and in the course of activities related to the faculty member's employment by the University of Minnesota;

~~(19)~~ *(20)* a worker who performs volunteer ambulance driver or attendant services is an employee of the political subdivision, nonprofit hospital, nonprofit corporation, or other entity for which the worker performs the

services. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

~~(20)~~ *(21)* a voluntary uncompensated worker, accepted by the commissioner of administration, rendering services as a volunteer at the department of administration. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

~~(21)~~ *(22)* a voluntary uncompensated worker rendering service directly to the pollution control agency. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees; and

~~(22)~~ *(23)* a voluntary uncompensated worker while volunteering services as a first responder or as a member of a law enforcement assistance organization while acting under the supervision and authority of a political subdivision. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees.

If it is difficult to determine the daily wage as provided in this subdivision, the trier of fact may determine the wage upon which the compensation is payable.

Sec. 3. Minnesota Statutes 1990, section 176.011, subdivision 11a, is amended to read:

Subd. 11a. [FAMILY FARM.] *(a)* "Family farm" means any farm operation which:

(1) pays or is obligated to pay less than ~~$8,000~~ *$20,000* in cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year; *and*

(2) has total liability and medical payment coverage equal to $300,000 and $5,000, respectively, under a farm liability insurance policy, and the policy covers injuries to farm laborers under clause (1).

(b) For purposes of this subdivision, farm laborer does not include any spouse, parent or child, regardless of age, of a farmer employed by the farmer, or any executive officer of a family farm corporation as defined in section 500.24, subdivision 2, or any spouse, parent or child, regardless of age, of such an officer employed by that family farm corporation, or other farmers in the same community or members of their families exchanging work with the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered as an independent contractor for the purposes of this chapter; provided that a commercial baler or commercial thresher shall be considered an independent contractor.

Sec. 4. Minnesota Statutes 1990, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. If the employee

normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of employment in the last 26 weeks by the number of weeks in which the employee actually performed such duties~~, provided that~~. *For the purpose of this computation where the employee works less than five days per week or irregularly, holiday pay and vacation pay actually received and the corresponding days for which it is paid shall be included in the total amount actually earned and the total days actually performing duties, respectively.* The weekly wage for part time employment during a period of seasonal or temporary layoff shall be computed on the number of days and fractional days normally worked in the business of the employer for the employment involved. If, at the time of the injury, the employee was regularly employed by two or more employers, the employee's days of work for all such employments shall be included in the computation of weekly wage. Occasional overtime is not to be considered in computing the weekly wage, but if overtime is regular or frequent throughout the year it shall be taken into consideration. The maximum weekly compensation payable to an employee, or to the employee's dependents in the event of death, shall not exceed 66 2/3 percent of the product of the daily wage times the number of days normally worked, provided that the compensation payable for permanent partial disability under section 176.101, subdivision 3, and for permanent total disability under section 176.101, subdivision 4, or death under section 176.111, shall not be computed on less than the number of hours normally worked in the employment or industry in which the injury was sustained, subject also to such maximums as are specifically otherwise provided.

Sec. 5. Minnesota Statutes 1990, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] For injury producing temporary total disability, the compensation is 66-2/3 percent of the weekly wage at the time of injury,

~~(1)~~ provided that, during the year commencing on October 1, ~~1979~~ *1991*, and each year thereafter~~, commencing on October 1,~~:

(1) the maximum weekly compensation payable is the statewide average weekly wage for the period ending December 31~~,~~ of the preceding year~~.~~, *provided that, for injuries occurring on or after July 1, 1993, during the year commencing October 1, 1993, and each year thereafter, the maximum weekly compensation payable is 105 percent of the statewide average weekly wage for the period ending December 31 of the preceding year; and*

(2) The minimum weekly compensation ~~benefits for temporary total disability shall be not less than 50~~ *payable for injuries occurring on or after October 1, 1991, is 35* percent of the statewide average weekly wage *for the period ending December 31 of the preceding year* or the injured employee's actual weekly wage, whichever is less. ~~In no case shall a weekly benefit be less than 20 percent of the statewide average weekly wage.~~

Subject to subdivisions 3a to 3u this compensation shall be paid during the period of disability, payment to be made at the intervals when the wage was payable, as nearly as may be.

Sec. 6. Minnesota Statutes 1990, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] *(a)* In all cases of temporary partial disability the compensation shall be 66-2/3 percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition. This compensation shall be paid during the period of disability except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to ~~a~~ *the* maximum ~~compensation equal to the statewide average weekly wage~~ *rate for temporary total compensation.*

(b) Except as provided under subdivision 3k, temporary partial compensation may be paid only while the employee is employed, earning less than the employee's weekly wage at the time of the injury, and the reduced wage the employee is able to earn in the employee's partially disabled condition is due to the injury. Except as provided in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid for more than 260 weeks or after 450 weeks after the date of injury, whichever occurs first.

(c) Temporary partial compensation may not exceed the maximum rate for temporary total compensation and must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 500 percent of the statewide average weekly wage.

Sec. 7. Minnesota Statutes 1990, section 176.101, subdivision 3f, is amended to read:

Subd. 3f. [LIGHT-DUTY JOB PRIOR TO THE END OF TEMPORARY TOTAL COMPENSATION.] *(a)* If the employer offers a job prior to the end of the 90-day period referred to in subdivision 3e, paragraph (a) and the job is consistent with an approved plan of rehabilitation or if no rehabilitation plan has been approved and the job is within the employee's physical limitations; or the employer procures a job for the employee with another employer which meets the requirements of this subdivision; or the employee accepts a job with another employer which meets the requirements of this subdivision, the employee's temporary total compensation shall cease. In this case the employee shall receive impairment compensation for the permanent partial disability which is ascertainable at that time. This impairment compensation shall be paid at the same rate that temporary total compensation was last paid. Upon the end of temporary total compensation under subdivision 3e, paragraph (a), the provisions of subdivision 3e or 3p apply, whichever is appropriate, and economic recovery compensation or impairment compensation is payable accordingly except that the compensation shall be offset by impairment compensation received under this subdivision.

(b) If an employee accepts a job under paragraph (a), begins work at that job, and is subsequently unemployed at that job through no fault of the employee, that employee shall receive temporary total compensation, subject to the provisions of subdivision 3e or paragraph (a), as may be applicable. In addition, the employer who was the employer at the time of the injury shall provide rehabilitation consultation by a qualified rehabilitation consultant if the employee remains unemployed for 45 calendar days. The commissioner may waive this rehabilitation consultation if the commissioner

determines that rehabilitation is unnecessary. Further rehabilitation, if considered appropriate, is subject to section 176.102.

Sec. 8. Minnesota Statutes 1990, section 176.102, subdivision 11, is amended to read:

Subd. 11. [RETRAINING; *COMPENSATION.*] *(a)* Retraining is limited to 156 weeks. An employee who has been approved for retraining may petition ~~the commissioner~~ for additional compensation not to exceed 25 percent of the compensation otherwise payable. If the commissioner *or compensation judge* determines that this additional compensation is warranted due to unusual or unique circumstances of the employee's retraining plan, the commissioner *or compensation judge* may award additional compensation in an amount ~~the commissioner determines is appropriate,~~ not to exceed the employee's request. This additional compensation shall cease at any time the commissioner *or compensation judge* determines the special circumstances are no longer present.

(b) If the employee is not employed during a retraining plan that has been specifically approved under this section, temporary total compensation is payable for up to 90 days after the end of the retraining plan; except that, payment during the 90-day period is subject to cessation in accordance with section 176.101. If the employee is employed during the retraining plan but earning less than at the time of injury, temporary partial compensation is payable at the rate of 66-2/3 percent of the difference between the employee's weekly wage at the time of injury and the weekly wage the employee is able to earn in the employee's partially disabled condition, subject to the maximum rate for temporary total compensation. Temporary partial compensation is not subject to the 260-week or 450-week limitations provided by section 176.101, subdivision 2, during the retraining plan, but is subject to those limitations before and after the plan.

Sec. 9. Minnesota Statutes 1990, section 176.111, subdivision 18, is amended to read:

Subd. 18. [BURIAL EXPENSE.] In all cases where death results to an employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount ~~$2,500~~ *$7,500*. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, its reasonable value shall be determined and approved by the commissioner, a compensation judge, or workers' compensation court of appeals, in cases upon appeal, before payment, after reasonable notice to interested parties as is required by the commissioner. If the deceased leaves no dependents, no compensation is payable, except as provided by this chapter.

Sec. 10. Minnesota Statutes 1990, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is

the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on *or after* October 1, 1977 ~~or thereafter~~ *but prior to October 1, 1991*, under this section shall exceed six percent a year~~.~~*;* in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be six percent. *No adjustment increase made on October 1, 1991, or thereafter under this section shall exceed four percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be four percent.*

Sec. 11. Minnesota Statutes 1990, section 176.645, subdivision 2, is amended to read:

Subd. 2. [TIME OF FIRST ADJUSTMENT.] For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to subdivision 1 ~~shall be~~ *is* deferred until the first anniversary of the date of the injury. *For injuries occurring on or after October 1, 1991, the initial adjustment under subdivision 1 is deferred until the second anniversary of the date of injury.*

Sec. 12. [EFFECTIVE DATE.]

This article is effective October 1, 1991.

ARTICLE 2

MEDICAL AND REHABILITATION

Section 1. Minnesota Statutes 1990, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] *(a) This section only applies to vocational rehabilitation of injured employees and their spouses as provided under subdivision 1a. Physical rehabilitation of injured employees is considered treatment subject to section 176.135.*

(b) Rehabilitation is intended to restore the injured employee~~, through physical and vocational rehabilitation,~~ so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

Sec. 2. Minnesota Statutes 1990, section 176.102, subdivision 1a, is amended to read:

Subd. 1a. [SURVIVING SPOUSE.] Upon the request of a qualified dependent surviving spouse, rehabilitation services shall be provided through the rehabilitation services section of the workers' compensation division. For the purposes of this subdivision a qualified dependent surviving spouse is a dependent surviving spouse, as determined under section 176.111, who is in need of rehabilitation assistance to become self-supporting. A spouse

who is provided rehabilitation services under this subdivision is ~~not~~ entitled to compensation under subdivision 11 *only if the commissioner or a compensation judge determines retraining is necessary to ensure that when benefits under section 176.111 cease, the surviving spouse is able to be self-supporting and will not become a recipient of a public assistance program administered by the state.*

Sec. 3. Minnesota Statutes 1990, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services *and shall by rule, subject to chapter 14, establish a fee schedule or otherwise limit fees charged by qualified rehabilitation consultants and vendors.* The commissioner may hire qualified personnel to assist in the commissioner's duties under this section and may delegate the duties and performance.

Sec. 4. Minnesota Statutes 1990, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner or a designee, who shall serve as an ex officio member, and ~~two~~ *three* members ~~each from~~ *who shall represent both* employers~~,~~ *and* insurers, ~~rehabilitation, and medicine,~~ one member representing chiropractors, ~~and four~~ *one member representing medical doctors, three* members representing labor, *two members representing rehabilitation vendors, and five members representing qualified rehabilitation consultants.* The members shall be appointed by the commissioner and shall serve four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chair. The panel shall review and make a determination with respect to appeals from orders of the commissioner regarding certification approval of qualified rehabilitation consultants and vendors. The hearings are de novo and initiated by the panel under the contested case procedures of chapter 14, and are appealable to the workers' compensation court of appeals in the manner provided by section 176.421.

Sec. 5. Minnesota Statutes 1990, section 176.102, subdivision 3a, is amended to read:

Subd. 3a. [DISCIPLINARY ACTIONS.] The panel has authority to discipline qualified rehabilitation consultants and vendors and may impose a penalty of up to $1,000 per violation, and may suspend or revoke certification. Complaints against registered qualified rehabilitation consultants and vendors shall be made to the commissioner who shall investigate all complaints. If the investigation indicates a violation of this chapter or rules adopted under this chapter, the commissioner may initiate a contested case proceeding under the provisions of chapter 14. In these cases, the rehabilitation review panel shall make the final decision following receipt of the report of an administrative law judge. The decision of the panel is appealable to the workers' compensation court of appeals in the manner provided by section 176.421. The panel shall continuously study rehabilitation services

and delivery, develop and recommend rehabilitation rules to the commissioner, and assist the commissioner in accomplishing public education.

~~The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one labor member, one employer or insurer member, and one member representing medicine, chiropractic, or rehabilitation.~~

Sec. 6. Minnesota Statutes 1990, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (a) ~~An employer or insurer shall provide rehabilitation consultation by a qualified rehabilitation consultant or by another person permitted by rule to provide consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be provided immediately after receipt of this information.~~

~~For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time.~~ *A rehabilitation consultation must be provided by the employer to an injured employee upon request of the employee, the employer, or the commissioner. If a rehabilitation consultation is requested, the employer shall provide a qualified rehabilitation consultant. If the injured employee objects to the employer's selection, the employee may select a qualified rehabilitation consultant of the employee's own choosing within 30 days following the first in-person contact between the employee and the original qualified rehabilitation consultant. If the consultation indicates that rehabilitation services are appropriate under subdivision 1, the employer shall provide the services. If the consultation indicates that rehabilitation services are not appropriate under subdivision 1, the employer shall notify the employee of this determination within seven days after the consultation.*

(b) In order to assist the commissioner in determining whether or not to request rehabilitation consultation for an injured employee, an employer shall notify the commissioner whenever the employee's temporary total disability will likely exceed 13 weeks. The notification must be made within 90 days from the date of the injury or when the likelihood of at least a 13-week disability can be determined, whichever is earlier, and must include a current physician's report. The employer or insurer must notify the employee by certified mail of the right to rehabilitation consultation services within 90 days after the injury if the employee has not returned to work. The commissioner shall impose a reasonable fine on an employer or insurer that fails to notify the employee under this section.

(c) The qualified rehabilitation consultant ~~appointed by the employer or insurer~~ shall disclose in writing at the first meeting or written communication

with the employee any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest. The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party ~~to~~, *attorney, or health care provider involved in* the case~~, including any attorneys, doctors, or chiropractors~~.

~~If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection. The notification shall include the name, address, and telephone number of the qualified rehabilitation consultant chosen by the employee to provide rehabilitation consultation.~~

(d) After the initial provision or selection of a qualified rehabilitation consultant as provided under paragraph (a), the employee may choose a different qualified rehabilitation consultant ~~as follows:~~

~~(1)~~ once during the first ~~60~~ *30* days following ~~the first in-person contact between the employee and the original consultant;~~

~~(2) once after the 60-day period referred to in clause (1); and~~

~~(3) subsequent requests~~ *receipt by the employee of the rehabilitation plan developed under paragraph (e). Thereafter, the employee may request a different qualified rehabilitation consultant which* shall be ~~determined~~ *granted or denied* by the commissioner or compensation judge according to the best interests of the parties.

(e) The employee and employer shall ~~enter into a program if one is prescribed in~~ *develop* a rehabilitation plan *within 30 days of the rehabilitation consultation if the qualified rehabilitation consultant determines that rehabilitation is appropriate.* A copy of the plan, including a target date for return to work, shall be submitted to the commissioner *within 30 days after the plan has been developed.*

~~(b)~~ *(f)* If the employer does not provide rehabilitation consultation, *or the employee does not select a qualified rehabilitation consultant,* as ~~required by this section~~ *provided in paragraph (a),* the commissioner or compensation judge shall notify the employer that if the employer fails to ~~appoint~~ *provide, or the employee fails to select, whichever is applicable,* a qualified rehabilitation consultant ~~or other persons as permitted by clause (a)~~ within 15 days to conduct a rehabilitation consultation, the commissioner or compensation judge shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner or compensation judge determines the consultation is not required.

~~(c)~~ *(g)* In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

~~(d)~~ *(h)* The commissioner or compensation judge may waive rehabilitation services under this section if the commissioner or compensation judge is satisfied that the employee will return to work in the near future or that rehabilitation services will not be useful in returning an employee to work.

Sec. 7. Minnesota Statutes 1990, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner or a compensation judge shall determine eligibility for rehabilitation services and shall review, approve, modify, or reject rehabilitation plans developed under subdivision 4. The commissioner or a compensation judge shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled. *A plan that is not completed within six months or after $5,000 has been paid in rehabilitation benefits shall be specifically monitored by the commissioner. The commissioner shall review the progress of the plan and may take actions including, but not limited to, redirecting, amending, suspending, or terminating the plan. Activity under the plan shall not be discontinued solely because the plan is under review by the commissioner.*

Sec. 8. Minnesota Statutes 1990, section 176.102, subdivision 9, is amended to read:

Subd. 9. [PLAN, COSTS.] An employer is liable for the following rehabilitation expenses under this section:

(a) Cost of rehabilitation evaluation and preparation of a plan;

(b) Cost of all rehabilitation services and supplies necessary for implementation of the plan;

(c) Reasonable cost of tuition, books, travel, and custodial day care; and, in addition, reasonable costs of board and lodging when rehabilitation requires residence away from the employee's customary residence;

(d) Reasonable costs of travel and custodial day care during the job interview process;

(e) Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury. An employee shall not be required to relocate and a refusal to relocate shall not result in a suspension or termination of compensation under this chapter; and

(f) Any other expense agreed to be paid.

Charges for services provided by a rehabilitation consultant or vendor must be submitted on a billing form prescribed by the commissioner. No payment for the services may be made until the charges are submitted on the prescribed form.

Sec. 9. Minnesota Statutes 1990, section 176.106, is amended by adding a subdivision to read:

Subd. 10. [LOCATION OF CONFERENCE.] *If personal attendance is required to fully determine issues, all conferences shall be held within 150 miles of the residence of the employee unless the issues do not relate to a dispute with the employee. In the discretion of the workers' compensation division a telephone conference may be ordered.*

Sec. 10. Minnesota Statutes 1990, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, PSYCHOLOGICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish any medical, psychological, chiropractic, podiatric, surgical and hospital treatment, including nursing, *foreign language translation services*, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. This treatment shall include treatments necessary to physical rehabilitation. *Except in an emergency or unless authorized by a compensation judge or the commissioner, treatment under this section must be provided by a health care provider certified by the commissioner and in accordance with standards under section 176.1351, subdivision 6. An employee may receive compensable medical treatment from a health care provider who is not certified under section 176.1351 if the provider maintains the employee's medical records and has a documented history of treatment with the employee; provided that the health care provider agrees to refer the injured employee to a certified managed care provider for any specialized treatment, including physical therapy, to be furnished by another provider that the employee may require, and provided that the health care provider agrees to comply with all the rules regarding service performed by certified managed care providers adopted by the commissioner. A provider who is not eligible for certification may provide treatment only under the direction of or upon referral from a certified provider and in accordance with section 176.1351, subdivision 6.*

(b) The employer shall pay for the reasonable value of nursing services provided by a member of the employee's family in cases of permanent total disability.

(c) Exposure to rabies is an injury and an employer shall furnish preventative treatment to employees exposed to rabies.

(d) The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of the employer's inability or refusal seasonably to ~~do so~~ *provide the items required to be provided under this section*, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7, and attorney fees incurred by the employee. No action to recover the cost of copies may be brought until the commissioner adopts a schedule of reasonable charges under subdivision 7. Attorney's fees shall be determined on an hourly basis according to the criteria in section 176.081, subdivision 5. ~~The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability.~~

~~(b)~~ *(e)* Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with sections 176.106 and 176.305.

Sec. 11. Minnesota Statutes 1990, section 176.135, subdivision 6, is amended to read:

Subd. 6. [COMMENCEMENT OF PAYMENT.] As soon as reasonably possible, and no later than 30 calendar days after receiving the bill, the employer or insurer shall pay the charge or any portion of the charge which is not denied, *or* deny all or a part of the charge ~~on the basis of excessiveness or noncompensability, or specify the additional data needed,~~ with written notification to the employee and the provider~~.~~ *explaining the basis for denial. All or part of a charge must be denied if any of the following conditions exist:*

(1) the injury or condition is not compensable under this chapter;

(2) the charge or service is excessive under this section or section 176.136;

(3) the provider is not enrolled with or certified by the department in accordance with rules adopted under section 176.183;

(4) the charges are not submitted on the prescribed billing form; or

(5) additional medical records or reports are required under subdivision 7 to substantiate the nature of the charge and its relationship to the work injury.

If payment is denied under clause (3), (4), or (5), the employer or insurer shall reconsider the charges in accordance with this subdivision within 30 calendar days after receiving additional medical data, a prescribed billing form, or documentation of enrollment or certification as a provider.

Sec. 12. Minnesota Statutes 1990, section 176.135, subdivision 7, is amended to read:

Subd. 7. [MEDICAL BILLS AND RECORDS.] Health care providers shall submit to the insurer an itemized statement of charges *on a billing form prescribed by the commissioner*. Health care providers ~~other than hospitals~~ shall also submit copies of medical records or reports that substantiate the nature of the charge and its relationship to the work injury~~, provided, however, that hospitals must submit any copies of records or reports requested under subdivision 6~~. Health care providers may charge for copies of any records or reports that are in existence and directly relate to the items for which payment is sought under this chapter. ~~Charges for copies provided under this subdivision shall be reasonable.~~ The commissioner shall adopt a schedule of reasonable charges by ~~emergency rules~~ *rule*.

A health care provider shall not collect, attempt to collect, refer a bill for collection, or commence an action for collection against the employee, employer, or any other party until the information required by this section has been furnished.

Sec. 13. [176.1351] [MANAGED CARE.]

Subdivision 1. [DEFINITION.] *Managed care is medical service rendered or coordinated by a health care provider certified by the commissioner to treat injured employees in accordance with standards, procedures, and fees developed by the commissioner under this chapter.*

Subd. 2. [ELIGIBILITY.] *The commissioner shall develop a network of managed care providers. All health care providers as defined in section 176.011, subdivision 24, and other business entities are eligible for certification and must make written application to the commissioner to become*

certified to provide managed care to injured employees for injuries and diseases compensable under this chapter. Notwithstanding any other law regulating access to patient care, providers who are not health care providers as defined in section 176.011, subdivision 24, may provide services for those injuries or diseases only under the direction of or upon referral from a certified provider.

After the rules for provider certification have been adopted and are effective, a provider must be certified in accordance with this section, or, if ineligible for certification, must provide services under the direction of or upon referral from a certified provider in order to receive payment for services rendered under section 176.135. A provider not in compliance with this section may not receive payment or attempt to collect from any source, including the employee, any insurer or self-insured employer, the special compensation fund, or any government program, except that retroactive certification may be permitted pursuant to guidelines established by rule, for up to one year after the service was provided unless otherwise ordered by the commissioner or compensation judge. A list of currently certified providers must be given to all self-insured employers and insurers. The list must be made available to others upon request. Employers shall post in a place easily visible to employees a list of certified health care providers in the area.

Subd. 3. [APPLICATION.] *Each application for certification shall be accompanied by a reasonable fee determined by the commissioner to be sufficient to cover the cost of certification. The fee shall be deposited in the special compensation fund. A certificate is valid for the period the commissioner prescribes unless revoked or suspended. The application for certification must be made in the form and manner and set forth information the commissioner may prescribe. The application shall include, but not be limited to:*

(a) the name of the health care provider who will provide services, together with appropriate evidence of compliance with any licensing, registration, or certification requirements for the provider to practice in this state;

(b) a description of the place and nature of the medical service to be provided;

(c) a signed acknowledgment form approved by the commissioner that the provider is familiar with and will comply with workers' compensation rules and laws pertaining to the services provided; and

(d) satisfactory evidence of the ability to comply with any requirements in subdivision 4 that the commissioner may prescribe.

Subd. 4. [CERTIFICATION.] *Upon receipt of an application that meets the requirements of subdivision 3, the commissioner shall certify the health care provider within 30 days unless the commissioner by rule requires additional conditions for certification, which may include but are not limited to, whether the provider:*

(a) proposes to provide services that meet quality, continuity, or other treatment or procedural standards required by the commissioner or this chapter;

(b) proposes to provide services in cooperation with employees, employers, insurers, and rehabilitation providers to promote workplace health and safety and expedite return to work for injured employees;

(c) provides a timely and accurate method of reporting information prescribed by the commissioner about medical and health care services cost and utilization; and

(d) complies with any other requirement the commissioner determines is necessary to provide quality cost-effective medical services and health care to injured employees.

Subd. 5. [REVOCATION, SUSPENSION, AND REFUSAL TO CERTIFY.] *If the commissioner refuses to certify a health care provider or determines certification should be revoked or suspended for a violation of this chapter or rules adopted under this chapter, and the provider disagrees with the commissioner's determination, the provider may appeal to the medical services review board for a hearing with the procedure and right to appeal provided by section 176.103, subdivision 3, paragraph (b). The commissioner may report professional misconduct to an appropriate licensing board.*

Subd. 6. [REVIEW.] *The commissioner, in consultation with the medical services review board, shall develop utilization review and quality assurance procedures and standards that shall be applied by self-insured employers, insurers, the commissioner, and compensation judges in determining compensability of a medical service under this chapter. These standards and procedures must balance the need for medical cost containment with the need for quality medical care and must be based on accepted medical standards. The commissioner may adopt these standards and procedures by rule.*

Subd. 7. [DATA PRIVACY.] *Data generated by utilization review or quality assurance activities pursuant to this section including written reports, notes, or records, shall be private and shall not be disclosed or used in any action, suit, or proceeding except in the administration of this chapter.*

Subd. 8. [PRIVILEGED COMMUNICATIONS.] *A person participating in utilization review or quality assurance activities pursuant to this section shall not be examined about any communication made in the course of the activities or the findings, except in the administration of this chapter, nor shall any person be subject to an action for civil damages for affirmative actions taken or statements made in good faith.*

Subd. 9. [MEDICAL RECORDS CONFIDENTIALITY.] *This section shall not affect the confidentiality or admission in evidence of a claimant's medical treatment records.*

Subd. 10. [RULES.] *In addition to rules required by subdivision 6, the commissioner may consult with the commissioners of the department of health, department of commerce, and department of human services, and shall adopt rules necessary to carry out this section. The commissioners of the departments of health, commerce, and human services shall cooperate and consult with the commissioner upon request of the commissioner. The commissioner may contract with any person or organization to assist in the development of standards, procedures, or rules required or authorized by this section.*

Sec. 14. Minnesota Statutes 1990, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] *(a)* The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups.

(b) The procedures established by the commissioner ~~shall~~ *must* limit, *in accordance with subdivisions 1a and 1b,* the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135~~, based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing~~. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive ~~shall~~ *must* be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures ~~shall~~ *must* incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

Sec. 15. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1a. [RELATIVE VALUE FEE SCHEDULE.] *The liability of an employer for services included in the medical fee schedule is limited to the maximum fee allowed by the schedule in effect on the date of the medical service, or the provider's actual fee, whichever is lower. The medical fee schedule effective on October 1, 1990, shall remain in effect until the commissioner adopts a new schedule by permanent rule, but may remain in effect no later than June 1, 1993. The commissioner shall adopt permanent rules regulating fees allowable for medical, chiropractic, podiatric, surgical, hospital, and other health care provider treatment or services by implementing a relative value fee schedule to be effective on October 1, 1992, or as soon thereafter as possible. The schedule shall not apply to fees regulated by subdivision 1b. The conversion factors for the relative value fee schedule must reasonably reflect a 15 percent overall reduction from 1991 charges, based on a sample of the most common services billed in the first three months of 1991 that is large enough to be statistically valid.*

After permanent rules have been adopted to implement this section, the conversion factors must be adjusted annually on October 1, by the percentage change in the statewide average weekly wage, as set forth and limited under section 176.645, subdivision 1. The commissioner shall annually give notice in the State Register of the adjusted conversion factors. This notice shall be in lieu of the requirements of chapter 14.

Sec. 16. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1b. [LIMITATION OF LIABILITY.] *(a) The liability of the employer for treatment, articles, and supplies provided to an employee while an inpatient at a small hospital shall be the hospital's usual and customary charge, unless the charge is determined by the commissioner or a compensation judge to be unreasonably excessive. A "small hospital," for purposes of this paragraph, is a hospital which has 50 or fewer licensed beds, including the licensed beds of all other hospitals owned in common with or*

otherwise affiliated with it.

(b) The liability of the employer for the treatment, articles, and supplies that are not limited by subdivision 1a or paragraph (a) shall be limited to 80 percent of the provider's usual and customary charge, or 80 percent of the prevailing charges for similar treatment, articles, and supplies furnished to an injured person when paid for by the injured person, whichever is less. On this basis, the commissioner or compensation judge may determine the reasonable value of all treatment, services, and supplies, and the liability to the employer is limited to that amount.

Sec. 17. Minnesota Statutes 1990, section 176.136, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVE FEES.] *(a)* ~~If the employer or insurer determines that the charge for a health service or medical service is excessive, no payment in excess of the reasonable charge for that service shall be made under this chapter nor may the~~ *A* provider, *including a hospital, may not* collect or attempt to collect from the injured employee or any other insurer or government ~~amounts in excess of the amount payable~~ *any charge or portion of a charge that is excessive* under this chapter ~~unless the commissioner, compensation judge, or court of appeals determines otherwise. In such a case, the health care provider may initiate an action under this chapter for recovery of the amounts deemed excessive by the employer or insurer, but the employer or insurer shall have the burden of proving excessiveness~~.

(b) A charge for a health service or medical service is excessive if it is:

(1) in excess of the maximum permissible charge pursuant to this section or section 176.135;

(2) for a service provided at a level, duration, or frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards;

(3) for a service that is outside the scope of practice of the particular provider or is not generally recognized within the particular profession of the provider as of therapeutic value for the specific injury or condition treated; or

(4) otherwise considered excessive or inappropriate pursuant to rules adopted under this chapter.

(c) Where the sole issue in dispute is whether medical fees are excessive, the only parties to the proceeding shall be the health care provider and employer or insurer. The rights of an employee are not affected by a determination under this subdivision.

Sec. 18. Minnesota Statutes 1990, section 176.155, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYER'S PHYSICIAN.] The injured employee must submit to examination by the employer's physician, if requested by the employer, and at reasonable times thereafter upon the employer's request. *The examination must be scheduled at a location within 150 miles of the employee's residence unless the employer can show cause to the department to order an examination at a location further from the employee's residence.* The employee is entitled upon request to have a personal physician present at any such examination. Each party shall defray the cost of that party's physician. Any report or written statement made by the employer's physician

as a result of an examination of the employee, regardless of whether the examination preceded the injury or was made subsequent to the injury, shall be made available, upon request and without charge, to the injured employee or representative of the employee. The employer shall pay reasonable travel expenses incurred by the employee in attending the examination including mileage, parking, and, if necessary, lodging and meals. The employer shall also pay the employee for any lost wages resulting from attendance at the examination. A self-insured employer or insurer who is served with a claim petition pursuant to section 176.271, subdivision 1, or 176.291, shall schedule any necessary examinations of the employee, if an examination by the employer's physician or health care provider is necessary to evaluate benefits claimed. The examination shall be completed and the report of the examination shall be served on the employee and filed with the commissioner within 120 days of service of the claim petition.

No evidence relating to the examination or report shall be received or considered by the commissioner, a compensation judge, or the court of appeals in determining any issues unless the report has been served and filed as required by this section, unless a written extension has been granted by the commissioner or compensation judge. The commissioner or a compensation judge shall extend the time for completing the adverse examination and filing the report upon good cause shown. The extension must not be for the purpose of delay and the insurer must make a good faith effort to comply with this subdivision. Good cause shall include but is not limited to:

(1) that the extension is necessary because of the limited number of physicians or health care providers available with expertise in the particular injury or disease, or that the extension is necessary due to the complexity of the medical issues, or

(2) that the extension is necessary to gather additional information which was not included on the petition as required by section 176.291.

Sec. 19. Minnesota Statutes 1990, section 176.155, is amended by adding a subdivision to read:

Subd. 2a. [EXAMINATION FEES.] *The commissioner, after consultation with the medical services review board, shall adopt rules establishing a single fee schedule for examinations under this section.*

Sec. 20. Minnesota Statutes 1990, section 176.83, subdivision 5, is amended to read:

Subd. 5. [EXCESSIVE MEDICAL SERVICES.] In consultation with the medical services review board or the rehabilitation review panel, rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the payer that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer, and the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including

the employee, another insurer, the special compensation fund, or any government program unless the commissioner or compensation judge determines at a hearing or administrative conference that the level, frequency, or cost was not excessive in which case the insurer, self-insurer, or group self-insurer shall make the payment deemed reasonable.

A health or rehabilitation provider who is determined by the rehabilitation review panel or medical services review board, after hearing, to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under this chapter. A prohibition imposed on a provider under this subdivision may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing or certifying body.

~~The rules adopted under this subdivision shall require insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause.~~

Sec. 21. Minnesota Statutes 1990, section 176.83, is amended by adding a subdivision to read:

Subd. 5a. [REPORTING.] *Rules requiring insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this chapter.*

Sec. 22. Minnesota Statutes 1990, section 176.83, subdivision 6, is amended to read:

Subd. 6. [CERTIFICATION *OR ENROLLMENT* OF MEDICAL PROVIDERS.] Rules establishing procedures and standards for the certification *or enrollment* of physicians, chiropractors, *osteopaths,* podiatrists, and other health care providers, *which may include other business entities providing health care services,* in order to assure the coordination of treatment, rehabilitation, and other services and requirements of chapter 176 for carrying out the purposes and intent of this chapter.

After the rules for provider enrollment have been promulgated, a provider must be enrolled in accordance with the rules to receive payment for services rendered under section 176.135. An unenrolled provider may not receive payment or attempt to collect from any source, including the employee, any insurer or self-insured employer, the special compensation fund, or any government program. Retroactive enrollment must be permitted pursuant to guidelines established by rule. The rules must provide an exception to the enrollment requirement in the case of the provision of emergency medical treatment. A list of currently enrolled providers must be given to all self-insured employers and insurers. The list must be made available to others upon request.

Sec. 23. [REPEALER.]

Minnesota Statutes 1990, section 176.136, subdivision 5, is repealed.

Sec. 24. [EFFECTIVE DATE.]

Sections 1 to 12 and 14 to 23 are effective October 1, 1991. Section 13 is effective July 1, 1992, except that the authority to adopt rules granted by subdivisions 6 and 10 is effective the day following final enactment.

ARTICLE 3
INSURANCE

Section 1. Minnesota Statutes 1990, section 79.252, is amended by adding a subdivision to read:

Subd. 6. [COVERAGE OUTSIDE STATE.] *Policies issued by the assigned risk plan pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The commissioner, on behalf of the assigned risk plan, may apply for and obtain any licensure required in any other state to issue that coverage.*

Sec. 2. Minnesota Statutes 1990, section 176.185, subdivision 1, is amended to read:

Subdivision 1. [NOTICE OF COVERAGE, TERMINATION, CANCELLATION.] (a) Within ten days after the issuance of a policy of insurance covering the liability to pay compensation under this chapter written by an insurer licensed to insure such liability in this state, the insurer shall file notice of coverage with the commissioner under rules and on forms prescribed by the commissioner. No policy shall be canceled by the insurer within the policy period nor terminated upon its expiration date until a notice in writing is delivered or mailed to the insured and filed with the commissioner, fixing the date on which it is proposed to cancel it, or declaring that the insurer does not intend to renew the policy upon the expiration date. A cancellation or termination is not effective until 30 days after written notice has been filed with the commissioner in a manner prescribed by the commissioner unless prior to the expiration of the 30-day period the employer obtains other insurance coverage or an order exempting the employer from carrying insurance as provided in section 176.181. Upon receipt of the notice, the commissioner shall notify the insured that the insured must obtain coverage from some other licensed carrier and that, if unable to do so, the insured shall request the commissioner of commerce to require the issuance of a policy as provided in section 79.251, subdivision 4. Upon a cancellation or termination of a policy by the insurer, the employer is entitled to be assigned a policy in accordance with sections 79.251 and 79.252.

(b) Notice of cancellation or termination by the insured shall be served upon the insurer by written statement mailed or delivered to the insurer. Upon receipt of the notice, the insurer shall notify the commissioner of the cancellation or termination and the commissioner shall ask the employer for the reasons for the cancellation or termination and notify the employer of the duty under this chapter to insure the employer's employees.

(c) In addition to the requirements under paragraphs (a) and (b), with respect to any trucker employer in classification 7219, 7230, 7231, ~~or~~ 7360, *or 8293* pursuant to the classification plan required to be filed under section 79.61, if the insurer or its agent has delivered or mailed a written certificate of insurance certifying that a policy in the name of a trucker employer under this paragraph is in force, then the insurer or its agent shall also deliver or mail written notice of any midterm cancellation to the trucker employer recipient of the certificate of insurance at the address listed on the certificate. If an insurer or its agent fails to mail or deliver notice of any midterm cancellation of the trucker employer's policy to the trucker employer recipient of the certificate of insurance, then the special compensation fund shall

indemnify and hold harmless the recipient from any award of benefits or other damages under this chapter resulting from the failure to give notice.

Sec. 3. Minnesota Statutes 1990, section 176A.03, is amended by adding a subdivision to read:

Subd. 3. [COVERAGE OUTSIDE STATE.] *Policies issued by the fund pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The fund may apply for and obtain any licensure required in any other state in order to issue such coverage.*

Sec. 4. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in this act and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of rates in effect on October 1, 1991, must be reduced by 12 percent and applied by the insurer to all policies issued, renewed, or outstanding on or after that date. An insurer may not adjust its filed rating plan to recoup the 12 percent mandated rate reduction under this section. The reduction must be computed on the basis of a 12 percent premium reduction prorated from October 1, 1991, to the expiration of that policy. An insurer shall provide written notice by January 1, 1992, to all employers having an outstanding policy with the insurer as of October 1, 1991, to read as follows: "As a result of the changes in the workers' compensation insurance system enacted by the 1991 legislature, you are entitled to a credit or refund to your current premium in an amount of $ . . . . . which reflects a 12 percent mandated premium reduction prorated from October 1, 1991, to the expiration of your policy."

(b) No rating plan increases may be filed between April 1, 1991, and January 1, 1993.

(c) The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under this section have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner shall present a report detailing the findings and conclusions to the commission on workers' compensation and the legislature by March 1, 1992.

Sec. 5. [TRUCK DRIVER CLASSIFICATIONS.]

The commissioner of commerce shall evaluate the current system of classification of truck drivers for workers' compensation rate purposes that separates truck drivers in classes 7219, 7380, and 8293 from the classifications for the vast majority of truck drivers employed in the private carrier industry as defined in Minnesota Statutes, section 221.011, subdivision 26. The commissioner shall determine if the classification is fair and equitable to employers of truck drivers in those three classes. If the commissioner determines that those classifications are not fair and equitable to those three classes, the commissioner shall make findings and issue an order correcting the unfairness or inequity.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 and 3 are effective the day following final enactment. Section 2 is effective August 1, 1991. Section 4, paragraphs (a) and (c), are effective October 1, 1991. Section 4, paragraph (b), is effective the day following final

enactment and is retroactive to April 1, 1991.

ARTICLE 4

MISCELLANEOUS

Section 1. Minnesota Statutes 1990, section 176.191, subdivision 1, is amended to read:

Subdivision 1. Where compensation benefits are payable under this chapter, and a dispute exists between two or more employers or two or more insurers as to which is liable for payment, the commissioner, compensation judge, or court of appeals upon appeal shall direct, unless action is taken under subdivision 2, that one or more of the employers or insurers make payment of the benefits pending a determination of liability. A temporary order may be issued under this subdivision whether or not the employers or insurers agree to pay under the order.

When liability has been determined, the party held liable for the benefits shall be ordered to reimburse any other party for payments which the latter has made, including interest at the rate ~~of 12 percent a year~~ *set by section 549.09*. The claimant shall also be awarded a reasonable attorney fee, to be paid by the party held liable for the benefits.

An order directing payment of benefits pending a determination of liability may not be used as evidence before a compensation judge, the workers' compensation court of appeals, or court in which the dispute is pending.

Sec. 2. Minnesota Statutes 1990, section 176.191, subdivision 2, is amended to read:

Subd. 2. Where compensation benefits are payable under this chapter, and a dispute exists between two or more employers or two or more insurers as to which is liable for payment, the commissioner or a compensation judge upon petition shall order, unless action is taken under subdivision 1, the special compensation fund established in section 176.131 to make payment of the benefits pending a determination of liability.

The personal injury for which the commissioner or a compensation judge shall order compensation from the special fund is not limited by section 176.131, subdivision 8.

When liability has been determined, the party held liable for benefits shall be ordered to reimburse the special compensation fund for payments made, including interest at the rate ~~of 12 percent a year~~ *set by section 549.09*.

Sec. 3. Minnesota Statutes 1990, section 176.191, subdivision 3, is amended to read:

Subd. 3. If a dispute exists as to whether an employee's injury is compensable under this chapter and the employee is otherwise covered by an insurer pursuant to chapters 62A, 62C and 62D, that insurer shall pay any medical costs incurred by the employee for the injury up to the limits of the applicable coverage and shall make any disability payments otherwise payable by that insurer in the absence of or in addition to workers' compensation liability. If the injury is subsequently determined to be compensable pursuant to this chapter, the workers' compensation insurer shall be ordered to reimburse the insurer that made the payments for all payments made under this subdivision by the insurer, including interest at ~~a rate of 12 percent a year~~ *the rate set by section 549.09*. If a payment pursuant to this subdivision exceeds the reasonable value as permitted by sections

176.135 and 176.136, the provider shall reimburse the workers' compensation insurer for all the excess as provided by rules promulgated by the commissioner.

Sec. 4. Minnesota Statutes 1990, section 176.191, subdivision 4, is amended to read:

Subd. 4. If the employee's medical expenses for a personal injury are paid pursuant to any program administered by the commissioner of human services, or if the employee or spouse or dependents living with the employee receive subsistence or other payments pursuant to such a program, and it is subsequently determined that the injury is compensable pursuant to this chapter, the workers' compensation insurer shall reimburse the commissioner of human services for the payments made, including interest at ~~a rate of 12 percent a year~~ *the rate set by section 549.09*.

Amounts paid to an injured employee or spouse or dependents living with the employee pursuant to such a program and attributable to the personal injury shall be deducted from any settlement or award of compensation or benefits under this chapter, including, but not limited to, temporary and permanent disability benefits.

The insurer shall attempt, with due diligence, to ascertain whether payments have been made to an injured employee pursuant to such a program prior to any settlement or issuance of a binding award and shall notify the department of human services, benefit recovery section, when such payments have been made. An employee who has received public assistance payments shall notify the department of human services, benefit recovery section, of its potential intervention claim prior to making or settling a claim for benefits under this chapter. Notice served on local human services agencies is not sufficient to meet the notification requirement in this subdivision.

Sec. 5. [176.1911] [DISPUTES; ARBITRATION.]

Subdivision 1. [BINDING ARBITRATION.] *Where a dispute exists between an employee, employer, insurer, the special compensation fund, the reopened case fund, or the workers' compensation reinsurance association, regarding benefits payable under this chapter, the dispute may be submitted with consent of all interested parties to binding arbitration by a neutral arbitrator. The decision of the arbitrator shall be conclusive with respect to all issues presented except as provided in subdivisions 2 and 3. An arbitration award is admissible in any other proceeding under this chapter and is binding on the parties to the arbitration proceeding.*

A person with material information of the matters to be arbitrated shall attend the arbitration proceeding if any party to the proceeding deems it necessary. Reasonable expenses of meals, lost wages, and travel of the employee or witnesses in attending shall be reimbursed on a pro rata basis. Arbitration costs shall be paid by the parties, except the employee, on a pro rata basis. Any issue in dispute may be submitted to arbitration. Issues not submitted to arbitration may be resolved by other available procedures.

Subd. 2. [INCONSISTENT AWARDS.] *If the employee commences an action under this chapter for benefits arising out of the same injury which resulted in the dispute arbitrated under subdivision 1, and if the benefits awarded to the employee under the employee's claim are inconsistent with the arbitration decision, any increase in benefits over those paid pursuant to the arbitration proceeding is paid by the party or parties who ordinarily*

would have been required to pay the increased benefits but for the arbitration. Any reimbursement from the employee of any decrease in benefits from those paid pursuant to the arbitration is paid to the party or parties who previously had paid the increased benefits. The provisions of this subdivision apply regardless of whether more or fewer employers and insurers or the special fund have been added or omitted as parties to the employee's subsequent action after arbitration.

Subd. 3. [ATTORNEY REPRESENTATION.] *If an employee brings an action under the circumstances described in subdivision 2, the parties to the previous arbitration may be represented at the new action by a common or joint attorney.*

Subd. 4. [ATTORNEY FEES.] *No attorney's fees shall be awarded under either section 176.081, subdivision 8, or 176.191 against any employer or insurer in connection with any arbitration proceeding unless the employee chooses to retain an attorney to represent the employee's interests during arbitration.*

Sec. 6. Minnesota Statutes 1990, section 176.221, subdivision 7, is amended to read:

Subd. 7. [INTEREST.] Any payment of compensation, charges for treatment under section 176.135, rehabilitation expenses under section 176.102, subdivision 9, or penalties assessed under this chapter not made when due shall bear interest at the rate of eight percent a year from the due date to the date the payment is made or the rate set by section 549.09, subdivision 1, whichever is greater.

For the purposes of this subdivision, permanent partial disability payment is due 14 days after receipt of the first medical report which contains a disability rating if such payment is otherwise due under this chapter, and charges for treatment under section 176.135 are due 30 calendar days after receiving the bill and necessary medical data.

If the claim of the employee or dependent for compensation is contested in a proceeding before a compensation judge, *arbitrator,* or the commissioner, the decision of the judge, *arbitrator,* or commissioner shall provide for the payment of unpaid interest on all compensation awarded, including interest accruing both before and after the filing of the decision.

Sec. 7. [176.325] [CERTIFIED QUESTION.]

Subdivision 1. [WHEN CERTIFIED.] *The chief administrative law judge may certify a question of workers' compensation law to the workers' compensation court of appeals as important and doubtful under the following circumstances:*

(1) all parties to the case have stipulated in writing to the facts;

(2) the issue to be resolved is a question of workers' compensation law that has not been resolved by the workers' compensation court of appeals or the Minnesota supreme court; and

(3) all parties request that the matter be resolved by certification to the workers' compensation court of appeals as an important and doubtful question.

Subd. 2. [SUPREME COURT REVIEW.] *Review by the supreme court of any decision of the workers' compensation court of appeals pursuant to this section shall be pursuant to section 176.471.*

Subd. 3. [EXPEDITED DECISION.] *It is the legislature's intent that the workers' compensation court of appeals and the Minnesota supreme court resolve the certified question as expeditiously as possible, after compliance by the parties with any requirements of the workers' compensation court of appeals or the Minnesota supreme court regarding submission of legal memoranda, oral argument, or other matters, and after the participation of amicus curiae, should the workers' compensation court of appeals or Minnesota supreme court consider such participation advisable.*

Subd. 4. [NOTICE.] *The chief administrative law judge shall notify all persons who request to be notified of a certification under this section.*

Sec. 8. [176.307] [COMPENSATION JUDGES; BLOCK SYSTEM.]

The chief administrative law judge must assign workers' compensation cases to compensation judges using a block system type of assignment that, among other things, ensures that a case will remain with the same judge from commencement to conclusion unless the judge is removed from the case by exercise of a legal right of a party or by incapacity. The block system must be the principal means of assigning cases, but it may be supplemented by other systems of case assignment to ensure that cases are timely decided.

Sec. 9. [REPEALER.]

Minnesota Statutes 1990, section 176.191, subdivisions 5, 6, 7, and 8, are repealed.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 6, 8, and 9 are effective July 1, 1991. Section 7 is effective October 1, 1991.

ARTICLE 5

COMMISSION ON WORKERS' COMPENSATION

Section 1. [175.0075] [COMMISSION ON WORKERS' COMPENSATION.]

Subdivision 1. [CREATION; COMPOSITION.] *(a) There is created a permanent commission on workers' compensation consisting of ten voting members as follows: the president of the Minnesota chamber of commerce; the president of the Minnesota AFL-CIO; four additional members representing business and four additional members representing labor. The presidents of the Minnesota chamber of commerce and Minnesota AFL-CIO shall serve as commission co-chairs. The governor shall select four members: two representing business and two representing labor. One of the business representatives the governor selects must be the owner or operator of a small employer as defined in section 177.24, subdivision 1, paragraph (a), clause (2). The majority leader of the senate shall select two members: one representing business and one representing labor. The speaker of the house of representatives shall select two members: one representing business and one representing labor. Each co-chair shall appoint an alternate. The governor, senate majority leader, and speaker of the house shall appoint alternates for each member they appoint. Alternates shall serve in the absence of the member they replace. All labor representatives and alternates selected must be elected or appointed officials of the AFL-CIO or any of its affiliates.*

(b) The additional voting members shall serve for terms of five years and may be reappointed. The commissioner of labor and industry shall serve as an ex officio, nonvoting member of the commission.

(c) The commission shall designate liaisons to the commission representing workers' compensation insurers; medical, hospital, and rehabilitation providers; and the legal profession. The speaker and minority leader of the house of representatives shall appoint a member of their respective caucus as a liaison to the commission. The majority and minority leaders of the senate shall appoint a member of their respective caucus to serve as a liaison to the commission.

Subd. 2. [EXPENSES.] *Commission members shall serve without pay but are entitled to per diem and reimbursement for expenses as provided under section 15.059.*

Subd. 3. [DUTIES.] *(a) The commission shall thoroughly examine all elements of Minnesota's current system of workers' compensation and make specific recommendations for reform to the legislature with respect to the development of a workers' compensation system that fairly and justly serves injured workers in this state, at a cost that is affordable by Minnesota employers. The commission shall also advise the department of labor and industry in carrying out the purposes of chapter 176.*

(b) In order to carry out its duties and responsibilities in an effective manner, the commission may consult with any government official or employee or other party.

(c) The commission shall submit its findings and recommendations to the legislature with respect to amendments to this chapter by February 1 of each year, and shall also report its views upon any pending bill relating to chapter 176 to the proper legislative committees.

(d) At the request of the chairpersons of the senate employment committee and the house labor-management relations committee, the commission shall schedule meetings with members of those respective committees to review and discuss matters of legislative concern arising under chapter 176.

Subd. 4. [MEETINGS; VOTING.] *(a) The commission shall meet as frequently as necessary to carry out its duties and responsibilities. The commission shall also conduct public hearings throughout the state as may be necessary to give interested persons an opportunity to comment and make suggestions on the operation of the state's workers' compensation law.*

(b) The meetings of the commission are subject to the state's open meeting law, section 471.705; except that, the five employer voting members and the five labor voting members may meet in separate closed caucuses for the purpose of deliberating on matters before the commission. All votes of the commission must be public and recorded.

Subd. 5. [EXECUTIVE DIRECTOR.] *(a) The commission shall employ an executive director for the commission, who shall be a state employee in the unclassified service and participate in the state unclassified employee retirement program. The range of salary and the salary level within it for the executive director shall be set by the commission. The executive director shall serve at the pleasure of the commission.*

(b) The executive director shall provide administrative support and information to the commission in order to allow it to monitor all elements of Minnesota's workers' compensation system. Specific duties of the executive director shall include:

(1) examining the activities of the various entities involved in Minnesota's

workers' compensation system and identifying problem areas for the commission's consideration;

(2) identifying trends and developments in the workers' compensation law of other states, and reporting to the commission on issues that are developing and solutions that are being proposed or attempted;

(3) monitoring the decisions of Minnesota courts, including the workers' compensation court of appeals and the supreme court, to determine the impact of court decisions on the workers' compensation system;

(4) monitoring workers' compensation research activities and bringing important research findings and recommendations to the attention of the commission; and

(5) conducting other activities and duties as may be requested by the commission.

Subd. 6. [ADMINISTRATIVE SUPPORT.] *The commissioner of labor and industry shall supply necessary office space, supplies, and staff support to assist the commission and its executive director in their duties.*

Subd. 7. [CONSULTANTS.] *The commission may contract with outside consultants having recognized expertise in the field of workers' compensation as may be needed to perform its duties and responsibilities.*

Subd. 8. [APPROPRIATION.] *The annual operating costs incurred by the commission in carrying out its duties and responsibilities must be charged to the state general fund.*

Sec. 2. [CERTAIN INITIAL STUDIES.] *In addition to any other studies and recommendations the commission on workers' compensation conducts and makes, the commission shall study the following issues:*

(1) the provision of medical services through a managed care system and other methods to control rapidly rising medical costs;

(2) workplace safety and the safety programs of employers;

(3) eligibility for and the amount of supplementary benefits;

(4) the effect of local labor market conditions on benefit levels and eligibility;

(5) whether the workers' compensation court of appeals should be abolished and other issues related to litigation costs and frequency; and

(6) whether insurance rates should be regulated by a system of prior approval.

The listing of the items to be studied in this section is not intended to limit the commission's authority to study other issues related to workers' compensation nor to study these same issues again at another time.

The commission shall report the results of the studies required by this section and its recommendations to the legislature by February 1, 1992.

Sec. 3. [APPROPRIATION.]

$300,000 is appropriated from the general fund for the biennium ending June 30, 1993, to the commission on workers' compensation for the purposes of carrying out its duties and responsibilities as provided under section 1.

Sec. 4. [REPEALER.]

Minnesota Statutes 1990, section 175.007, is repealed. Minnesota Statutes, chapters 79, 175A, and 176 are repealed effective July 1, 1993.

Sec. 5. [EFFECTIVE DATE.]

This article is effective July 1, 1991.

ARTICLE 6

WORKERS' COMPENSATION REHABILITATION PROGRAM

Section 1. [VOCATIONAL REHABILITATION.]

The responsibilities of the workers' compensation program of the rehabilitation services division of the department of jobs and training are transferred to the department of labor and industry pursuant to Minnesota Statutes, section 15.039. The transferred employees shall constitute the vocational rehabilitation unit of the department of labor and industry.

Sec. 2. Minnesota Statutes 1990, section 176.104, subdivision 1, is amended to read:

Subdivision 1. [DISPUTE.] If there exists a dispute regarding medical causation or whether an injury arose out of and in the course and scope of employment and an employee has been disabled for the requisite time under section 176.102, subdivision 4, prior to determination of liability, the employee shall be referred by the commissioner to the ~~division of~~ *department's* vocational rehabilitation *unit* which shall provide rehabilitation consultation if appropriate. The services provided by the ~~division of~~ *department's* vocational rehabilitation *unit* and the scope and term of the rehabilitation are governed by section 176.102 and rules adopted pursuant to that section. Rehabilitation costs and services under this subdivision shall be monitored by the commissioner.

Sec. 3. Minnesota Statutes 1990, section 176.1041, is amended to read:

176.1041 [CERTIFICATION FOR FEDERAL TAX CREDIT.]

Subdivision 1. [CERTIFICATION PROGRAM.] The ~~division of~~ vocational rehabilitation *unit* shall establish a program authorizing qualified rehabilitation consultants and approved vendors to refer an employee to the ~~division~~ *unit* for the sole purpose of federal targeted jobs tax credit eligibility determination. The ~~division~~ *unit* shall set forth the specific requirements, procedures and eligibility criteria for purposes of this section. The ~~division~~ *unit* shall not be required to certify an injured employee who does not meet the eligibility requirements set forth in the federal Rehabilitation Act of 1973, as amended.

Subd. 2. [FEE.] The ~~division~~ *unit* is authorized to collect a fee from the qualified rehabilitation consultant or approved vendor in the amount necessary to determine eligibility and to certify an employee for this program.

Sec. 4. Minnesota Statutes 1990, section 268A.03, is amended to read:

268A.03 [POWERS AND DUTIES.]

The commissioner shall:

(a) certify the rehabilitation facilities to offer extended employment programs, grant funds to the extended employment programs, and perform the duties as specified in section 268A.09;

(b) provide vocational rehabilitation services to persons with disabilities

in accordance with the state plan for vocational rehabilitation. These services include but are not limited to: diagnostic and related services incidental to determination of eligibility for services to be provided, including medical diagnosis and vocational diagnosis; vocational counseling, training and instruction, including personal adjustment training; physical restoration, including corrective surgery, therapeutic treatment, hospitalization and prosthetic and orthotic devices, all of which shall be obtained from appropriate established agencies; transportation; occupational and business licenses or permits, customary tools and equipment; maintenance; books, supplies, and training materials; initial stocks and supplies; placement; on-the-job skill training and time-limited postemployment services leading to supported employment; acquisition of vending stands or other equipment, initial stocks and supplies for small business enterprises; supervision and management of small business enterprises, merchandising programs, or services rendered by severely disabled persons. Persons with a disability are entitled to free choice of vendor for any medical, dental, prosthetic, or orthotic services provided under this paragraph;

(c) expend funds and provide technical assistance for the establishment, improvement, maintenance, or extension of public and other nonprofit rehabilitation facilities or centers;

(d) ~~formulate plans of cooperation with the commissioner of labor and industry for providing services to workers covered under the workers' compensation act;~~

~~(e)~~ maintain a contractual or regulatory relationship with the United States as authorized by the Social Security Act, as amended. Under this relationship, the state will undertake to make determinations referred to in those public laws with respect to all individuals in Minnesota, or with respect to a class or classes of individuals in this state that is designated in the agreement at the state's request. It is the purpose of this relationship to permit the citizens of this state to obtain all benefits available under federal law;

~~(f)~~ *(e)* provide an in-service training program for division of rehabilitation services employees by paying for its direct costs with state and federal funds;

~~(g)~~ *(f)* conduct research and demonstration projects; provide training and instruction, including establishment and maintenance of research fellowships and traineeships, along with all necessary stipends and allowances; disseminate information to persons with a disability and the general public; and provide technical assistance relating to vocational rehabilitation and independent living;

~~(h)~~ *(g)* receive and disburse pursuant to law money and gifts available from governmental and private sources including, but not limited to, the federal Department of Education and the Social Security Administration, for the purpose of vocational rehabilitation or independent living. ~~Money received from workers' compensation carriers for vocational rehabilitation services to injured workers must be deposited in the general fund~~;

~~(i)~~ *(h)* design all state plans for vocational rehabilitation or independent living services required as a condition to the receipt and disbursement of any money available from the federal government;

~~(j)~~ *(i)* cooperate with other public or private agencies or organizations for the purpose of vocational rehabilitation or independent living. Money

received from school districts, governmental subdivisions, mental health centers or boards, and private nonprofit organizations is appropriated to the commissioner for conducting joint or cooperative vocational rehabilitation or independent living programs;

~~(k)~~ *(j)* enter into contractual arrangements with instrumentalities of federal, state, or local government and with private individuals, organizations, agencies, or facilities with respect to providing vocational rehabilitation or independent living services;

~~(l)~~ *(k)* take other actions required by state and federal legislation relating to vocational rehabilitation, independent living, and disability determination programs;

~~(m)~~ *(l)* hire staff and arrange services and facilities necessary to perform the duties and powers specified in this section; and

~~(n)~~ *(m)* adopt, amend, suspend, or repeal rules necessary to implement or make specific programs that the commissioner by sections 268A.01 to 268A.10 is empowered to administer.

Sec. 5. [REPEALER.]

Minnesota Statutes 1990, section 268A.05, subdivision 2, is repealed.

Sec. 6. [EFFECTIVE DATE.]

This article is effective July 1, 1991.

ARTICLE 7

SELF-INSURANCE

Section 1. Minnesota Statutes 1990, section 79A.02, is amended by adding a subdivision to read:

Subd. 3. [AUDIT OF SELF-INSURANCE APPLICATION.] *(a) The self-insurer's security fund shall retain a certified public accountant who shall perform services for, and report directly to, the commissioner of commerce. The certified public accountant shall review each application to self-insure, including the applicant's financial data. The certified public accountant shall provide a report to the commissioner of commerce indicating whether the applicant has met the requirements of section 79A.03, subdivisions 2 and 3. Additionally, the certified public accountant shall provide advice and counsel to the commissioner about relevant facts regarding the applicant's financial condition.*

(b) If the report of the certified public accountant is used by the commissioner as the basis for the commissioner's determination regarding the applicant's self-insurance status, the certified public accountant shall be made available to the commissioner for any hearings or other proceedings arising from that determination.

(c) The commissioner shall provide the advisory committee with the summary report by the certified public accountant and any financial data in possession of the department of commerce that is otherwise available to the public.

The cost of the review shall be the obligation of the self-insurer's security fund.

Sec. 2. Minnesota Statutes 1990, section 79A.02, is amended by adding a subdivision to read:

Subd. 4. [RECOMMENDATIONS TO COMMISSIONER REGARDING REVOCATION.] *After each fifth anniversary from the date each individual and group self-insurer becomes certified to self-insure, the committee shall review all relevant financial data filed with the department of commerce that is otherwise available to the public and make a recommendation to the commissioner about whether each self-insurer's certificate should be revoked.*

Sec. 3. Minnesota Statutes 1990, section 79A.03, subdivision 3, is amended to read:

Subd. 3. [NET WORTH.] Each individual self-insurer shall have and maintain a net worth at least equal to the greater of ten times the retention limit selected with the workers' compensation reinsurance association or one-third the amount of the self-insurer's current annual modified premium. ~~The requirements of this subdivision shall be modified if the self-insurer can demonstrate through a reinsurance program, other than coverage provided by the workers' compensation reinsurance association, that it can pay expected losses without endangering the financial stability of the company.~~

Sec. 4. Minnesota Statutes 1990, section 79A.03, subdivision 7, is amended to read:

Subd. 7. [FINANCIAL STANDARDS.] A group proposing to self-insure shall have and maintain:

(a) A combined net worth of all of the members of an amount at least equal to the greater of ten times the retention selected with the workers' compensation reinsurance association or one-third of the current annual modified premium of the members. ~~The requirements of this paragraph shall be modified if the self-insurer can demonstrate that through excess insurance, other than coverage provided by the workers' compensation reinsurance association, it can pay expected losses.~~

(b) Sufficient assets, net worth, and liquidity to promptly and completely meet all obligations of its members under chapter 176 or this chapter. In determining whether a group is in sound financial condition, consideration shall be given to the combined net worth of the member companies; the consolidated long-term and short-term debt to equity ratios of the member companies; any excess insurance other than reinsurance with the workers' compensation reinsurance association, purchased by the group from an insurer licensed in Minnesota or from an authorized surplus line carrier; other financial data requested by the commissioner or submitted by the group; and the combined workers' compensation experience of the group for the last four years.

Sec. 5. Minnesota Statutes 1990, section 79A.03, subdivision 9, is amended to read:

Subd. 9. [FILING REPORTS.] (a) Incurred losses, paid and unpaid, specifying indemnity and medical losses by classification, payroll by classification, and current estimated outstanding liability for workers' compensation shall be reported to the commissioner by each self-insurer on a calendar year basis, in a manner and on forms available from the commissioner. Payroll information must be filed by April 1 of the following year, and loss information and total workers' compensation liability must be filed by August 1 of the following year.

(b) Each self-insurer shall, under oath, attest to the accuracy of each

report submitted pursuant to paragraph (a). Upon sufficient cause, the commissioner shall require the self-insurer to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include the following factors: where the losses reported appear significantly different from similar types of businesses; where major changes in the reports exist from year to year, which are not solely attributable to economic factors; or where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of that employer. If any discrepancy is found, the commissioner shall require changes in the self-insurer's or workers' compensation service company record keeping practices.

(c) With the annual loss report due August 1, each self-insurer shall report to the commissioner any workers' compensation claim from the previous year where the full, undiscounted value is estimated to exceed $50,000, in a manner and on forms prescribed by the commissioner.

(d) Each individual self-insurer shall, within four months after the end of its fiscal year, annually file with the commissioner its latest 10K report required by the Securities and Exchange Commission. If an individual self-insurer does not prepare a 10K report, it shall file an annual certified financial statement, together with such other financial information as the commissioner may require to substantiate data in the financial statement.

(e) Each group self-insurer shall, within ~~four~~ *six* months after the end of the fiscal year for that group, annually file a statement showing the combined net worth of its members based upon an accounting review performed by a certified public accountant, together with such other financial information the commissioner may require to substantiate data in the group's summary statement.

(f) In addition to the financial statements required by paragraphs (d) and (e), interim financial statements or 10Q reports required by the Securities and Exchange Commission may be required by the commissioner upon an indication that there has been deterioration in the self-insurer's financial condition, including a worsening of current ratio, lessening of net worth, net loss of income, the downgrading of the company's bond rating, or any other significant change that may adversely affect the self-insurer's ability to pay expected losses. Any self-insurer that files an 8K report with the Securities and Exchange Commission shall also file a copy of the report with the commissioner within 30 days of the filing with the Securities and Exchange Commission.

Sec. 6. Minnesota Statutes 1990, section 79A.04, subdivision 2, is amended to read:

Subd. 2. [MINIMUM DEPOSIT.] The minimum deposit is 110 percent of the private self-insurer's estimated future liability. Up to ten percent of that deposit may be used to secure payment of all administrative and legal costs relating to or arising from the employer's self-insuring. As used in this section, "private self-insurers' estimated future liability" means the private self-insurers' total of estimated future liability as determined by a member of the casualty actuarial society ~~every two years for nongroup~~

~~member private self-insurers, and~~ every year for group member private self-insurers *and, for a nongroup member private self-insurer's authority to self-insure, every year for the first five years. After the first five years, the nongroup member's total shall be as determined by a member of the casualty actuarial society every two years, and each such actuarial study shall include a projection of future losses during the two-year period until the next scheduled actuarial study, less payments anticipated to be made during that time*. Estimated future liability is determined by first taking the total amount of the self-insured's future liability of workers' compensation claims and then deducting the total amount which is estimated to be returned to the self-insurer from any specific excess insurance coverage, aggregate excess insurance coverage, and any supplementary benefits or second injury benefits which are estimated to be reimbursed by the special compensation fund. Supplementary benefits or second injury benefits will not be reimbursed by the special compensation fund unless the special compensation fund assessment pursuant to section 176.129 is paid and the reports required thereunder are filed with the special compensation fund. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than the last retention limit selected by the self-insurer with the workers' compensation reinsurance association. The posting or depositing of security pursuant to this section shall release all previously posted or deposited security from any obligations under the posting or depositing and any surety bond so released shall be returned to the surety. Any other security shall be returned to the depositor or the person posting the bond.

Sec. 7. Minnesota Statutes 1990, section 79A.06, subdivision 5, is amended to read:

Subd. 5. [PRIVATE EMPLOYERS WHO HAVE CEASED TO BE SELF-INSURED.] Private employers who have ceased to be private self-insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self-insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance with all of the following obligations of current certificate holders:

(1) Filing reports with the commissioner to carry out the requirements of this chapter;

(2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private employer who has ceased to be a private self-insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the period the employer was self-insured, whether or not reported during that period, the policy will discharge the obligation of the employer to maintain a security deposit for the payment of the claims covered under the policy. The policy may not be issued by an insurer unless it has previously been approved as to form and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self-insurance was in effect. Thereafter, the private employer who has ceased to be a private self-insurer may either: (a) continue to pay within 30 days all assessments of which notice is sent by the security fund until

it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self-insurance; or (b) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities for the payment of compensation under sections 176.101 and 176.111 as certified by a member of the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the ~~last full~~ calendar year ~~of self-insurance on claims incurred during that year~~ *immediately preceding the calendar year in which the employer's right to self-insure is terminated or withdrawn.*

In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14 within 30 days of the commissioner's written determination.

Any current or past member of the self-insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section 303.13, subdivision 1, clause (3), or as otherwise provided by law. The issuance of a certificate to self-insure to the private self-insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state.

Sec. 8. [79A.071] [CUSTODIAL ACCOUNTS.]

Subdivision 1. [DEPOSIT.] *All securities shall be deposited with the state treasurer or in a custodial account with a depository institution acceptable to the state treasurer. Surety bonds shall be filed with the commissioner. The commissioner and the state treasurer may sell or collect, in the case of default of the employer or fund, the amount that yields sufficient funds to pay compensation due under the workers' compensation act.*

Subd. 2. [ASSIGNMENT.] *Securities in physical form deposited with the state treasurer must bear the following assignment, which shall be signed by an officer, partner, or owner: "Assigned to the state of Minnesota for the benefit of injured employees of the self-insured employer under the Minnesota workers' compensation act." Any securities held in a custodial account, whether in physical form, book entry, or other form, need not bear the assignment language. The instrument or contract creating and governing any custodial account must contain the following assignment language: "This account is assigned to the state treasurer by the Company to pay compensation and perform the obligations of employers imposed under Minnesota Statutes, chapter 176. A depositor or other party has no right, title, or interest in the security deposited in the account until released by the state."*

Subd. 3. [CUSTODY.] *All securities in physical form on deposit with the state treasurer and surety bonds on deposit shall remain in the custody of the state treasurer or the commissioner for a period of time dictated by the applicable statute of limitations provided in the workers' compensation act. All original instruments and contracts creating and governing custodial accounts shall remain with the state treasurer or the commissioner for a period of time dictated by the applicable statute of limitations provided in the workers' compensation act.*

Subd. 4. [RELEASE.] *No securities in physical form on deposit with the state treasurer or custodial accounts assigned to the state shall be released*

without an order from the commissioner.

Subd. 5. [EXCHANGING OR REPLACING.] *Any securities deposited with the state treasurer or with a custodial account assigned to the state treasurer or surety bonds held by the commissioner may be exchanged or replaced by the depositor with other acceptable securities or surety bonds of like amount so long as the market value of the securities or amount of the surety bond equals or exceeds the amount of deposit required. If securities are replaced by a surety bond, the self-insurer must maintain securities on deposit in an amount sufficient to meet all outstanding workers' compensation liability arising during the period covered by the deposit of the replaced securities, subject to the limitations on maximum security deposits established in Minnesota Rules, part 2780.2600.*

Sec. 9. [REPEALER.]

Minnesota Rules, part 2780.0400, subparts 2, 3, 6, 7, and 8, are repealed."

Delete the title and insert:

"A bill for an act relating to workers' compensation; regulating benefits and insurance; establishing a permanent commission on workers' compensation; providing penalties; appropriating money; amending Minnesota Statutes 1990, sections 79.252, by adding a subdivision; 79A.02, by adding subdivisions; 79A.03, subdivisions 3, 7, and 9; 79A.04, subdivision 2; 79A.06, subdivision 5; 176.011, subdivisions 3, 9, 11a, and 18; 176.101, subdivisions 1, 2, and 3f; 176.102, subdivisions 1, 1a, 2, 3, 3a, 4, 6, 9, and 11; 176.104, subdivision 1; 176.1041; 176.106, by adding a subdivision; 176.111, subdivision 18; 176.135, subdivisions 1, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.155, subdivision 1, and by adding a subdivision; 176.185, subdivision 1; 176.191, subdivisions 1, 2, 3, and 4; 176.221, subdivision 7; 176.645, subdivisions 1 and 2; 176.83, subdivisions 5, 6, and by adding a subdivision; 176A.03, by adding a subdivision; 268A.03; proposing coding for new law in Minnesota Statutes, chapters 79A; 175; and 176; repealing Minnesota Statutes 1990, sections 175.007; 176.136, subdivision 5; 176.191; and 268A.05, subdivision 2; and Minnesota Statutes, chapters 79; 175A; and 176."

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

House Conferees: (Signed) Tom Rukavina, John J. Sarna, Ted Winter, Bob Anderson, Pat Beard

Senate Conferees: (Signed) Florian Chmielewski, Harold R. "Skip" Finn, Phil J. Riveness, Carol Flynn

Mr. Chmielewski moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1422 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.

CALL OF THE SENATE

Mr. Chmielewsk imposed a call of the Senate for the balance of the proceedings on H.F. No. 1422. The Sergeant at Arms was instructed to bring in the absent members.

H.F. No. 1422 was read the third time, as amended by the Conference

Committee, and placed on its repassage.

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

Mr. Moe, R.D. moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 41 and nays 23, as follows:

Those who voted in the affirmative were:

Adkins	Flynn	Kroening	Novak	Solon
Beckman	Frank	Lessard	Pappas	Spear
Berglin	Frederickson, D.J.	Luther	Piper	Stumpf
Chmielewski	Hottinger	Marty	Pogemiller	Vickerman
Cohen	Hughes	Merriam	Price	Waldorf
Dahl	Johnson, D.E.	Metzen	Ranum	
Davis	Johnson, D.J.	Moe, R.D.	Reichgott	
DeCramer	Johnson, J.B.	Mondale	Riveness	
Finn	Kelly	Morse	Samuelson	

Those who voted in the negative were:

Belanger	Bertram	Halberg	Larson	Renneke
Benson, D.D.	Brataas	Johnston	McGowan	Sams
Benson, J.E.	Day	Knaak	Mehrkens	Storm
Berg	Frederickson, D.R.	Laidig	Neuville	
Bernhagen	Gustafson	Langseth	Pariseau	

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Davis moved that the following members be excused for a Conference Committee on H.F. No. 1 at 3:00 p.m.:

Messrs. Davis, Merriam, Berg, Renneke and Vickerman. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Marty moved that the following members be excused for a Conference Committee on S.F. No. 765 at 3:00 p.m.:

Mr. Marty, Ms. Flynn and Mrs. Benson, J.E. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Merriam moved that the following members be excused for a Conference Committee on H.F. No. 459 from 3:00 to 3:40 p.m.:

Messrs. Merriam, Spear and Neuville. The motion prevailed.

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, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 598: A bill for an act relating to transportation; establishing state transportation goals and requiring periodic revisions of the state transportation plan; directing a study of rail-highway grade crossings; establishing penalties for violations of grade crossing safety laws; authorizing the commissioner of transportation to make grants and loans for the improvement of commercial navigation facilities; establishing special categories of roads and highways; authorizing local units of government to advance funds for the completion of highway projects; authorizing road authorities to enter into agreements for the construction, maintenance, and operation of toll facilities; creating a transportation services fund; specifying percentage of unrefunded motor fuel tax revenue that is attributable to use on forest roads; authorizing the use of local bridge grant funds to construct drainage structures; requiring the commissioner of transportation to include light rail transit facilities in the design for reconstruction of interstate highways I-94 and I-35W; requiring a report on metropolitan transportation development and transit development consistent with the report; authorizing the commissioner of transportation to plan, acquire, construct, and equip light rail transit facilities; creating a light rail transit joint powers board; establishing a paratransit advisory council; authorizing transportation research; directing a study of highway corridors; extending the transportation study board and specifying duties; appropriating money; amending Minnesota Statutes 1990, sections 162.02, subdivision 3a; 162.09, subdivision 3a; 162.14, subdivision 6; 169.14, by adding a subdivision; 169.26; 171.13, subdivision 1, and by adding a subdivision; 173.13, subdivision 4; 174.01; 174.03, subdivision 2, and by adding a subdivision; 219.074, by adding a subdivision; 219.402; 296.16, subdivision 1a; 296.421, subdivision 8; 299D.03, subdivision 5; 473.373, subdivision 4a; 473.3993, subdivisions 2 and 3, and by adding a subdivision; 473.3994; and 473.3996; Laws 1990, chapter 610, article 1, section 13, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 3; 160; 161; 162; 174; 219; and 473; proposing coding for new law as Minnesota Statutes, chapters 161; 457A; and 473; repealing Laws 1989, chapter 339, section 21.

Senate File No. 598 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

Mr. Langseth moved that the Senate do not concur in the amendments by the House to S.F. No. 598, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 930:

H.F. No. 930: A bill for an act relating to economic development; changing the name of the Greater Minnesota Corporation; adding duties; providing for a new structure for the board of directors; amending Minnesota Statutes

1990, sections 116O.03, subdivision 2; 116O.04, subdivision 2; 116O.05, subdivision 2; and 116O.09, subdivision 3, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 116O; repealing Minnesota Statutes 1990, sections 116J.970; 116J.971; and 116O.03, subdivision 2a.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Krueger, Bishop and Lourey have been appointed as such committee on the part of the House.

House File No. 930 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

Mr. Bernhagen moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 930, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 143:

H.F. No. 143: A bill for an act relating to appropriations; removing certain directions, limits, and provisos on the use of money for certain projects; amending Laws 1990, chapter 610, article 1, section 9, subdivision 1.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Greenfield, Murphy and Anderson, R. have been appointed as such committee on the part of the House.

House File No. 143 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

Mr. Samuelson moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 143, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2:

H.F. No. 2: A bill for an act relating to health care; creating a bureau of

health care access; establishing the Minnesotans' health care plan; establishing an office of rural health; requiring rural health initiatives; requiring data and research initiatives; restricting underwriting and premium rating practices; providing a health insurance plan for small employees; requiring initiatives related to health professional education; appropriating money; amending Minnesota Statutes 1990, sections 16A.124, subdivision 4; 43A.17, subdivision 9; 43A.23, by adding a subdivision; 136A.1355, subdivisions 2 and 3; 144.147, subdivisions 1 and 4; 144.581, subdivision 1; 144.698, subdivision 1; 144.8093; 145.61, subdivision 5; 145.64; 176.011, subdivision 9; 256.969, subdivision 6a; 290.01, subdivision 19b; and 447.31, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapters 16B; 62A; 62J; 144; and 144A; proposing coding for new law as Minnesota Statutes, chapter 62K.

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

Ogren, Skoglund, Welle, Greenfield and Anderson, R. have been appointed as such committee on the part of the House.

House File No. 2 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

Ms. Berglin moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 783:

H.F. No. 783: A bill for an act relating to health; modifying requirements for drilling, sealing, and construction of wells, borings, and elevator shafts; amending Minnesota Statutes 1990, sections 103I.005, subdivisions 2, 22, and by adding a subdivision; 103I.101, subdivisions 2, 4, 5, and 6; 103I.105; 103I.111, subdivisions 2b, 3, and by adding a subdivision; 103I.205, subdivisions 1, 3, 4, 7, 8, and 9; 103I.208, subdivision 2; 103I.231; 103I.235; 103I.301, subdivision 1, and by adding a subdivision; 103I.311, subdivision 3; 103I.331, subdivision 2; 103I.525, subdivisions 1, 4, 8, and 9; 103I.531, subdivisions 5, 8, and 9; 103I.535, subdivisions 8 and 9; 103I.541, subdivisions 4 and 5; 103I.545, subdivision 2; 103I.621, subdivision 3; 103I.701, subdivisions 1 and 4; 103I.705, subdivisions 2, 3, 4, and 5; and 103I.711, subdivision 1; repealing Minnesota Statutes 1990, section 103I.005, subdivision 18.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Bishop, Murphy and Munger have been appointed as such committee on the part of the House.

House File No. 783 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

Mr. Morse moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 783, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 833:

H.F. No. 833: A bill for an act relating to economic development; regulating the use of tax-exempt revenue bonds; amending Minnesota Statutes 1990, sections 474A.02, subdivisions 1, 2b, 7, 8, 19, and by adding subdivisions; 474A.03; 474A.04, subdivision 1a; 474A.047, subdivisions 1 and 3; 474A.061, subdivisions 1, 2a, 2b, 2c, 3, and 4; 474A.091, subdivisions 1, 2, 3 and 5; 474A.131, by adding a subdivision; 474A.15; 474A.16; and 474A.17; proposing coding for new law in Minnesota Statutes, chapters 462A and 462C; repealing Minnesota Statutes 1990, sections 474A.048; and 474A.081, subdivisions 1, 2, and 4.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Rest, Schreiber and Scheid have been appointed as such committee on the part of the House.

House File No. 833 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

Mr. Pogemiller moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 833, 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 appointed on the part of the House. The motion prevailed.

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

House File No. 126 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 126

A bill for an act relating to highways; designating the Paul Bunyan Expressway from Little Falls through Cass Lake to Bemidji; amending Minnesota Statutes 1990, section 161.14, by adding a subdivision.

May 17, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 126, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments.

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

House Conferees: (Signed) Bob Johnson, Kris Hasskamp, Anthony G. "Tony" Kinkel

Senate Conferees: (Signed) Don Samuelson, Harold R. "Skip" Finn

Mr. Samuelson moved that the foregoing recommendations and Conference Committee Report on H.F. No. 126 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. 126 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 46 and nays 4, as follows:

Those who voted in the affirmative were:

Adkins	Day	Kelly	Mondale	Riveness
Beckman	Finn	Knaak	Morse	Sams
Belanger	Frank	Kroening	Neuville	Samuelson
Benson, D.D.	Frederickson, D.J.	Langseth	Olson	Solon
Benson, J.E.	Frederickson, D.R.	Larson	Pappas	Stumpf
Berglin	Gustafson	Lessard	Pariseau	Waldorf
Bernhagen	Halberg	Luther	Piper	
Bertram	Hottinger	Marty	Price	
Cohen	Hughes	Metzen	Ranum	
Dahl	Johnson, D.J.	Moe, R.D.	Reichgott	

Mr. DeCramer, Mses. Flynn, Johnston and Mr. Mehrkens voted in the negative.

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

House File No. 683 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 683

A bill for an act relating to alcoholic beverages; prohibiting a retailer from having an interest in a manufacturer, brewer, or wholesaler; prohibiting a retailer from renting space to a manufacturer, brewer, or wholesaler; providing that brand registration is for a three-year period; specifying that club on-sale licenses are subject to approval of the commissioner of public safety; consolidating provisions of law relating to seasonal on-sale licenses; providing extended duration of seasonal licenses in certain counties; removing certain restrictions on location of off-sale and combination licenses issued by counties; clarifying law on issuance of off-sale licenses by counties; allowing gambling on licensed premises when governed by tribal ordinance or a tribal-state compact; clarifying language on certain prohibitions on issuance of multiple licenses and repealing obsolete provisions relating thereto; prohibiting off-site storage of intoxicating liquor; specifying applicability of license limits to certain fourth-class cities; changing the expiration date for consumption and display permits; raising the minimum age for keeping intoxicating liquor in bottle clubs; authorizing commissioner of public safety to impose civil penalties for conducting or permitting unlawful gambling on licensed premises, or for failure to remove impure products; specifying applicability to municipal liquor stores of prohibitions against permitting consumption of alcoholic beverages by underage persons; clarifying language on sales of intoxicating liquor on Christmas day; providing for Sunday liquor elections in counties; prohibiting sale of certain beverages of more than 50 percent alcohol content; authorizing commissioner of public safety to inspect alcoholic beverages for purity of contents and to order the removal of impure products; specifying that a split liquor referendum is not required for issuance of club licenses; repealing restrictions on wine sales at Minneapolis-St. Paul International Airport; authorizing issuance of an on-sale intoxicating malt liquor license in St. Louis county; authorizing the issuance of an on-sale intoxicating liquor license to a location in Duluth; amending Minnesota Statutes 1990, sections 340A.301, subdivision 7; 340A.311; 340A.402; 340A.404, subdivisions 1 and 6; 340A.405, subdivisions 2 and 6; 340A.408, subdivision 2; 340A.410, subdivision 5; 340A.412, subdivisions 2, 3, and by adding a subdivision; 340A.413, subdivision 1; 340A.414, subdivisions 4 and 8; 340A.415; 340A.503, subdivision 1; 340A.504, subdivisions 2 and 3; 340A.506; 340A.508, by adding a subdivision; 340A.601, subdivision 5; and 340A.604; proposing coding for new law in Minnesota Statutes, chapter 340A; repealing Minnesota Statutes 1990, section 340A.404, subdivision 6a.

May 15, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 683, 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. 683 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 340A.301, subdivision 7, is amended to read:

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

(b) A licensed brewer of malt liquor described in subdivision 6, clause (d) may be issued an on-sale intoxicating liquor or nonintoxicating malt liquor license by a municipality for a restaurant operated in or immediately adjacent to the place of manufacture.

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

Sec. 2. Minnesota Statutes 1990, section 340A.311, is amended to read:

340A.311 [BRAND REGISTRATION.]

(a) A brand of intoxicating liquor or nonintoxicating malt liquor may not be manufactured ~~or~~, imported into, *or sold in* the state unless the brand label has been registered with and approved by the commissioner. *A brand registration must be renewed every three years in order to remain in effect.* The fee for *an initial* brand registration is $20. ~~The brand label of a brand of intoxicating liquor or nonintoxicating malt liquor which has not been sold in the state for two years or more must be reregistered before its sale can be resumed.~~ The brand label of a brand of intoxicating liquor or nonintoxicating malt liquor ~~which has not been sold in the state for at least three years~~ *for which the brand registration has expired*, is conclusively deemed abandoned by the manufacturer or importer.

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

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

Sec. 3. Minnesota Statutes 1990, section 340A.402, is amended to read:

340A.402 [PERSONS ELIGIBLE.]

No retail license may be issued to:

(1) a person not a citizen of the United States or a resident alien;

(2) a person under 21 years of age;

(3) a person who has had an intoxicating liquor or nonintoxicating liquor license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; ~~or~~

(4) a person not of good moral character and repute*; or*

(5) a person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler.

In addition, no new retail license may be issued to, and the governing body of a municipality may refuse to renew the license of, a person who, within five years of the license application, has been convicted of a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

Sec. 4. Minnesota Statutes 1990, section 340A.404, subdivision 1, is amended to read:

Subdivision 1. [CITIES.] A city may issue an on-sale intoxicating liquor license to the following establishments located within its jurisdiction:

(1) hotels;

(2) restaurants;

(3) bowling centers;

(4) clubs or congressionally chartered veterans organizations *with the approval of the commissioner,* provided that the organization has been in existence for at least three years and liquor sales will only be to members and bona fide guests;

(5) sports facilities located on land owned by the metropolitan sports commission; and

(6) exclusive liquor stores.

Sec. 5. Minnesota Statutes 1990, section 340A.404, subdivision 2, is amended to read:

Subd. 2. [SPECIAL PROVISION; CITY OF MINNEAPOLIS.] (a) The city of Minneapolis may issue an on-sale intoxicating liquor license to the Guthrie Theatre, the Cricket Theatre, the Orpheum Theatre, and the State

Theatre, notwithstanding the limitations of law, or local ordinance, or charter provision relating to zoning or school or church distances. The licenses authorize sales on all days of the week to holders of tickets for performances presented by the theatres and to members of the nonprofit corporations holding the licenses and to their guests.

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

~~(c) Notwithstanding any other law, local ordinance, or charter provision, the city of Minneapolis may issue one or more on-sale intoxicating liquor licenses to the owner of the sports arena located at 600 First Avenue North in the city of Minneapolis or an entity holding a concessions contract with the owner for use on the premises of that sports arena. The license authorizes sales on all days of the week to holders of tickets for sporting events or other events at the sports arena and to the owner of the sports arena and the owner's guests. The licensee may not dispense intoxicating liquor to any person attending or participating in an amateur athletic event held on the premises.~~

Sec. 6. Minnesota Statutes 1990, section 340A.404, is amended by adding a subdivision to read:

Subd. 2a. [CITY OF MINNEAPOLIS; ARENA.] *(a) Notwithstanding any other law, local ordinance, or charter provision, the city of Minneapolis may issue one or more on-sale or combination on-sale and off-sale intoxicating liquor licenses to the owner of the sports arena located at 600 First Avenue North in Minneapolis, or to an entity holding a concessions contract with the owner for use on the premises of that sports arena.*

(b) The license authorizes sales on all days of the week to holders of tickets for events at the sports arena, and to the owners of the sports arena and the owners' guests.

(c) The licensee may not dispense intoxicating liquor to any person attending or participating in an amateur athletic event held on the premises unless such dispensing is authorized by the city. The city may not authorize the dispensing of intoxicating liquor at any event held under the auspices of the Minnesota state high school league.

(d) The license authorized by this subdivision may be issued for space that is not compact and contiguous, provided that all such space is within the sports arena building and is included in the description of the licensed premises on the approved license application.

(e) Notwithstanding any law or rule to the contrary, a person licensed to make off-sales within the sports arena building may deliver alcoholic beverages to rooms and suites within the sports arena building (1) between midnight and 8:00 a.m. on Monday through Thursday, and (2) between midnight and 8:00 a.m. and between 10:00 p.m. and midnight on Friday through Sunday. No delivery authorized by this paragraph may be made to a room or suite within the building at any time when an event utilizing the room or suite is in progress.

(f) The holder of a license issued under this subdivision may dispense intoxicating liquor in miniature bottles if the intoxicating liquor is poured from the miniature bottles, mixed into another beverage, and dispensed on the premises by employees of the licensee.

Sec. 7. Minnesota Statutes 1990, section 340A.404, subdivision 6, is amended to read:

Subd. 6. [COUNTIES.] (a) A county board may issue an annual on-sale intoxicating liquor license within the area of the county that is unorganized or unincorporated to a bowling center, restaurant, or club with the approval of the commissioner.

(b) A county board may also *with the approval of the commissioner* issue up to ten seasonal on-sale licenses *to restaurants and clubs* for the sale of intoxicating liquor within the area of the county that is unorganized or unincorporated ~~to a restaurant or club with the approval of the commissioner~~. Notwithstanding section 340A.412, subdivision 8, a seasonal license is valid for a period specified by the board, not to exceed ~~six~~ *nine* months. Not more than one license may be issued for any one premises during any consecutive 12-month period.

Sec. 8. Minnesota Statutes 1990, section 340A.405, subdivision 2, is amended to read:

Subd. 2. [COUNTIES.] (a) A county may issue an off-sale intoxicating license with the approval of the commissioner to exclusive liquor stores located within unorganized territory of the county.

(b) A county board of any county except Ramsey county containing a town exercising powers under section 368.01, subdivision 1, may issue an off-sale license to an exclusive liquor store within that town with the approval of the commissioner. No license may be issued under this paragraph unless the town board adopts a resolution supporting the issuance of the license.

(c) A county board of any county except Ramsey county containing a town that may not exercise powers under section 368.01, subdivision 1, may issue a combination off-sale and on-sale license to restaurants within that town with the approval of the commissioner pursuant to section 340A.404, subdivision 6. No license may be issued under this paragraph unless the town board adopts a resolution supporting the issuance of the license.

(d) No license may be issued under this subdivision unless a public hearing is held on the issuance of the license. Notice must be given to all interested parties and to any city located within three miles of the premises proposed to be licensed. At the hearing the county board shall consider testimony and exhibits presented by interested parties and may base its decision to issue or deny a license upon the nature of the business to be conducted and its impact upon any municipality, the character and reputation of the applicant, and the propriety of the location. Any hearing held under this paragraph is not subject to chapter 14.

(e) A county board may not issue a license under this subdivision to a person for an establishment located less than one mile by the most direct route from the boundary of any statutory or home rule city ~~except cities of the first class or within Pine, Carlton, Carver, Itasca, or Red Lake county within one mile of a statutory or home rule city with~~ *that had established* a municipal liquor store *before August 1, 1991, provided, that a county board may not issue a new license under this subdivision to a person for an establishment located less than three miles by the most direct route from the boundary of a city that (1) is located outside the metropolitan area as defined in section 473.121, subdivision 2, (2) has a population over 5,000*

according to the most recent federal decennial census, and (3) had established a municipal liquor store before August 1, 1991.

(f) The town board may impose an additional license fee in an amount not to exceed 20 percent of the county license fee.

(g) Notwithstanding any provision of this subdivision or Laws 1973, chapter 566, as amended by Laws 1974, chapter 200, a county board may transfer or renew a license that was issued by a town board under Minnesota Statutes 1984, section 340.11, subdivision 10b, prior to January 1, 1985.

Sec. 9. Minnesota Statutes 1990, section 340A.405, subdivision 6, is amended to read:

Subd. 6. [AIRPORTS COMMISSION.] The metropolitan airports commission may with the approval of the commissioner issue licenses for the off-sale of ~~Minnesota-produced~~ wine at the Minneapolis-St. Paul International Airport.

Sec. 10. Minnesota Statutes 1990, section 340A.4055, is amended to read:

340A.4055 [LICENSES IN INDIAN COUNTRY.]

Notwithstanding any law to the contrary, on-sale or off-sale licenses for the sale of intoxicating liquor or nonintoxicating malt liquor issued by the governing body of an Indian tribe in accordance with United States Code, title 18, section 1161, to an Indian tribal member or Indian tribal entity for an establishment located within Indian country as defined under United States Code, title 18, section 1154, is valid ~~with the approval of the commissioner. The commissioner shall approve the license if the establishment has complied with sections 340A.402; 340A.409; 340A.410, subdivisions 4, 5, and 7; 340A.412, subdivisions 1 to 7, 9, and 10; 340A.413; 340A.501; 340A.502; 340A.503; 340A.504; and 340A.506~~. *When a license is issued under this section, the issuing authority shall notify the commissioner of public safety of the name and address of the licensee. Upon receipt of the notice, the commissioner shall issue a retailer's identification card to the licensee to permit the licensee to purchase distilled spirits, wine, or malt beverages.* An establishment issued a license under this ~~subdivision~~ *section* is not required to obtain a license from any municipality, county, or town.

Sec. 11. Minnesota Statutes 1990, section 340A.408, subdivision 2, is amended to read:

Subd. 2. [INTOXICATING LIQUOR; ON-SALE.] (a) The license fee for a retail on-sale intoxicating liquor license is the fee set by the city or county issuing the license subject to the limitations imposed under this subdivision.

(b) The annual license fee for an on-sale intoxicating liquor license issued by a ~~city~~ *municipality* to a club must be no greater than:

(1) $300 for a club with under 200 members;

(2) $500 for a club with between 201 and 500 members;

(3) $650 for a club with between 501 and 1,000 members;

(4) $800 for a club with between 1,001 and 2,000 members;

(5) $1,000 for a club with between 2,001 and 4,000 members;

(6) $2,000 for a club with between 4,001 and 6,000 members; or

(7) $3,000 for a club with over 6,000 members.

(c) The license fee for the issuance of a wine license may not exceed one-half of the license fee charged for an on-sale intoxicating liquor license, or $2,000, whichever is less.

(d) The town board of a town in which an on-sale establishment has been licensed by a county may impose an additional license fee on each such establishment in an amount not to exceed 20 percent of the county license fee.

Sec. 12. Minnesota Statutes 1990, section 340A.410, subdivision 5, is amended to read:

Subd. 5. [GAMBLING PROHIBITED.] (a) No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in section 349.30, or permit gambling therein except as provided in this subdivision.

(b) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized ~~under~~ *by (1)* chapter 349, *(2) a tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law Number 100-497, or (3) a tribal-state compact authorized under section 3.9221.*

(c) Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under chapter 349A.

Sec. 13. Minnesota Statutes 1990, section 340A.412, subdivision 2, is amended to read:

Subd. 2. [INVESTIGATION OF ON-SALE LICENSES.] (a) The city or county having jurisdiction over on-sale licenses to sell intoxicating liquor shall on initial application for an on-sale license or on application for a transfer of an existing license conduct a preliminary background and financial investigation of the applicant. The application must be in the form prescribed by the ~~bureau of criminal apprehension~~ *commissioner* and with any additional information as the governing body of the city or county having jurisdiction over the license requires. If the governing body of the city or county having jurisdiction determines or if the ~~bureau of criminal apprehension~~ *commissioner* on ~~its~~ *the commissioner's* own initiative determines that a comprehensive background and investigation of the applicant is necessary, the governing body may conduct the investigation itself or contract with the ~~bureau of criminal apprehension~~ *commissioner* for the investigation. In addition, an investigation may be required prior to renewal of an existing on-sale license when the governing body of the city or county deems it in the public interest. An investigation fee not to exceed $500 shall be charged an applicant by the city or county if the investigation is conducted within the state, or the actual cost not to exceed $10,000 if the investigation is required outside the state.

(b) No license may be issued, transferred, or renewed if the results of the investigation show, to the satisfaction of the governing body, that issuance, transfer, or renewal would not be in the public interest.

Sec. 14. Minnesota Statutes 1990, section 340A.412, subdivision 3, is amended to read:

Subd. 3. [LIMITATIONS ON ISSUANCE OF LICENSES TO ONE PERSON OR PLACE.] ~~(a) No more than one off-sale intoxicating liquor license may be directly or indirectly issued to any one person or for any one place in each city or county.~~

~~(b) For the purpose of this subdivision, the term "interest":~~

~~(1) includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, and a person who receives money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the retail license; and~~

~~(2) does not include loans; rental agreements; open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, supplies to the establishment; an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith; or ten percent or less interest in any other corporation holding a license.~~

~~(c) In determining whether an "interest" exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this subdivision must be considered.~~ *A municipality may not issue more than one off-sale intoxicating liquor license to any one person or for any one place.*

Sec. 15. Minnesota Statutes 1990, section 340A.412, is amended by adding a subdivision to read:

Subd. 12. [OFF-SITE STORAGE PROHIBITION.] *A holder of a retail intoxicating liquor license or a municipal liquor store may not store any intoxicating liquor at any location other than the licensed premises except with the written permission of the commissioner.*

Sec. 16. Minnesota Statutes 1990, section 340A.413, subdivision 1, is amended to read:

Subdivision 1. [ON-SALE LICENSES.] No on-sale intoxicating liquor license may be issued in any city except as provided in this section in excess of the following limits:

(1) in cities of the first class, one license for every 1,500 population, up to 200 licenses;

(2) in cities of the second class, not more than 18 licenses plus one for every 2,500 population over 45,000;

(3) in cities of the third class, not more than 12 licenses;

(4) in cities of the fourth class, *including cities whose acts of incorporation were repealed by Laws 1973, chapter 123, article V, section 5,* not more than seven licenses;

(5) in statutory cities of 5,000 to 10,000 population, not more than six licenses;

(6) in statutory cities of 2,500 to 5,000 population, not more than five licenses;

(7) in statutory cities of 500 to 2,500 population, not more than four licenses; and

(8) in statutory cities under 500 population, not more than three licenses.

Sec. 17. Minnesota Statutes 1990, section 340A.414, subdivision 4, is amended to read:

Subd. 4. [PERMIT EXPIRATION.] All permits issued under this section expire on ~~June 30~~ *March 31* of each year.

Sec. 18. Minnesota Statutes 1990, section 340A.414, subdivision 8, is amended to read:

Subd. 8. [LOCKERS.] A club issued a permit under this section may allow members to bring and keep a personal supply of intoxicating liquor in lockers on the club's premises. All bottles kept on the premises must have attached to it a label signed by the member. No person under ~~19~~ *21* years of age may keep a supply of intoxicating liquor on club premises.

Sec. 19. Minnesota Statutes 1990, section 340A.415, is amended to read:

340A.415 [LICENSE REVOCATION OR SUSPENSION.]

The authority issuing or approving any retail license or permit under this chapter shall either suspend for up to 60 days or revoke the license or permit or impose a civil fine not to exceed $2,000 for each violation on a finding that the license or permit holder has failed to comply with an applicable statute, rule, or ordinance relating to alcoholic beverages. No suspension or revocation takes effect until the license or permit holder has been afforded an opportunity for a hearing under sections 14.57 to 14.69 of the administrative procedure act. This section does not require a political subdivision to conduct the hearing before an employee of the office of administrative hearing. The issuing authority or the commissioner may impose the penalties provided in this section on a retail licensee who knowingly *(1)* sells alcoholic beverages to another retail licensee for the purpose of resale, ~~or on a retail licensee who~~ *(2)* purchases alcoholic beverages from another retail licensee for the purpose of resale, *(3) conducts or permits the conduct of gambling on the licensed premises in violation of the law, or (4) fails to remove or dispose of alcoholic beverages when ordered by the commissioner to do so under section 24.*

Sec. 20. Minnesota Statutes 1990, section 340A.503, subdivision 1, is amended to read:

Subdivision 1. [CONSUMPTION.] It is unlawful for any:

(1) retail intoxicating liquor or nonintoxicating liquor licensee, *municipal liquor store,* or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to consume alcoholic beverages on the licensed premises *or within the municipal liquor store*; or

(2) person under the age of 21 years to consume any alcoholic beverages. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian.

Sec. 21. Minnesota Statutes 1990, section 340A.504, subdivision 2, is amended to read:

Subd. 2. [INTOXICATING LIQUOR; ON-SALE.] No sale of intoxicating

liquor for consumption on the licensed premises may be made:

(1) between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;

(2) after 1:00 a.m. on Sundays, except as provided by subdivision 3;

(3) between 8:00 p.m. on December 24 and 8:00 a.m. on December 25, except ~~as provided~~ *that when December 25 occurs on a Sunday on-sales on that day are governed* by subdivision 3.

Sec. 22. Minnesota Statutes 1990, section 340A.504, subdivision 3, is amended to read:

Subd. 3. [INTOXICATING LIQUOR; SUNDAY SALES; ON-SALE.] (a) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon on Sundays and 1:00 a.m. on Mondays.

(b) The governing body of a municipality may after one public hearing by ordinance permit a restaurant, hotel, bowling center, or club to sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays, provided that the licensee is in conformance with the Minnesota clean air act.

(c) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed $200.

(d) A ~~municipality~~ *city* may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the ~~municipality~~ *city* voting on the question at a general or special election. *A county may issue a Sunday intoxicating liquor license in a town only if authorized to do so by the voters of the town as provided in paragraph (e). A county may issue a Sunday intoxicating liquor license in unorganized territory only if authorized to do so by the voters of the election precinct that contains the licensed premises, voting on the question at a general or special election.*

(e) An election conducted in a town on the question of the issuance by the county of Sunday sales licenses to establishments located in the town must be held on the day of the annual election of town officers.

(f) Voter approval is not required for licenses issued by the metropolitan airports commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of $50, plus $5 for each duplicate.

Sec. 23. Minnesota Statutes 1990, section 340A.506, is amended to read:

340A.506 [SALES OF ETHYL ALCOHOL AND NEUTRAL SPIRITS PROHIBITED.]

Subdivision 1. [ETHYL ALCOHOL; NEUTRAL SPIRITS.] No person may sell at retail for beverage purposes ethyl alcohol or neutral spirits, or substitutes thereof, possessing the taste, aroma, and characteristics generally attributed to ethyl alcohol or neutral spirits. Nothing in this section prohibits

the manufacture or sale of other products obtained by use of ethyl alcohol or neutral spirits as defined in United States Treasury Department, Bureau of Internal Revenue, Regulations 125, Article II, Standards of Identity for Distilled Spirits.

Subd. 2. [MAXIMUM ALCOHOL CONTENT.] *No person may sell for beverage purposes any spirits, distilled from grain or corn, with an alcohol content of 80 percent or more, which equals 160 proof or more, unless such spirits have been aged in wood casks for not less than two years.*

Sec. 24. Minnesota Statutes 1990, section 340A.508, is amended by adding a subdivision to read:

Subd. 3. [PURITY OF CONTENTS.] *The commissioner may examine the contents of any container of alcoholic beverages on the premises of any licensee under this chapter or any municipal liquor store, for the purpose of determining the purity of the alcoholic beverages. The commissioner may remove any container, or remove all or part of the contents thereof, for the purpose of conducting tests of purity. The commissioner may order the removal from inventory of any container the contents of which fail to meet standards of purity established by rules adopted under this subdivision, and may order the disposal of the contents. The commissioner may adopt rules that (1) provide standards of purity for alcoholic beverages and procedures for testing for purity, and (2) govern the removal from inventory and disposal of alcoholic beverages that do not meet the commissioner's standards of purity.*

Sec. 25. Minnesota Statutes 1990, section 340A.601, subdivision 5, is amended to read:

Subd. 5. [ISSUANCE OF LICENSES TO PRIVATE PERSONS.] A city owning and operating a municipal liquor store may issue on-sale liquor licenses to hotels, clubs, and restaurants. A city issuing on-sale licenses under this subdivision may continue to operate the municipal liquor store or may resume operation of a municipal liquor store previously discontinued.

The number of on-sale licenses issued under this section by a city is governed by section 340A.413.

A city may not issue licenses under this section, *other than a license issued to a club under section 340A.404, subdivision 1, clause (4),* until authorized by the voters of the city voting on the question at a special election called for that purpose.

Sec. 26. Minnesota Statutes 1990, section 340A.604, is amended to read:

340A.604 [SUSPENSION OF OPERATION.]

A court shall notify the commissioner in writing within ten days whenever a municipal officer or employee has been convicted of any of the following offenses committed in a municipal liquor store:

(1) selling alcoholic beverages to persons or at times prohibited by law;

(2) selling alcoholic beverages for resale;

(3) selling alcoholic beverages on which state taxes have not been paid; or

(4) violating the provisions of section 340A.410, subdivision ~~6~~ 5, relating to gambling and gambling devices.

On receiving the notice of conviction the commissioner may suspend for up to 30 days the operation of the municipal liquor store where the offense occurred. The commissioner must notify in writing the municipality operating the store of the effective dates of the suspension. An appeal of the suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Sec. 27. [ST. LOUIS COUNTY LICENSE.]

Notwithstanding any law to the contrary, the St. Louis county board may issue a license for the on-sale of intoxicating malt liquor to an establishment located in township 61, range 18, section 29, parcel no. 2150010050251. The county board shall set the fee for the license. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the license authorized by this section.

Sec. 28. [CITY OF ALEXANDRIA; SUNDAY LIQUOR LICENSE.]

Notwithstanding Minnesota Statutes, section 340A.504, subdivision 3, paragraph (d), the city of Alexandria may issue licenses authorizing on-sales of intoxicating liquor on Sunday to restaurants and bowling centers in the city without authorization by the voters of the city. All other provisions of Minnesota Statutes, chapter 340A, apply to a license issued under this section.

Sec. 29. [ON-SALE LICENSES; CITY OF VIRGINIA.]

Notwithstanding Minnesota Statutes, section 340A.413, subdivision 1, the city of Virginia may issue not more than 21 on-sale intoxicating liquor licenses. The licenses authorized by this section include any licenses which the city may issue by special law or by a referendum conducted under Minnesota Statutes, section 340A.413, subdivision 3, before the effective date of this section. All other provisions of Minnesota Statutes, chapter 340A, including section 340A.413, subdivision 4, not inconsistent with this section apply to licenses issued under this section.

Sec. 30. [ON-SALE LICENSES; CITY OF HIBBING.]

Notwithstanding Minnesota Statutes, section 340A.413, subdivision 1, the city of Hibbing may issue not more than 20 on-sale intoxicating liquor licenses. All other provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section apply to licenses issued under this section.

Sec. 31. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall change in the next and subsequent editions of Minnesota Statutes and Minnesota Rules the term "nonintoxicating malt liquor" wherever it occurs to "3.2 percent malt liquor."

Sec. 32. [TRANSITION.]

Notwithstanding Minnesota Statutes, section 340A.414, subdivision 4, all consumption and display permits issued by the commissioner of public safety that expire June 30, 1991, are extended and are valid until March 31, 1992.

Sec. 33. [REPEALER.]

Subdivision 1. [SEASONAL LICENSE AUTHORITY.] *Minnesota Statutes 1990, section 340A.404, subdivision 6a, is repealed.*

Subd. 2. [VIRGINIA SPECIAL LAW.] *Laws 1974, chapter 501, section*

1, is repealed.

Subd. 3. [HIBBING SPECIAL LAW.] *Laws 1989, chapter 72, is repealed.*

Sec. 34. [EFFECTIVE DATE.]

Section 8 applies to new licenses issued on or after August 1, 1991. Sections 17 and 30 are effective June 1, 1991. Section 27 is effective on approval of the St. Louis county board and compliance with Minnesota Statutes, section 645.021. Section 28 is effective on approval by the Alexandria city council and compliance with Minnesota Statutes, section 645.021. Sections 29 and 33, subdivision 2, are effective on approval by the Virginia city council and compliance with Minnesota Statutes, section 645.021. Sections 30 and 33, subdivision 3, are effective on approval by the Hibbing city council and compliance with Minnesota Statutes, section 645.021."

Delete the title and insert:

"A bill for an act relating to alcoholic beverages; prohibiting a retailer from having an interest in a manufacturer, brewer, or wholesaler; prohibiting a retailer from renting space to a manufacturer, brewer, or wholesaler; providing that brand registration is for a three-year period; specifying that club on-sale licenses are subject to approval of the commissioner of public safety; consolidating provisions of law relating to seasonal on-sale licenses; providing for sale of intoxicating liquor at a sports arena in Minneapolis; providing extended duration of seasonal licenses in certain counties; removing certain restrictions on location of off-sale and combination licenses issued by counties; providing for the issuance of retailer identification cards to certain licensees; clarifying law on issuance of off-sale licenses by counties; allowing gambling on licensed premises when governed by tribal ordinance or a tribal-state compact; clarifying language on certain prohibitions on issuance of multiple licenses and repealing obsolete provisions relating thereto; prohibiting off-site storage of intoxicating liquor; specifying applicability of license limits to certain fourth-class cities; changing the expiration date for consumption and display permits; raising the minimum age for keeping intoxicating liquor in bottle clubs; authorizing commissioner of public safety to impose civil penalties for conducting or permitting unlawful gambling on licensed premises, or for failure to remove impure products; specifying applicability to municipal liquor stores of prohibitions against permitting consumption of alcoholic beverages by underage persons; clarifying language on sales of intoxicating liquor on Christmas day; providing for Sunday liquor elections in counties; prohibiting sale of certain beverages; authorizing commissioner of public safety to inspect alcoholic beverages for purity of contents and to order the removal of impure products; specifying that a split liquor referendum is not required for issuance of club licenses; repealing restrictions on wine sales at Minneapolis-St. Paul International Airport; authorizing issuance of an on-sale intoxicating malt liquor license in St. Louis county; authorizing the issuance of on-sale Sunday liquor licenses by the city of Alexandria; specifying the number of on-sale licenses which may be issued in the cities of Virginia and Hibbing; changing the name of nonintoxicating malt liquor; amending Minnesota Statutes 1990, sections 340A.301, subdivision 7; 340A.311; 340A.402; 340A.404, subdivisions 1, 2, 6, and by adding a subdivision; 340A.405, subdivisions 2 and 6; 340A.4055; 340A.408, subdivision 2; 340A.410, subdivision 5; 340A.412, subdivisions 2, 3, and by adding a subdivision; 340A.413,

subdivision 1; 340A.414, subdivisions 4 and 8; 340A.415; 340A.503, subdivision 1; 340A.504, subdivisions 2 and 3; 340A.506; 340A.508, by adding a subdivision; 340A.601, subdivision 5; and 340A.604; repealing Minnesota Statutes 1990, section 340A.404, subdivision 6a; Laws 1974, chapter 501, section 1; and Laws 1989, chapter 72."

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

House Conferees: (Signed) Joel Jacobs, Jerry Janezich, Ben Boo

Senate Conferees: (Signed) Sam G. Solon, James P. Metzen, William V. Belanger, Jr.

Mr. Solon moved that the foregoing recommendations and Conference Committee Report on H.F. No. 683 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. 683 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 48 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Hughes	Marty	Price
Beckman	Dahl	Johnson, J.B.	Metzen	Reichgott
Belanger	Day	Johnston	Moe, R.D.	Riveness
Benson, D.D.	DeCramer	Kelly	Mondale	Sams
Benson, J.E.	Finn	Knaak	Morse	Samuelson
Berglin	Flynn	Kroening	Neuville	Solon
Bernhagen	Frank	Laidig	Olson	Stumpf
Bertram	Frederickson, D.R.	Langseth	Pappas	Waldorf
Brataas	Gustafson	Larson	Pariseau	
Chmielewski	Hottinger	Lessard	Piper	

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. 299 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 299: A bill for an act relating to state government; describing conditions of certain employee interchange programs; authorizing the continuation of surviving spouse benefits for local police and salaried firefighter relief associations in the event of remarriage; amending Minnesota Statutes 1990, section 15.53, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 352 and 423A.

Mr. Waldorf moved to amend H.F. No. 299, as amended pursuant to Rule 49, adopted by the Senate April 22, 1991, as follows:

(The text of the amended House File is identical to S.F. No. 377.)

Page 1, after line 11, insert:

"ARTICLE 1"

Page 3, after line 1, insert:

"ARTICLE 2

SURVIVING SPOUSE BENEFIT MODIFICATIONS

Section 1. Minnesota Statutes 1990, section 3A.04, subdivision 1, is amended to read:

Subdivision 1. [SURVIVING SPOUSE.] Upon the death of a member of the legislature while serving as a member, or upon the death of a former legislator who has rendered at least the number of years of service as required by section 3A.02, subdivision 1, clause (1) and who was not receiving a retirement allowance, the surviving spouse shall be entitled to receive a survivor benefit in the amount of one-half of the retirement allowance of the member of the legislature or former legislator computed as though the member or former legislator had attained at least the normal retirement age on the date of death and based upon the average monthly salary as of the date of death or as of the date of termination, whichever is applicable, and the allowable service of the member or the former legislator or eight years, whichever is greater. The augmentation provided in section 3A.02, subdivision 4, if applicable, shall be applied from the first day of the month next following the date of termination of service as a member of the legislature to the month of death. Upon the death of a former legislator who was receiving a retirement allowance, the surviving spouse shall be entitled to one-half of the amount of the allowance being paid to the former legislator. The surviving spouse benefit shall be paid during the lifetime of the surviving spouse~~, but shall cease and terminate upon the remarriage of the surviving spouse~~.

Sec. 2. Minnesota Statutes 1990, section 352B.11, subdivision 2, is amended to read:

Subd. 2. [DEATH; PAYMENT TO SPOUSE AND CHILDREN.] If a member serving actively as a member, a member receiving the disability benefit provided by section 352B.10, subdivision 1, or a former member receiving a disability benefit as provided by section 352B.10, subdivision 2, dies from any cause, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least three years of allowable service is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member became or would have become 55.

(b) The surviving spouse of a member who had credit for less than three years of service shall receive, for life, a monthly annuity equal to 50 percent of that part of the average monthly salary of the member from which deductions were made for retirement. ~~If the surviving spouse remarries, the annuity shall cease as of the date of the remarriage.~~

(c) The surviving spouse of a member who had credit for at least three years service and who died after becoming 55 years old, may elect to receive a 100 percent joint and survivor annuity, for life, notwithstanding a subsequent remarriage, in lieu of the annuity prescribed in paragraph (b).

(d) The surviving spouse of any member who had credit for three years or more and who was not 55 years old at death, shall receive the benefit

equal to 50 percent of the average monthly salary as described in clause (b) until the deceased member would have become 55 years old, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity. ~~If the surviving spouse remarries before the deceased member's 55th birth date, benefits or annuities shall cease as of the date of remarriage. Remarriage after the deceased member's 55th birthday shall not affect the payment of the benefit.~~

(e) Each dependent child shall receive a monthly annuity equal to ten percent of that part of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over 18 and under 23 years of age also may receive the monthly benefit provided in this section, if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school but separates from full-time attendance during any part of a school year, the annuity shall cease at the end of the month of separation. In addition, a payment of $20 per month shall be prorated equally to surviving dependent children when the former member is survived by one or more dependent children. Payments for the benefit of any qualified dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The maximum monthly benefit for any one family must not be less than 50 nor exceed 70 percent of the average monthly salary for any number of children.

(f) If the member dies under circumstances that entitle the surviving spouse and dependent children to receive benefits under the workers' compensation law, the workers' compensation benefits received by them must not be deducted from the benefits payable under this section.

(g) The surviving spouse of a deceased former member who had credit for three or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 2, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have become 55 years old~~, if the surviving spouse has not remarried before that date~~. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of six percent per year compounded annually.

Sec. 3. Minnesota Statutes 1990, section 352C.04, subdivision 1, is amended to read:

Subdivision 1. [SURVIVING SPOUSE BENEFIT.] Upon the death of a constitutional officer or commissioner while actively serving in office, or a former constitutional officer or commissioner with at least eight years of allowable service, the surviving spouse is entitled to a survivor benefit in the amount of one-half of the retirement allowance of the constitutional officer or commissioner or the former constitutional officer or commissioner computed as though the constitutional officer or commissioner or the former constitutional officer or commissioner were at least age 62 on the date of death and based upon the attained allowable service or eight years, whichever is greater. The augmentation provided in section 352C.033, if applicable, shall be applied to the month of death. Upon the death of a former constitutional officer or commissioner receiving a retirement allowance, the surviving spouse shall be entitled to one-half of the amount of the retirement allowance being paid to the former constitutional officer or commissioner

as of the date of death. The benefit shall be paid to a surviving spouse eligible therefor during the remainder of the spouse's natural life ~~or until remarriage~~. ~~Upon remarriage, the spouse shall no longer be eligible for the benefit except as provided in section 356.31.~~

Sec. 4. Minnesota Statutes 1990, section 352C.04, subdivision 4, is amended to read:

Subd. 4. [APPLICATION FOR SURVIVOR BENEFITS.] A surviving spouse or a guardian of the estate of the dependent child or children entitled to the payment of benefits under this section shall file an application for the benefit with the director, and payment shall commence as of the first day of the month next following the filing of the application and shall be retroactive to the first of the month following the death of the constitutional officer or commissioner or the former constitutional officer or commissioner; provided, however, that no payment shall be retroactive for more than 12 months prior to the month in which the application is filed with the director. Such benefits shall be paid on the first day of each calendar month for that month. The surviving spouse benefit shall cease with the payment for the month in which the surviving spouse dies ~~or remarries as the case may be~~. The dependent child's benefit shall cease with the payment for the month in which the child no longer qualifies for payment as a dependent child.

Sec. 5. Minnesota Statutes 1990, section 353.01, subdivision 20, is amended to read:

Subd. 20. [SURVIVING SPOUSE.] "Surviving spouse" means the ~~unremarried~~ spouse of a deceased member who was legally married to the member at the time of death, or at the time the member became totally and permanently disabled.

Sec. 6. Minnesota Statutes 1990, section 353.31, subdivision 1, is amended to read:

Subdivision 1. [BENEFITS FOR SURVIVING SPOUSE AND DEPENDENT CHILDREN; BEFORE RETIREMENT.] Upon the death of a basic member before retirement or upon the death of a basic member who was disabled and receiving disability benefits pursuant to section 353.33 at the time of death who has had at least 18 months of credited allowable service, the surviving spouse and dependent children of the member, as defined in section 353.01, subdivisions 15 and 20, shall be entitled to receive the monthly benefit provided below:

(a) Surviving spouse	50 percent of the member's monthly average salary in effect over the last full six months of allowable service preceding the month in which death occurred
(b) Each dependent child	10 percent of the member's monthly average salary in effect over the last full six months of allowable service preceding the month in which death occurred

Payments for the benefit of any dependent child, as defined in section

353.01, subdivision 15, shall be made to the surviving parent, or if there be none, to the legal guardian of the child. The maximum monthly benefit for a family shall not exceed $1,000, and the minimum benefit per family shall not be less than 50 percent of the basic member's specified average monthly salary, subject to the aforementioned maximum. ~~The surviving spouse benefit shall terminate upon the remarriage of the spouse, and~~ The dependent children's benefit shall be reduced pro tanto when any child is no longer dependent.

Any survivor of a basic member whose average salary was less than $75 per month shall not be entitled to the benefits provided in this subdivision. Prior to payment of any survivor benefit pursuant to this subdivision, in lieu of that benefit, the surviving dependent spouse may elect to receive the joint and survivor annuity provided pursuant to section 353.32, subdivision 1a.

Except for any benefits provided pursuant to section 353.32, subdivisions 1 and 1a, there are no survivor benefits payable to the surviving spouse or dependent children of a deceased coordinated member.

Sec. 7. Minnesota Statutes 1990, section 353.657, subdivision 2, is amended to read:

Subd. 2. The spouse, for life ~~or until remarriage~~, shall receive a monthly benefit equal to 50 percent of the member's average full-time monthly salary rate as a police officer or firefighter in effect over the last six months of allowable service preceding the month in which death occurred.

Sec. 8. Minnesota Statutes 1990, section 353B.11, subdivision 6, is amended to read:

Subd. 6. [DISCONTINUATION; SURVIVING SPOUSE BENEFIT.] (a) Except as specified in paragraph (b) or (c), a surviving spouse benefit shall terminate upon the death or the subsequent marriage of the person entitled to receive or receiving a surviving spouse benefit.

(b) A surviving spouse benefit shall terminate upon the subsequent marriage of the person entitled to receive or receiving a surviving spouse benefit but shall recommence at the appropriate amount without any retroactive payments in the event of the termination of the subsequent marriage for any reason for the former members of the following consolidating relief associations:

(1) Albert Lea firefighters relief association;

(2) Albert Lea police relief association;

(3) Duluth firefighters relief association;

(4) ~~Duluth police pension association;~~

~~(5)~~ Minneapolis fire department relief association;

~~(6)~~ *(5)* St. Paul fire department relief association; and

~~(7)~~ *(6)* St. Paul police relief association.

(c) A surviving spouse benefit shall terminate only upon the death of the person entitled to receive or receiving a surviving spouse benefit for the former members of the following consolidating relief associations:

(1) *Anoka police relief association;*

(2) Buhl police relief association;

(3) Chisholm fire department relief association;

(4) Chisholm police relief association;

(5) Crookston fire department relief association;

(6) Duluth police relief association;

(7) Faribault fire department relief association;

(8) Hibbing firefighters relief association;

(9) Hibbing police relief association;

(10) Mankato fire department relief association;

~~(2)~~ *(11) Red Wing fire department relief association;*

(12) Red Wing police relief association;

(13) Rochester fire department relief association;

(14) Rochester police relief association;

(15) St. Cloud fire department relief association;

(16) St. Louis Park fire department relief association;

(17) St. Louis Park police relief association;

(18) South St. Paul firefighters relief association;

~~(3)~~ *(19)* South St. Paul police relief association;

~~(4)~~ *(20)* West St. Paul firefighters relief association; ~~and~~

~~(5)~~ *(21)* Winona fire department relief association*; and*

(22) Winona police relief association.

Sec. 9. Minnesota Statutes 1990, section 354.05, subdivision 15, is amended to read:

Subd. 15. [DEPENDENT SPOUSE.] "Dependent spouse" means the spouse of a deceased member who ~~has not remarried and~~ was living with and dependent upon the member at the time of death.

Sec. 10. Minnesota Statutes 1990, section 354.46, subdivision 1, is amended to read:

Subdivision 1. [BASIC PROGRAM; BENEFITS FOR SPOUSE AND CHILDREN OF TEACHER.] If a basic member who has at least 18 months of allowable service credit and who has an average salary as defined in section 354.44, subdivision 6, equal to or greater than $75 dies prior to retirement or if a former basic member who, at the time of death, was totally and permanently disabled and receiving disability benefits pursuant to section 354.48 dies prior to attaining the age of 65 years, the surviving dependent spouse and dependent children of the basic member or former basic member shall be entitled to receive a monthly benefit as follows:

(a) Surviving dependent spouse	50 percent of the basic member's monthly average salary paid in the last full fiscal year preceding death

(b) Each dependent child . . . . . ten percent of the basic member's monthly average salary paid in the last full fiscal year preceding death

Payments for the benefit of any dependent child under the age of 22 years shall be made to the surviving parent, or if there be none, to the legal guardian of the child. The maximum monthly benefit shall not exceed $1,000 for any one family, and the minimum benefit per family shall not be less than 50 percent of the basic member's average salary, subject to the foregoing maximum. The ~~surviving dependent spouse benefit shall terminate upon remarriage, and the~~ surviving dependent children's benefit shall be reduced pro tanto when any surviving child is no longer dependent.

If the basic member and the surviving dependent spouse are killed in a common disaster and if the total of all survivors benefits payable pursuant to this subdivision is less than the accumulated deductions plus interest payable, the surviving dependent children shall receive the difference in a lump sum payment.

If the survivor benefits provided in this subdivision exceed in total the monthly average salary of the deceased basic member, these benefits shall be reduced to an amount equal to the deceased basic member's monthly average salary.

Prior to payment of any survivor benefit pursuant to this subdivision, in lieu of that benefit, the surviving dependent spouse may elect to receive the joint and survivor annuity provided pursuant to subdivision 2, or may elect to receive a refund of accumulated deductions with interest in a lump sum as provided pursuant to section 354.47, subdivision 1. If there are any surviving dependent children, the surviving dependent spouse may elect to receive the refund of accumulated deductions only with the consent of the district court of the district in which the surviving dependent child or children reside.

Sec. 11. Minnesota Statutes 1990, section 354A.011, subdivision 26, is amended to read:

Subd. 26. [SPOUSE.] "Spouse" means the person who was legally married to and living with the member immediately prior to the member's death ~~and who has not remarried subsequent to the member's death~~.

Sec. 12. [SURVIVING SPOUSE BENEFITS.]

Subdivision 1. Notwithstanding any laws to the contrary, the benefit payable to the surviving spouse of a deceased deferred or deceased retired former member of the following consolidated relief associations is as specified in subdivision 2:

(a) Chisholm fire relief association;

(b) Chisholm police relief association;

(c) Hibbing fire relief association; and

(d) Hibbing police relief association.

The benefit specified in subdivision 2 is payable to current and prospective surviving spouses eligible to receive a benefit under the benefit provisions of the applicable local relief association benefit plan.

Subd. 2. The benefit provided for individuals identified in subdivision 1 is 50 percent of the annuity amount being received by the former member immediately prior to death, unless the survivor benefit computed under prior law is greater.

Sec. 13. [EFFECTIVE DATE.]

(a) Sections 1 to 11 are effective the day following final enactment.

Section 12 is effective for the former relief associations of the city of Chisholm the day following approval by the Chisholm city council and upon compliance with Minnesota Statutes, section 645.021. Section 12 is effective for the former relief associations of the city of Hibbing the day following approval by the Hibbing city council and upon compliance with Minnesota Statutes, section 645.021.

(b) The elimination of the surviving spouse benefit discontinuation requirement provided for in sections 1 to 11 also applies to any surviving spouse receiving a surviving spouse benefit on the date of final enactment of the act and the potential surviving spouses of active, deferred or retired plan members who have that status on the effective date of the change. Sections 1 to 11 do not apply to persons who formerly were receiving surviving spouse benefits and had those benefits discontinued by virtue of a remarriage and may not be considered to authorize the payment of any retroactive survivor benefit amounts to any person or to an estate.

ARTICLE 3

PUBLIC PENSION PLAN ACTUARIAL REPORTING REVISIONS

Section 1. Minnesota Statutes 1990, section 3.85, subdivision 11, is amended to read:

Subd. 11. [VALUATIONS AND REPORTS TO LEGISLATURE.] (a) The commission shall contract with an established actuarial consulting firm to conduct annual actuarial valuations ~~and financial adequacy studies~~ for the retirement plans named in paragraph (b). The contract ~~shall~~ *must* include provisions for performing cost analyses of proposals for changes in benefit and funding policies.

(b) The contract for actuarial valuation ~~and analysis shall~~ *must* include the following retirement plans:

(1) the ~~statewide~~ *teachers retirement plan,* teachers retirement association;

(2) the general *state employees retirement* plan, Minnesota state retirement system;

(3) the correctional *employees retirement* plan, Minnesota state retirement system;

(4) the state patrol *retirement* plan, Minnesota state retirement system;

(5) the judges *retirement* plan, Minnesota state retirement system;

(6) the *Minneapolis employees retirement plan,* Minneapolis employees retirement fund;

(7) the ~~general~~ *public employees retirement* plan, public employees retirement association;

(8) the *public employees* police and fire plan, public employees retirement association;

(9) the *Duluth teachers retirement plan,* Duluth teachers retirement *fund* association;

(10) the *Minneapolis teachers retirement plan,* Minneapolis teachers retirement *fund* association;

(11) the *St. Paul teachers retirement plan,* St. Paul teachers retirement *fund* association;

(12) the ~~legislator's~~ *legislators* retirement plan, Minnesota state retirement system; ~~and~~

(13) the elective state officers retirement plan, Minnesota state retirement system*; and*

(14) the public employees local government correctional service retirement plan, public employees retirement association, if there are any participants in that plan.

(c) ~~Every year~~ The contract ~~shall~~ *must* specify completion of ~~standard~~ *annual* actuarial ~~valuations for the~~ *valuation calculations on a* fiscal year *basis* with *their* contents as ~~described~~ *specified* in section 356.215, ~~subdivisions 4 to 4k, and cash flow forecasts through the amortization target date~~ *and the standards for actuarial work adopted by the commission.*

~~For every plan year~~ The contract ~~shall~~ *must* specify ~~preparation~~ *completion* of ~~an exhibit on the experience of the fund for inclusion in the annual actuarial valuation and completion of a periodic experience study~~ *annual experience data collection and processing and a quadrennial published experience study for the plans listed in paragraph (b), clauses (1), (2), and (7),* as provided for in the standards *for actuarial work* adopted by the commission. The experience ~~study shall~~ *data collection, processing, and analysis must* evaluate ~~the appropriateness of continuing to use for future valuations the assumptions relating to~~ *the following*:

(1) individual salary progression;

(2) rate of return on investments *based on current asset value*;

(3) payroll growth;

(4) mortality; ~~withdrawal; disability;~~

(5) retirement~~; and any other experience-related factor that could impact the future financial condition of the retirement funds~~ *age;*

(6) withdrawal; and

(7) disablement.

(d) The *actuary retained by the* commission shall annually prepare a report to the legislature, *including the commentary on the actuarial valuation calculations for the plans named in paragraph (b) and* summarizing the results of the ~~valuations and cash flow projections~~ *actuarial valuation calculations*. ~~It~~ *The commission-retained actuary* shall include with ~~its~~ *the* report *the actuary's* recommendations concerning the appropriateness of the support rates to achieve proper funding of the retirement funds by the required funding dates. ~~It~~ *The commission-retained actuary* shall, ~~within two months of the completion~~ *as part* of the ~~periodic~~ *quadrennial published* experience ~~studies~~ *study*, ~~prepare a report~~ *include recommendations* to the legislature on the appropriateness of the *actuarial* valuation assumptions required for evaluation in the ~~periodic experience~~ study.

(e) *If the actuarial gain and loss analysis in the actuarial valuation calculations indicates a persistent pattern of sizable gains or losses, as directed by the commission, the actuary retained by the commission shall prepare a special experience study for a plan listed in paragraph (b), clause (3), (4), (5), (6), (8), (9), (10), (11), (12), (13), or (14), in the manner provided for in the standards for actuarial work adopted by the commission.*

(f) The term of the contract between the commission and the actuary retained by the commission is two years, plus not to exceed two one-year extensions before competitive bidding. The contract is subject to competitive bidding procedures as specified by the commission.

Subd. 12. [ALLOCATION OF ACTUARIAL COST.] *(a)* The commission shall assess each retirement plan specified in *subdivision 11*, paragraph (b), ~~other than clauses (12) and (13),~~ for *a portion of the compensation paid to the actuary retained by the commission for* the ~~cost of its~~ actuarial ~~valuations~~ *valuation calculations* and *quadrennial* experience studies. The assessment ~~shall be that part~~ *is 72 percent* of the amount of contract compensation for the actuarial consulting firm retained by the commission for ~~those functions that bears the same relationship that the total active, deferred, inactive, and benefit recipient membership of the retirement plan bears to the total action, deferred, inactive, and benefit recipient membership of all retirement plans specified in paragraph (b)~~ *actuarial valuation calculations, including the public employees police and fire plan consolidation accounts of the public employees retirement association, annual experience data collection and processing, and quadrennial experience studies.*

The portion of the total assessment payable by each retirement system or pension plan must be determined as follows:

(1) Each pension plan specified in subdivision 11, paragraph (b), clauses (1) to (14), must pay the following indexed amount based on its total active, deferred, inactive, and benefit recipient membership:

up to 2,000 members, inclusive	*$2.55 per member*
2,001 through 10,000 members	*$1.13 per member*
over 10,000 members	*$0.11 per member*

The amount specified is applicable for the assessment of the July 1, 1991, to June 30, 1992, fiscal year actuarial compensation amounts. For the July 1, 1992, to June 30, 1993, fiscal year and subsequent fiscal year actuarial compensation amounts, the amount specified must be increased at the same percentage increase rate as the implicit price deflator for state and local government purchases of goods and services for the 12-month period ending with the first quarter of the calendar year following the completion date for the actuarial valuation calculations, as published by the federal Department of Commerce, and rounded upward to the nearest full cent.

(2) The total per-member portion of the allocation must be determined, and that total per-member amount must be subtracted from the total amount for allocation. Of the remainder dollar amount, the following per-retirement system and per-pension plan charges must be determined and the charges must be paid by the system or plan:

(i) 37.87 percent is the total additional per-retirement system charge, of which one-seventh must be paid by each retirement system specified in subdivision 11, paragraph (b), clauses (1), (2), (6), (7), (9), (10), and (11).

(ii) 62.13 percent is the total additional per-pension plan charge, of which one-thirteenth must be paid by each pension plan specified in subdivision 11, paragraph (b), clauses (1) to (13), if there are not any participants in the plan specified in subdivision 11, paragraph (b), clause (14), or of which one-fourteenth must be paid by each pension plan specified in subdivision 11, paragraph (b), clauses (1) to (14), if there are participants in the plan specified in subdivision 11, paragraph (b), clause (14).

(b) The assessment ~~shall~~ *must* be made ~~upon~~ *following* the completion of the actuarial ~~valuations~~ *valuation calculations* and the experience ~~studies~~ *analysis*. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan. Receipts from assessments ~~shall~~ *must* be deposited in the state treasury and credited to the general fund.

Sec. 2. Minnesota Statutes 1990, section 356.20, subdivision 4, is amended to read:

Subd. 4. [CONTENTS OF FINANCIAL REPORT.] The financial report required by this section ~~shall include:~~

~~(1)~~ *must contain financial statements and disclosures that indicate the financial operations and position of the retirement plan and fund. The report must conform with generally accepted governmental accounting principles, applied on a consistent basis. The report must be audited. The report must include, as part of its exhibits or footnotes,* an ~~exhibit~~ *actuarial disclosure item* based on the actuarial valuation *calculations* prepared by the commission-retained actuary *or by the actuary retained by the retirement fund or plan, if applicable,* according to applicable actuarial requirements enumerated in section 356.215, and specified in *the most recent* standards *for actuarial work* adopted by the legislative commission on pensions and retirement. The ~~exhibit shall show the~~ accrued assets ~~of the fund~~, the accrued liabilities, including accrued reserves, and the unfunded actuarial accrued liability of the fund *or plan must be disclosed.* The ~~exhibit shall~~ *disclosure item must* contain ~~the certificate of~~ *a declaration by* the actuary retained by the legislative commission on pensions and retirement *or the actuary retained by the fund or plan, whichever applies,* specifying that the required reserves for any retirement, disability, or survivor benefits provided under a benefit formula are computed in accordance with the entry age actuarial cost method and ~~any~~ *with the most recent* applicable standards *for actuarial work* adopted by the legislative commission on pensions and retirement.

(a) Assets ~~shown in the exhibit shall~~ *of the fund or plan contained in the disclosure item must* include the following ~~items of actual assets:~~

~~Cash in office~~

~~Deposits in banks~~

~~Accounts receivable:~~

~~Accrued members' contributions~~

~~Accrued employer contributions~~

~~Other~~

~~Accrued interest on investments~~

~~Dividends on stocks, declared but not yet received~~

~~Investment in bonds at cost~~

~~Investment in stocks at cost~~

~~Investment in real estate~~

~~Equipment at cost, less depreciation~~

~~Other~~

~~Total assets~~ - - - - - - - - - - - - - - -

~~(b) The exhibit shall include a~~ statement of the actuarial value of current assets as ~~specified~~ *defined* in section 356.215, subdivision ~~4, including:~~

~~Cash, cash equivalents, and short-term securities~~

~~Fixed income investments~~

~~Equity investments~~

~~Real estate investments~~

~~Equity in the Minnesota postretirement investment fund~~

~~Other~~ *1:*

	Value at cost	*Value at market*
Cash, cash equivalents, and short-term securities	. . . . .	. . . . .
Accounts receivable	. . . . .	. . . . .
Accrued investment income	. . . . .	. . . . .
Fixed income investments	. . . . .	. . . . .
Equity investments other than real estate	. . . . .	. . . . .
Real estate investments	. . . . .	. . . . .
Equipment	. . . . .	. . . . .
Equity in the Minnesota postretirement investment fund	. . . . .	. . . . .
Other	. . . . .	. . . . .
Total assets		
Value at cost		. . . . .
Value at market		. . . . .
Value of current assets		. . . . .

~~(c)~~ *(b)* The ~~exhibit shall include a statement of the~~ unfunded actuarial accrued liability of the fund ~~which shall~~ *or plan contained in the disclosure item must* include the following measures of unfunded actuarial accrued liability, using the ~~actuarial~~ value of current assets ~~as specified in section 356.215, subdivision 1~~:

~~(i)~~ *(1)* unfunded actuarial accrued liability, ~~which shall be~~ determined by subtracting the current assets and the present value of future normal costs from the total current and expected future benefit obligations; and

~~(ii) current~~ *(2)* unfunded ~~actuarial liability~~ *pension benefit obligation, ~~which is the total current benefit obligations less~~ determined by subtracting* the ~~total~~ current assets~~; and~~

~~(iii) current and future unfunded actuarial liability, which is the total current and expected future benefit obligations less the total current and expected future assets~~ *from the actuarial present value of credited projected benefits.*

If the *current* assets of the fund *or plan* exceed the actuarial *accrued* liabilities, the excess ~~shall~~ *must* be ~~listed~~ *disclosed and indicated* as a surplus ~~and indicated in the exhibit following the itemization of benefit obligations.~~

~~(d) The exhibit shall include a footnote showing accumulated member contributions without interest.~~

~~(e) Current liabilities shown in the exhibit shall include the following items:~~

~~Current:~~

~~Accounts payable~~

~~Retirement annuity payments~~

~~Disability benefit payments~~

~~Survivor benefit payments~~

~~Refund to members~~

~~Accrued expenses~~

~~Suspense items~~

~~Total current liabilities . . . . . .~~

~~(f)~~ *(c)* The ~~exhibit shall include a schedule which shall be listed as the "current and expected future~~ *pension* benefit obligations.~~"~~ ~~The~~ schedule ~~shall~~ *included in the disclosure must* contain the following information on the benefit obligations:

~~1. Current~~ *(1) The pension* benefit ~~obligations~~ *obligation*, ~~which shall be~~ *determined as* the actuarial *present* value of ~~benefit obligations~~ *credited projected benefits* on account of service rendered to date, separately identified as follows:

~~(a)~~ *(i)* For annuitants
Retirement annuities
Disability benefits
Surviving spouse and child benefits

~~(b)~~ *(ii)* For former members without vested rights

~~(c)~~ *(iii)* For deferred annuitants' benefits, including any augmentation

~~(d)~~ *(iv)* For active employees
~~Retirement annuities~~
~~Disability benefits~~
~~Refund liability due to death or withdrawal~~
~~Survivors' benefits~~
Accumulated employee contributions, including allocated investment income
Employer-financed benefits vested
Employer-financed benefits nonvested

Total ~~current benefits obligations~~ *pension benefit obligation;*

~~2. Expected future benefit obligations which shall be the actuarial value of benefit obligations on account of future service for active employees~~

~~3. Total current and expected future benefit obligations~~

~~4. In addition to the foregoing,~~ *(2)* If there are additional benefits not appropriately covered by the foregoing ~~three~~ items of benefit obligations, ~~they shall be listed separately~~ *a separate identification of the obligation.*

~~(2) An income statement prepared on an accrual basis showing all income and all deductions from income for the fiscal year. The statement shall show separate items for employee contributions, employer regular contributions, employer additional contributions if provided by law, investment income, profit on the sale of investments, and other income, if any.~~

~~(3) A statement of deductions from income, which shall include separate items for the payment of retirement annuities, disability benefits, surviving spouse benefits, surviving children's benefits, refunds to members terminating employment, refunds due to death of members and due to death of annuitants, the increase in total reserves required, general administrative expense incurred, loss on sale of investments, and any other deductions.~~

~~(4) A statement showing appropriate statistics concerning the membership and beneficiaries of the fund, with indications of changes in the statistical data which may result from the current year's operation.~~

~~(5)~~ *(d)* Any additional statements or exhibits ~~which~~ *or more detailed or subdivided itemization of a disclosure item that* will enable the management of the fund to portray a true interpretation of the fund's financial condition~~, except that the term "surplus" or the term "excess of assets" shall not be used except as otherwise specifically provided for in this section, nor shall any representation of assets and liabilities other than as provided for in this section~~ *must* be included in the additional statements or exhibits.

~~(6) A more detailed or subdivided itemization of any of the items required by this section, if the management of the fund so desires.~~

Sec. 3. Minnesota Statutes 1990, section 356.215, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of sections 3.85 and 356.20 to 356.23, each of the following terms ~~shall~~ have the meaning given:

(1) "Actuarial valuation" means a set of calculations prepared by *the actuary retained by the legislative commission on pensions and retirement if so required under section 3.85, or otherwise, by* an approved actuary, to determine the normal cost and the accrued actuarial liabilities of a benefit plan, according to ~~a stated~~ *the entry age* actuarial cost method and based upon stated assumptions including, but not limited to rates of interest, mortality, salary increase, disability, withdrawal, and retirement and to determine the payment necessary to amortize over a stated period any unfunded accrued actuarial liability disclosed as a result of the actuarial valuation ~~and the resulting actuarial balance sheet~~ of the benefit plan.

(2) "Approved actuary" means a person who is regularly engaged in the business of providing actuarial services and who has at least 15 years of service to major public employee pension or retirement funds or who is a fellow in the society of actuaries.

(3) "Entry age actuarial cost method" means an actuarial cost method under which the actuarial present value of the projected benefits of each

individual currently covered by the benefit plan and included in the actuarial valuation is allocated on a level basis over the service of the individual if the benefit plan is governed by section 69.773 or over the earnings of the individual if the benefit plan is governed by any other law between the entry age and the assumed exit age, with the portion of this actuarial present value which is allocated to the valuation year to be the normal cost and the portion of this actuarial present value not provided for at the valuation date by the actuarial present value of future normal costs to be the actuarial accrued liability, with aggregation in the calculation process to be the sum of the calculated result for each covered individual and with recognition given to any different benefit formulas which may apply to various periods of service.

(4) "Experience study" means a report ~~which provides~~ *providing* experience data and an actuarial analysis ~~which substantiate~~ *of the adequacy of* the actuarial assumptions on which *actuarial* valuations are based.

(5) ~~"Expected future statutory supplemental contributions" means the sum of future employee and employer contributions at the rates specified in statute when the valuation is completed, reduced by the present value of future normal costs.~~

~~(6)~~ "Current assets" means the value of all assets at cost, ~~which includes~~ *including* realized capital gains or losses, plus one-third of any unrealized capital gains or losses.

~~(7)~~ *(6)* "Unfunded actuarial accrued liability" means *the* total current and expected future benefit obligations ~~less~~, *reduced by* the sum of current assets and the present value of future normal costs.

(7) "Pension benefit obligation" means the actuarial present value of credited projected benefits, determined as the actuarial present value of benefits estimated to be payable in the future as a result of employee service attributing an equal benefit amount, including the effect of projected salary increases and any step rate benefit accrual rate differences, to each year of credited and expected future employee service.

Sec. 4. Minnesota Statutes 1990, section 356.215, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS.] It is the policy of the legislature that it is necessary and appropriate to determine annually the financial status of tax supported retirement and pension plans for public employees. To achieve this goal, the legislative commission on pensions and retirement shall have prepared *by the actuary retained by the commission* annual actuarial valuations ~~and periodic experience studies~~ of the ~~public pension and~~ retirement plans enumerated in section 3.85, subdivision ~~12~~ *11*, ~~clause~~ *paragraph* (b), and *quadrennial experience studies of the retirement plans enumerated in section 3.85, subdivision 11, paragraph (b), clauses (1), (2), and (7).* The governing or managing board or administrative officials of each public pension and retirement fund or plan enumerated in section 356.20, subdivision 2, clauses (9), (10), and (12), shall have prepared *by an approved actuary* annual actuarial valuations ~~and periodic experience studies~~ of their respective funds as provided in this section. This requirement ~~shall~~ also ~~apply~~ *applies* to any fund ~~which may be a~~ *that is the* successor to any organization enumerated in section 356.20, subdivision 2, or to the governing or managing board or administrative officials of any newly formed retirement fund or association operating under the control or supervision

of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations, and any local police or fire fund coming within the provisions of section 356.216.

Sec. 5. Minnesota Statutes 1990, section 356.215, subdivision 3, is amended to read:

Subd. 3. [REPORTS.] The actuarial valuations required annually ~~shall~~ *must* be made as of the beginning of each fiscal year. Two copies of the valuation ~~shall~~ *must* be delivered to the executive director of the legislative commission on pensions and retirement, to the commissioner of finance and to the legislative reference library, not later than the first day of the sixth month occurring after the end of the previous fiscal year. Two copies of ~~any~~ *a quadrennial* experience study ~~prepared periodically as provided for in the standards adopted by the commission shall~~ *must* be filed with the executive director of the legislative commission on pensions and retirement, with the commissioner of finance, and with the legislative reference library, not later than the first day of the 11th month occurring after the end of the last fiscal year of the *four-year* period which the experience study covers. For actuarial valuations and experience studies prepared at the direction of the legislative commission on pensions and retirement, two copies of the document ~~shall~~ *must* be delivered to the governing or managing board or administrative officials of the applicable public pension and retirement fund or plan.

Sec. 6. Minnesota Statutes 1990, section 356.215, subdivision 4, is amended to read:

Subd. 4. [ACTUARIAL VALUATION; CONTENTS.] The actuarial valuation ~~shall~~ *must* be made in conformity with the requirements of the definition contained in subdivision 1 and *the most recent* standards *for actuarial work* adopted by the legislative commission on pensions and retirement. The actuarial valuation ~~shall~~ *must* measure all aspects of the benefit plan of the fund in accordance with changes in benefit plans, if any, and salaries ~~as will or can~~ reasonably ~~be~~ anticipated to be in force during the ensuing fiscal year. The actuarial valuation ~~shall~~ *must* be prepared in accordance with the entry age actuarial cost method.

The actuarial valuation required under this section ~~shall~~ *must* include the information required in subdivisions 4a to 4k.

Sec. 7. Minnesota Statutes 1990, section 356.215, subdivision 4a, is amended to read:

Subd. 4a. [NORMAL COST.] For ~~each~~ *a* fund providing ~~any~~ benefits *in whole or in part* under a defined benefit plan, the actuarial valuation ~~shall contain an exhibit indicating~~ *must indicate* the level normal cost of the benefits provided by the laws governing the fund as of the date of the valuation, calculated in accordance with the entry age actuarial cost method. The normal cost ~~shall~~ *must* be expressed as a level percentage of the *present value of* future ~~payroll~~ *payrolls* of the active participants of the fund as of the date of the valuation.

Sec. 8. Minnesota Statutes 1990, section 356.215, subdivision 4b, is amended to read:

Subd. 4b. [ACCRUED LIABILITY.] For ~~each~~ *a* fund providing ~~any~~ benefits under a defined benefit plan, the actuarial valuation ~~shall~~ *must* contain an exhibit indicating the *actuarial* accrued liabilities of the fund~~,~~

~~which shall be equal to~~. *This figure is* the present value of ~~all~~ *future* benefits ~~minus~~, *reduced by* the present value of future normal costs, calculated in accordance with the entry age actuarial cost method.

Sec. 9. Minnesota Statutes 1990, section 356.215, subdivision 4d, is amended to read:

Subd. 4d. [INTEREST AND SALARY ASSUMPTIONS.] *(a)* For funds governed by chapters ~~3A,~~ 352, 352B, ~~352C,~~ 353, 353C, *and* 354 ~~other than the variable annuity fund governed by section 354.62, and 490~~, the actuarial valuation ~~shall~~ *must* use a preretirement interest assumption of 8.5 percent, a postretirement interest assumption of five percent, and ~~an~~ *a future salary increase* assumption ~~that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year~~ *of 6.5 percent*.

(b) For funds governed by chapter 354A, the actuarial valuation ~~shall~~ *must* use preretirement and postretirement assumptions of 8.5 percent and ~~an~~ *a future salary increase* assumption ~~that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year~~ *of 6.5 percent*, but the actuarial valuation ~~shall~~ *must* reflect the payment of postretirement adjustments to retirees ~~shall be~~, based on the methods specified in the bylaws of the fund as approved by the legislature.

(c) For all other funds *not specified in paragraph (a), (b), or (d)*, the actuarial valuation ~~shall~~ *must* use a preretirement interest assumption of five percent, a postretirement interest assumption of five percent, and ~~an~~ *a future salary increase* assumption ~~that in each future year the salary on which a retirement or other benefit is based is 1.035 multiplied by the salary for the preceding year~~ *of 3.5 percent*.

(d) For funds governed by chapters 3A, 352C, and 490, the actuarial valuation ~~shall~~ *must* use a preretirement interest assumption of 8.5 percent, a postretirement interest assumption of five percent, and ~~an~~ *a future salary increase* assumption ~~that~~ *of 6.5 percent* in each future year in which the salary amount payable is not determinable from section 3.099, 15A.081, subdivision 6, or 15A.083, subdivision 1, whichever ~~is applicable~~ *applies*, or from applicable compensation council recommendations under section 15A.082~~, the salary on which a retirement or other benefit is based is 1.065 multiplied by the known or computed salary for the preceding year, whichever is applicable~~.

Sec. 10. Minnesota Statutes 1990, section 356.215, subdivision 4e, is amended to read:

Subd. 4e. [OTHER ASSUMPTIONS.] The actuarial valuation ~~shall~~ *must* use assumptions concerning mortality, disability, retirement, withdrawal, retirement age, and any other relevant demographic or economic factor~~, which shall~~. *These must* be set at levels consistent with those determined in the most recent *quadrennial* experience study completed ~~pursuant to~~ *under* subdivision 5, *if required, or representative of the best estimate of future experience, if a quadrennial experience study is not required*. The actuarial valuation ~~shall~~ *must* contain an exhibit indicating any actuarial assumptions used in preparing the valuation report.

Sec. 11. Minnesota Statutes 1990, section 356.215, subdivision 4f, is amended to read:

Subd. 4f. [~~ACTUARIAL BALANCE SHEET~~ *PUBLIC SECTOR ACCOUNTING DISCLOSURE INFORMATION.*] The actuarial valuation ~~shall~~ *must* contain ~~an actuarial balance sheet, which shall indicate current and expected future benefit obligations, current and expected future assets, unfunded actuarial accrued liability, current unfunded actuarial liability, and current and future unfunded actuarial liability. Specifically, the balance sheet for all funds, except local police, salaried firefighter, and specified volunteer firefighter funds, shall include the following:~~

~~CURRENT AND EXPECTED FUTURE ASSETS~~

~~Current assets~~		
~~Cash, cash equivalents, and short-term securities~~	$ - - - - -	
~~Fixed income investments~~	- - - - -	
~~Equity investments~~	- - - - -	
~~Real estate investments~~	- - - - -	
~~Equity in the Minnesota postretirement investment fund~~	- - - - -	
~~Other~~	- - - - -	
~~Total current assets~~		$ - - - - -
~~Expected future assets~~		
~~Present value of expected future statutory supplemental contributions~~	- - - - -	
~~Present value of future normal costs~~	- - - - -	
~~Total expected future assets~~		$ - - - - -
~~Total current and expected future assets~~		$ - - - - -

~~CURRENT AND EXPECTED FUTURE BENEFIT OBLIGATIONS~~

~~Current benefit obligations~~	
~~Actuarial present value of credited projected benefit obligations on account of service rendered to date:~~	
~~For annuitants~~	
~~Retirement annuities~~	$ - - - - -
~~Disability benefits~~	- - - - -
~~Surviving spouse and child benefits~~	- - - - -
~~For former members without vested rights~~	- - - - -
~~For deferred annuitants' benefits, including any augmentation~~	- - - - -
~~For active employees~~	
~~Retirement benefits~~	- - - - -
~~Disability benefits~~	- - - - -
~~Refund liability due to death or withdrawal~~	- - - - -
~~Survivors' benefits~~	- - - - -

~~Total current benefit obligations~~ ~~$ - - - - -~~

~~Expected future benefit obligations~~

~~Actuarial value of benefit obligations on account of future service for active employees~~ ~~$ - - - - -~~

~~Total current and expected future benefit obligations~~ ~~$ - - - - -~~

~~Current unfunded actuarial liability~~

~~(Total current benefit obligations less total current assets):~~ ~~$ - - - - -~~

~~Current and future unfunded actuarial liability~~

~~(Total current and expected future benefit obligations less total current and expected future assets):~~ ~~$ - - - - -~~

~~In addition to that itemization of benefit obligations, separate items shall be shown for additional benefits, if any, which may not be appropriately included in that itemization~~ *those actuarial calculations necessary to allow the retirement plan administration or participating employing units to prepare the pension-related portions of annual financial reporting that meet generally accepted accounting principles for the public sector.*

Sec. 12. Minnesota Statutes 1990, section 356.215, subdivision 4g, is amended to read:

Subd. 4g. [AMORTIZATION CONTRIBUTIONS.] *(a)* In addition to the exhibit indicating the level normal cost, the actuarial valuation ~~shall~~ *must* contain an exhibit indicating the additional annual contribution ~~which would be required~~ *sufficient* to amortize the unfunded actuarial accrued liability. For funds governed by chapters 3A, 352, 352B, 352C, 353, 353C, 354, 354A, and 490, the additional contribution ~~shall~~ *must* be calculated on a level percentage of covered payroll basis by the established date for full funding ~~which is~~ in effect when the valuation is prepared. The level percent additional contribution ~~shall~~ *must* be calculated assuming annual payroll growth of 6.5 percent. For all other funds, the additional annual contribution ~~shall~~ *must* be calculated on a level annual dollar amount basis.

~~If,~~ *(b)* For any fund other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, 1989, *if* there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded actuarial accrued liability of the fund, the established date for full funding for the first actuarial valuation made after June 1, 1989, and each successive actuarial valuation ~~shall be~~ *is* the first actuarial valuation date ~~which occurs~~ *occurring* after June 1, 2020.

~~If,~~ *(c)* For any fund or plan other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, 1989, *if* there has been a change in any or all of the actuarial assumptions

used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding ~~shall~~ *must* be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund ~~shall~~ *must* be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution or level percentage, whichever is applicable, ~~which is~~ needed to amortize the unfunded actuarial accrued liability amount determined ~~pursuant to subclause~~ *under item* (i) by the established date for full funding in effect ~~prior to~~ *before* the change ~~shall~~ *must* be calculated using the interest assumption specified in subdivision 4d in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund ~~shall~~ *must* be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect before the change;

(iv) the level annual dollar contribution or level percentage, whichever is applicable, ~~which is~~ needed to amortize the difference between the unfunded actuarial accrued liability amount calculated ~~pursuant to subclause~~ *under item* (i) and the unfunded actuarial accrued liability amount calculated ~~pursuant to subclause~~ *under item* (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective ~~shall~~ *must* be calculated using the applicable interest assumption specified in subdivision 4d in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution ~~pursuant to subclause~~ *under item* (iv) ~~shall~~ *must* be added to the level annual dollar amortization contribution or level percentage calculated ~~pursuant to subclause~~ *under item* (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in ~~subclause~~ *item* (iii) ~~will be~~ *is* amortized by the total level annual dollar or level percentage amortization contribution computed ~~pursuant to subclause~~ *under item* (v) ~~shall~~ *must* be calculated using the interest assumption specified in subdivision 4d in effect after any applicable change, rounded to the nearest integral number of years, but ~~which shall~~ not *to* exceed ~~a period of~~ 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ~~which shall~~ not *to* be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect before the change; and

(vii) the period determined ~~pursuant to subclause~~ *under item* (vi) ~~shall~~ *must* be added to the date as of which the actuarial valuation was prepared and the date obtained ~~shall be~~ *is* the new established date for full funding.

(d) For the Minneapolis employees retirement fund, the established date for full funding ~~shall be~~ *is* June 30, 2017.

Sec. 13. Minnesota Statutes 1990, section 356.215, subdivision 4h, is amended to read:

Subd. 4h. [ACTUARIAL GAINS AND LOSSES.] The actuarial valuation ~~shall~~ *must* contain an exhibit consisting of an analysis by the actuary explaining the net increase or decrease in the unfunded actuarial accrued liability since the last valuation ~~must be provided~~. The explanation ~~shall~~ *must* subdivide the net increase or decrease in the unfunded actuarial accrued liability into at least the following parts:

(a) increases or decreases in the unfunded actuarial accrued liability because of changes in benefits;

(b) increases and decreases in the unfunded actuarial accrued liability because of ~~each change, if any,~~ *changes* in actuarial assumptions;

(c) increases or decreases in the unfunded actuarial accrued liability ~~separately by source~~ attributable to actuarial gains or losses resulting from any *experience* deviations ~~of~~ *from the assumptions on which the valuation is based, as follows:*

(i) actual investment earnings~~,~~*;*

(ii) actual postretirement mortality rates~~, and~~*;*

(iii) actual salary increase rates ~~from the assumptions on which the valuations are based~~*;* and

(iv) the remainder of the increase or decrease not attributable to any separate source;

(d) increases or decreases in unfunded actuarial accrued liability because of other reasons, including the effect of any amortization contribution *paid or additional amortization contribution previously calculated but unpaid*; and

(e) increases or decreases in unfunded actuarial accrued liability because of changes in eligibility requirements or groups included in the membership of the fund.

Sec. 14. Minnesota Statutes 1990, section 356.215, subdivision 4i, is amended to read:

Subd. 4i. [MEMBERSHIP TABULATION.] The actuarial valuation ~~shall~~ *must* contain ~~an exhibit consisting of~~ a tabulation of active membership and annuitants in the fund. If the membership of a fund is under more than one general benefit program, a separate tabulation ~~shall~~ *must* be made for each general benefit program. The tabulations ~~shall~~ *must be prepared by the administration of the pension fund and must* contain the following information:

~~(a)~~ *(1)* Active members	Number
As of last valuation date	
New entrants	
Total	
Separations from active service	
Refund of contributions	

Separation with deferred annuity
Separation with neither refund
nor deferred annuity
Disability
Death
Retirement with service annuity
Total separations
As of current valuation date

~~(b)~~ *(2)* Annuitants Number
As of last valuation date
New entrants
Total
Terminations
Deaths
Other
Total terminations
As of current valuation date

The tabulation required under ~~subclause (b) shall~~ *clause (2) must* be made separately for each of the following classes of ~~annuitants~~ *benefit recipients*:

~~(a)~~ *(1)* service retirement annuitants;

~~(b)~~ *(2)* disability benefit recipients;

~~(c)~~ *(3)* ~~Surviving spouse~~ *survivor* benefit recipients

~~(d) Surviving child benefit recipients~~; *and*

~~(e)~~ *(4)* deferred annuitants.

Sec. 15. Minnesota Statutes 1990, section 356.215, subdivision 4j, is amended to read:

Subd. 4j. [ADMINISTRATIVE EXPENSES.] The actuarial valuation ~~shall contain an exhibit indicating a statement of~~ *must indicate* the administrative expenses *of the fund*, expressed both in dollars and ~~also~~ as a percentage of covered payroll.

Sec. 16. Minnesota Statutes 1990, section 356.215, subdivision 4k, is amended to read:

Subd. 4k. [PLAN SUMMARY.] The actuarial valuation ~~shall~~ *must* contain ~~an exhibit indicating~~ a summary of the principal provisions of the plan upon which the valuation is based.

Sec. 17. Minnesota Statutes 1990, section 356.215, subdivision 5, is amended to read:

Subd. 5. [*QUADRENNIAL* EXPERIENCE STUDY; CONTENTS.] ~~Each~~ *A quadrennial* experience study ~~shall~~, *if required, must* contain an actuarial analysis of the experience of the fund ~~or association~~ and a comparison of the experience with the actuarial assumptions on which the most recent actuarial valuation of the retirement fund ~~or relief association~~ was based~~, and shall also contain a statement of the average ages at which service retirements have taken place~~.

Sec. 18. Minnesota Statutes 1990, section 356.215, subdivision 6, is amended to read:

Subd. 6. [*ACTUARIAL SERVICES BY* APPROVED ACTUARIES.] ~~Each~~ *(a) The* actuarial valuation or *quadrennial* experience study ~~shall~~ *must* be made and any actuarial consulting services for a retirement fund or plan ~~shall~~ *must* be provided by an approved actuary. The actuarial valuation or *quadrennial* experience study ~~shall~~ *must* include a ~~certification~~ *declaration* that it has been prepared ~~in accordance with the provisions of~~ *according to* sections 356.20 to 356.23 and the *most recent* standards for actuarial work adopted by the legislative commission on pensions and retirement.

(b) Actuarial valuations, or experience studies prepared by an actuary retained by a retirement fund or plan must be submitted to the legislative commission on pensions and retirement within ten days of the submission of the document to the retirement fund or plan.

Sec. 19. Minnesota Statutes 1990, section 356.215, subdivision 7, is amended to read:

Subd. 7. [ESTABLISHMENT OF ACTUARIAL ASSUMPTIONS.] Actuarial assumptions used for actuarial valuations under this section that are other than those set forth in this section may be changed only with the approval of the legislative commission on pensions and retirement. A change in the applicable actuarial assumptions may be proposed by the governing board of the applicable pension fund or relief association, by the actuary retained by the legislative commission on pensions and retirement, by the actuarial advisor ~~retained by~~ *to* a pension fund governed by chapter 352, 353, 354, or 354A, or by the actuary retained by a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.776, *if one is retained.*

Sec. 20. [MODIFICATIONS IN ACTUARIAL SERVICES.]

(a) The actuary retained by the legislative commission on pensions and retirement is not required to prepare actuarial valuations of the public employees local government correctional employees retirement plan unless the plan is implemented by a county under Minnesota Statutes, section 353C.04.

(b) The cost of any requested benefit projections by the commission-retained actuary relating to the Minnesota postretirement investment fund for the state board of investment is payable by the state board of investment.

(c) Actuarial valuations under Minnesota Statutes, section 356.215, for July 1, 1991, and thereafter, are not required to have an individual commentary section. The commentary section, if omitted from the individual plan actuarial valuation, must be included in an appropriate generalized format as part of the report to the legislature under Minnesota Statutes, section 3.85, subdivision 11.

(d) Actuarial valuations under Minnesota Statutes, section 356.215, for July 1, 1991, and thereafter, are not required to contain separate actuarial valuation results for basic and coordinated programs unless each program has a membership of at least ten percent of the total membership of the fund. Actuarial valuations under Minnesota Statutes, section 356.215, for July 1, 1991, and thereafter, are not required to contain cash flow forecasts.

(e) Actuarial valuations of the public employees police and fire fund local consolidation accounts for July 1, 1991, and thereafter, are not required to

contain separate tabulations or summaries of active member, service retirement, disability retirement, and survivor data for each local consolidation account.

(f) The commission-retained actuary is:

(1) required to publish experience findings for plans for which experience findings are required only on a quadrennial basis for the four-year period ending June 30, 1992, and every four years thereafter;

(2) not required to prepare a separate experience analysis or publish separate experience findings for basic and coordinated programs if separate actuarial valuation results for the programs are not required; and

(3) not required to calculate investment rate of return experience results on any basis other than current asset value as defined in Minnesota Statutes, section 356.215, subdivision 1, clause (6).

Sec. 21. [REPEALER.]

Minnesota Statutes 1990, sections 352.85, subdivision 6; 352.86, subdivision 4; and 353A.09, subdivision 7, are repealed.

Sec. 22. [EFFECTIVE DATE.]

Sections 1 to 21 are effective the day following final enactment.

ARTICLE 4

MISCELLANEOUS RETIREMENT PROVISIONS

Section 1. Minnesota Statutes 1990, section 354B.01, is amended by adding a subdivision to read:

Subd. 1a. [SUPPLEMENTAL PLAN.] *"Supplemental plan" means the supplemental retirement plan established in sections 354B.06 to 354B.08.*

Sec. 2. [354B.055] [RULES.]

The state university system and the community college system may adopt rules to administer the provisions of sections 354B.06 to 354B.08. The systems may deposit member contributions in a nontreasury account established under chapter 136, an account or accounts established under section 11A.17, or other appropriate accounts of the state board of investment for investment under procedures established by the state board of investment.

Sec. 3. [354B.06] [SUPPLEMENTAL RETIREMENT PLAN.]

Subdivision 1. [ESTABLISHMENT.] *The supplemental retirement plan for personnel employed by the state university board and the state board for community colleges who are in the unclassified service of the state commencing July 1 following the completion of the second year of their full-time contract is governed by this section. An unclassified employee employed by the state university board or the state board for community colleges in subsidized on-the-job training, work experience, or public service employment as an enrollee under the federal Comprehensive Employment and Training Act is not included in the supplemental retirement plan provided for in this section after March 30, 1978, unless the unclassified employee has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement fund providing primary retirement coverage to meet the minimum vesting requirements for a deferred retirement annuity, or the board agrees in writing to make the employer contribution required by this section on account of that unclassified employee from revenue sources*

other than funds provided under the federal Comprehensive Employment and Training Act, or the unclassified employee agrees in writing to make the employer contribution required by this section in addition to the member contribution.

Subd. 2. [REDEMPTIONS.] *The chancellor of the state university system and the chancellor of the state community college system shall redeem all shares in the accounts of the Minnesota supplemental investment fund held on behalf of personnel in the supplemental plan who elect an investment option other than the supplemental investment fund, except that shares in the guaranteed return account may not be redeemed until the expiration dates for the guaranteed investment contracts. The chancellors shall transfer the cash realized to the financial institutions selected by the state university board and the community college board under section 354B.05.*

Sec. 4. [354B.07] [SALARY DEDUCTIONS, MATCHING FUNDS.]

Subdivision 1. [DEDUCTIONS.] *The state university board and the state board for community colleges shall deduct from the salary of each person described in section 354B.06 a sum equal to five percent of the person's annual salary paid between $6,000 and $15,000. The deduction must be made in the same manner as other retirement deductions are made from the salary of the person. The employer shall make a contribution to the plan on behalf of every covered person in an amount equal to the deductions made from the salary of the person. If an agreement is made under section 356.24 for additional employer contributions, an amount equal to the additional employer contribution must be deducted from the person's annual salary above $15,000 as specified in this subdivision. Two percent of the amount of the salary deductions and employer contributions may be used by the state university board and the state board for community colleges for payment of necessary and reasonable administrative expenses.*

Subd. 2. [ADMINISTRATION.] *The chancellor of the state university system and the chancellor of the state community college system shall administer the supplemental retirement plan for their employees. The chancellors shall invest contributions made under this section, less amounts used for administrative expenses, as authorized by law. The retirement contributions and death benefits provided by annuity contracts or custodial accounts purchased by the chancellors are owned by the plan and must be paid in accordance with the annuity contracts or custodial accounts.*

Sec. 5. [354B.08] [TAX SHELTER PROVISIONS.]

Subdivision 1. [AGREEMENTS; ADJUSTMENTS.] *For the purpose of, and to permit the participation in a tax shelter under provisions of sections 501(c) and 403(b) and related provisions of the Internal Revenue Code, the state university board and the board for community colleges may enter into agreements to reduce or adjust salaries downward for persons defined in section 354B.06, subdivision 1, and to pay as employer an amount equivalent to the salary reduction in the same manner as deductions would have been paid by the person under section 354B.07, subdivision 1.*

Subd. 2. [RULES.] *Subject to the approval of their governing boards, the chancellors of the state university system and community college system may adopt rules and procedures consistent with sections 354B.06 to 354B.08 which permit, if possible, participation in a tax shelter under provisions of the Internal Revenue Code.*

Sec. 6. [TRANSFER.]

The executive director of the teachers retirement association shall transfer the administrative records of the supplemental retirement plan to the chancellor of the state university system and the chancellor of the state community college system on July 1, 1991.

Sec. 7. [PURCHASE OF PRIOR SERVICE CREDIT.]

Subdivision 1. [ELIGIBILITY.] *Notwithstanding the limitations in Minnesota Statutes, section 353.27, subdivision 12, a member of the public employees retirement association born on August 22, 1956, who was employed by the city of Minneapolis as a construction equipment operator beginning on June 24, 1983, on a temporary or seasonal basis, and who first became eligible for public employees retirement association membership during 1985, but for whom no employee or employer contributions were made until September 1986, may purchase allowable service credit from the public employees retirement association for the period of eligible service between January 1985 and September 1986 upon receipt by the association of the amount specified in subdivision 2.*

Subd. 2. [PURCHASE PAYMENT AMOUNT.] *To purchase credit for prior eligible service under subdivision 1, there must be paid to the public employees retirement association an amount equal to the present value, on the date of payment, of the amount of the additional retirement annuity obtained by purchase of the additional service credit. Calculation of this amount must be made using the applicable preretirement interest rate specified in Minnesota Statutes, section 356.215, subdivision 4d, and the mortality table adopted for the fund. The calculation must assume continuous future service in the association until, and retirement at, the age at which the minimum requirements of the retirement association for normal retirement or retirement with an annuity unreduced for retirement at an early age, including Minnesota Statutes, section 356.30, are met with the additional service credit purchased. The calculation must also assume a future salary history that includes annual salary increases at the salary increase rate specified in section 356.215, subdivision 4d. The member must establish in the records of the association proof of the service for which the purchase of prior service is requested. The manner of the proof of service must be in accordance with procedures prescribed by the executive director of the association. The portion of the total cost of the purchase to be paid by the member is specified in subdivision 3. The remaining portion of total cost is to be paid by the employer, as specified in subdivision 4.*

Subd. 3. [MEMBER PAYMENT.] *To receive credit for the eligible service between January 1985 and September 1986, the member must pay an amount equal to the employee contribution rate or rates in effect during the period or periods of prior eligible non-credited service, applied to the actual salary rate in effect during the period or periods of prior service, plus six percent interest compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made. Payment must be made in one lump sum before July 1, 1992.*

Subd. 4. [EMPLOYER PAYMENT; SERVICE CREDIT.] *Within 60 days of receipt by the association of the member contribution specified in subdivision 3, the city of Minneapolis shall pay an amount equal to the difference between the amount specified in subdivision 2 and the member payment specified in subdivision 3. This amount must be paid in one lump sum. The period of allowable service may be credited to the account of the person only after the receipt of full payment by the executive director.*

Sec. 8. [REPEALER.]

Minnesota Statutes 1990, sections 136.80; 136.81; 136.82; 136.83; 136.84; 136.85; and 136.87, are repealed.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 6 and 8 are effective July 1, 1991. Section 7 is effective the day following final enactment."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 299 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 43 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Hughes	Marty	Price
Beckman	Davis	Johnson, J.B.	Metzen	Reichgott
Belanger	Day	Johnston	Moe, R.D.	Sams
Benson, D.D.	DeCramer	Knaak	Mondale	Samuelson
Benson, J.E.	Finn	Kroening	Morse	Solon
Berglin	Flynn	Laidig	Pappas	Stumpf
Bernhagen	Frank	Langseth	Pariseau	Waldorf
Bertram	Frederickson, D.R.	Larson	Piper	
Cohen	Hottinger	Lessard	Pogemiller	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1129 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 1129: A bill for an act relating to agriculture; regulating genetically engineered plants, pesticides, fertilizers, soil amendments, and plant amendments; rules of the environmental quality board governing release of genetically engineered organisms; reimbursement of release permit costs; imposing a penalty; amending Minnesota Statutes 1990, sections 18B.01, by adding subdivisions; 18C.005, by adding subdivisions; 18C.425, by adding a subdivision; 18D.01, subdivisions 1 and 9; 18D.301, subdivisions 1 and 2; 18D.325, subdivisions 1 and 2; 18D.331, subdivisions 1, 2, and 3; 116C.91, by adding a subdivision; and 116C.94; proposing coding for new law in Minnesota Statutes, chapters 18B; 18C; and 116C; proposing coding for new law as Minnesota Statutes, chapter 18F.

Mr. Davis moved that the amendment made to H.F. No. 1129 by the Committee on Rules and Administration in the report adopted May 16, 1991, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 1129 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 44 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Gustafson	Larson	Pariseau
Beckman	Davis	Hottinger	Lessard	Piper
Belanger	Day	Hughes	Marty	Price
Benson, D.D.	DeCramer	Johnson, J.B.	Metzen	Reichgott
Benson, J.E.	Finn	Johnston	Moe, R.D.	Riveness
Berglin	Flynn	Kelly	Mondale	Sams
Bernhagen	Frank	Knaak	Morse	Solon
Bertram	Frederickson, D.J.	Kroening	Neuville	Stumpf
Cohen	Frederickson, D.R.	Laidig	Pappas	

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1433 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1433: A bill for an act relating to self-insurance; regulating custodial accounts; amending Minnesota Statutes 1990, sections 79A.02, subdivision 2, and by adding a subdivision; 79A.03, subdivisions 3, 7, and 9; 79A.04, subdivision 2; and 79A.06, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 79A; repealing Minnesota Rules, part 2780.0400, subparts 2, 3, 6, and 7.

Mr. Solon moved to amend S.F. No. 1433 as follows:

Pages 1 and 2, delete sections 1 and 2 and insert:

"Section 1. Minnesota Statutes 1990, section 79A.02, is amended by adding a subdivision to read:

Subd. 3. [AUDIT OF SELF-INSURANCE APPLICATION.] *(a) The self-insurers security fund shall retain a certified public accountant who shall perform services for, and report directly to, the commissioner of commerce. The certified public accountant shall review each application to self-insure, including the applicant's financial data. The certified public accountant shall provide a report to the commissioner of commerce indicating whether the applicant has met the requirements of section 79A.03, subdivisions 2 and 3. Additionally, the certified public accountant shall provide advice and counsel to the commissioner about relevant facts regarding the applicant's financial condition.*

(b) If the report of the certified public accountant is used by the commissioner as the basis for the commissioner's determination regarding the applicants self-insurance status, the certified public accountant shall be made available to the commissioner for any hearings or other proceedings arising from that determination.

(c) The commissioner shall provide the advisory council with the summary report by the certified public accountant and any financial data in possession of the department of commerce that is otherwise available to the public.

The cost of the review shall be the obligation of the self-insurers security fund.

Sec. 2. Minnesota Statutes 1990, section 79A.02, is amended by adding a subdivision to read:

Subd. 4. [RECOMMENDATIONS TO COMMISSIONER REGARDING REVOCATION.] *After each fifth anniversary from the date each individual and group self-insurer becomes certified to self-insure, the committee shall*

review all relevant financial data filed with the department of commerce that is otherwise available to the public and make a recommendation to the commissioner about whether each self-insurer's certificate should be revoked."

Page 9, line 2, delete "*and 7*" and insert "*7, and 8*"

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Gustafson moved to amend S.F. No. 1433 as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

SCOPE OF COVERAGE/LIABILITY

Section 1. Minnesota Statutes 1990, section 176.011, subdivision 11a, is amended to read:

Subd. 11a. [FAMILY FARM.] "Family farm" means any farm operation which *(1)* pays or is obligated to pay less than ~~$8,000~~ *$20,000* in cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year, *and (2) has total liability and medical payment coverage equal to $300,000 and $5,000, respectively, under a farm liability insurance policy*. For purposes of this subdivision, farm laborer does not include any spouse, parent or child, regardless of age, of a farmer employed by the farmer, or any executive officer of a family farm corporation as defined in section 500.24, subdivision 2, or any spouse, parent or child, regardless of age, of such an officer employed by that family farm corporation, or other farmers in the same community or members of their families exchanging work with the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered as an independent contractor for the purposes of this chapter; provided that a commercial baler or commercial thresher shall be considered an independent contractor.

Sec. 2. Minnesota Statutes 1990, section 176.041, subdivision 1a, is amended to read:

Subd. 1a. [ELECTION OF COVERAGE.] The persons, partnerships and corporations described in this subdivision may elect to provide the insurance coverage required by this chapter.

(a) An owner or owners of a business or farm may elect coverage for themselves.

(b) A partnership owning a business or farm may elect coverage for any partner.

(c) A family farm corporation as defined in section 500.24, subdivision 2, clause (c), may elect coverage for any executive officer.

(d) A closely held corporation which had less than 22,880 hours of payroll in the previous calendar year may elect coverage for any executive officer if that executive officer is also an owner of at least 25 percent of the stock of the corporation.

(e) *A person, partnership, or corporation that receives the services of a voluntary uncompensated worker who is not required to be covered under this chapter may elect to provide coverage for that worker.*

(f) A person, partnership, or corporation hiring an independent contractor, as defined by rules adopted by the commissioner, may elect to provide coverage for that independent contractor. A person, partnership, or corporation may charge the independent contractor a fee for providing the coverage only if the independent contractor (1) elects in writing to be covered, (2) is issued an endorsement setting forth the terms of the coverage, the name of the independent contractors, and the fee and how it is calculated.

The persons, partnerships, and corporations described in this subdivision may also elect coverage for an employee who is a spouse, parent, or child, regardless of age, of an owner, partner, or executive officer, who is eligible for coverage under this subdivision. Coverage may be elected for a spouse, parent, or child whether or not coverage is elected for the related owner, partner, or executive director and whether or not the person, partnership, or corporation employs any other person to perform a service for hire. Any person for whom coverage is elected pursuant to this subdivision shall be included within the meaning of the term employee for the purposes of this chapter.

Notice of election of coverage or of termination of election under this subdivision shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so indicated in the notice. The insurance policy shall be endorsed to indicate the names of those persons for whom coverage has been elected or terminated under this subdivision. An election of coverage under this subdivision shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this subdivision shall be construed to limit the responsibilities of owners, partnerships, or corporations to provide coverage for their employees, if any, as required under this chapter.

Sec. 3. Minnesota Statutes 1990, section 176.183, subdivision 1, is amended to read:

Subdivision 1. When any employee sustains an injury arising out of and in the course of employment while in the employ of an employer, other than the state or its political subdivisions, not insured or self-insured as provided for in this chapter, the employee or the employee's dependents shall nevertheless receive benefits as provided for in this chapter from the special compensation fund, and the commissioner has a cause of action against the employer for reimbursement for all moneys paid out or to be paid out, and, in the discretion of the court, as punitive damages an additional amount not exceeding ~~50~~ *60* percent of all moneys paid out or to be paid out. As used in this subdivision, "employer" includes officers of corporations who have legal control, either individually or jointly with another or others, of the payment of wages. An action to recover the moneys shall be instituted unless the commissioner determines that no recovery is possible. All moneys recovered shall be deposited in the general fund. There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.

Sec. 4. Minnesota Statutes 1990, section 176.215, is amended by adding a subdivision to read:

Subd. 1a. [EXCLUSIVE REMEDY.] *The liability of a general contractor, intermediate contractor, or subcontractor who pays compensation pursuant to subdivision 1, to an injured individual who is not an employee of the*

general contractor, intermediate contractor, or subcontractor is exclusive and in the place of any other liability to the individual, the individual's personal representative, surviving spouse, parent, any child, dependent, next of kin, or other person entitled to recover damages on account of the individual's injury or death.

Sec. 5. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1992. Sections 2 to 4 are effective the day following final enactment.

ARTICLE 2

COMPENSATION BENEFITS

Section 1. Minnesota Statutes 1990, section 176.011, subdivision 3, is amended to read:

Subd. 3. [DAILY WAGE.] "Daily wage" means the daily wage of the employee in the employment engaged in at the time of injury but does not include tips and gratuities paid directly to an employee by a customer of the employer and not accounted for by the employee to the employer. If the amount of the daily wage received or to be received by the employee in the employment engaged in at the time of injury was irregular or difficult to determine, or if the employment was part time, the daily wage shall be computed by dividing the total amount the employee actually earned in such employment in the last 26 weeks, by the total number of days in which the employee actually performed any of the duties of such employment, provided further, that in the case of the construction industry, mining industry, or other industry where the hours of work are affected by seasonal conditions, the weekly wage shall not be less than five times the daily wage. Where board or allowances other than tips and gratuities are made to an employee in addition to wages as a part of the wage contract they are deemed a part of earnings and computed at their value to the employee. In the case of persons performing services for municipal corporations in the case of emergency, then the normal working day shall be considered and computed as eight hours, and in cases where such services are performed gratis or without fixed compensation the daily wage of the person injured shall, for the purpose of calculating compensation payable under this chapter, be taken to be the usual going wage paid for similar services in municipalities where such services are performed by paid employees. If, at the time of injury, the employee was regularly employed by two or more employers, the employee's earnings in all such employments shall be included in the computation of daily wage. *Holiday pay and vacation pay shall not be included in the calculation of daily wage.*

Sec. 2. Minnesota Statutes 1990, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. If the employee normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of employment in the last 26 weeks by the number of weeks in which the employee actually performed such duties, provided that the weekly wage for part time employment during a period of seasonal or temporary layoff shall be computed on the number of days and fractional

days normally worked in the business of the employer for the employment involved. If, at the time of the injury, the employee was regularly employed by two or more employers, the employee's days of work for all such employments shall be included in the computation of weekly wage. Occasional overtime is not to be considered in computing the weekly wage, but if overtime is regular or frequent throughout the year it shall be taken into consideration. *Holiday pay and vacation pay shall not be included in the calculation of weekly wage.* The maximum weekly compensation payable to an employee, or to the employee's dependents in the event of death, shall not exceed ~~66 2/3~~ *80* percent of the ~~product of the daily wage times the number of days normally worked~~ *employee's after-tax weekly wage*, provided that the compensation payable for permanent partial disability under section 176.101, subdivision 3, and for permanent total disability under section 176.101, subdivision 4, or death under section 176.111, shall not be computed on less than the number of hours normally worked in the employment or industry in which the injury was sustained, subject also to such maximums as are specifically otherwise provided.

Sec. 3. Minnesota Statutes 1990, section 176.011, is amended by adding a subdivision to read:

Subd. 18a. [AFTER-TAX WEEKLY WAGE.] *"After-tax weekly wage" means the weekly wage reduced by the amounts required to be withheld by the Federal Insurance Contributions Act, United States Code, title 16, sections 3101 to 3126, but without regard to the yearly maximum, and by state and federal income tax laws using as the number of allowances the number of exemptions that the employee is entitled to under federal law for the employee and the employee's dependents and without additional allowances. The after-tax weekly wage must be determined as of the date of injury, and changes in dependents after that date may not be considered.*

Sec. 4. Minnesota Statutes 1990, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except for medical, burial, and other nonperiodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by section 176.101, *subdivision 3*. If doubt exists as to the eventual permanent partial disability, payment ~~for the economic recovery compensation or impairment compensation, whichever is due, pursuant to section 176.101,~~ shall be ~~then~~ made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of commencement of the payment of ~~economic recovery compensation or lump sum or periodic payment of impairment~~ *permanent partial disability* compensation, the employee and employer shall be furnished with a copy of the medical report upon which the payment is based and all other medical reports which the insurer has that indicate a permanent partial disability rating, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of

that contains a permanent partial disability rating which the insurer does not already have. ~~Economic recovery compensation or impairment compensation pursuant to section 176.101 is payable in addition to but not concurrently with compensation for temporary total disability but is payable pursuant to section 176.101. Impairment compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total disability, and no credit shall be taken for payment of economic recovery compensation or impairment compensation against liability for temporary total or future permanent total disability. Liability on the part of an employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. Economic recovery compensation or impairment compensation is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to section 176.101.~~ The right to receive temporary total, temporary partial, or permanent total disability payments vests in the injured employee or the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.

The right to receive ~~economic recovery compensation or impairment~~ *permanent partial* compensation vests in an injured employee *or in the employee's dependents under this chapter or, if none, in the employee's legal heirs* at the time the disability can be ascertained, provided that the employee lives for at least 30 days beyond the date of the injury. ~~Upon the death of an employee who is receiving economic recovery compensation or impairment compensation, further compensation is payable pursuant to section 176.101. Impairment compensation is payable under this paragraph if vesting has occurred, the employee dies prior to reaching maximum medical improvement, and the requirements and conditions under section 176.101, subdivision 3e, are not met.~~

~~Disability ratings for permanent partial disability shall be based on objective medical evidence.~~ *The right is not abrogated by the employee's death prior to the making of the payment.*

Sec. 5. Minnesota Statutes 1990, section 176.061, subdivision 10, is amended to read:

Subd. 10. [INDEMNITY.] Notwithstanding the provisions of chapter 65B or any other law to the contrary, an employer has a right of indemnity for any compensation paid or payable pursuant to this chapter, including temporary total compensation, temporary partial compensation, permanent partial disability, ~~economic recovery compensation, impairment compensation,~~ medical compensation, rehabilitation, death, and permanent total compensation.

Sec. 6. Minnesota Statutes 1990, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] *(a)* For *an* injury producing temporary total disability, the compensation is ~~66 2/3~~ *80* percent of the *after-tax* weekly wage at the time of injury.

~~(1) provided that~~ *(b)* During the year commencing on October 1, ~~1979~~ *1991*, and each year thereafter, commencing on October 1, the maximum weekly compensation payable is *105 percent of* the statewide average weekly wage for the period ending December 31, of the preceding year.

~~(2)~~ *(c)* The minimum weekly compensation ~~benefits for temporary total disability shall be not less than 50~~ *payable is 20* percent of the statewide average weekly wage or the injured employee's ~~actual~~ *after-tax* weekly wage, whichever is less. ~~In no case shall a weekly benefit be less than 20 percent of the statewide average weekly wage.~~

~~Subject to subdivisions 3a to 3u this~~ *(d) Temporary total* compensation shall be paid during the period of disability~~, payment to be made at the intervals when the wage was payable, as nearly as may be.~~ *and shall cease whenever any one of the following occurs:*

(1) the disability ends;

(2) the employee returns to work;

(3) the employee retires by withdrawing from the labor market;

(4) the employee fails to diligently search for appropriate work;

(5) the employee refuses an offer of work that is consistent with a plan of rehabilitation filed with the commissioner which meets the requirements of section 176.102, subdivision 1, or, if no plan has been filed, the employee refuses an offer of work that the employee can do in the employee's physical condition; or

(6) 90 days pass after the employee has reached maximum medical improvement, except as provided in section 176.102, subdivision 11, paragraph (b).

(e) For purposes of this subdivision, the 90-day period after maximum medical improvement commences on the earlier of:

(1) the date that the employee receives a written medical report indicating that the employee has reached maximum medical improvement; or

(2) the date that the employer or insurer serves the report on the employee and the employee's attorney, if any, and files a copy with the division.

(f) Once temporary total disability compensation has ceased under paragraph (d), clause (1), (2), (3), or (4), it may be recommenced prior to 90 days after maximum medical improvement only as follows:

(1) if temporary total disability compensation ceased under paragraph (d), clause (1), it may be recommenced if the employee again becomes disabled as a result of the work-related injury;

(2) if temporary total disability compensation ceased under paragraph (d), clause (2), it may be recommenced if the employee is laid off or terminated for reasons other than misconduct or is medically unable to continue at the job;

(3) if temporary total disability compensation ceased under paragraph (d), clause (3), but the employee subsequently returned to work, it may be recommenced in accordance with paragraph (f), clause (2); or

(4) if temporary total disability compensation ceased under paragraph (d), clause (4), it may be recommenced if the employee begins diligently searching for appropriate work. Temporary total disability compensation

recommenced under this paragraph is subject to cessation under paragraph (d).

Recommenced temporary total disability compensation may not be paid beyond 90 days after the employee reaches maximum medical improvement, except as provided under section 176.102, subdivision 11, paragraph (b).

(g) Once temporary total disability compensation has ceased under paragraph (d), clauses (5) and (6), it may not be recommenced at a later date except as provided under section 176.102, subdivision 11, paragraph (b).

Sec. 7. Minnesota Statutes 1990, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] *(a)* In all cases of temporary partial disability the compensation shall be ~~66 2/3 percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition.~~ *80 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is able to earn in the employee's partially disabled condition.*

(b) ~~This~~ *Temporary partial* compensation shall be paid during the period of disability ~~except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to the statewide average weekly wage.~~ *when the employee is working, earning less than the employee's weekly wage at the time of the injury, and the reduction in the wage the employee is able to earn in the employee's partially disabled condition is due to the injury. Except as provided in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid after the employee has returned to work for 156 weeks, including weeks in which the employee has no wage loss, or after 350 weeks after the date of injury, whichever occurs first.*

(c) Temporary partial compensation may not exceed the maximum rate for temporary total compensation and must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 300 percent of the statewide average weekly wage.

Sec. 8. Minnesota Statutes 1990, section 176.101, is amended by adding a subdivision to read:

Subd. 3. [PERMANENT PARTIAL DISABILITY.] *(a) Compensation for permanent partial disability is as provided in this subdivision. Permanent partial disability must be rated as a percentage of the whole body in accordance with rules adopted by the commissioner under section 176.105. The percentage determined pursuant to the rules must be multiplied by the corresponding amount in the following table:*

Percent of Disability	*Amount*
0-25	*$ 75,000*
26-30	*80,000*
31-35	*85,000*
36-40	*90,000*
41-45	*95,000*
46-50	*100,000*

51-55	*120,000*
56-60	*140,000*
61-65	*160,000*
66-70	*180,000*
71-75	*200,000*
76-80	*240,000*
81-85	*280,000*
86-90	*320,000*
91-95	*360,000*
96-100	*400,000*

An employee may not receive compensation for more than a 100 percent disability of the whole body, even if the employee sustains disability to two or more body parts.

(b) Permanent partial disability is payable upon cessation of temporary total disability under subdivision 1. If the employee is not working, the compensation is payable in installments at the same intervals and in the same amount as the initial temporary total disability rate. If the employee returns to work, the remaining compensation is payable in a lump sum 30 days after the employee returned to work, provided the employment has not been substantially interrupted by the injury for any part of the 30 days and the employee is still employed at the job at the end of the period. Permanent partial disability is not payable while temporary total compensation is being paid. Permanent partial disability is payable to permanently totally disabled employees in a lump sum at the time the disability can be ascertained.

Sec. 9. Minnesota Statutes 1990, section 176.101, subdivision 4, is amended to read:

Subd. 4. [PERMANENT TOTAL DISABILITY.] For permanent total disability, as defined in subdivision 5, the compensation shall be ~~66 2/3~~ *80* percent of the ~~daily~~ *after-tax weekly* wage at the time of the injury, subject to a ~~maximum weekly compensation equal to~~ the maximum ~~weekly compensation for a temporary total disability~~ and a minimum ~~weekly compensation equal to the minimum weekly compensation~~ *rates* for a temporary total disability. This compensation shall be paid during the permanent total disability of the injured employee but after a total of $25,000 of weekly compensation has been paid, the amount of the weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if the disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision. This reduction shall also apply to any old age and survivor insurance benefits. *Permanent total disability payments shall cease at retirement.* Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of confinement in the institution, unless there is wholly dependent on the employee for support some person named in section 176.111, subdivision 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of confinement, shall be paid for the benefit of the dependent person during dependency. The dependency of this person shall be determined as though the employee were deceased.

Sec. 10. Minnesota Statutes 1990, section 176.101, subdivision 5, is

amended to read:

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

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

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

(b) For purposes of paragraph (a), clause (2), "totally and permanently incapacitated" means that the employee's physical disability, in combination with the employee's age, education and training, and experience, causes the employee to be unable to secure anything more than sporadic employment resulting in an insubstantial income. Local labor market conditions may not be considered in making the total and permanent incapacitation determination.

Sec. 11. Minnesota Statutes 1990, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS.] If any employee entitled to the benefits of this chapter is a minor or is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total ~~or a compensable permanent partial~~ disability, for the purpose of computing the compensation to which the employee is entitled for the injury, the compensation rate for ~~temporary total, temporary partial,~~ a permanent total disability ~~or economic recovery compensation~~ shall be *105 percent of* the statewide average weekly wage.

Sec. 12. Minnesota Statutes 1990, section 176.101, is amended by adding a subdivision to read:

Subd. 9. [MOVING EXPENSES.] *An injured employee who has reached maximum medical improvement and who is unable to find suitable gainful employment consistent with the individual's physical disability, in combination with the individual's age, education and training, and experience, due to local labor market conditions is eligible to receive up to $5,000 for moving expenses, provided:*

(1) 90 days have passed after the individual has reached maximum medical improvement;

(2) the individual has actually moved in order to take a new job which constitutes suitable gainful employment; and

(3) the new job is located at a distance greater than 35 miles from the individual's current residence.

Sec. 13. Minnesota Statutes 1990, section 176.102, subdivision 11, is amended to read:

Subd. 11. [RETRAINING; *COMPENSATION.*] *(a)* Retraining is limited to 156 weeks. An employee who has been approved for retraining may petition ~~the commissioner~~ for additional compensation not to exceed 25 percent of the compensation otherwise payable. If the commissioner *or*

compensation judge determines that this additional compensation is warranted due to unusual or unique circumstances of the employee's retraining plan, the commissioner *or compensation judge* may award additional compensation in an amount ~~the commissioner determines is appropriate,~~ not to exceed the employee's request. This additional compensation shall cease at any time the commissioner *or compensation judge* determines the special circumstances are no longer present.

(b) If the employee is not working during a retraining plan that has been specifically approved under this section, temporary total compensation is payable for up to 90 days after the end of the retraining plan; except that, payment during the 90-day period is subject to cessation in accordance with section 176.101, subdivision 1, paragraph (d), clauses (1) to (5). If the employee is working during the retraining plan but earning less than at the time of injury, temporary partial compensation is payable at the rate of 80 percent of the difference between the employee's after-tax weekly wage at the time of injury and the after-tax weekly wage the employee is able to earn in the employee's partially disabled condition, subject to the maximum rate for temporary total compensation. Temporary partial compensation is not subject to either the 156-week or the 350-week limitation provided by section 176.101, subdivision 2, during the retraining plan, but is subject to those limitations before and after the plan.

(c) Retraining may not be approved if the employee has refused suitable gainful employment, as defined by rule.

Sec. 14. Minnesota Statutes 1990, section 176.105, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE; RULES.] *(a)* The commissioner of labor and industry shall by rule establish a schedule of degrees of disability resulting from different kinds of injuries. *Disability ratings under the schedule for permanent partial disability must be based on objective medical evidence. The commissioner, in consultation with the medical services review board, shall periodically review the rules adopted under this paragraph to determine whether any injuries omitted from the schedule should be compensable and amend the rules accordingly.*

(b) No permanent partial disability compensation shall be payable except in accordance with the disability ratings established under this subdivision. The schedule may provide that minor impairments receive a zero rating.

Sec. 15. Minnesota Statutes 1990, section 176.105, subdivision 4, is amended to read:

Subd. 4. [LEGISLATIVE INTENT; RULES; LOSS OF MORE THAN ONE BODY PART.] (a) For the purpose of establishing a disability schedule pursuant to clause (b), the legislature declares its intent that the commissioner establish a disability schedule ~~which, assuming the same number and distribution of severity of injuries, the aggregate total of impairment compensation and economic recovery compensation benefits under section 176.101, subdivisions 3a to 3u be approximately equal to the total aggregate amount payable for permanent partial disabilities under section 176.101, subdivision 3, provided, however, that awards for specific injuries under the proposed schedule need not be the same as they were for the same injuries under the schedule pursuant to section 176.101, subdivision 3. The schedule shall be determined by sound actuarial evaluation and shall be based on the benefit level which exists on January 1, 1983~~.

(b) The commissioner shall by rulemaking adopt procedures setting forth rules for the evaluation and rating of functional disability and the schedule for permanent partial disability and to determine the percentage of loss of function of a part of the body based on the body as a whole, including internal organs, described in section 176.101, subdivision 3, and any other body part not listed in section 176.101, subdivision 3, which the commissioner deems appropriate.

The rules shall promote objectivity and consistency in the evaluation of permanent functional impairment due to personal injury and in the assignment of a numerical rating to the functional impairment.

Prior to adoption of rules the commissioner shall conduct an analysis of the current permanent partial disability schedule for the purpose of determining the number and distribution of permanent partial disabilities and the average compensation for various permanent partial disabilities. The commissioner shall consider setting the compensation under the proposed schedule for the most serious conditions higher in comparison to the current schedule and shall consider decreasing awards for minor conditions in comparison to the current schedule.

The commissioner may consider, among other factors, and shall not be limited to the following factors in developing rules for the evaluation and rating of functional disability and the schedule for permanent partial disability benefits:

(1) the workability and simplicity of the procedures with respect to the evaluation of functional disability;

(2) the consistency of the procedures with accepted medical standards;

(3) rules, guidelines, and schedules that exist in other states that are related to the evaluation of permanent partial disability or to a schedule of benefits for functional disability provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);

(4) rules, guidelines, and schedules that have been developed by associations of health care providers or organizations provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);

(5) the effect the rules may have on reducing litigation;

(6) the treatment of preexisting disabilities with respect to the evaluation of permanent functional disability provided that any preexisting disabilities must be objectively determined by medical evidence; and

(7) symptomatology and loss of function and use of the injured member.

The factors in paragraphs (1) to (7) shall not be used in any individual or specific workers' compensation claim under this chapter but shall be used only in the adoption of rules pursuant to this section.

Nothing listed in paragraphs (1) to (7) shall be used to dispute or challenge a disability rating given to a part of the body so long as the whole schedule conforms with the expressed intent of clause (a).

(c) If an employee suffers a permanent functional disability of more than one body part due to a personal injury incurred in a single occurrence, the

percent of the whole body which is permanently partially disabled shall be determined by the following formula so as to ensure that the percentage for all functional disability combined does not exceed the total for the whole body:

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

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

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

Sec. 16. Minnesota Statutes 1990, section 176.111, subdivision 6, is amended to read:

Subd. 6. [SPOUSE, NO DEPENDENT CHILD.] If the deceased employee leaves a dependent surviving spouse and no dependent child, there shall be paid to the spouse weekly workers' compensation benefits at ~~50~~ *80* percent of the *after-tax* weekly wage at the time of the injury for a period of ten years, including adjustments as provided in section 176.645.

Sec. 17. Minnesota Statutes 1990, section 176.111, subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] If the deceased employee leaves a surviving spouse and one dependent child, there shall be paid to the surviving spouse for the benefit of the spouse and child ~~60~~ *80* percent of the ~~daily~~ *after-tax weekly* wage at the time of the injury of the deceased until the child is no longer a dependent as defined in subdivision 1. At that time there shall be paid to the dependent surviving spouse weekly benefits at ~~a~~ *the same* rate ~~which is 16 2/3 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent,~~ for a period of ten years, including adjustments as provided in section 176.645.

Sec. 18. Minnesota Statutes 1990, section 176.111, subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.] If the deceased employee leaves a surviving spouse and two dependent children, there shall be paid to the surviving spouse for the benefit of the spouse and children ~~66 2/3~~ *80* percent of the ~~daily~~ *after-tax weekly* wage at the time of the injury of the deceased until the last dependent child is no longer dependent. At that time the dependent surviving spouse shall be paid weekly benefits at ~~a~~ *the same* rate ~~which is 25 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent,~~ for a period of ten years, adjusted according to section 176.645.

Sec. 19. Minnesota Statutes 1990, section 176.111, subdivision 12, is amended to read:

Subd. 12. [ORPHANS.] If the deceased employee leaves a dependent orphan, there shall be paid ~~55~~ *80* percent of the *after-tax* weekly wage at the time of the injury of the deceased, for two or more orphans there shall be paid ~~66 2/3~~ *80* percent of the ~~wages~~ *after-tax weekly wage*.

Sec. 20. Minnesota Statutes 1990, section 176.111, subdivision 14, is amended to read:

Subd. 14. [PARENTS.] If the deceased employee ~~leave~~ *leaves* no surviving spouse or child entitled to any payment under this chapter, but leaves both parents wholly dependent on *the* deceased, there shall be paid to such parents jointly ~~45~~ *80* percent of the *after-tax* weekly wage at the time of the injury of the deceased. In case of the death of either of the wholly dependent parents the survivor shall receive ~~35~~ *80* percent of the *after-tax* weekly wage thereafter. If the deceased employee ~~leave~~ *leaves* one parent wholly dependent on the deceased, there shall be paid to such parent ~~35~~ *80* percent of the *after-tax* weekly wage at the time of the injury of the deceased employee. The compensation payments under this section shall not exceed the actual contributions made by the deceased employee to the support of the employee's parents for a reasonable time immediately prior to the injury which caused the death of the deceased employee.

Sec. 21. Minnesota Statutes 1990, section 176.111, subdivision 15, is amended to read:

Subd. 15. [REMOTE DEPENDENTS.] If the deceased employee leaves no surviving spouse or child or parent entitled to any payment under this chapter, but leaves a grandparent, grandchild, brother, sister, mother-in-law, or father-in-law wholly dependent on the employee for support, there shall be paid to such dependent, if but one, ~~30~~ *40* percent of the *after-tax* weekly wage at the time of injury of the deceased, or if more than one, ~~35~~ *45* percent of the *after-tax* weekly wage at the time of the injury of the deceased, divided among them share and share alike.

Sec. 22. Minnesota Statutes 1990, section 176.111, subdivision 18, is amended to read:

Subd. 18. [BURIAL EXPENSE.] In all cases where death results to an employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount ~~$2,500~~ *$7,500*. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, its reasonable value shall be determined and approved by the commissioner, a compensation judge, or workers' compensation court of appeals, in cases upon appeal, before payment, after reasonable notice to interested parties as is required by the commissioner. If the deceased leaves no dependents, no compensation is payable, except as provided by this chapter.

Sec. 23. Minnesota Statutes 1990, section 176.111, subdivision 20, is amended to read:

Subd. 20. [ACTUAL DEPENDENTS, COMPENSATION.] Actual dependents are entitled to take compensation in the order named in subdivision 3 during dependency until ~~66 2/3~~ *80* percent of the *after-tax* weekly wage of the deceased at the time of injury is exhausted. The total weekly compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate an amount equal to the maximum weekly compensation for a temporary total disability.

Sec. 24. Minnesota Statutes 1990, section 176.111, subdivision 21, is amended to read:

Subd. 21. [DEATH, BENEFITS; COORDINATION WITH GOVERNMENTAL SURVIVOR BENEFITS.] The following provision shall apply to any dependent entitled to receive weekly compensation benefits under this section as the result of the death of an employee, and who is also receiving or entitled to receive benefits under any government survivor program:

The combined total of weekly government survivor benefits and workers' compensation death benefits provided under this section shall not exceed 100 percent of the *after-tax* weekly wage being earned by the deceased employee at the time of the injury causing death; provided, however, that no state workers' compensation death benefit shall be paid for any week in which the survivor benefits paid under the federal program, by themselves, exceed 100 percent of such weekly wage provided, however, the workers' compensation benefits payable to a dependent surviving spouse shall not be reduced on account of any governmental survivor benefits payable to decedent's children if the support of the children is not the responsibility of the dependent surviving spouse.

For the purposes of this subdivision "dependent" means dependent surviving spouse together with all dependent children and any other dependents. For the purposes of this subdivision, mother's or father's insurance benefits received pursuant to United States Code, title 42, section 402(g), are benefits under a government survivor program.

Sec. 25. Minnesota Statutes 1990, section 176.131, subdivision 8, is amended to read:

Subd. 8. [DEFINITIONS.] As used in this section, the following terms have the meanings given them:

"Physical impairment" means any physical or mental condition that is permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment, except that physical impairment is limited to the following:

(a) epilepsy,

(b) diabetes,

(c) hemophilia,

(d) cardiac disease, provided that objective medical evidence substantiates at least the minimum permanent partial disability listed in the workers' compensation permanent partial disability schedule,

(e) partial or entire absence of thumb, finger, hand, foot, arm, or leg,

(f) lack of sight in one or both eyes or vision in either eye not correctable to 20/40,

(g) residual disability from poliomyelitis,

(h) cerebral palsy,

(i) multiple sclerosis,

(j) Parkinson's disease,

(k) cerebral vascular accident,

(l) chronic osteomyelitis,

(m) muscular dystrophy,

(n) thrombophlebitis,

(o) brain tumors,

(p) Pott's disease,

(q) seizures,

(r) cancer of the bone,

(s) leukemia,

(t) mental retardation or other related conditions,

(u) any other physical impairment resulting in a disability rating of at least ~~ten~~ *25* percent of the whole body if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and

(v) any other physical impairments of a permanent nature which the commissioner may by rule prescribe.

"Compensation" has the meaning defined in section 176.011.

"Employer" includes insurer.

"Disability" means, unless otherwise indicated, any condition causing either temporary total, temporary partial, permanent total, permanent partial, death, medical expense, or rehabilitation.

"Mental retardation" means significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior that require supervision and protection for the person's welfare or the public welfare.

"Other related conditions" means severe chronic disabilities that are (i) attributable to cerebral palsy, epilepsy, autism, or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment or services similar to those required for persons with mental retardation; (ii) likely to continue indefinitely; and (iii) result in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, or capacity for independent living.

Sec. 26. Minnesota Statutes 1990, section 176.131, is amended by adding a subdivision to read:

Subd. 13. [APPLICABLE LAW.] *The right to reimbursement under this section is governed by the law in effect on the date of the subsequent injury.*

Sec. 27. Minnesota Statutes 1990, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) An employee who has suffered personal injury prior to October 1, 1983 for which benefits are payable under section 176.101 and who has been totally disabled for more than 104 weeks shall be eligible for supplementary benefits as prescribed in this section after 104 weeks have elapsed and for the remainder of the total disablement. Regardless of the number of weeks of total disability, no totally disabled person is ineligible for supplementary benefits after four

years have elapsed since the first date of the total disability, ~~except as provided by clause (b),~~ provided that all periods of disability are caused by the same injury.

(b) An employee who has suffered personal injury after October 1, 1983, *and before October 1, 1987,* is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving temporary total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

(c) An employee who has suffered a personal injury after October 1, 1987, and is permanently totally disabled as defined in section 176.101, subdivisions 4 and 5, is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving permanent total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

Sec. 28. Minnesota Statutes 1990, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under ~~this section~~ *subdivision 1, paragraphs (a) and (b),* shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or 4, and 65 percent of the statewide average weekly wage as computed annually. *The supplementary benefit payable under subdivision 1, paragraph (c), shall be the difference between:*

(1) the amount the employee receives on or after October 1, 1991, under section 176.101, subdivision 4; plus the amount of disability benefits being paid under any government disability benefit program, provided those benefits are a result of the same injury or injuries giving rise to payments under section 176.101, subdivision 4; plus the amount of any federal old age and survivors insurance benefits; and

(2) 50 percent of the statewide average weekly wage, as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or ~~65~~ *50* percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. Attorney's fees shall be allowed in settlements of claims for supplementary benefits in accordance with this chapter.

(d) In the event an eligible recipient *under subdivision 1, paragraph (a) or (b),* is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), this reduction shall not apply.

(f) Notwithstanding any other provision in this subdivision to the contrary, if the ~~individual~~ *eligible recipient* does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provision of United States Code, title 42, section 424a(d), the calculation of supplementary benefits payable to the individual shall be as provided under this section in Minnesota Statutes ~~1988~~ *1990*.

Sec. 29. Minnesota Statutes 1990, section 176.132, subdivision 3, is amended to read:

Subd. 3. [PAYMENT.] The payment of supplementary benefits shall be the responsibility of the employer or insurer currently paying total disability benefits *under subdivision 1, paragraph (a) or (b), or currently paying permanent total disability benefits under subdivision 1, paragraph (c),* or any other payer of such benefits. When the eligible individual is not currently receiving benefits because the total paid has reached the maximum prescribed by law the employer and insurer shall, nevertheless, pay the supplementary benefits that are prescribed by law. The employer or insurer paying the supplementary benefit shall have the right of full reimbursement from the special compensation fund for the amount of such benefits paid.

Sec. 30. [176.178] [FRAUD.]

Any person who, with intent to defraud, receives workers' compensation benefits to which the person is not entitled by knowingly misrepresenting, misstating, or failing to disclose any material fact is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3.

Sec. 31. Minnesota Statutes 1990, section 176.179, is amended to read:

176.179 [~~PAYMENTS OF COMPENSATION RECEIVED IN GOOD FAITH~~ *RECOVERY OF OVERPAYMENTS.*]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, a compensation judge, or court of appeals relative to a claim by an injured employee or the employee's survivors, and received in good faith by the employee or the employee's survivors shall be refunded to the paying

employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a full credit against future lump sum benefit entitlement and as a partial credit against future weekly benefits. The credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits, death benefits, or weekly payments of ~~economic recovery or impairment~~ *permanent partial* compensation shall not exceed 20 percent of the amount that would otherwise be payable.

Where the commissioner or compensation judge determines that the mistaken compensation was not received in good faith, the commissioner or compensation judge may order reimbursement of the compensation or order a credit for the compensation against any future monetary benefits from the same injury. The credit may be up to 100 percent of the amount of monetary benefits otherwise payable. For purposes of this section, a payment is not received in good faith if it is obtained through fraud, or if the employee knew or should have known that the compensation was paid under mistake of fact or law, and the employee has not refunded the mistaken compensation.

A credit may not be applied against medical expenses due or payable.

Sec. 32. Minnesota Statutes 1990, section 176.221, subdivision 6a, is amended to read:

Subd. 6a. [MEDICAL, REHABILITATION, ~~ECONOMIC RECOVERY,~~ AND ~~IMPAIRMENT~~ *PERMANENT PARTIAL* COMPENSATION.] The penalties provided by this section apply in cases where payment for treatment under section 176.135, rehabilitation expenses under section 176.102, subdivisions 9 and 11, ~~economic recovery compensation~~ or ~~impairment~~ *permanent partial* compensation are not made in a timely manner as required by law or by rule adopted by the commissioner.

Sec. 33. Minnesota Statutes 1990, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on October 1, ~~1977~~ *1991*, or thereafter under this section shall exceed ~~six~~ *four* percent a year. In those instances where the adjustment under the formula of this section would exceed this maximum the increase shall be deemed to be ~~six~~ *four* percent.

Sec. 34. Minnesota Statutes 1990, section 176.645, subdivision 2, is

amended to read:

Subd. 2. [TIME OF FIRST ADJUSTMENT.] For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to subdivision 1 ~~shall be~~ *is* deferred until the first anniversary of the date of the injury. *For injuries occurring on or after October 1, 1991, the initial adjustment under subdivision 1 is deferred until the third anniversary of the date of injury.*

Sec. 35. Minnesota Statutes 1990, section 176.66, subdivision 11, is amended to read:

Subd. 11. [AMOUNT OF COMPENSATION.] The compensation for an occupational disease is ~~66 2/3~~ *80* percent of the employee's *after-tax* weekly wage on the date of injury subject to a maximum compensation equal to the maximum compensation in effect on the date of last exposure. The employee shall be eligible for supplementary benefits notwithstanding the provisions of section 176.132, after four years have elapsed since the date of last significant exposure to the hazard of the occupational disease if that employee's weekly compensation rate is less than the current supplementary benefit rate.

Sec. 36. Minnesota Statutes 1990, section 268.08, subdivision 3, is amended to read:

Subd. 3. [NOT ELIGIBLE.] An individual shall not be eligible to receive benefits for any week with respect to which the individual is receiving, has received, or has filed a claim for remuneration in an amount equal to or in excess of the individual's weekly benefit amount in the form of:

(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or dismissal payment is made in a lump sum, the employer may allocate such lump sum payment over a period equal to the lump sum divided by the employee's regular pay while employed by such employer; provided any such payment shall be applied for a period immediately following the last day of work but not to exceed 28 calendar days; or

(2) vacation allowance paid directly by the employer for a period of requested vacation, including vacation periods assigned by the employer under the provisions of a collective bargaining agreement, or uniform vacation shutdown; or

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund established and paid for by the employer except that this does not apply to an individual who is receiving temporary partial compensation pursuant to section 176.101, subdivision ~~3k~~ *2*; or

(4) 50 percent of the pension payments from any fund, annuity or insurance maintained or contributed to by a base period employer including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

(5) 50 percent of a primary insurance benefit under title II of the Social Security Act, as amended, or similar old age benefits under any act of congress or this state or any other state.

Provided, that if such remuneration is less than the benefits which would

otherwise be due under sections 268.03 to 268.231, the individual shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that the individual is not entitled to such benefits, this provision shall not apply. If the computation of reduced benefits, required by this subdivision, is not a whole dollar amount, it shall be rounded down to the next lower dollar amount.

Sec. 37. Minnesota Statutes 1990, section 353.33, subdivision 5, is amended to read:

Subd. 5. [BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.] Disability benefits paid shall be coordinated with any amounts received or receivable under workers' compensation law, such as temporary total, permanent total, temporary partial, *or* permanent partial~~, or economic recovery compensation~~ benefits, in either periodic or lump sum payments from the employer under applicable workers' compensation laws, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabilitant. If the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability, whichever is greater, the disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2).

Sec. 38. [176.90] [AFTER-TAX CALCULATION.]

For purposes of sections 176.011, subdivisions 18 and 18a; 176.101, subdivisions 1, 2, 3, and 4; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20, and 21; and 176.66, the commissioner shall publish by September 1 of each year tables or formulas for determining the after-tax weekly wage to take effect the following October 1. The tables or formulas must be based on the applicable federal income tax and social security laws and state income tax laws in effect on the preceding April 1. These tables or formulas are conclusive for the purposes of converting the weekly wage into after-tax weekly wage. The commissioner may contract with the department of revenue or any other person or organization in order to adopt the tables or formulas. The adoption of the tables or formulas is exempt from the administrative rulemaking provisions of chapter 14.

Sec. 39. [REPEALER.]

Minnesota Statutes 1990, sections 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; and 176.111, subdivision 8a, are repealed.

Sec. 40. [EFFECTIVE DATE.]

This article is effective October 1, 1991; except that section 14, paragraph (b), is retroactively effective to January 1, 1984.

ARTICLE 3

LEGAL, REHABILITATION, MEDICAL PROVIDERS/BENEFITS

Section 1. Minnesota Statutes 1990, section 175.007, is amended to read:

175.007 [ADVISORY COUNCIL ON WORKERS' COMPENSATION; CREATION.]

Subdivision 1. The commissioner shall appoint an advisory council on workers' compensation, which consists of five representatives of employers and five representatives of employees; ~~five nonvoting members representing the general public; two persons who have received or are currently receiving workers' compensation benefits under chapter 176 and the chairs of the rehabilitation review panel and the medical services review board. The council may consult with any party it desires~~. *The commissioner shall appoint as nonvoting members three representatives of insurers, one representative of medical doctors, one representative of hospitals, two legislators from the house of representatives, and two legislators from the senate. The commissioner shall be a nonvoting member and is the chairperson.* The terms and removal of members shall be as provided in section 15.059. The council expires as provided in section 15.059, subdivision 5.

Subd. 2. The advisory council shall ~~study and present to the legislature and the governor, on or before November 15 of each even numbered year, its findings relative to the costs, methods of financing, and the formula to be used to provide supplementary compensation to workers who have been determined permanently and totally disabled prior to July 1, 1969, and its findings relative to alterations in the scheduled benefits for permanent partially disabled, and other aspects of the workers' compensation act. The council shall also study and present to the legislature and the governor on or before November 15 of 1981 and by November 15 of each even numbered year thereafter a report on the financial, administrative and personnel needs of the workers' compensation division.~~ *advise the department in carrying out the purposes of chapter 176. The council shall submit its recommendations with respect to amendments to chapter 176 to each regular session of the legislature and shall report its views upon any pending bill relating to chapter 176 to the proper legislative committee. At the request of the chairpersons of the senate and house of representatives committees that hear workers' compensation matters, the department shall schedule a meeting of the council with the members of the committees to discuss matters of legislative concern arising under chapter 176.*

Sec. 2. Minnesota Statutes 1990, section 176.011, subdivision 27, is amended to read:

Subd. 27. [ADMINISTRATIVE CONFERENCE.] An "administrative conference" is a meeting conducted by a commissioner's designee where parties can discuss on an expedited basis and in an informal setting their viewpoints concerning disputed issues arising under section ~~176.102, 176.103, 176.135, 176.136, or~~ 176.239. If the parties are unable to resolve the dispute, the commissioner's designee shall issue an administrative decision under *that* section ~~176.106 or 176.239~~.

Sec. 3. Minnesota Statutes 1990, section 176.081, subdivision 1, is amended to read:

Subdivision 1. [APPROVAL.] (a) A fee for legal services of 25 percent of the first $4,000 of compensation awarded to the employee and 20 percent of the next ~~$27,500~~ *$70,000* of compensation awarded to the employee is permissible and does not require approval by the commissioner, compensation judge, or any other party except as provided in ~~clause (b)~~ *paragraph (d). All fees must be calculated according to the formula under this subdivision or earned in hourly fees for representation at dispute resolution*

conferences under section 176.239. Hourly fees must be determined according to the criteria set forth under subdivision 5.

(b) Fees for legal services related to the same injury are cumulative and may not exceed $15,000, except as provided under subdivision 2. No other attorney fees for any proceeding under this chapter are allowed.

(c) If the employer or the insurer or the defendant is given written notice of claims for legal services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed *claims or* portions of claims~~, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. Fees for administrative conferences under section 176.239 shall be determined on an hourly basis, according to the criteria in subdivision 5~~.

~~(b)~~ *(d)* An attorney who is claiming legal fees ~~under this section~~ *for representing an employee in a workers' compensation matter* shall file a statement of ~~attorney's~~ *attorney* fees with the commissioner, compensation judge before whom the matter was heard, or workers' compensation court of appeals on cases before the court. A copy of the signed retainer agreement shall also be filed. The employee and insurer shall receive a copy of the statement. The statement shall be on a form prescribed by the commissioner, *shall report the number of hours spent on the case,* and shall clearly and conspicuously state that the employee or insurer has ten calendar days to object to the attorney fees requested. If no objection is timely made by the employee or insurer, the amount requested shall be conclusively presumed reasonable providing the amount does not exceed the limitation in subdivision 1. The commissioner, compensation judge, or court of appeals shall issue an order granting the fees and the amount requested shall be awarded to the party requesting the fee. If a timely objection is filed, or the fee is determined on an hourly basis, the commissioner, compensation judge, or court of appeals shall review the matter and make a determination based on the criteria in subdivision 5. If no timely objection is made by an employer or insurer, reimbursement under subdivision 7 shall be made if the statement of fees requested this reimbursement.

Sec. 4. Minnesota Statutes 1990, section 176.081, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the commissioner, compensation judge, or district judge, before whom the matter was heard. An appeal of a decision by the commissioner, a compensation judge, or district court judge on additional fees may be made to the workers' compensation court of appeals. The application shall set forth the fee requested ~~and~~, *the number of hours spent on the case,* the basis for the request, and whether or not a hearing is requested. The application, with affidavit of service upon the employee, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 5. Minnesota Statutes 1990, section 176.081, subdivision 3, is amended to read:

Subd. 3. [REVIEW.] ~~An employee who~~ *A party that* is dissatisfied with

its attorney fees~~,~~ may file an application for review by the workers' compensation court of appeals. ~~Such~~ *The* application shall state the basis for the need of review and whether or not a hearing is requested. A copy of ~~such~~ *the* application shall be served upon the *party's* attorney ~~for the employee~~ by the court administrator and if a hearing is requested by either party, the matter shall be set for hearing. The notice of hearing shall be served upon known interested parties. ~~The attorney for the employee shall be served with a notice of the hearing.~~ The workers' compensation court of appeals shall have the authority to raise ~~the question of~~ the issue of the attorney fees at any time upon its own motion and shall have continuing jurisdiction over attorney fees.

Sec. 6. Minnesota Statutes 1990, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] *(a) This section only applies to vocational rehabilitation of injured employees and their spouses as provided under subdivision 1a. Physical rehabilitation of injured employees is considered treatment subject to section 176.135.*

(b) Rehabilitation is intended to restore the injured employee~~,~~ ~~through physical and vocational rehabilitation,~~ so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

Sec. 7. Minnesota Statutes 1990, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services *and shall by rule, subject to chapter 14, establish a fee schedule or otherwise limit fees charged by qualified rehabilitation consultants and vendors. By March 1, 1993, the commissioner shall report to the legislature on the status of the commissioner's monitoring of rehabilitation services.* The commissioner may hire qualified personnel to assist in the commissioner's duties under this section and may delegate the duties and performance.

Sec. 8. Minnesota Statutes 1990, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner or a designee, who shall serve as an ex officio member, and ~~two~~ *three* members ~~each from~~ *who shall represent both* employers~~,~~ *and* insurers, ~~rehabilitation, and medicine,~~ one member representing chiropractors, ~~and four~~ *one member representing medical doctors, three* members representing labor, *two members representing rehabilitation vendors, and five members representing qualified rehabilitation*

consultants. The members shall be appointed by the commissioner and shall serve four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chair. The panel shall review and make a determination with respect to appeals from orders of the commissioner regarding certification approval of qualified rehabilitation consultants and vendors. The hearings are de novo and initiated by the panel under the contested case procedures of chapter 14, and are appealable to the workers' compensation court of appeals in the manner provided by section 176.421.

Sec. 9. Minnesota Statutes 1990, section 176.102, subdivision 3a, is amended to read:

Subd. 3a. [DISCIPLINARY ACTIONS.] The panel has authority to discipline qualified rehabilitation consultants and vendors and may impose a penalty of up to $1,000 per violation, and may suspend or revoke certification. Complaints against registered qualified rehabilitation consultants and vendors shall be made to the commissioner who shall investigate all complaints. If the investigation indicates a violation of this chapter or rules adopted under this chapter, the commissioner may initiate a contested case proceeding under the provisions of chapter 14. In these cases, the rehabilitation review panel shall make the final decision following receipt of the report of an administrative law judge. The decision of the panel is appealable to the workers' compensation court of appeals in the manner provided by section 176.421. The panel shall continuously study rehabilitation services and delivery, develop and recommend rehabilitation rules to the commissioner, and assist the commissioner in accomplishing public education.

~~The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one labor member, one employer or insurer member, and one member representing medicine, chiropractic, or rehabilitation.~~

Sec. 10. Minnesota Statutes 1990, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (a) ~~An employer or insurer shall provide rehabilitation consultation by a qualified rehabilitation consultant or by another person permitted by rule to provide consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be provided immediately after receipt of this information.~~

~~For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time.~~ *A rehabilitation consultation must be provided by the employer to an injured employee upon request of the employee, the employer, or the commissioner. If a rehabilitation consultation is requested, the*

employer shall provide a qualified rehabilitation consultant. If the injured employee objects to the employer's selection, the employee may select a qualified rehabilitation consultant of the employee's own choosing within 30 days following the first in-person contact between the employee and the original qualified rehabilitation consultant. If the consultation indicates that rehabilitation services are appropriate under subdivision 1, the employer shall provide the services. If the consultation indicates that rehabilitation services are not appropriate under subdivision 1, the employer shall notify the employee of this determination within 14 days after the consultation.

(b) In order to assist the commissioner in determining whether or not to request rehabilitation consultation for an injured employee, an employer shall notify the commissioner whenever the employee's temporary total disability will likely exceed 13 weeks. The notification must be made within 90 days from the date of the injury or when the likelihood of at least a 13-week disability can be determined, whichever is earlier, and must include a current physician's report.

(c) The qualified rehabilitation consultant ~~appointed by the employer or insurer~~ shall disclose in writing at the first meeting or written communication with the employee any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest.

The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party ~~to~~, *attorney, or health care provider involved in* the case ~~, including any attorneys, doctors, or chiropractors~~.

~~If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection. The notification shall include the name, address, and telephone number of the qualified rehabilitation consultant chosen by the employee to provide rehabilitation consultation.~~

(d) After the initial provision or selection of a qualified rehabilitation consultant as provided under paragraph (a), the employee may ~~choose~~ *request* a different qualified rehabilitation consultant ~~as follows:~~

~~(1) once during the first 60 days following the first in-person contact between the employee and the original consultant;~~

~~(2) once after the 60-day period referred to in clause (1); and~~

~~(3) subsequent requests~~ *which* shall be ~~determined~~ *granted or denied* by the commissioner or compensation judge according to the best interests of the parties.

(e) The employee and employer shall ~~enter into a program if one is prescribed in~~ *develop* a rehabilitation plan *within 30 days of the rehabilitation consultation if the qualified rehabilitation consultant determines that rehabilitation is appropriate.* A copy of the plan, including a target date for return to work, shall be submitted to the commissioner *within 15 days after the plan has been developed.*

~~(b)~~ *(f)* If the employer does not provide rehabilitation consultation, *or the employee does not select a qualified rehabilitation consultant,* as ~~required by this section~~ *provided in paragraph (a)*, the commissioner or compensation

judge shall notify the employer that if the employer fails to ~~appoint~~ *provide, or the employee fails to select, whichever is applicable,* a qualified rehabilitation consultant ~~or other persons as permitted by clause (a)~~ within 15 days to conduct a rehabilitation consultation, the commissioner or compensation judge shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner or compensation judge determines the consultation is not required.

~~(c)~~ *(g)* In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

~~(d)~~ *(h)* The commissioner or compensation judge may waive rehabilitation services under this section if the commissioner or compensation judge is satisfied that the employee will return to work in the near future or that rehabilitation services will not be useful in returning an employee to work.

Sec. 11. Minnesota Statutes 1990, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner or a compensation judge shall determine eligibility for rehabilitation services and shall review, approve, modify, or reject rehabilitation plans developed under subdivision 4. The commissioner or a compensation judge shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled. *A plan that is not completed within six months or after $3,000 has been paid in rehabilitation benefits must be specifically approved by the commissioner. This approval may not be waived by the parties.*

Sec. 12. Minnesota Statutes 1990, section 176.102, subdivision 7, is amended to read:

Subd. 7. [PLAN IMPLEMENTATION; REPORTS.] *(a)* Upon request by the commissioner, insurer, employer or employee, medical and rehabilitation reports shall be made by the provider of the medical and rehabilitation service to the commissioner, insurer, employer, or employee.

(b) If a rehabilitation plan has not already been filed under subdivision 4, an employer shall report to the commissioner after 90 days and before 120 days from the date of the injury, as to what rehabilitation consultation and services have been provided to the injured employee or why rehabilitation consultation and services have not been provided.

Sec. 13. Minnesota Statutes 1990, section 176.102, subdivision 9, is amended to read:

Subd. 9. [PLAN, COSTS.] An employer is liable for the following rehabilitation expenses under this section:

(a) Cost of rehabilitation evaluation and preparation of a plan;

(b) Cost of all rehabilitation services and supplies necessary for implementation of the plan;

(c) Reasonable cost of tuition, books, travel, and custodial day care; and, in addition, reasonable costs of board and lodging when rehabilitation requires residence away from the employee's customary residence;

(d) Reasonable costs of travel and custodial day care during the job interview process;

(e) Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury. An employee shall not be required to relocate and a refusal to relocate shall not result in a suspension or termination of compensation under this chapter; and

(f) Any other expense agreed to be paid.

Charges for services provided by a rehabilitation consultant or vendor must be submitted on a billing form prescribed by the commissioner. No payment for the services shall be made until the charges are submitted on the prescribed form.

Sec. 14. [176.107] [MEDICAL AND REHABILITATION DISPUTES.]

Any dispute for benefits under section 176.102, 176.103, 176.135, or 176.136 may be referred to the mediation services section of the department for consideration. All health care providers, qualified rehabilitation consultants, intervenors or potential intervenors, or any other third parties who have or may have an interest in the resolution of the dispute must be notified of the proceeding and requested to be in attendance. Any agreement by the parties who attend the hearing or appear by telephone conference is binding on any other party who had notice and did not participate in the hearing.

Sec. 15. Minnesota Statutes 1990, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, PSYCHOLOGICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish any medical, psychological, ~~chiropractic,~~ podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. ~~This treatment shall include treatments necessary to physical rehabilitation.~~ *An employer may fulfill its obligation under this section by utilizing a certified managed care plan as provided in this chapter.*

(b) The employer shall furnish reasonably required chiropractic treatment for a maximum of 30 days from the date the employee first seeks the treatment, or 15 chiropractic treatment visits, whichever occurs first. The employer shall furnish reasonably required physical therapy treatment for a maximum of 30 days from the date the employee first seeks the treatment. Chiropractic or physical therapy treatment is compensable thereafter only with the consent of the employer or insurer, or after a specific determination by the commissioner or a compensation judge, pursuant to paragraph (f), that treatment for an additional specified period of time is reasonably required. This paragraph is effective for treatment provided after July 1, 1992.

(c) The employer shall pay for the reasonable value of nursing services

provided by a member of the employee's family in cases of permanent total disability.

(d) Exposure to rabies is an injury and an employer shall furnish preventative treatment to employees exposed to rabies.

(e) The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of the employer's inability or refusal seasonably to ~~do so~~ *provide the items required to be provided under this paragraph,* the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7~~, and attorney fees incurred by the employee. No action to recover the cost of copies may be brought until the commissioner adopts a schedule of reasonable charges under subdivision 7. Attorney's fees shall be determined on an hourly basis according to the criteria in section 176.081, subdivision 5. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability~~.

~~(b)~~ *(f)* Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with ~~sections 176.106 and~~ *section* 176.305 *and to issue orders approving mediated settlements in accordance with section 176.107.*

Sec. 16. Minnesota Statutes 1990, section 176.135, subdivision 1a, is amended to read:

Subd. 1a. [NONEMERGENCY SURGERY; SECOND SURGICAL OPINION.] The employer is required to furnish surgical treatment pursuant to subdivision 1 when the surgery is reasonably required to cure and relieve the effects of the personal injury or occupational disease. An employee may not be compelled to undergo surgery. If an employee desires a second opinion on the necessity of the surgery, the employer shall pay the costs of obtaining the second opinion. Except in cases of emergency surgery, the employer or insurer may require the employee to obtain a second opinion on the necessity of the surgery, at the expense of the employer, before the employee undergoes surgery. Failure to obtain a second surgical opinion, *if required by the employer or insurer,* shall not be reason for nonpayment of the charges for the surgery~~. The employer is required to pay the reasonable value of the surgery~~, unless the commissioner or compensation judge determines that the surgery is not reasonably required.

Sec. 17. Minnesota Statutes 1990, section 176.135, subdivision 5, is amended to read:

Subd. 5. [OCCUPATIONAL DISEASE MEDICAL ELIGIBILITY.] Notwithstanding section 176.66, an employee who has contracted an occupational disease is eligible to receive compensation under this section even if the employee is not disabled from earning full wages at the work at which the employee was last employed.

Payment of compensation under this section shall be made by the employer and insurer on the date of the employee's last exposure to the hazard of the occupational disease. Reimbursement for medical benefits paid under this

subdivision or subdivision 1a is allowed from the employer and insurer liable under section 176.66, subdivision 10, only in the case of disablement.

Sec. 18. Minnesota Statutes 1990, section 176.135, subdivision 6, is amended to read:

Subd. 6. [COMMENCEMENT OF PAYMENT.] As soon as reasonably possible, and no later than 30 calendar days after receiving the bill, the employer or insurer shall pay the charge or any portion of the charge which is not denied, *or* deny all or a part of the charge ~~on the basis of excessiveness or noncompensability, or specify the additional data needed,~~ with written notification to the employee and the provider ~~.~~ *explaining the basis for denial. All or part of a charge must be denied if any of the following conditions exist:*

(1) the injury or condition is not compensable under this chapter;

(2) the charge or service is excessive under this section or section 176.136;

(3) the provider is not enrolled with or certified by the department in accordance with rules adopted under section 176.183;

(4) the charges are not submitted on the prescribed billing form; or

(5) additional medical records or reports are required under subdivision 7 to substantiate the nature of the charge and its relationship to the work injury.

If payment is denied under clause (3), (4), or (5), the employer or insurer shall reconsider the charges in accordance with this subdivision within 30 calendar days after receiving additional medical data, a prescribed billing form, or documentation of enrollment or certification as a provider.

Sec. 19. Minnesota Statutes 1990, section 176.135, subdivision 7, is amended to read:

Subd. 7. [MEDICAL BILLS AND RECORDS.] Health care providers shall submit to the insurer an itemized statement of charges *on a billing form prescribed by the commissioner*. Health care providers ~~other than hospitals~~ shall also submit copies of medical records or reports that substantiate the nature of the charge and its relationship to the work injury ~~, provided, however, that hospitals must submit any copies of records or reports requested under subdivision 6~~. Health care providers may charge for copies of any records or reports that are in existence and directly relate to the items for which payment is sought under this chapter. ~~Charges for copies provided under this subdivision shall be reasonable.~~ The commissioner shall adopt a schedule of reasonable charges by ~~emergency rules~~ *rule*.

A health care provider shall not collect, attempt to collect, refer a bill for collection, or commence an action for collection against the employee, employer, or any other party until the information required by this section has been furnished.

Sec. 20. [176.1351] [MANAGED CARE.]

Subdivision 1. [APPLICATION.] *Any health care provider, health care providers, or business entities providing health care services may make written application to the commissioner to become certified to provide managed care to injured workers for injuries and diseases compensable under this chapter. Each application for certification shall be accompanied by a reasonable fee prescribed by the commissioner. A certificate is valid for the*

period the commissioner prescribes unless revoked or suspended. Application for certification shall be made in the form and manner and shall set forth information regarding the proposed plan for providing services as the commissioner may prescribe. The information shall include, but not be limited to:

(a) a list of the names of all health care providers who will provide services under the managed care plan, together with appropriate evidence of compliance with any licensing or certification requirements for those providers to practice in this state;

(b) a description of the places and manner of providing services under the plan;

(c) a description of the places and manner of providing other related optional services the applicants wish to provide; and

(d) satisfactory evidence of ability to comply with any financial requirements to ensure delivery of service in accordance with the plan which the commissioner may prescribe.

Subd. 2. [CERTIFICATION.] *The commissioner shall certify a health care provider, health care providers, or business entities providing health care services to provide managed care under a plan if the commissioner finds that the plan:*

(a) proposes to provide services that meet quality, continuity, and other treatment standards prescribed by the commissioner and will provide all medical and health care services that may be required by this chapter in a manner that is timely, effective, and convenient for the worker;

(b) provides appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;

(c) provides adequate methods of peer review, utilization review, and dispute resolution to prevent inappropriate or not medically necessary treatment, to exclude from participation in the plan those individuals who violate these treatment standards, and to provide for the resolution of such medical disputes as the commissioner considers appropriate;

(d) provides a program for early return to work for injured workers involving, where appropriate, cooperative efforts by the workers, the employer, and the managed care organizations to promote workplace health and safety consultative and other services;

(e) provides a timely and accurate method of reporting to the commissioner necessary information regarding medical and health care service cost and utilization to enable the commissioner to determine the effectiveness of the plan;

(f) authorizes workers to receive compensable medical treatment from a health care provider who is not a member of the managed care organization, but who maintains the worker's medical records and with whom the worker has a documented history of treatment, if that health care provider agrees to refer the worker to the managed care organization for any specialized treatment, including physical therapy, to be furnished by another provider that the worker may require and if that health care provider agrees to comply with all the rules, terms, and conditions regarding services performed by the managed care organization. Nothing in this paragraph is intended to limit the worker's right to change health care providers prior to the filing

of a workers' compensation claim; and

(g) complies with any other requirement the commissioner determines is necessary to provide quality medical services and health care to injured workers.

Subd. 3. [REVOCATION, SUSPENSION, AND REFUSAL TO CERTIFY.] *The commissioner shall refuse to certify or shall revoke or suspend the certification of any health care provider or group of medical service providers to provide managed care if the commissioner finds that the plan for providing medical or health care services fails to meet the requirements of this section, or service under the plan is not being provided in accordance with the terms of a certified plan.*

Subd. 4. [REVIEW.] *(a) Utilization review, quality assurance, and peer review activities pursuant to this section and authorization of medical services to be provided by other than an attending physician pursuant to this chapter shall be subject to review by the commissioner or the commissioner's designated representatives. Data generated by or received in connection with these activities, including written reports, notes or records of any such activities, or of the commissioner's review shall be confidential, and shall not be disclosed except as considered necessary by the commissioner in the administration of this section. The commissioner may report professional misconduct to an appropriate licensing board.*

(b) No data generated by utilization review, quality assurance, or peer review activities pursuant to this section or the commissioner's review thereof shall be used in any action, suit, or proceeding except to the extent considered necessary by the commissioner in the administration of this chapter.

(c) A person participating in utilization review, quality assurance, or peer review activities pursuant to this section shall not be examined as to any communication made in the course of such activities or the findings thereof, nor shall any person be subject to an action for civil damages for affirmative actions taken or statements made in good faith.

(d) No person who participates in forming managed care plans, collectively negotiating fees, or otherwise solicits or enters into contracts in a good faith effort to provide medical or health care services according to the provisions of this section shall be examined or subject to administrative or civil liability regarding any such participation except pursuant to the commissioner's active supervision of such activities and the managed care organization. Before engaging in such activities, the person shall provide notice of intent to the commissioner on a prescribed form.

(e) The provisions of this section shall not affect the confidentiality or admission in evidence of a claimant's medical treatment records.

Subd. 5. [RULES.] *The commissioner in cooperation with the commissioners of the department of health, department of commerce, and department of human services, shall adopt such rules as may be necessary to carry out the provisions of this section.*

Sec. 21. Minnesota Statutes 1990, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] *(a)* The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall

consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups.

(b) The procedures established by the commissioner ~~shall~~ *must* limit, *in accordance with subdivisions 1a and 1b,* the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135~~, based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing~~. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive ~~shall~~ *must* be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures ~~shall~~ *must* incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

Sec. 22. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1a. [RELATIVE VALUE FEE SCHEDULE.] *The liability of an employer for services included in the medical fee schedule is limited to the maximum fee allowed by the schedule in effect on the date of the medical service, or the provider's actual fee, whichever is lower. The medical fee schedule effective on October 1, 1990, shall remain in effect until the commissioner adopts a new schedule by permanent rule, but shall remain in effect no later than June 1, 1993. The commissioner shall adopt permanent rules regulating fees, except fees limited by subdivision 1b, by implementing a relative value fee schedule to be effective on October 1, 1992, or as soon thereafter as possible. The conversion factors for the relative value fee schedule shall reasonably reflect a 15 percent overall reduction from 1991 charges, based on a sample of the most common services billed in the first six months of 1991 that is large enough to be statistically valid.*

After permanent rules have been adopted to implement this section, the conversion factors must be adjusted annually on October 1, by the percentage change in the statewide average weekly wage as set forth in section 176.645, subdivision 1. The commissioner shall annually give notice in the State Register of the adjusted conversion factors. This notice shall be in lieu of the requirements of chapter 14.

Sec. 23. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1b. [LIMITATION OF LIABILITY.] *(a) The liability of the employer for treatment, articles, and supplies provided to an employee while an inpatient or outpatient at a hospital or an outpatient at a same-day surgical facility or emergency room shall be limited to 85 percent of the amount charged.*

(b) For the services rendered under paragraph (a) by a hospital with 100 or fewer licensed acute care beds, the liability of employers shall be the actual hospital charges.

(c) The liability of the employer for the treatment, articles, and supplies that are not limited by subdivision 1a or paragraph (a) shall be limited to

the provider's actual charge, or the charges that prevail in the same community for similar treatment, articles, and supplies furnished to an injured person when paid for by the injured person, whichever is lower. On this basis, the commissioner or compensation judge may determine the reasonable value of all treatment, services, and supplies, and the liability of the employer is limited to that amount.

Sec. 24. Minnesota Statutes 1990, section 176.136, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVE FEES.] If the employer or insurer determines that the charge for a health service or medical service is excessive, no payment in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter unless the commissioner, compensation judge, or court of appeals determines otherwise. In such a case, the health care provider may initiate an action under this chapter for recovery of the amounts deemed excessive by the employer or insurer, but the employer or insurer shall have the burden of proving excessiveness.

A charge for a health service or medical service is excessive if it:

(1) exceeds the maximum permissible charge pursuant to subdivision 1 or section 176.135, subdivision 1a;

(2) is for a service provided at a level, duration, or frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards;

(3) is for a service that is outside the scope of practice of the particular provider or is not generally recognized within the particular profession of the provider as of therapeutic value for the specific injury or condition treated; or

(4) is otherwise deemed excessive or inappropriate pursuant to rules adopted pursuant to this chapter.

Where the sole issue in dispute is whether medical fees are excessive, the only parties to the proceeding shall be the health care provider and employer or insurer. The rights of an employee shall not be affected by a determination under this subdivision.

Sec. 25. Minnesota Statutes 1990, section 176.305, subdivision 1, is amended to read:

Subdivision 1. [HEARINGS ON PETITIONS.] The petitioner shall serve a copy of the petition on each adverse party personally or by first class mail. The original petition shall then be filed with the commissioner together with an appropriate affidavit of service. When any petition has been filed with the workers' compensation division, the commissioner shall, within ten days, refer the matter presented by the petition for a settlement conference under this section, for ~~an administrative~~ *a mediation* conference under section ~~176.106~~ *176.107*, or for hearing to the office.

Sec. 26. Minnesota Statutes 1990, section 176.351, subdivision 2a, is amended to read:

Subd. 2a. [SUBPOENAS NOT PERMITTED.] A member of the rehabilitation review panel or medical services board or an employee of the department who has conducted an administrative, *mediation*, or settlement

conference, or hearing under section ~~176.106~~ *176.107* or 176.239, shall not be subpoenaed to testify regarding the conference, hearing, or concerning a mediation session. A member of the rehabilitation review panel, medical services board, or an employee of the department may be required to answer written interrogatories limited to the following questions:

(a) Were all statutory and administrative procedural rules adhered to in reaching the decision?

(b) If the answer to question (a) is no, what deviations took place?

(c) Did the person making the decision consider all the information presented prior to rendering a decision?

(d) Did the person making the decision rely on information outside of the information presented at the conference or hearing in making the decision?

(e) If the answer to question (d) is yes, what other information was relied upon in making the decision?

In addition, for a hearing with a compensation judge and with the consent of the compensation judge, an employee of the department who conducted an administrative conference, hearing, or mediation session, may be requested to answer written interrogatories relating to statements made by a party at the prior proceeding. These interrogatories shall be limited to affirming or denying that specific statements were made by a party.

Sec. 27. Minnesota Statutes 1990, section 176.421, subdivision 7, is amended to read:

Subd. 7. [RECORD OF PROCEEDINGS.] At the division's own expense, the commissioner shall make a complete record of all proceedings before the commissioner and shall provide a stenographer or an audio magnetic recording device to make the record of the proceedings.

The commissioner shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge which shall be set by the commissioner. Upon a showing of cause, the commissioner may direct that a transcript be prepared without expense to the person requesting the transcript, in which case the cost of the transcript shall be paid by the division. Transcript fees received under this subdivision shall be paid to the workers' compensation division account in the state treasury and shall be annually appropriated to the division for the sole purpose of providing a record and transcripts as provided in this subdivision. This subdivision does not apply to any administrative conference or other proceeding before the commissioner which may be heard de novo in another proceeding including but not limited to proceedings under section ~~176.106~~ *176.107* or 176.239.

Sec. 28. Minnesota Statutes 1990, section 176.442, is amended to read:

176.442 [APPEALS FROM DECISIONS OF COMMISSIONER.]

Except for a commissioner's decision which may be heard de novo in another proceeding including but not limited to a decision from an administrative conference under section ~~176.102,~~ ~~176.103,~~ ~~176.106,~~ 176.239, or a summary decision under section 176.305, any decision or determination of the commissioner affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by the determination

may appeal to the workers' compensation court of appeals by filing a notice of appeal with the commissioner in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the workers' compensation court of appeals.

Sec. 29. Minnesota Statutes 1990, section 176.82, is amended to read:

176.82 [ACTION FOR CIVIL DAMAGES FOR OBSTRUCTING EMPLOYEE SEEKING BENEFITS.]

Subdivision 1. [GENERALLY.] Any person discharging or threatening to discharge an employee for seeking workers' compensation benefits or in any manner intentionally obstructing an employee seeking workers' compensation benefits is liable in a civil action for damages incurred by the employee including any diminution in workers' compensation benefits caused by a violation of this section including costs and reasonable attorney fees, and for punitive damages not to exceed three times the amount of any compensation benefit to which the employee is entitled. Damages awarded under this section shall not be offset by any workers' compensation benefits to which the employee is entitled.

Subd. 2. [REFUSAL TO REHIRE.] *Any employer who without reasonable cause refuses to rehire an employee who is injured in the course of employment, where suitable employment is available within the employee's physical and mental limitations, upon order of the department and in addition to other benefits, has exclusive liability to pay to the employee the wages lost during the period of the refusal, not exceeding six months wages or a maximum of $15,000. In determining the availability of suitable employment, the continuance in business of the employer shall be considered and any written rules promulgated by the employer with respect to seniority or the provisions of any collective bargaining agreement with respect to seniority shall govern.*

Sec. 30. Minnesota Statutes 1990, section 176.83, subdivision 5, is amended to read:

Subd. 5. [EXCESSIVE MEDICAL SERVICES.] In consultation with the medical services review board or the rehabilitation review panel, rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the payer that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer, and the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program unless the commissioner or compensation judge determines at a hearing or administrative conference that the level, frequency, or cost was not excessive in which case the insurer, self-insurer, or group self-insurer shall make the payment deemed reasonable.

A health or rehabilitation provider who is determined by the rehabilitation

review panel or medical services review board, after hearing, to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under this chapter. A prohibition imposed on a provider under this subdivision may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing certifying body.

~~The rules adopted under this subdivision shall require insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause.~~

Sec. 31. Minnesota Statutes 1990, section 176.83, is amended by adding a subdivision to read:

Subd. 5a. [REPORTING.] *Rules requiring insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this section and chapter 176.*

Sec. 32. Minnesota Statutes 1990, section 176.83, subdivision 6, is amended to read:

Subd. 6. [CERTIFICATION OF MEDICAL PROVIDERS.] Rules establishing procedures and standards for the certification *or enrollment* of physicians, chiropractors, *osteopaths,* podiatrists, and other health care providers, *which may include hospitals and other business entities providing health care services,* in order to assure the coordination of treatment, rehabilitation, and other services and requirements of chapter 176 for carrying out the purposes and intent of this chapter.

After the rules for provider enrollment have been promulgated, a provider must be enrolled in accordance with the rules to receive payment for services rendered under section 176.135. An unenrolled provider may not receive payment or attempt to collect from any source, including the employee, any insurer or self-insured employer, the special compensation fund, or any government program. Retroactive enrollment must be permitted pursuant to guidelines established by rule. A list of currently enrolled providers must be given to all self-insured employers and insurers. The list must be made available to others upon request.

Sec. 33. [REPEALER.]

Minnesota Statutes 1990, sections 176.106; 176.135, subdivision 3; and 176.136, subdivision 5, are repealed.

Sec. 34. [EFFECTIVE DATE.]

This article is effective October 1, 1991; except that section 1 is effective January 1, 1992.

ARTICLE 4

COURTS/JURISDICTION

Section 1. Minnesota Statutes 1990, section 15A.083, subdivision 7, is amended to read:

Subd. 7. [WORKERS' COMPENSATION COURT OF APPEALS AND COMPENSATION JUDGES.] Salaries of judges of the workers' compensation court of appeals are the same as the salary for district judges as set under section 15A.082, subdivision 3. Salaries of compensation judges are

~~75~~ *80* percent of the salary of district court judges. The chief workers' compensation settlement judge at the department of labor and industry may be paid an annual salary that is up to five percent greater than the salary of workers' compensation settlement judges at the department of labor and industry. *The assistant chief administrative law judge for workers' compensation at the office of administrative hearings shall be paid in conformity with the salary provisions of the managerial plan under section 43A.18, but the minimum salary shall be equal to the salary of a compensation judge.*

Sec. 2. Minnesota Statutes 1990, section 176.061, is amended by adding a subdivision to read:

Subd. 6a. [JURISDICTION.] *Notwithstanding section 573.02 or any other law to the contrary, the commissioner or compensation judge has jurisdiction to order the distribution of proceeds in accordance with subdivision 6 in all cases except where the district court has awarded a specific amount in satisfaction of the employer's subrogation interest or has specifically denied the employer's subrogation interest.*

Sec. 3. [176.2615] [SMALL CLAIMS COURT.]

Subdivision 1. [PURPOSE.] *There is established in the department of labor and industry a small claims court, to be presided over by settlement judges for the purpose of settling small claims.*

Subd. 2. [ELIGIBILITY.] *The claim is eligible for determination in the small claims court if referred by the commissioner or if all parties agree to submit to its jurisdiction; and*

(1) the claim is for rehabilitation benefits only under section 176.102 or medical benefits only under section 176.135; or

(2) the claim in its total amount does not equal more than $5,000; and

(3) where the claim is for apportionment or for contribution or reimbursement, no counterclaim in excess of $5,000 is asserted.

Subd. 3. [TESTIMONY; EXHIBITS.] *At the hearing a settlement judge shall hear the testimony of the parties and consider any exhibits offered by them and may also hear any witnesses introduced by either party.*

Subd. 4. [APPEARANCE OF PARTIES.] *A party may appear on the party's own behalf without an attorney, or may retain and be represented by a duly admitted attorney who may participate in the hearing to the extent and in the manner that the settlement judge considers helpful. Attorney fees awarded under this subdivision are included in the overall limit allowed under section 176.081, subdivision 1.*

Subd. 5. [EVIDENCE ADMISSIBLE.] *At the hearing the settlement judge shall receive evidence admissible under the rules of evidence. In addition, in the interest of justice and summary determination of issues before the court, the settlement judge may receive, in the judge's discretion, evidence not otherwise admissible. The settlement judge, on the judge's own motion, may receive into evidence any documents which have been filed with the department.*

Subd. 6. [SETTLEMENT.] *A settlement judge may attempt to conciliate the parties. If the parties agree on a settlement, the judge shall issue an order in accordance with that settlement.*

Subd. 7. [DETERMINATION.] *If the parties do not agree to a settlement, the settlement judge shall summarily hear and determine the issues and issue an order in accordance with section 176.305, subdivision 1a. Any determination by a settlement judge is not res judicata with respect to any other proceeding between or among the parties under this chapter, nor may it be considered as evidence in any other proceeding.*

Subd. 8. [COSTS.] *The prevailing party is entitled to costs and disbursements as in any other workers' compensation case.*

Sec. 4. Minnesota Statutes 1990, section 176.461, is amended to read:

176.461 [SETTING ASIDE AWARD.]

Except when a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or if as a matter of law the determination of the supreme court cannot be subsequently modified, the workers' compensation court of appeals, for cause, at any time after an award, upon application of either party and not less than five working days after written notice to all interested parties, may set the award aside and grant a new hearing and refer the matter for a determination on its merits to the chief administrative law judge for assignment to a compensation judge, who shall make findings of fact, conclusions of law, and an order of award or disallowance of compensation or other order based on the pleadings and the evidence produced and as required by the provisions of this chapter or rules adopted under it.

As used in this section, the phrase "for cause" is limited to the following grounds:

(1) a mutual mistake of fact that was not discoverable at the time of the award;

(2) newly discovered evidence that was not discoverable at the time of the award;

(3) fraud; or

(4) a substantial change in medical condition since the time of the award that was clearly not anticipated and could not reasonably have been anticipated at the time of the award.

Sec. 5. Minnesota Statutes 1990, section 480A.06, subdivision 3, is amended to read:

Subd. 3. [CERTIORARI REVIEW.] The court of appeals shall have jurisdiction to issue writs of certiorari to all agencies, public corporations and public officials, except the tax court ~~and the workers' compensation court of appeals~~. The court of appeals shall have jurisdiction to review decisions of the commissioner of jobs and training, pursuant to section 268.10.

Sec. 6. Minnesota Statutes 1990, section 480A.06, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATIVE REVIEW.] The court of appeals shall have jurisdiction to review on the record: the validity of administrative rules, as provided in sections 14.44 and 14.45~~, and~~; the decisions of administrative agencies in contested cases, as provided in sections 14.63 to 14.69; *and workers' compensation cases and peace officer death benefits cases, as provided under chapters 176 and 176A.*

Sec. 7. [TRANSFER OF JURISDICTION AND PERSONNEL.]

The jurisdiction of the workers' compensation court of appeals, as provided under Minnesota Statutes, section 175A.01, subdivision 5, is transferred to the court of appeals. All contracts, books, plans, papers, records, and property of every description of the workers' compensation court of appeals relating to its transferred responsibilities and within its jurisdiction or control are transferred to the court of appeals; except that all case files are transferred to the clerk of the appellate courts. All classified employees and staff attorneys of the workers' compensation court of appeals must be given preference in the employment of personnel required to staff the increased caseload of the court of appeals as a result of transfer of jurisdiction under this section.

Sec. 8. [INCREASED JUDGES.]

The number of judges on the court of appeals as of January 1, 1992, shall be increased by five.

Sec. 9. [INSTRUCTION TO REVISOR.]

In every instance in Minnesota Statutes in which the term "workers' compensation court of appeals" appears, the revisor of statutes shall change that reference to the "court of appeals."

Sec. 10. [REAPPROPRIATION.]

$ . . . . . is reappropriated from the special compensation fund, as a result of the savings to that fund in fiscal years 1992 and 1993 due to the abolition of the workers' compensation court of appeals, to the court of appeals for the purposes of this article.

Sec. 11. [REPEALER.]

Minnesota Statutes 1990, sections 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; and 175A.10, are repealed.

Sec. 12. [EFFECTIVE DATE.]

This article is effective January 1, 1992; except that section 1 is effective July 1, 1991.

ARTICLE 5

WORKERS' COMPENSATION INSURANCE

Section 1. Minnesota Statutes 1990, section 79.095, is amended to read:

79.095 [APPOINTMENT OF ACTUARY.]

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

Sec. 2. Minnesota Statutes 1990, section 79.251, subdivision 1, is amended to read:

Subdivision 1. [ASSIGNED RISK PLAN; PARTICIPATION.] ~~(1) An assigned risk plan review board is created for the purposes of review of the operation of section 79.252 and this section.~~ *The state fund mutual insurance*

company and all insurers authorized to write workers' compensation and employers' liability insurance in this state shall participate in a plan providing for the equitable apportionment of insurance coverage to employers who have been rejected for insurance coverage by a licensed insurer in the manner set forth in section 79.252.

Subd. 1a. [BOARD OF GOVERNORS.] *(1) The operation of the assigned risk plan is subject to the supervision of the board of governors of the plan.* The board shall have all the usual powers and authorities necessary for the discharge of its duties under this section and may contract with individuals in discharge of those duties.

(2) The board shall consist of six members to be appointed by the commissioner of commerce. ~~Three members shall be insureds holding policies or contracts~~ *One member shall be an insured holding a policy or contract* of coverage issued pursuant to subdivision 4. ~~Two~~ *Five* members shall be insurers pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b). ~~The commissioner shall be the sixth member and shall vote.~~

Initial appointments *to the board* shall be made by ~~September~~ *January* 1, ~~1981~~ *1992*, and terms shall be for three years duration. Removal, the filling of vacancies and compensation of the members ~~other than the commissioner~~ shall be as provided in section 15.059.

(3) The ~~assigned risk plan review~~ board shall audit the reserves established (a) for individual cases arising under policies and contracts of coverage issued under subdivision 4 and (b) for the total book of business issued under subdivision 4.

(4) The ~~assigned risk plan review~~ board shall ~~monitor the operations of section 79.252 and this section and shall periodically make recommendations to the commissioner, and to the governor and legislature when appropriate, for improvement in the operation of those sections~~ *prepare a plan of operation for the assigned risk plan subject to the approval of the commissioner. The policy forms, rates, merit rating, rating plans, and classification and rating systems of the assigned risk plan shall be those filed for use by the Minnesota workers' compensation insurers rating association, and approved by the commissioner, subject to the requirements of this chapter.*

The board shall meet quarterly, or more frequently if necessary, to review plan enrollment, plan administration, rate adequacy, loss ratios, and reserving practices. No later than June 30 of each year, the board shall file an annual report with the legislature and the workers' compensation insurers association. The report must be signed by each member of the board. The report must include an actuarial evaluation of the plan by a fellow of the casualty actuarial society who shall be retained and paid by the board.

(5) ~~All insurers and self-insurance administrators issuing policies or contracts under subdivision 4 shall pay to the commissioner a .25 percent assessment on premiums for policies and contracts of coverage issued under subdivision 4 for the purpose of defraying the costs of the assigned risk plan review board. Proceeds of the assessment shall be deposited in the state treasury and credited to the general fund.~~

~~(6)~~ The assigned risk plan and the ~~assigned risk plan review~~ board *of governors* shall not be deemed a state agency.

Sec. 3. Minnesota Statutes 1990, section 79.251, subdivision 2, is amended to read:

Subd. 2. [APPROPRIATE MERIT RATING PLAN.] The *board of governors, subject to approval by the* commissioner *of commerce*, shall develop an appropriate merit rating plan which shall be applicable to all *nonexperience rated* insureds holding policies or contracts of coverage issued pursuant to subdivision 4, and to the insurers or self-insurance administrators issuing those policies or contracts. The plan ~~shall~~ *must* provide a maximum merit *credit or debit* adjustment equal to ten percent of earned premium. The actual adjustment may vary with insured's loss experience.

Sec. 4. Minnesota Statutes 1990, section 79.251, subdivision 3, is amended to read:

Subd. 3. [RATES.] ~~Insureds served by the assigned risk plan shall be charged premiums based upon a rating plan, including a merit rating plan adopted by the commissioner by rule.~~ *(a)* The ~~commissioner~~ *board of governors* shall ~~annually, not later than January 1 of each year, establish the~~ *file with the commissioner a* schedule of rates ~~applicable to~~ *for use in determining premiums charged employers in the* assigned risk plan ~~business~~ *at least 30 days prior to their effective date*. Assigned risk ~~premiums shall~~ *rates must* not be lower than rates generally charged by insurers for the business. ~~The commissioner shall fix the compensation received by the agent of record. The establishment of the assigned risk plan rates and agent fees are not subject to chapter 14.~~

(b) The rates filed by the board shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within 30 days after the filing is made. In disapproving a filing made pursuant to this section, the commissioner shall have the same authority, and follow the same procedure, as in disapproving a filing pursuant to section 79.58.

(c) The board shall fix the compensation received by the agent of record. Agent compensation shall be established at a level that is neither an incentive nor a disincentive to place an employer in the assigned risk plan. The establishment of the assigned risk plan rates and agent fees are not subject to chapter 14.

Sec. 5. Minnesota Statutes 1990, section 79.251, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATION.] The ~~commissioner~~ *board of governors* shall enter into service contracts as necessary or beneficial for accomplishing the purposes of the assigned risk plan. Services related to the administration of policies or contracts of coverage shall be performed by one or more qualified insurance companies licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b), or self-insurance administrators licensed pursuant to section 176.181, subdivision 2, clause (2), paragraph (a). A qualified insurer or self-insurance administrator shall possess sufficient financial, professional, administrative, and personnel resources to provide the services contemplated in the contract. Services related to assignments, data management, assessment collection, and other services shall be performed by a licensed data service organization. The cost of those services is an obligation of the assigned risk plan.

Each insurer or self-insured administrator who performs services pursuant to this subdivision shall be required to report loss experience data to the Minnesota workers' compensation insurers association in accordance with the statistical plan and rules of the organization as approved by the commissioner, and shall keep a record of the premium and losses paid under

each workers' compensation policy written in Minnesota in the form required by the commissioner.

Sec. 6. Minnesota Statutes 1990, section 79.251, subdivision 5, is amended to read:

Subd. 5. [ASSESSMENTS.] ~~The commissioner shall assess~~ All insurers licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b), *shall be assessed* an amount sufficient to fully fund the obligations of the assigned risk plan, if the ~~commissioner determines that the assets of the assigned risk plan are insufficient to meet its obligations~~ *annual report of the board of governors reveals a deficit in the plan. The assessment must be made within 30 days of the date the annual report of the board is filed.* The assessment of each insurer shall be in a proportion equal to the proportion which the amount of compensation insurance written in this state during the preceding calendar year by that insurer bears to the total compensation insurance written in this state during the preceding calendar year by all licensed insurers.

Sec. 7. Minnesota Statutes 1990, section 79.252, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] The purpose of the assigned risk plan is to provide workers' compensation coverage to employers rejected by ~~a~~ *two nonaffiliated* licensed insurance ~~company~~ *companies*, pursuant to subdivision 2. *One of these two rejections must come from the insurance company that most recently provided workers' compensation coverage to the employer, unless the employer had no previous coverage. Each rejection must be in writing and must be obtained within 60 days before the date of application to the assigned risk plan. In addition, the rejections must also show the name of the insurance company and the representative contacted.*

Sec. 8. Minnesota Statutes 1990, section 79.252, subdivision 3, is amended to read:

Subd. 3. [COVERAGE.] *(a)* Policies and contracts of coverage issued pursuant to section 79.251, subdivision 4, shall contain the usual and customary provisions of workers' compensation insurance policies, and shall be deemed to meet the mandatory workers' compensation insurance requirements of section 176.181, subdivision 2.

(b) Policies issued by the assigned risk plan pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The board of governors may apply for and obtain any licensure required in any other state to issue that coverage.

Sec. 9. Minnesota Statutes 1990, section 79.252, subdivision 5, is amended to read:

Subd. 5. [RULES.] The commissioner may adopt rules, including ~~emergency~~ *temporary* rules, as may be necessary to implement section 79.251 and this section.

Sec. 10. Minnesota Statutes 1990, section 79.55, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVENESS.] ~~No premium is excessive in a competitive market. In the absence of a competitive market,~~ Premiums are excessive if the expected underwriting profit, together with expected income from

invested reserves for the market in question, that would accrue to an insurer would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business.

Sec. 11. Minnesota Statutes 1990, section 79.56, is amended by adding a subdivision to read:

Subd. 5. [RATE REGULATION.] *(a) Whenever an insurer files a change in its existing rate level or rating plan, the commissioner may hold a hearing to determine if the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. The hearing must be conducted pursuant to chapter 14. The commissioner shall give notice of intent to hold a hearing within 90 days of the filing of the change. It is the responsibility of the insurer to show that the rate level or rating plan is not excessive, inadequate, or unfairly discriminatory. The rate level or rating plan is effective unless it is determined as a result of the hearing that the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. Upon such a finding, the rate level or rating plan is retroactively rescinded and any premiums collected under it must be refunded. This subdivision does not apply to any changes resulting from assessments for the assigned risk plan, reinsurance association, guarantee fund, special compensation fund, or statutory benefit level changes to sections 176.101, subdivisions 1, 2, and 4, 176.111, 176.132, and 176.645 as a result of annual adjustments in the statewide average weekly wage. The disapproval of a rate level or rating plan under this subdivision must be done in the same manner as under section 70A.11, except that the standards of section 79.55 apply.*

(b) Notwithstanding paragraph (a), if the commissioner of labor and industry petitions the commissioner for a hearing pursuant to this subdivision, the commissioner must hold a hearing if the commissioner of labor and industry certifies that the hearing is necessary because a decision of the supreme court or enactment of a statute has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner of labor and industry must make a prima facie showing that law change has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed.

(c) Notwithstanding paragraph (a), the commissioner may hold a hearing if the commissioner determines that the hearing is necessary because of circumstances which result in a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner must make a prima facie showing that the circumstances resulted in a substantial change in the basis upon which the existing rate levels or rating plan was filed.

Sec. 12. [79.565] [PARTICIPATION.]

An employer, or person representing a group of employers, that will be directly affected by a change in an insurer's existing rate level or rating plan filed under section 79.56, subdivision 5, and the commissioner of labor and industry, must be allowed to participate in any hearing under that subdivision challenging the change in rate level or rating plan as being excessive, inadequate, or unfairly discriminatory.

Sec. 13. Minnesota Statutes 1990, section 79.58, subdivision 2, is amended to read:

Subd. 2. [RATING PLANS.] The commissioner may disapprove a rating plan of a data service organization if, after a hearing *conducted pursuant*

to chapter 14, the commissioner finds that it is *excessive, inadequate, or* unfairly discriminatory. *The rating plan is effective until disapproved. It is the responsibility of the data service organization to show that the rating plan is not excessive, inadequate, or unfairly discriminatory.* Any order of disapproval shall require the data service organization to use an alternative rating plan until approval of a rating plan by the commissioner. The commissioner shall not approve any rating plan based upon any data other than Minnesota data, except that other data may be utilized as a supplement to Minnesota data when the commissioner determines that an exceptional case requires such data to establish the statistical credibility of an occupational classification.

Sec. 14. Minnesota Statutes 1990, section 79.61, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED ACTIVITY.] Any data service organization shall perform the following activities:

(a) File statistical plans, including classification definitions, amendments to the plans, and definitions, with the commissioner for approval, and assign each compensation risk written by its members to its approved classification for reporting purposes;

(b) Establish requirements for data reporting and monitoring methods to maintain a high quality data base;

(c) Prepare and distribute a periodic report, in a form prescribed by the commissioner, on ratemaking including, but not limited to the following elements:

(i) development factors and alternative derivations;

(ii) trend factors and alternative derivations and applications;

(iii) pure premium relativities for the approved classification system for which data are reported, provided that the relativities for insureds engaged in similar occupations and presenting substantially similar risks shall, if different, differ by at least ten percent; and

(iv) an evaluation of the effects of changes in law on loss data.

The report shall also include explicit discussion and explanation of methodology, alternatives examined, assumptions adopted, and areas of judgment and reasoning supporting judgments entered into, and the effect of various combinations of these elements on indications for modification of an overall pure premium rate level change. The pure premium relativities and rate level indications shall not include a loading for expenses or profit and no expense or profit data or recommendations relating to expense or profit shall be included in the report or collected by a data service organization;

(d) Collect, compile, summarize, and distribute data from members or other sources pursuant to a statistical plan approved by the commissioner;

(e) Prepare merit rating plan and calculate any variable factors necessary for utilization of the plan. Such a plan may be used by any of its members, at the option of the member provided that the application of a plan shall not result in rates that are unfairly discriminatory;

(f) Provide loss data specific to an insured to the insured at a reasonable cost;

(g) Distribute information to an insured or interested party that is filed

with the commissioner and is open to public inspection; ~~and~~

(h) Assess its members for operating expenses on a fair and equitable basis;

(i) Separate the incurred but unreported losses of its members;

(j) Separate paid and outstanding losses of its members;

(k) Provide information indicating cases in which its members have established a reserve in excess of $50,000;

(l) File information based solely on Minnesota data concerning its members' premium income, indemnity, and medical benefits paid.

Sec. 15. [79.65] [DATA SERVICE ORGANIZATIONS; COVERAGE.]

Subdivision 1. [EXAMINATION BY COMMISSIONER.] *Data service organizations are subject to all the provisions of this chapter. The commissioner or an authorized representative of the commissioner may visit the rating association at any reasonable time and examine, audit, or evaluate the rating association's operations, records, and practices. For purposes of this section, "authorized representative of the commissioner" includes employees of the department of commerce or labor and industry or other parties retained by the commissioner. An examination under this section may be done of any member of data service organizations for purposes of workers' compensation insurance regulation.*

Subd. 2. [COSTS AND EXPENSES.] *The commissioner may order and the data service organization shall pay the costs and expenses of any examination, audit, or evaluation conducted pursuant to subdivision 1. If no order is issued, a sum sufficient to pay these costs and expenses is appropriated from the special compensation fund to the commissioner of commerce.*

Sec. 16. [79.70] [INVESTIGATIONS AND SUBPOENAS.]

Subdivision 1. [GENERAL POWERS.] *In connection with the administration of this chapter, the commissioner of commerce may:*

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter, or in the prescribing of rules or forms under this chapter;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the administration of this chapter;

(4) conduct investigations and hold hearings for the purpose of compiling information with a view to recommending changes in this chapter to the legislature;

(5) examine the books, accounts, records, and files of every licensee under this chapter and of every person who is engaged in any activity regulated under this chapter; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers,

records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; and

(7) require any person subject to this chapter to report all sales or transactions that are regulated under this chapter. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction.

Subd. 2. [POWER TO COMPEL PRODUCTION OF EVIDENCE.] *For the purpose of any investigation, hearing, or proceeding under this chapter, the commissioner or a designated representative may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner considers relevant or material to the inquiry.*

Subd. 3. [COURT ORDERS.] *In case of a refusal to appear or a refusal to obey a subpoena issued to any person, the district court, upon application by the commissioner, may issue to any person an order directing that person to appear before the commissioner, or the officer designated by the commissioner, to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.*

Subd. 4. [SCOPE OF PRIVILEGE.] *No person is excused from attending and testifying or from producing any document or record before the commissioner, or from obedience to the subpoena of the commissioner or any officer designated by the commissioner or in a proceeding instituted by the commissioner, on the ground that the testimony or evidence required may tend to incriminate that person or subject that person to a penalty or forfeiture. No person may be prosecuted or subjected to a penalty or forfeiture for a transaction, matter, or thing concerning which the person is compelled, after claiming the privilege against self-incrimination, to testify or produce documentary or other evidence except that the individual is not exempt from prosecution and punishment for perjury or contempt committed in testifying.*

Subd. 5. [LEGAL ACTIONS; INJUNCTIONS; CEASE AND DESIST ORDERS.] *(a) Whenever it appears to the commissioner that any person has engaged in or is about to engage in any act or practice constituting a violation of this chapter, or any rule or order adopted under this chapter, the commissioner has the powers indicated under paragraphs (b) and (c).*

(b) The commissioner may bring an action in the name of the state in the district court of the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter, or any rule or order adopted or issued under this chapter, or the commissioner may refer the matter to the attorney general or the county attorney of the appropriate county. Upon a proper showing, a permanent or temporary injunction, restraining order, or other appropriate relief must be granted.

(c) The commissioner may issue and serve an order requiring a person to cease and desist from violations of this chapter, or any rule or order adopted or issued under this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order. A hearing must be held not later than seven days after the request for the hearing is received by the commissioner. Within 20

days after receiving the administrative law judge's report, the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. Unless otherwise provided, all hearings must be conducted in accordance with chapter 14. If a person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted under this paragraph.

Subd. 6. [VIOLATIONS AND PENALTIES.] *The commissioner may impose a civil penalty not to exceed $2,000 per violation upon a person who violates this chapter, unless a different penalty is specified under this chapter.*

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 this chapter, or censure that person if the commissioner finds that the order is in the public interest or the person has violated this chapter.*

Subd. 8. [POWERS ADDITIONAL.] *The powers contained in subdivisions 1 to 8 are in addition to all other powers of the commissioner.*

Sec. 17. [79.75] [ACCESS TO INSURER.]

The commissioner, or the designated person, shall have free access during normal business hours to all books, records, securities, documents, and any or all papers relating to the property, assets, business, and affairs of any company, applicant, association, or person that may be examined pursuant to this chapter for the purpose of ascertaining, appraising, and evaluating the assets, conditions, affairs, operations, ability to fulfill obligations, and compliance with all the provisions of law of the company or person insofar as any of the above pertain to the business of insurance of a person, organization, or corporation transacting, having transacted, or being organized to transact business in this state. Every company or person being examined including officers, directors, and agents, shall provide to the commissioner or the designated person convenient and free access at all reasonable hours at its office to all books, records, securities, documents, and any or all papers relating to the property, assets, business, and affairs of the company or person. The officers, directors, and agents of the company or person shall facilitate the examination and aid in the examination so far as it is in their power to do so.

Sec. 18. Minnesota Statutes 1990, section 176A.03, is amended by adding a subdivision to read:

Subd. 3. [COVERAGE OUTSIDE STATE.] *Policies issued by the fund pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The fund may apply for and obtain any licensure required in any other state in order to issue the coverage.*

Sec. 19. Minnesota Statutes 1990, section 221.141, subdivision 1, is amended to read:

Subdivision 1. [FINANCIAL RESPONSIBILITY OF CERTAIN CARRIERS.] No motor carrier and no interstate carrier shall operate a vehicle until it has obtained and has in effect the minimum amount of financial responsibility required by this section. Policies of insurance, surety bonds, other types of security, and endorsements must be continuously in effect and must remain in effect until canceled. Before providing transportation, the motor carrier or interstate carrier shall secure and cause to be filed with the commissioner and maintain in full effect, *both* a certificate of insurance in a form required by the commissioner, evidencing public liability insurance in the amount prescribed, *and acceptable evidences of compliance with the workers' compensation insurance coverage requirements of section 176.181, subdivision 2, by providing the name of the insurance company, the policy number, and the dates of coverage, or the permit to self-insure*. The insurance must cover injuries and damage to persons or property resulting from the operation or use of motor vehicles, regardless of whether each vehicle is specifically described in the policy. This insurance does not apply to injuries or death to the employees of the motor carrier or to property being transported by the carrier. The commissioner shall require cargo insurance for certificated carriers, except those carrying passengers exclusively. The commissioner may require a permit carrier to file cargo insurance when the commissioner deems necessary to protect the users of the service.

Sec. 20. [NOTICE OF INTENT TO CHALLENGE RATE LEVEL CHANGE.]

Notwithstanding Minnesota Statutes, section 79.56, subdivision 5, the commissioner shall have an additional 90 days to give notice of intent to hold a hearing pursuant to that section. This section applies only to challenges to an insurer's change in existing rate levels or rating plan filed between the date the 1992 report required under Minnesota Statutes, section 79.60, is approved by the commissioner of commerce and six months thereafter.

Sec. 21. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in articles 1 to 4 and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of rates in effect on October 1, 1991, must be reduced by 17 percent and applied by the insurer to all policies issued, renewed, or outstanding on or after that date. An insurer may not adjust its filed rating plan to recoup the 17 percent mandated rate reduction under this section. The reduction must be computed on the basis of a 17 percent premium reduction prorated to the expiration of that policy. An insurer shall provide a written notice by November 1, 1991, to all employers having an outstanding policy with the insurer as of October 1, 1991, that reads as follows: "As a result of the changes in the workers' compensation insurance system enacted by the 1991 legislature, you are entitled to a credit or refund to your current premium in an amount of $ . . . . . which reflects a 17 percent mandated premium reduction prorated to the expiration of your policy."

(b) No rate increases may be filed between April 1, 1991, and January 1, 1992.

(c) The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under this section have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory

between employers having similar risks with respect to a particular occupational classification. The commissioner shall present a report detailing the findings and conclusions to the legislature by March 1, 1992.

Sec. 22. [ADJUSTMENT.]

Within 60 days of final enactment of this legislation, the board shall determine whether any adjustment in the assigned risk rates in effect as of the date of enactment are required by this section.

Sec. 23. [REPEALER.]

Minnesota Statutes 1990, sections 79.54; 79.57; and 79.58, subdivision 1, are repealed.

Sec. 24. [EFFECTIVE DATE.]

This article is effective January 1, 1992; except that section 21, paragraphs (a) and (c), are effective October 1, 1991; and section 21, paragraph (b), is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to workers' compensation; regulating benefits, providers, dispute resolution, and insurance; appropriating money; imposing penalties; amending Minnesota Statutes 1990, sections 15A.083, subdivision 7; 79.095; 79.251, subdivisions 1, 2, 3, 4, and 5; 79.252, subdivisions 1, 3, and 5; 79.55, subdivision 2; 79.56, by adding a subdivision; 79.58, subdivision 2; 79.61, subdivision 1; 175.007; 176.011, subdivisions 3, 11a, 18, 27, and by adding a subdivision; 176.021, subdivision 3; 176.041, subdivision 1a; 176.061, subdivision 10, and by adding a subdivision; 176.081, subdivisions 1, 2, and 3; 176.101, subdivisions 1, 2, 4, 5, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 3a, 4, 6, 7, 9, and 11; 176.105, subdivisions 1 and 4; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 18, 20, and 21; 176.131, subdivision 8, and by adding a subdivision; 176.132, subdivisions 1, 2, and 3; 176.135, subdivisions 1, 1a, 5, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.179; 176.183, subdivision 1; 176.215, by adding a subdivision; 176.221, subdivision 6a; 176.305, subdivision 1; 176.351, subdivision 2a; 176.421, subdivision 7; 176.442; 176.461; 176.645, subdivisions 1 and 2; 176.66, subdivision 11; 176.82; 176.83, subdivisions 5, 6, and by adding a subdivision; 176A.03, by adding a subdivision; 221.141, subdivision 1; 268.08, subdivision 3; 353.33, subdivision 5; and 480A.06, subdivisions 3 and 4; proposing coding for new law in Minnesota Statutes, chapters 79; and 176; repealing Minnesota Statutes 1990, sections 79.54; 79.57; 79.58, subdivision 1; 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; 175A.10; 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; 176.106; 176.111, subdivision 8a; 176.135, subdivision 3; and 176.136, subdivision 5."

Mr. Frank questioned whether the amendment was germane.

The President ruled that the amendment was germane.

CALL OF THE SENATE

Mr. Gustafson imposed a call of the Senate for the balance of the proceedings on S.F. No. 1433. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 31 and nays 33, as follows:

Those who voted in the affirmative were:

Beckman	Brataas	Hottinger	McGowan	Sams
Belanger	Chmielewski	Johnson, D.E.	Mehrkens	Stumpf
Benson, D.D.	Day	Johnston	Morse	Vickerman
Benson, J.E.	DeCramer	Knaak	Neuville	
Berg	Frederickson, D.R.	Laidig	Olson	
Bernhagen	Gustafson	Langseth	Pariseau	
Bertram	Halberg	Larson	Renneke	

Those who voted in the negative were:

Adkins	Frank	Lessard	Novak	Riveness
Berglin	Frederickson, D.J.	Luther	Pappas	Samuelson
Cohen	Hughes	Marty	Piper	Solon
Dahl	Johnson, D.J.	Merriam	Pogemiller	Spear
Dicklich	Johnson, J.B.	Metzen	Price	Waldorf
Finn	Kelly	Moe, R.D.	Ranum	
Flynn	Kroening	Mondale	Reichgott	

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

S.F. No. 1433 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 50 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnston	Metzen	Price
Beckman	Finn	Knaak	Moe, R.D.	Ranum
Belanger	Flynn	Kroening	Mondale	Reichgott
Benson, D.D.	Frank	Laidig	Morse	Renneke
Benson, J.E.	Frederickson, D.J.	Larson	Neuville	Riveness
Bertram	Frederickson, D.R.	Lessard	Novak	Sams
Brataas	Halberg	Luther	Olson	Samuelson
Chmielewski	Hottinger	Marty	Pappas	Solon
Cohen	Hughes	McGowan	Pariseau	Spear
Day	Johnson, D.E.	Mehrkens	Piper	Vickerman

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 540 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 540: A bill for an act relating to crimes; regulating the display of handgun ammunition; proposing coding for new law in Minnesota Statutes, chapter 609.

Mr. Kroening moved that the amendment made to H.F. No. 540 by the Committee on Rules and Administration in the report adopted May 16, 1991, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 540 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 52 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnston	Mehrkens	Price
Beckman	DeCramer	Kelly	Metzen	Reichgott
Belanger	Finn	Knaak	Moe, R.D.	Riveness
Benson, D.D.	Flynn	Kroening	Mondale	Sams
Benson, J.E.	Frank	Laidig	Morse	Samuelson
Berglin	Frederickson, D.J.	Langseth	Neuville	Solon
Bernhagen	Frederickson, D.R.	Larson	Novak	Spear
Bertram	Hottinger	Lessard	Olson	Vickerman
Chmielewski	Hughes	Luther	Pappas	
Cohen	Johnson, D.E.	Marty	Pariseau	
Dahl	Johnson, J.B.	McGowan	Piper	

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 695 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 695: A bill for an act relating to domestic violence; battered women; providing that no filing fee shall be charged for issuing a domestic abuse order for protection except under certain circumstances; increasing the penalty for violating an order for protection; authorizing warrantless arrests for violations at a place of employment; permitting the issuance of a new order based on violation of a prior order; increasing the probationary period for misdemeanor domestic assaults; clarifying and expanding the role of the battered women's advisory council; establishing a sexual assault advisory council; updating and correcting certain statutory provisions; amending Minnesota Statutes 1990, sections 518B.01, subdivision 14, and by adding a subdivision; 609.135, subdivision 2; 611A.31, subdivision 2; 611A.32, subdivisions 1 and 2; 611A.33; 611A.34; 611A.35; and 611A.36, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 611A; repealing Minnesota Statutes 1990, section 611A.32, subdivision 4.

Ms. Reichgott moved to amend H.F. No. 695, as amended pursuant to Rule 49, adopted by the Senate May 16, 1991, as follows:

(The text of the amended House File is identical to S.F. No. 835.)

Page 2, after line 27, insert:

"Sec. 2. Minnesota Statutes 1990, section 518B.01, is amended by adding a subdivision to read:

Subd. 3a. [FILING FEE.] *The filing fees for an order for protection under this section are waived for the petitioner. The court shall also direct payment of the reasonable costs of service of process in the manner provided in section 563.01, whether served by a sheriff, private process server, or by publication. The court may direct a respondent to pay to the court administrator the petitioner's filing fees and reasonable costs of service of process if the court determines that the respondent has the ability to pay the petitioner's fees and costs.*

Sec. 3. Minnesota Statutes 1990, section 518B.01, subdivision 4, is amended to read:

Subd. 4. [ORDER FOR PROTECTION.] There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family

or household member personally or on behalf of minor family or household members.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief ~~may be made regardless of~~ *must state* whether ~~or not~~ *there is an existing order for protection in effect under this chapter governing both the parties and whether* there is a pending lawsuit, complaint, petition or other action between the parties *under chapter 257, 518, 518A, 518B, or 518C. The clerk of court shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under this chapter may modify only the provision of an existing order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition for relief may be granted, regardless of whether there is a pending action between the parties.*

(d) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

(e) The court shall advise a petitioner under clause (d) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

(f) The court shall advise a petitioner under clause (d) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.

Sec. 4. Minnesota Statutes 1990, section 518B.01, subdivision 6, is amended to read:

Subd. 6. [RELIEF BY THE COURT.] (a) Upon notice and hearing, the court may provide relief as follows:

(1) restrain the abusing party from committing acts of domestic abuse;

(2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

(3) award temporary custody or establish temporary visitation with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court's deliberation under this subdivision shall in no way delay the issuance of an order for protection granting other reliefs provided for in Laws 1985, chapter 195;

(4) on the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518;

(5) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;

(6) order the abusing party to participate in treatment or counseling services;

(7) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(8) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment; and

(9) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or constable, as provided by this section.

(b) Any relief granted by the order for protection shall be for a fixed period not to exceed one year, except when the court determines a longer fixed period is appropriate.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

Sec. 5. Minnesota Statutes 1990, section 518B.01, subdivision 14, is amended to read:

Subd. 14. [VIOLATION OF AN ORDER FOR PROTECTION.] (a) Whenever an order for protection is granted pursuant to this section, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor. *A person who violates this paragraph within two years after a previous conviction under this paragraph is guilty of a gross misdemeanor. When a court sentences a person convicted of a gross misdemeanor and does not impose a period of incarceration, the court shall make findings on the record regarding the reasons for not requiring incarceration.*

(b) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section restraining the person or excluding the person from the residence *or the petitioner's place of employment*, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. *A peace officer acting in good faith and exercising due care in making an arrest*

pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(c) A violation of an order for protection shall also constitute contempt of court and be subject to the penalties therefor.

(d) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed $10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(e) Upon the filing of an affidavit by the petitioner ~~or~~, any peace officer, *or an interested party designated by the court,* alleging that the respondent has violated any order for protection granted pursuant to this section, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. The court also may refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (a).

(f) *If it is alleged that the respondent has violated an order for protection issued under subdivision 6 and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year.*

(g) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by clause (b).

Sec. 6. Minnesota Statutes 1990, section 609.135, subdivision 2, is amended to read:

Subd. 2. (1) If the conviction is for a felony the stay shall be for not more than three years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(2) If the conviction is for a gross misdemeanor the stay shall be for not more than two years.

(3) If the conviction is for ~~a~~ *any* misdemeanor under section 169.121 *or for a misdemeanor under section 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01*, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(4) If the conviction is for a misdemeanor not specified in clause (3), the stay shall be for not more than one year.

(5) The defendant shall be discharged when the stay expires, unless the stay has been revoked or the defendant has already been discharged."

Page 10, after line 27, insert:

"Sec. 17. Minnesota Statutes 1990, section 629.72, subdivision 2, is amended to read:

Subd. 2. [JUDICIAL REVIEW; RELEASE; BAIL.] *(a)* The judge before whom the arrested person is brought shall review the facts surrounding the arrest and detention. The arrested person must be ordered released pending trial or hearing on the person's personal recognizance or on an order to appear or upon the execution of an unsecured bond in a specified amount unless the judge determines that release (1) will be inimical to public safety, (2) will create a threat of bodily harm to the arrested person, the victim of the alleged assault, or another, or (3) will not reasonably assure the appearance of the arrested person at subsequent proceedings.

(b) If the judge determines release is not advisable, the judge may impose any conditions of release that will reasonably assure the appearance of the person for subsequent proceedings, or will protect the victim of the alleged assault, or may fix the amount of money bail without other conditions upon which the arrested person may obtain release. If conditions of release are imposed, the judge shall issue a written order for conditional release. The court administrator shall immediately distribute a copy of the order for conditional release to the agency having custody of the arrested person and shall provide the agency having custody of the arrested person with any available information on the location of the victim in a manner that protects the victim's safety. Either the court or its designee or the agency having custody of the arrested person shall serve upon the defendant a copy of the order. Failure to serve the arrested person with a copy of the order for conditional release does not invalidate the conditions of release.

(c) If the judge imposes as a condition of release a requirement that the person have no contact with the victim of the alleged assault, the judge may also, on its own motion or that of the prosecutor or on request of the victim, issue an ex parte temporary order for protection under section 518B.01, subdivision 7. Notwithstanding section 518B.01, subdivision 7, paragraph (b), the temporary order is effective until the defendant is convicted or acquitted, or the charge is dismissed, provided that upon request the defendant is entitled to a full hearing on the order for protection under section 518B.01. The hearing must be held within seven days of the defendant's request."

Page 11, after line 15, insert:

"Sec. 21. [EFFECTIVE DATE.]

Sections 5 and 6 are effective August 1, 1991, and apply to crimes committed on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 2, after the second semicolon, insert "modifying provisions dealing with orders for protection and domestic assaults;"

Page 1, line 10, after the semicolon, insert "imposing penalties;"

Page 1, line 11, after the semicolon, insert "518B.01, subdivisions 4, 6, and 14, and by adding a subdivision; 609.135, subdivision 2;"

Page 1, line 13, delete "and" and after the third semicolon, insert "and 629.72, subdivision 2;"

The motion prevailed. So the amendment was adopted.

Mr. Spear moved to amend H.F. No. 695, as amended pursuant to Rule 49, adopted by the Senate May 16, 1991, as follows:

(The text of the amended House File is identical to S.F. No. 835.)

Page 3, line 1, delete "*Six of the sexual assault advisory*"

Page 3, delete lines 2 to 4

Page 3, line 5, delete "*be public members*" and insert "*No more than six of the members of the sexual assault advisory council may be representatives of community or governmental organizations that provide services to sexual assault victims*"

Page 7, line 16, delete everything after the period

Page 7, line 17, delete "*be public members*" and insert "*No more than six of the members of the battered women's advisory council may be representatives of community or governmental organizations that provide services to battered women*"

Page 7, line 20, after the period, insert "*To the extent possible, nonmetropolitan members must be representative of all nonmetropolitan regions of the state.*"

Page 8, line 25, after the period, insert "*The commissioner shall adopt rules governing procedures under which the advisory council or a grant applicant may request reconsideration of the commissioner's decision regarding an advisory council recommendation.*"

Page 9, line 32, delete "*Six of the general crime victims*"

Page 9, delete lines 33 to 35

Page 9, line 36, delete "*be public members*" and insert "*No more than six of the members of the general crime victims advisory council may be representatives of community or governmental organizations that provide services to crime victims*"

Page 11, line 10, delete "*12*" and insert "*11*"

Mr. Waldorf requested division of the amendment as follows:

First portion:

Page 3, line 1, delete "*Six of the sexual assault advisory*"

Page 3, delete lines 2 to 4

Page 3, line 5, delete "*be public members*" and insert "*No more than six of the members of the sexual assault advisory council may be representatives of community or governmental organizations that provide services to sexual assault victims*"

Page 7, line 16, delete everything after the period

Page 7, line 17, delete "*be public members*" and insert "*No more than six of the members of the battered women's advisory council may be representatives of community or governmental organizations that provide services to battered women*"

Page 7, line 20, after the period, insert "*To the extent possible, nonmetropolitan members must be representative of all nonmetropolitan regions of the state.*"

Page 9, line 32, delete "*Six of the general crime victims*"

Page 9, delete lines 33 to 35

Page 9, line 36, delete "*be public members*" and insert "*No more than six of the members of the general crime victims advisory council may be representatives of community or governmental organizations that provide services to crime victims*"

Page 11, line 10, delete "*12*" and insert "*11*"

Second portion:

Page 8, line 25, after the period, insert "*The commissioner shall adopt rules governing procedures under which the advisory council or a grant applicant may request reconsideration of the commissioner's decision regarding an advisory council recommendation.*"

The question was taken on the adoption of the first portion of the amendment. The motion prevailed. So the first portion of the amendment was adopted.

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

The roll was called, and there were yeas 26 and nays 28, as follows:

Those who voted in the affirmative were:

Berglin	Johnson, J.B.	Metzen	Pogemiller	Solon
Bertram	Kroening	Moe, R.D.	Price	Spear
Finn	Laidig	Mondale	Ranum	
Flynn	Lessard	Morse	Reichgott	
Frederickson, D.J.	Luther	Novak	Riveness	
Hottinger	Marty	Piper	Sams	

Those who voted in the negative were:

Adkins	Cohen	Halberg	Langseth	Pappas
Beckman	Dahl	Hughes	Larson	Pariseau
Belanger	Day	Johnson, D.E.	McGowan	Stumpf
Benson, D.D.	Frank	Johnston	Mehrkens	Waldorf
Benson, J.E.	Frederickson, D.R.	Kelly	Neuville	
Bernhagen	Gustafson	Knaak	Olson	

The motion did not prevail. So the second portion of the amendment was

not adopted.

H.F. No. 695 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, J.B.	Mehrkens	Price
Beckman	Finn	Johnston	Metzen	Ranum
Belanger	Flynn	Kelly	Moe, R.D.	Reichgott
Benson, D.D.	Frank	Knaak	Mondale	Riveness
Benson, J.E.	Frederickson, D.J.	Kroening	Morse	Sams
Berglin	Frederickson, D.R.	Laidig	Neuville	Spear
Bernhagen	Gustafson	Langseth	Novak	Stumpf
Bertram	Halberg	Larson	Olson	Waldorf
Brataas	Hottinger	Lessard	Pappas	
Cohen	Hughes	Luther	Pariseau	
Dahl	Johnson, D.E.	Marty	Piper	
Day	Johnson, D.J.	McGowan	Pogemiller	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1174 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1174: A bill for an act relating to water; setting a minimum water use processing fee for water use permits issued for irrigation; amending Minnesota Statutes 1990, section 103G.271, subdivision 6.

Mr. Morse moved to amend S.F. No. 1174 as follows:

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 1990, section 103G.005, subdivision 13a, is amended to read:

Subd. 13a. [ONCE-THROUGH SYSTEM.] "Once-through system" means a space heating, ventilating, air conditioning (HVAC), or refrigeration system used for any type of temperature or humidity control application, utilizing groundwater, that circulates through the system and is then discharged without ~~recirculating the majority of the water in the system components or~~ reusing it for ~~another~~ *a higher priority* purpose."

Page 3, line 7, after the period, insert "*A penalty of two percent per month calculated from the original due date must be imposed on the unpaid balance of fees remaining 30 days after the sending of a second notice of fees due.*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Knaak questioned whether the amendment was germane.

The President ruled that the amendment was germane.

The question was taken on the adoption of the amendment.

The motion prevailed. So the amendment was adopted.

S.F. No. 1174 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 50 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, D.E.	McGowan	Pariseau
Beckman	DeCramer	Johnson, J.B.	Mehrkens	Piper
Belanger	Finn	Johnston	Metzen	Pogemiller
Benson, D.D.	Flynn	Kelly	Moe, R.D.	Price
Benson, J.E.	Frank	Knaak	Mondale	Reichgott
Bernhagen	Frederickson, D.J.	Kroening	Morse	Riveness
Bertram	Frederickson, D.R.	Laidig	Neuville	Sams
Brataas	Gustafson	Larson	Novak	Samuelson
Cohen	Hottinger	Lessard	Olson	Spear
Dahl	Hughes	Marty	Pappas	Stumpf

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1109 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 1109: A bill for an act relating to economic development; creating Advantage Minnesota, Inc.; requiring a report to the legislature; proposing coding for new law in Minnesota Statutes, chapter 116J.

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 44 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Hughes	McGowan	Piper
Beckman	DeCramer	Johnson, D.E.	Mehrkens	Pogemiller
Belanger	Finn	Johnson, J.B.	Metzen	Price
Benson, J.E.	Flynn	Johnston	Moe, R.D.	Reichgott
Berglin	Frank	Knaak	Mondale	Riveness
Bernhagen	Frederickson, D.J.	Kroening	Morse	Sams
Bertram	Frederickson, D.R.	Laidig	Neuville	Samuelson
Brataas	Gustafson	Larson	Novak	Stumpf
Cohen	Hottinger	Marty	Pariseau	

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 761 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 761: A bill for an act relating to education; permitting the state board of technical colleges to develop training materials for people who provide services to people with developmental disabilities; creating an advisory task force; requiring a report.

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 43 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Hughes	Mehrkens	Pogemiller
Beckman	DeCramer	Johnson, J.B.	Metzen	Price
Belanger	Finn	Johnston	Moe, R.D.	Riveness
Benson, D.D.	Flynn	Knaak	Mondale	Sams
Benson, J.E.	Frank	Kroening	Morse	Spear
Berglin	Frederickson, D.J.	Laidig	Novak	Stumpf
Bernhagen	Frederickson, D.R.	Larson	Olson	Waldorf
Brataas	Gustafson	Marty	Pariseau	
Cohen	Hottinger	McGowan	Piper	

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 222 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 222: A bill for an act relating to international trade; establishing a regional international trade service center pilot project; appropriating money.

Mr. Dahl moved to amend H.F. No. 222, the unofficial engrossment, as follows:

Page 3, line 15, after the period, insert "*Money made available from state sources may be used to make a grant to the Red River trade corridor project.*"

The motion prevailed. So the amendment was adopted.

H.F. No. 222 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 43 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, J.B.	Mehrkens	Pogemiller
Beckman	Day	Johnston	Metzen	Price
Belanger	Finn	Knaak	Moe, R.D.	Riveness
Benson, J.E.	Flynn	Kroening	Mondale	Sams
Berglin	Frank	Laidig	Morse	Spear
Bernhagen	Frederickson, D.J.	Langseth	Novak	Stumpf
Brataas	Frederickson, D.R.	Luther	Olson	Waldorf
Chmielewski	Hottinger	Marty	Pariseau	
Cohen	Hughes	McGowan	Piper	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1533 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1533

A bill for an act relating to the organization and operation of state government; appropriating money for the protection of the state's environment and natural resources; amending Minnesota Statutes 1990, sections 14.18;

41A.09, subdivision 3; 85A.02, subdivision 17; 103B.321, subdivision 1; and 116P.11.

May 18, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1533, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1533 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [ENVIRONMENT AND NATURAL RESOURCES; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "1991," "1992," and "1993," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1991, June 30, 1992, or June 30, 1993, respectively.

SUMMARY BY FUND

	1992	1993	TOTAL
General	$143,129,500	$139,929,500	$283,059,000
Environmental	17,740,000	19,687,000	37,427,000
Metro Landfill Contingency Trust	1,663,000	797,000	2,460,000
Special Revenue	1,040,000	1,040,000	2,080,000
Natural Resources	18,612,000	17,334,000	35,946,000
Game and Fish	49,609,000	50,733,000	100,342,000
Permanent School Trust	565,000	635,000	1,200,000
Minnesota Resources	16,534,000	-0-	16,534,000
Environmental Trust	14,960,000	-0-	14,960,000
Oil Overcharge	3,500,000	-0-	3,500,000
TOTAL	267,352,500	230,155,500	497,508,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1992	1993

Sec. 2. POLLUTION CONTROL

AGENCY

Subdivision 1. Total Appropriation		30,884,000	30,013,000
	1992	1993	
Approved Complement -	700	685	
General -	185	160	
Environmental -	205	215	
Federal -	235	235	
Metro Landfill Contingency -	2	2	
Special Revenue -	73	73	

Summary by Fund

General	11,603,000	9,651,000
Environmental	16,763,000	18,710,000
Metro Landfill Contingency	1,663,000	797,000
Special Revenue	855,000	855,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Water Pollution Control

7,162,000 5,588,000

Summary by Fund

General	5,275,000	3,633,000
Environmental	1,887,000	1,955,000

$1,280,000 the first year is for grants to local units of government for the clean water partnership program. Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

$100,000 the first year is for grants to municipalities who have experienced catastrophic failure of wastewater treatment facilities resulting from unstable geological formations and which required immediate action to avoid impacts to drinking water supplies.

$250,000 the first year is for a grant to the Western Lake Superior Sanitary Sewer District for the payment of debt service.

Subd. 3. Air Pollution Control

4,626,000 5,866,000

Summary by Fund

General	454,000	-0-
Environmental	3,317,000	5,011,000

Special Revenue	855,000	855,000

Subd. 4. Groundwater and Solid Waste Pollution Control

10,038,000	9,366,000

Summary by Fund

General	2,124,000	2,313,000
Environmental	6,259,000	6,264,000
Metro Landfill Contingency	1,655,000	789,000

All money in the environmental response, compensation, and compliance account in the environmental fund not otherwise appropriated is appropriated to the commissioner of finance for transfer to the pollution control agency and the commissioner of agriculture for purposes of Minnesota Statutes, section 115B.20, subdivision 2, clauses (1), (2), (3), (4), (11), (12), and (13). This appropriation is available until June 30, 1993.

$1,000,000 the first year and $1,000,000 the second year are appropriated from the motor vehicle transfer account for transfer to the environmental response, compensation, and compliance account in the environmental fund.

All money in the metropolitan landfill abatement account in the environmental fund not otherwise appropriated is appropriated to the pollution control agency for payment to the metropolitan council and may be used by the council for the purposes of Minnesota Statutes, section 473.844. The council shall report to the legislative commission on waste management its budget and work program for spending this appropriation.

Any unencumbered balance from the metropolitan landfill contingency action trust fund remaining in the first year does not cancel but is available for the second year.

$92,000 the first year and $127,000 the second year is for a grant to the department of administration for assistance in funding a central materials recovery facility. Any unencumbered balance at the end of the first year does not cancel and is available for the second year.

Subd. 5. Hazardous Waste Pollution Control

4,993,000	5,095,000

Summary by Fund

General	1,786,000	1,782,000
Environmental	3,207,000	3,313,000

Subd. 6. Regional Support

Environmental	
52,000	52,000

The commissioner shall prepare a study on regionalization for presentation to the chairs of the house and senate committees on governmental operations, the house appropriations committee and the senate finance committee by January 15, 1992. The study shall identify options and costs associated with relocating specific agency functions to locations other than the agency's central office. The report shall identify the specific functions that would be relocated, the rationale used for selecting these specific functions for relocation, the geographic areas of the state that would receive these functions, the numbers of personnel involved in the relocation, the impact on service to the public of the proposed relocations, an implementation strategy for the proposed plan and the costs associated with the regionalization of these functions in comparison to the savings, if any, accrued from the relocation.

Subd. 7. General Support

5,250,000	5,343,000

Summary by Fund

General	2,104,000	2,123,000
Environmental	2,041,000	2,115,000
Metro Landfill Contingency	8,000	8,000

Subd. 8. General Reduction

(140,000)	(200,000)

Sec. 3. OFFICE OF WASTE MANAGEMENT 20,783,000 20,525,000

	1992	1993
Approved Complement -	53	53
General -	49	49
Environmental -	3	3
Federal -	1	1

Summary by Fund

General	19,936,000	19,678,000
Environmental	847,000	847,000

$14,008,000 the first year and $14,008,000 the second year are for SCORE block grants

to counties.

$250,000 the first year is to develop markets for mixed municipal solid waste compost and to improve model operations at existing mixed municipal solid waste composting facilities that will improve the marketability of the compose product. This appropriation is available only as matched by an equal amount of private money. Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

The director, in cooperation with the pollution control agency and the legislative commission on waste management shall study mechanisms for assessing the costs of waste disposal to the source of particular types of waste based on the impact that the particular waste has on the waste stream and the environment. The study should develop recommendations for a fee structure and identify the costs associated with implementing a fee structure for disposal based on the type of waste being disposed. A report shall be submitted to the legislative commission on waste management for consideration by January 1992.

Sec. 4. ZOOLOGICAL BOARD			8,971,000	8,826,000
	1992	1993		
Approved Complement -	159	159		
General -	141	141		
Special Revenue -	15	15		
Gift -	3	3		

$125,000 in the first year is for major maintenance. In addition, any revenue received from the proposed bird amphitheater admissions sales during fiscal year 1993, beyond the first $400,000 in revenue from this particular revenue source is available for use by the board for major maintenance until expended.

Sec. 5. NATURAL RESOURCES

Subdivision 1. Total Appropriation			147,088,000	146,384,000
	1992	1993		
Agency Approved - Full-Time Equivalency	2,721	2,721		
Summary by Fund				
General		78,302,000	77,682,000	
Game and Fish		49,609,000	50,733,000	
Natural Resources		18,612,000	17,334,000	

Permanent School	565,000	635,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Of the total amount appropriated to the commissioner by this act, no more than $99,500,000 the first year and $99,000,000 the second year may be used for salary related expenses unless adjusted in accordance with the provisions of Minnesota Statutes, section 16A.123, subdivision 5.

Subd. 2. Mineral Resources Management

5,295,000 5,272,000

$325,000 the first year and $325,000 the second year are for iron ore cooperative research, of which $200,000 the first year and $200,000 the second year are available only as matched by $1 of nonstate money for each $1 of state money. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

$844,000 the first year and $826,000 the second year are for mineral diversification. Any unencumbered balance remaining in the first year does not cancel but is available for the second year. The commissioner is authorized one position in the unclassified service for minerals diversification.

Subd. 3. Water Resources Management

8,641,000 7,965,000

Summary by Fund

General	8,544,000	7,866,000
Natural Resources	97,000	99,000

$1,107,000 the first year and $1,106,000 the second year are available for shoreland management grants to include $85,000 each year of the biennium for a grant to the North Shore Management Board. Pursuant to existing law and department rules, the metropolitan area shall be considered in distribution of these funds. The unencumbered balance at the end of the first year does not cancel and is available for the second year.

$75,000 the first year and $75,000 the second year is to conduct the stream maintenance program under Minnesota Statutes, section 103G.701. Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

$10,000 the first year is available for stream stabilization on the Snake River.

$135,000 of this appropriation in the first year is from the general fund for a loan to the city of Fridley for the purpose of reconstructing the Locke Lake dam pursuant to Minnesota Statutes, section 103G.511, subdivision 10. Notwithstanding Minnesota Statutes, section 103G.511, subdivision 10, clause (e), principal and interest payments received by the commissioner of finance in repayment of the loan shall be deposited in the general fund.

$150,000 of this appropriation is for a grant to the city of Fridley for the purpose of reconstructing the Locke Lake dam.

Subd. 4. Forest Management

23,155,000 23,311,000

$750,000 the first year and $750,000 the second year are for emergency fire fighting. Of this amount, $500,000 the first year and $550,000 the second year are for presuppression costs of emergency fire fighting and are not subject to transfer. If the appropriation for either year is insufficient, the appropriation for the other year is available for it. If these appropriations are insufficient to cover all costs of suppression, the amount necessary to pay for emergency firefighting expenses during the biennium is appropriated from the general fund.

$343,000 the first year and $343,000 the second year are for grants to the University of Minnesota College of Natural Resources. $147,000 of this amount each year is for hybrid aspen and hybrid larch research and development at the North Central Experiment Station at Grand Rapids. $196,000 of this amount each year is for the paper science and recycling program.

$120,000 the first year and $120,000 the second year from the general fund under Minnesota Statutes, section 89.04, are for grants to the board of water and soil resources for cost-sharing with landowners in the state forest improvement program. This appropriation is not subject to any budget reductions made in the agency.

$385,000 from the forest nursery account in the special revenue fund may be spent for necessary construction at Badoura nursery.

$25,000 the first year and $25,000 the second year are for county forest management grants.

Subd. 5. Parks and Recreation Management

19,840,000 19,802,000

Summary by Fund

General	19,256,000	19,213,000
Natural Resources	584,000	589,000

$584,000 the first year and $589,000 the second year are from the water recreation account in the natural resources fund for state park development projects. If the appropriation in either year is insufficient, the appropriation for the other year is available for it.

As cash flow permits, $800,000 the first year and $350,000 the second year are transferred from the state parks working capital account in the special revenue fund to the general fund and are appropriated for state park resource management and interpretive programs. No money shall be spent on the resource management or interpretive programs until all expenses attributable to the revenue producing program have been covered.

The commissioner shall operate pumping facilities at Hill Annex Mine state park sufficient to maintain a water level not to exceed the height of the area known as "pocket A" for the duration of the biennium to assess the pumping and operational costs associated with maintaining this water level. The commissioner shall report the projected pumping and operational costs of maintaining this level to the legislature no later than January 1, 1993.

$60,000 and three full-time equivalent positions the first year and $60,000 and three full-time equivalent positions the second year are for an increase in the state park planning effort.

Subd. 6. Trails and Waterways

10,993,000 11,095,000

Summary by Fund

General	1,229,000	1,227,000
Game and Fish	750,000	770,000
Natural Resources	9,014,000	9,098,000

$2,248,000 the first year and $2,248,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for snowmobile grants-in-aid.

$250,000 the first year and $250,000 the second year are from the water recreation account in the natural resources fund for a safe harbor program on Lake Superior. Any unencumbered balance at the end of the first year does not cancel and is available for the second year.

The commissioner shall submit recommendations to the legislature before January 1, 1992, concerning the snowmobile account, its continuing viability, and the grants made to local governments from the snowmobile account for grants-in-aid trail operations and maintenance equipment. The recommendations should address, at a minimum, ways to ensure funding for trail-grooming equipment and the appropriateness of the present formula dedicating a share of the unrefunded gas tax to the snowmobile account.

Subd. 7. Fish and Wildlife Management

35,653,000 36,323,000

Summary by Fund

General	2,770,000	2,763,000
Game and Fish	31,078,000	31,707,000
Natural Resources	1,805,000	1,853,000

$874,000 in the first year and $874,000 the second year are appropriated from the game and fish fund for payments to counties in lieu of taxes on acquired wildlife lands and is not subject to transfer.

$1,367,000 the first year and $1,404,000 the second year are from the nongame wildlife management account in the natural resources fund for the purpose of nongame wildlife management. Any unencumbered balance remaining in the first year does not cancel but is available the second year. The commissioner of natural resources shall submit to the legislature by January 15, 1992, a budget request to spend any excess receipts from the nongame checkoff.

$130,000 the first year and $130,000 the second year are for deer and bear management to include emergency deer feeding. If the appropriation for either year is insufficient, the appropriation for the other year is available.

$175,000 and three full-time equivalent positions each year is from the game and fish fund for an additional deer habitat improvement program and shall not be considered as part of the budget base for the 1994-1995 biennium.

$100,000 the first year and $100,000 the second year are from the game and fish fund for special hunt opportunities.

$50,000 the first year and $50,000 the second year are from the game and fish fund to coordinate the North American waterfowl management plan.

$100,000 the first year and $100,000 the second year are from the game and fish fund for accelerated wild turkey management.

$200,000 the first year and $200,000 the second year are from the game and fish fund for lake and stream management.

$50,000 the first year and $50,000 the second year are from the game and fish fund for an accelerated wildlife lakes survey.

$120,000 the first year is from the game and fish fund for the Heron Lake and Swan Lake projects. Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

$140,000 each year is appropriated from the game and fish fund for the aquatic education program. One-half of the funds expended must be in the seven-county metropolitan area.

$1,651,000 the first year and $1,644,000 the second year are for the reinvest in Minnesota programs of game and fish, critical habitat, and wetlands, established under Minnesota Statutes, section 84.95, subdivision 2. Any unencumbered balance for the first year does not cancel but is available for use the second year.

The commissioner, in cooperation with the commissioner of agriculture shall study and make recommendations to the legislature by January 1, 1993, for a program for providing assistance to farmers for crop damage caused by wild animals.

The commissioner may not allow a shooting range to be constructed at the Carlos Avery Wildlife Management area unless a proposal is submitted to the legislature for approval.

Subd. 8. Enforcement

	14,349,000	14,616,000
Summary by Fund		
General	2,226,000	2,220,000
Game and Fish	9,556,000	9,800,000

Natural Resources	2,567,000	2,596,000

$1,125,000 the first year and $1,125,000 the second year are from the water recreation account in the natural resources fund for grants to counties for boat and water safety.

The commissioner shall evaluate the number of metropolitan conservation officer stations in relation to the population and need in the metropolitan area and make recommendations to the legislature for appropriate readjustment of assignments by January 1, 1992.

Subd. 9. Field Operations Support

12,136,000 10,863,000

Summary by Fund

General	5,145,000	5,168,000
Game and Fish	4,511,000	4,636,000
Natural Resources	1,915,000	424,000
Permanent School	565,000	635,000

$565,000 the first year and $667,000 the second year are for land sale costs under Minnesota Statutes, section 92.67, subdivision 3. Any unencumbered balance remaining in the first year does not cancel and is available for the second year.

Any unencumbered balance remaining in the appropriation under Minnesota Statutes, section 92.46, subdivision 1, paragraph (d), in the first year does not cancel and is available for the second year.

$1,500,000 for the biennium is from the land acquisition account in the natural resources fund and is for acquisition costs associated with Tettegouche state park, Glendalough state park, and other state park in-holdings. This appropriation is available in either year of the biennium.

Subd. 10. Regional Operations Support

5,121,000 5,136,000

Summary by Fund

General	3,984,000	3,969,000
Game and Fish	888,000	913,000
Natural Resources	249,000	254,000

Subd. 11. Special Services and Programs

5,853,000 5,881,000

Summary by Fund

General	4,558,000	4,559,000
Game and Fish	482,000	494,000
Natural Resources	813,000	828,000

$103,000 the first year and $103,000 the second year are for a grant to the Mississippi headwaters board for up to 50 percent of the cost of implementing the comprehensive plan for the upper Mississippi within areas under its jurisdiction.

$17,000 the first year and $17,000 the second year are for payment to the Leech Lake Band of Chippewa Indians to implement their portion of the comprehensive plan for the upper Mississippi.

Notwithstanding any other law to the contrary, any reductions in the department of natural resources' agency operating budget or reductions in agency program efforts prompted by specific legislative action or economic conditions during the biennium shall not be applied against the budget for the Minnesota Conservation Corps. Should the need arise, the commissioner shall reallocate resources within the department to ensure that the corps is maintained at no less than the same level of effort as accomplished during the 1990-1991 biennium.

The commissioner of the department of natural resources shall have the authority to contract with and make grants to nonprofit agencies to carry out the purposes, plans, and programs of the office of youth programs, Minnesota conservation corps.

Subd. 12. Administrative Management Services

6,552,000 6,640,000

Summary by Fund

General	2,640,000	2,634,000
Game and Fish	2,344,000	2,413,000
Natural Resources	1,568,000	1,593,000

The commissioners of natural resources, public safety, and employee relations shall assess the effectiveness of the critical stress debriefing unit and the appropriateness of its current organizational placement. They shall report their findings and recommendations to the legislature by February 15, 1992.

Subd. 13. General Reduction

($500,000)	($520,000)	
Sec. 6. BOARD OF WATER AND SOIL RESOURCES	8,076,000	8,020,000

	1992	1993
Approved Complement -	36	36
General -	34	34
Federal -	2	2

$10,000 the first year and $10,000 the second year are for the International Water Coalition.

$849,000 the first year and $849,000 the second year are for general purpose grants to soil and water conservation districts, including conservation tillage and review and comment on water permits. Upon approval of the board, expenditures may be made from these appropriations for supplies and services benefiting soil and water conservation districts.

$1,461,000 the first year and $1,461,000 the second year are for grants to soil and water conservation districts for cost-sharing contracts for erosion control and water quality management. This appropriation is available until expended.

$159,000 the first year and $159,000 the second year are for grants-in-aid to soil and water conservation districts and local units of government to assist them in solving sediment and erosion control problems. Grants must not exceed 50 percent of total project costs or 50 percent of the local share if federal money is used. Priority must be given to projects designed to solve lakeshore, stream bank, and roadside erosion and to projects eligible for federal matching money.

$189,000 the first year and $189,000 the second year are for grants to watershed districts and other local units of government in the southern Minnesota river basin study area 2 for flood plain management.

$900,000 the first year and $900,000 the second year are for technical services and implementation of the conservation reserve program. Of this appropriation, $750,000 the first year and $750,000 the second year must be distributed to soil and water conservation districts.

$2,435,000 the first year and $2,535,000 the second year are for comprehensive local water planning.

$200,000 the first year is for a pilot project for a statewide abandoned well inventory. The board shall select counties for inclusion in this pilot that are representative of geographic, hydrological, geologic, and demographic areas of the state. The pilot will include an effort to identify the locations of abandoned wells in the selected counties and an analysis of the costs and an evaluation of the need for a statewide inventory of abandoned wells. The board shall submit a report to the legislature with its findings and recommendations by December 1, 1992. Any unencumbered balance at the end of the first year does not cancel and is available for the second year.

Any unencumbered balance in the board's program of grants to soil and water conservation districts and counties does not cancel at the end of the first year and is available for the second year for the same grant program.

Sec. 7. AGRICULTURE

Subdivision 1. Total Appropriation		$13,023,000	$12,855,000
	1992	1993	
Approved Complement -	537	537	
General -	218	218	
Environmental -	2	2	
Special/Revolving -	293	293	
Federal -	24	24	

Summary by Fund

General	12,708,000	12,540,000
Environmental	130,000	130,000
Special Revenue	185,000	185,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Protection Service

5,264,000	5,254,000

Summary by Fund

General	5,134,000	5,124,000
Environmental	130,000	130,000

$130,000 the first year and $130,000 the second year are from the environmental response, compensation, and compliance account in the environmental fund.

Subd. 3. Promotion and Marketing

753,000 750,000

$75,000 the first year and $75,000 the second year are for transfer to the Minnesota grown matching account which may be used as grants for Minnesota grown promotion.

Subd. 4. Family Farm Services

1,318,000 1,318,000

$629,000 the first year and $629,000 the second year are for family farm security interest payment adjustments. If the appropriation for either year is insufficient, the appropriation for the other year is available for it. During the biennium, such sums that are not needed for interest payment adjustments are available for farm crisis assistance. No new loans may be approved in fiscal year 1992 or 1993.

$200,000 the first year and $200,000 the second year are appropriated to the commissioner to manage the existing family farm advocacy program. The commissioner shall target these funds to areas of the state with the greatest amount of farm stress.

$150,000 the first year and $150,000 the second year are for agriculture information centers and is only available on a dollar for dollar nonstate match. The funds may be released at the rate of one dollar for each dollar of matching nonstate money that is raised. The commissioner may credit in-kind contributions from nonstate sources for up to one-half of the required nonstate match. This appropriation shall be used to target the areas of the state with the greatest amount of farm stress and shall not be a part of the 1994-1995 biennial budget base.

$100,000 the first year and $100,000 the second year are for supplemental grant funding to the commissioner for farm and small business management programs through the technical college system. The commissioner is authorized to make a supplemental grant or grants to the board of technical colleges for the instructional materials, instructional staff, support staff, and tuition assistance costs associated with this program not to exceed the amount of supplemental funding made available. Any supplemental grants that may be made to this program shall not be considered as part of the 1994-1995 budget base for the technical college system or the department of agriculture.

Subd. 5. Administrative Support and Grants

5,688,000 5,533,000

Summary by Fund

General	5,503,000	5,348,000
Special Revenue	185,000	185,000

$185,000 the first year and $185,000 the second year are from the commodities research and promotion account in the special revenue fund.

$80,000 the first year and $80,000 the second year are for grants to farmers for demonstration projects involving sustainable agriculture. If a project cost is more than $25,000, the amount above $25,000 must be cost-shared at a state-applicant ratio of one to one. Priorities must be given for projects involving multiple parties. Up to $20,000 each year may be used for dissemination of information about the demonstration grant projects. If the appropriation for either year is insufficient, the appropriation for the other is available.

The unexpended balance appropriated for grants to farmers for demonstration projects involving sustainable agriculture in Laws 1989, chapter 269, section 7, subdivision 5, does not cancel and is reappropriated to the commissioner and added to other appropriations for the biennium ending June 30, 1993, to carry out such demonstrations to be used in either year of the biennium.

$70,000 the first year and $70,000 the second year are for the Northern Crops Institute. These appropriations may be spent to purchase equipment and are available until spent.

$40,000 the first year and $40,000 the second year are for payment of claims relating to livestock damaged by endangered animal species. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

$80,000 the first year and $80,000 the second year are for the seaway port authority of Duluth.

$10,000 the first year is for payment of claims relating to agricultural crops damaged by elk and is available until June 30, 1993.

$19,000 the first year and $19,000 the second year is for a grant to the Minnesota livestock

breeder's association.

$100,000 the first year and $100,000 the second year are for a base adjustment to grants to the state agricultural society to be spent as grants to county agricultural societies for premiums for county fair competitions in arts and crafts. This appropriation must be included in the 1994-1995 biennial budget base.

$160,000 the first year is for farm safety programs. $120,000 is for payment to instructors in a youth farm safety program and $40,000 is for a farm safety audit pilot project. This appropriation is available for either year of the biennium. If any amount of the appropriation for either program remains unencumbered on September 1, 1992, it becomes available for the other program.

Sec. 8. BOARD OF ANIMAL HEALTH			2,085,000	2,080,000
Approved Complement -	37	35		
General -	36	34		
Federal -	1	1		

This appropriation includes $25,000 the first year and $25,000 the second year for payment of indemnities. If the appropriation for indemnities for either year is insufficient, the appropriation for the other year is available for it. Indemnities of less than $1 must not be paid.

$150,000 the first year and $150,000 the second year are for an integrated pseudorabies control and research program. The board of animal health must consult with the pseudorabies advisory council about how this money should be spent. The appropriation is available only as matched, dollar for dollar, by money from nonstate sources.

Sec. 9. MINNESOTA-WISCONSIN BOUNDARY AREA COMMISSION	127,000	127,000

This appropriation is only available to the extent it is matched by an equal amount from the state of Wisconsin.

Sec. 10. CITIZENS COUNCIL ON VOYAGEUR'S NATIONAL PARK	80,000	80,000
Sec. 11. SCIENCE MUSEUM OF MINNESOTA	1,138,000	1,138,000

Upon completion of its national tour, the Science Museum of Minnesota shall donate free of charge the "Wolves and Humans" exhibit

to the International Wolf Center for permanent housing. In the event that the construction necessary to display the exhibit at the International Wolf Center is not completed at the time that the tour concludes, the Science Museum of Minnesota shall provide space until the International Wolf Center is prepared to display the exhibit.

Sec. 12. MINNESOTA ACADEMY OF SCIENCE	32,000	36,000
Sec. 13. MINNESOTA HORTICULTURAL SOCIETY	71,500	71,500

$3,500 the first year and $3,500 the second year are to increase the amount of color used in printing the Minnesota Horticulturist.

Sec. 14. MINNESOTA RESOURCES

Subdivision 1. Total Appropriation 34,994,000

Summary by Fund

Minnesota Future Resources Fund
16,534,000

Minnesota Environment and Natural Resources Trust Fund
14,960,000

Oil Overcharge Money in the Special Revenue Fund
3,500,000

The appropriations in this section are from the Minnesota future resources fund, unless another fund is named.

The appropriations in this section are available until June 30, 1993.

Subd. 2. Legislative Commission on Minnesota Resources 850,000

For the biennium ending June 30, 1993, the commission shall monitor the programs in this section; assess the status of the state's natural resources; convene a state resource congress; establish priorities for, request, review, and recommend programs for the 1993-1995 biennium from the Minnesota future resources fund, Minnesota environment and natural resources trust fund, and oil overcharge money, and for support of the Citizen Advisory Committee activities.

Subd. 3. Recreation

(a) Off-highway Vehicle Recreation Area 75,000

This appropriation is to the commissioner of natural resources to conduct a study in cooperation with the Minnesota 4-WD Association on the feasibility of an off-highway vehicle recreation area.

(b) Superior Hiking Trail 400,000

This appropriation is to the commissioner of natural resources for planning and administrative assistance and a grant to the Superior Hiking Trail Association for planning, development, and limited use of easement acquisition. The use of conservation corps resources is strongly encouraged. Up to $80,000 is available to the commissioner for planning and administrative assistance. Available federal and private money is appropriated.

(c) Local Rivers Planning 400,000

This appropriation is to the commissioner of natural resources for grants of up to two-thirds of the cost to counties, or groups of counties acting pursuant to joint powers agreement, to develop comprehensive plans for the management and protection of up to eight rivers in northern and central Minnesota. The commissioner of natural resources shall include in the work plan for review and approval by the legislative commission on Minnesota resources a proposed list of rivers and a planning process developed by consensus of the affected counties. All plans must meet or exceed the requirements of state shoreland and floodplain laws.

(d) Access to Lakes and Rivers 1,000,000

This appropriation is to the commissioner of natural resources to provide boat access to major recreation lakes and rivers and to construct fishing piers in accordance with established priorities, inventory, map, and construct shore access sites in the metropolitan area.

(e) Land and Water Resource Management, Lower St. Croix Riverway 360,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources for a grant to the Minnesota-Wisconsin Boundary Area Commission to develop a management strategy, improved technical capability, and sustained local government and landowner stewardship on the jointly managed lower St.

Croix.

(f) Mississippi River Valley Blufflands Initiative 150,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources to assist local units of government to develop the tools necessary to protect the outstanding scenic and biological resources of the blufflands of the Mississippi Valley in Goodhue, Wabasha, Winona, and Houston counties.

(g) Reclamation of Recreation Systems and Environmental Resources 200,000

This appropriation is to the University of Minnesota, College of Architecture and Landscape Architecture, to investigate urban design strategies for enhancing recreational amenities in suburban areas. The investigation shall be done in cooperation with the metropolitan council. The legislative commission on Minnesota resources may convene a steering committee to ensure coordination and practical results.

(h) Preservation of Historic Shipwrecks, Lake Superior 100,000

$80,000 is to the Minnesota historical society to investigate the historic significance of shipwrecks on the North Shore of Lake Superior in accordance with priorities for placement on the National Register of Historic Places; to develop preservation plans to implement the federal Abandoned Shipwrecks Act; and to conduct a survey of the underwater resources in the vicinity of Split Rock Lighthouse.

$20,000 is to the commissioner of natural resources to develop facilities at Split Rock Lighthouse State Park for diver access.

(i) Land and Water Conservation Fund Administration 84,000

This appropriation is to the commissioner of natural resources for administration of the federal land and water conservation program and other grant administration activities assigned to the commissioner in this section.

(j) Historic Records Database - Final Phase 180,000

This appropriation is to the Minnesota historical society to automate and make widely accessible the society's collections.

(k) Fur Trade Research and Planning 250,000

This appropriation is to the Minnesota historical society to plan and design the visitor center at the Northwest Company Fur Post Historic Site, and for site improvements at that site. No more than $100,000 may be spent for site improvements.

(l) Mystery Cave Resource Evaluation 150,000

This appropriation is to the commissioner of natural resources to perform a resource inventory and study of Mystery Cave to include groundwater, cave meteorology, geology, and biology as part of the park plan.

(c) Rails-to-Trails Acquisition and Development 1,000,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources for acquisition and development of trails in accordance with established priorities.

Subd. 4. Water

(a) Stream and Watershed Information System 200,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of state planning to develop an integrated system of information relating to streams, watersheds, and retrieval and analysis tools.

(b) South Central Minnesota Surface Water Resource Atlases and Data Base 300,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources for a grant to Mankato State University for development of surface hydrology atlases and data base in both hard and electronic format for the 13 counties of south central Minnesota.

(c) Minnesota River Basin Water Quality Monitoring 700,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of the pollution control agency. This is the final two years of a multiagency four-year effort to identify the sources of nonpoint pollution threatening the water quality and uses of the Minnesota River. The results will be used to direct state and local implementation programs. Federal matching money

is appropriated.

(d) Waterwatch - Citizen Monitoring and Protection Program 272,000

This appropriation is to the commissioner of the pollution control agency to encourage and coordinate citizen and student volunteer monitoring of water quality and biological indicators for Minnesota's lakes and streams.

(e) Bioremedial Technology for Groundwater 96,000

This appropriation is to the University of Minnesota, Department of Civil and Mineral Engineering, for a pilot demonstration of technology for in situ biodegradation of organic pollutants in groundwater.

(f) County Geologic Atlas and Groundwater Sensitivity Mapping 1,400,000

$800,000 is from the Minnesota environment and natural resources trust fund to the University of Minnesota, Minnesota Geologic Survey, to expand production of county geologic atlases and create a new atlas services office.

$600,000 is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources for groundwater sensitivity mapping.

(g) Aquifer Analyses in southeast Minnesota 73,000

This appropriation is to the commissioner of natural resources for a grant to Winona State University to perform aquifer tests in southeast Minnesota in order to determine aquifer characteristics, surface-subsurface groundwater interaction, and aquifer interaction.

(h) Clean Water Partnership Grants to Local Units of Government 700,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of the pollution control agency for Clean Water Partnership grants under Minnesota Statutes, section 115.096. In addition to the required work program, grants may not be approved until grant proposals have been submitted to the legislative commission on Minnesota resources and the commission has either made a recommendation or allowed 30 days to pass without making a recommendation.

(i) Cannon River Watershed Grants 60,000

This appropriation is from the Minnesota environment and natural resources trust fund to the board of water and soil resources to provide research and demonstration grants to counties consistent with the comprehensive local water management program under Minnesota Statutes, chapter 110B, as part of the Cannon River watershed protection program.

(j) Mitigating Mercury in Northeast Minnesota Lakes 300,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of the pollution control agency to investigate how to mitigate the damage caused by the presence of mercury in northeast Minnesota lakes.

(k) Development and Application of Aeration Technologies 148,000

This appropriation is to the University of Minnesota, St. Anthony Falls Hydraulic Laboratory, to study how to optimize membrane aeration and the hydraulic design of bypass type aerator systems.

(l) Lake Superior Initiative - Institute for Research 400,000

This appropriation is to the University of Minnesota, Graduate School, to establish an institute for Lake Superior Research that would develop a strong multifaceted research effort.

(m) Lake Mille Lacs Public Land Use Plan 20,000

This appropriation is to the commissioner of natural resources to plan for shoreline management of publicly-owned lands around Lake Mille Lacs.

(n) Ecological Evaluation of Year-Round Aeration 100,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources to collect baseline data on aerated and nonaerated lakes and determine ecological impacts of aeration.

(o) Erosion Control Cost-Sharing 250,000

This appropriation is from the Minnesota environment and natural resources trust fund to the board of water and soil resources to share in the cost of conservation practices to control soil erosion and protect water quality, including water quality practices that divert water from

sinkholes, under Minnesota Statutes, section 103C.501.

(p) Well Sealing Cost-Share Grants 750,000

This appropriation is from the Minnesota environment and natural resources trust fund to the board of water and soil resources to make grants to counties for sharing the cost of sealing wells under Minnesota Statutes, section 103I.331.

Subd. 5. Education

(a) Environmental Education Program 790,000

$400,000 is from the Minnesota environment and natural resources trust fund to the commissioner of education to develop and implement model K-12 environmental education curriculum integration. This program will incorporate ongoing models of other deliverers of environmental education.

$30,000 is from the Minnesota environment and natural resources trust fund to the commissioner of education for a grant to the Minnesota Community Education Association to incorporate environmental education into the community education system.

$60,000 is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources to complete a long-term plan for the development and coordination of environmental learning centers.

$85,000 is from the Minnesota environment and natural resources trust fund to the commissioner of state planning for a grant to the Audubon Center of the Northwoods for an assessment of environmental learning center programs and services.

$215,000 is from the Minnesota environment and natural resources trust fund to the commissioner of state planning to develop a statewide environmental education plan. The statewide plan will integrate the plans, strategies, and policies of the department of education, post-secondary institutions, the department of natural resources, and other deliverers of environmental education.

(b) Teacher Training for Environmental Education 5,000

This appropriation is to the commissioner of education for a grant to the St. Paul Chapter

of the National Audubon Society for scholarships for the training of teachers in environmental education integration.

(c) Video Education Research and Demonstration Project 100,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of education for a grant to Twin Cities Public Television to develop a video education demonstration project and a model for a statewide video environmental education communication network.

(d) Integrated Resource Management Education and Training Program 300,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources to provide training and internship programs in natural resource management.

(e) Continuing Education in Outdoor Recreation for Natural Resource Managers 125,000

This appropriation is to the University of Minnesota, Department of Forest Resources, to develop and implement an outdoor recreation short course for natural resource planners and managers with outdoor recreation responsibilities.

(f) Environmental Exhibits Collaborative 400,000

This appropriation is from the Minnesota environment and natural resources trust fund to the Science Museum of Minnesota to establish a statewide collaborative to share and create traveling water-related exhibits and programs for schools and family groups at different sites.

(g) Upper Mississippi River Environmental Education Center 600,000

This appropriation is to the commissioner of natural resources for a grant to the city of Winona to develop detailed architectural designs necessary to obtain federal construction funding for an Upper Mississippi River Environmental Education Center. This appropriation is contingent upon federal commitment of at least $6,000,000 for construction and for future operation and maintenance.

(h) Urban Rangers Program 100,000

This appropriation is to the commissioner of education for a grant to the Minneapolis Park

and Recreation Board to develop an urban environmental curriculum for elementary students and families conducted at 44 city recreation centers.

(i) Crosby Farm Park Nature Program 85,000

This appropriation is to the commissioner of education for a grant to the city of St. Paul to institute a nature study program at Crosby Farm Park to introduce inner city residents and minorities to learning opportunities concerning natural resources and how to conserve and protect those resources.

(j) Youth in Natural Resources 250,000

This appropriation is to the commissioner of natural resources to develop a career exploration program for minority youths and to test their vocational interests, skills, and aptitudes.

(k) Environmental Education for Handicapped 130,000

This appropriation is to the commissioner of education for a grant to Vinland National Center to develop a program model in environmental education, including education of persons with disabilities, and to teach the model to educators, environmentalists, and the disability community.

Subd. 6. Agriculture

(a) Biological Control of Pests 650,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of agriculture to collect and identify potential biological control agents, and to develop and test biological control agents for a variety of pests. A grant request to supplement this appropriation must be submitted to the U.S. Department of Agriculture and the results reported to the legislative commission on Minnesota resources.

(b) Review Levels of Pesticides at Spill Sites 300,000

This appropriation is to the commissioner of agriculture for a literature search and publication of remediation technologies for pesticide spills, laboratory research on the fate of elevated levels of pesticides in soil, and evaluation of bioremediation techniques.

(c) Effective Nitrogen and Water Management for Sensitive Areas 300,000

This appropriation is to the commissioner of agriculture to provide an integrated research information base on risks of groundwater pollution involved in nitrogen and water management for crop production.

(d) Conservation Reserve Easements 600,000

This appropriation is from the Minnesota environment and natural resources trust fund to the board of water and soil resources to acquire perpetual easements on wetlands and to acquire perpetual easements under Minnesota Statutes, section 103F.515, subdivision 3, with priority for wetland areas, to enhance wildlife habitat, control erosion, and improve water quality.

(e) Native Grass and Wildflower Seed 130,000

This appropriation is to the commissioner of agriculture in cooperation with the commissioner of natural resources to develop the varietal, cultural, and market information necessary to encourage expanded commercial production of Minnesota origin native wildflower and grass seed.

(f) Community Gardening Program 110,000

This appropriation is to the University of Minnesota, Minnesota Extension Service, in cooperation with the Minnesota State Horticultural Society and the Self Reliance Center to provide gardening information and technical assistance in metropolitan and nonmetropolitan areas.

Subd. 7. Forestry

(a) Minnesota Old-Growth Forests - Character and Identification 150,000

This appropriation is to the commissioner of natural resources to develop quantitative, structural definitions of Minnesota old-growth forest types, examine the importance of old growth as sensitive habitat, and evaluate old-growth forest stands that are identified as the department of natural resources old-growth guidelines are implemented.

(b) Nutrient Cycling and Tree Species Suitability 220,000

This appropriation is to the University of Minnesota, Department of Forest Resources, to assess the role of nutrient cycling and associated management practices for sustainability of Minnesota's forest resources under scenarios of increased harvesting and atmospheric

change.

(c) State Forest Land Acquisition 500,000

This appropriation is to the commissioner of natural resources to acquire lands in the highest priority purchase compartments in the R. J. Dorer Memorial Hardwood State Forest.

(d) Regeneration and Management of Minnesota's Oak Forests 225,000

This appropriation is to the University of Minnesota, Minnesota Extension Service, for research and education in oak regeneration and management.

(e) Private Forest Management for Oak Regeneration 200,000

This appropriation is to the commissioner of natural resources to increase technical assistance to private forest landowners in southern Minnesota for oak regeneration.

(f) Aspen Hybrids and New Tissue Culture Techniques 70,000

This appropriation is to the University of Minnesota, Department of Forest Resources, to research tissue cultured aspen and hybrid aspen clones.

(g) Aspen Decay Models for Mature Aspen Stands 85,000

This appropriation is to the commissioner of natural resources to contract with Koochiching county and the University of Minnesota, College of Natural Resources, to develop models for aspen decay in mature aspen stands.

(h) Generic Environmental Impact Statement 400,000

This appropriation is from the environment and natural resources trust fund to the Environmental Quality Board for preparation of a generic environmental impact statement.

Subd. 8. Fisheries

(a) Pilot Fish Pond Complex - Fisheries Development and Education 250,000

This appropriation is to the commissioner of natural resources for a grant to the Leech Lake Band of Chippewa Indians to develop fish ponds for production of sportfish and baitfish.

(b) Aquaculture Facility Purchase and Development and Genetic Gamefish

Growth Studies 1,200,000

This appropriation is to the University of Minnesota, College of Natural Resources, to acquire and develop an aquaculture facility and to continue research on genetically engineered gamefish.

(c) Cooperative Urban Aquatic Education Program 340,000

This appropriation is to the commissioner of natural resources to expand urban fishing opportunities and awareness.

(d) Catch and Release Program 35,000

This appropriation is to the commissioner of natural resources to accelerate the catch and release portion of the CORE program for matching grants to local anglers clubs for promotion of catch and release statewide. The work must be done in cooperation with the Minnesota Sportfishing Congress and other interested groups.

(e) Metropolitan Lakes Fishing Opportunities 75,000

This appropriation is to the commissioner of natural resources to study metropolitan area lakes to determine if recreational fishing opportunities are being maximized. The study must be done in cooperation with the Minnesota Sportfishing Congress and other interested groups.

(f) Lake Minnetonka Bass Tracking 85,000

This appropriation is to the commissioner of natural resources to study the impacts of bass fishing contests. The study must be done in cooperation with the Minnesota Sportfishing Congress and other interested groups.

(g) Stocking Survey 35,000

This appropriation is to the commissioner of natural resources to survey organizations to determine the level of interest in public and private fish stocking activities. The survey must be done in cooperation with the Minnesota Sportfishing Congress and other interested groups.

Subd. 9. Wildlife

(a) Insecticide Impact on Wetland and Upland Wildlife 650,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources to research the effect of insecticides on wetland and upland wildlife and habitats.

(b) Biological Control of Eurasian Water Milfoil 100,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources to continue a cooperative research program between the department of natural resources, Freshwater Foundation, and the University of Minnesota leading to biological control of Eurasian water milfoil. This appropriation must be matched by $200,000 from the Freshwater Foundation.

(c) Microbial and Genetic Strategies for Mosquito Control 150,000

This appropriation is to the University of Minnesota, Department of Entomology, to enhance mosquito control by development of microbial agents that are environmentally safe and specific for mosquitoes.

(d) Minnesota County Biological Survey 1,000,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources to continue the biological survey in Minnesota counties previously funded by Laws 1989, chapter 335, article 1, section 29, subdivision 3, item (t).

(e) Data Base for Plants of Minnesota 130,000

This appropriation is from the Minnesota environment and natural resources trust fund to the University of Minnesota to computerize the data base for Minnesota plants, including precise information on the distribution, ecology, history, and management of each species.

(f) Aquatic Invertebrate Assessment Archive 130,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of the pollution control agency, in cooperation with the Science Museum of Minnesota, to continue work on a record system for aquatic invertebrates and assign pollution tolerance values and to develop an information system for the zebra mussel.

(g) Wetlands Forum 40,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources to improve communication and information exchange regarding wetlands in the metropolitan area. This appropriation must be matched by $40,000 from the Freshwater Foundation.

(h) Easement Acquisition on Restored Wetlands 400,000

This appropriation is from the Minnesota environment and natural resources trust fund to the board of water and soil resources for a pilot program to acquire permanent conservation easements on federally restored or enhanced wetlands and adjacent lands in cooperation with the United States Fish and Wildlife Service and the Izaak Walton League.

(i) Swan and Heron Lake Area Projects 1,000,000

This appropriation is to the commissioner of natural resources. First priority is for acquisition that qualifies for federal match. Second priority is for land management activities. Federal and other matching money is appropriated. Any full-time equivalent positions associated with this appropriation are for land acquisition work.

(j) Wildlife Oriented Recreation Facilities at Sandstone Unit National Wildlife Refuge 9,000

This appropriation is to the commissioner of natural resources to contract with Rice Lake National Wildlife Refuge for recreation facility development and access at the Sandstone Unit of Rice Lake National Wildlife Refuge.

(k) Acquisition and Development of Scientific and Natural Areas 300,000

This appropriation is to the commissioner of natural resources to acquire and develop scientific and natural area sites consistent with the state scientific and natural areas plan.

(l) Black Bear Research in East Central Minnesota 100,000

This appropriation is to the University of Minnesota, Bell Museum of Natural History, to develop landscape ecology concepts and better understand the problem of bear damage to crops.

(m) Partnership for Accelerated Wild Turkey Management 50,000

This appropriation is to the commissioner of natural resources to increase wild turkey stocking. This appropriation must be matched by $50,000 from the National Wild Turkey Federation.

(n) Restore Thomas Sadler Roberts Bird Sanctuary 50,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources for a grant to the Minneapolis Park and Recreation Board to restore and improve public access to the Thomas Sadler Roberts Bird Sanctuary. This appropriation must be matched by $50,000 of local money.

(o) Changes in Ecosystem on Biodiversity of Forest Birds 300,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources to monitor forest songbird populations and to develop geographic information system tools to correlate forest bird populations with dynamics of the forest landscape. This appropriation must be matched by $200,000 from a combination of nonstate funds and the state nongame wildlife program.

(p) Establish Northern Raptors Rehabilitation and Education Facility 75,000

This appropriation is to the University of Minnesota, Raptor Center, to establish a raptor rehabilitation and release facility at the Audubon Center of the Northwoods.

(q) Effect of Avian Flu Virus in Mallard Ducks 16,000

This appropriation is to the University of Minnesota, Department of Veterinary Pathobiology, to research the effects of Avian influenza on Mallard ducks.

Subd. 10. Land

(a) Base Maps for 1990s 1,900,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of state planning to provide the state match for a federal program to complete a major portion of the statewide air photo and base map coverage. The federal share is appropriated.

(b) Accelerated Soil Survey 1,270,000

This appropriation is to the University of Minnesota, Agriculture Experiment Station, to complete the soil survey in counties under contract as of July 1, 1988. Up to $270,000 is for initiation of a survey in Koochiching county, provided that the county share of the cost of the survey shall be one-third of the cost, reduced by a percentage equal to the percent of land located in the county that is owned by the federal or state government that exceeds five percent, and further adjusted by the ratio of the adjusted net tax capacity per capita of the county to the adjusted net tax capacity per capita of the state.

(c) Statewide National Wetlands Inventory, Protected Waters Inventory, Watershed Map Digitization 750,000

This appropriation is from the Minnesota environment and natural resources trust fund to the commissioner of natural resources to complete the digitization of the national wetlands inventory, protected water inventory, and watershed boundaries.

(d) Statewide Land Use Update 338,000

This appropriation is to the commissioner of state planning for a grant to The International Coalition to complete a statewide land use update of all land and water resources outside the Twin City metropolitan area.

(e) Local Geographic Information System Program 143,000

This appropriation is to the commissioner of state planning for a grant to The International Coalition to expand the applicability and use of geographic information by developing programs and providing training at the local level.

(f) GIS Control Point Inventory 175,000

This appropriation is to the commissioner of state planning to produce a statewide inventory of known public land survey control points using data from all levels of government.

(g) Land Use and Design Strategies to Enhance Environmental Quality 100,000

This appropriation is to the University of Minnesota, College of Architecture and Landscape Architecture, to develop a land use and design concept for typical sites on light rail transit and freeway systems. The work must be done in

consultation with the Metropolitan Council and the Regional Transit Board.

(h) Model Residential Land Use Guidelines 150,000

This appropriation is to the University of Minnesota, Department of Landscape Architecture, to illustrate and disseminate residential land development guidelines that address a broad range of environmental concerns. The work must be done in consultation with the Metropolitan Council. The legislative commission on Minnesota resources may convene a steering committee to ensure coordination and practical results.

Subd. 11. Minerals

Subsurface Greenstone Belts in Southwestern Minnesota 120,000

This appropriation is to the University of Minnesota, Minnesota Geologic Survey, to apply aeromagnetic interpretation techniques and test drilling to determine greenstone and associated mineral potential in southwestern Minnesota.

Subd. 12. Waste

(a) Remediation of Soils by Co-Composting with Leaves 135,000

This appropriation is to the office of waste management for a grant to the Minneapolis Community Development Agency to develop a treatment method for soils contaminated with semi-volatile compounds by co-composting with leaves.

(b) Land Spreading of Yard Wastes 100,000

This appropriation is to the office of waste management for a grant to the University of Minnesota, Soils Science Department, to determine the maximum and optimum rates that yard wastes can be applied to soils without reducing yields or endangering the environment.

Subd. 13. Oil Overcharge

The appropriations in this subdivision are from oil overcharge money, as defined in Minnesota Statutes, section 4.071, in the special revenue fund.

(a) Traffic Signal Timing and Optimization Program 1,175,000

This appropriation is to the commissioner of administration for transfer to the commissioner of transportation. $125,000 is for traffic signal retiming and optimization training and $1,050,000 for a cost share program for signal retiming. $675,000 of the cost share program is available only as cash flow permits.

(b) Waste Crumb Rubber in Roadways 100,000

This appropriation is to the commissioner of administration for transfer to the commissioner of transportation to improve hot-mix asphalt pavement performance through the use of crumb tire rubber and selected polymer additives. The process will use waste tires generated in Minnesota. This appropriation must be matched by $100,000 from other sources.

(c) Biodegradable Plastics - Microbial and Crop Plant Systems 150,000

This appropriation is to the commissioner of administration for a grant to the University of Minnesota, Department of Agronomy and Plant Genetics, to genetically engineer yeast and crop plants to produce low-cost polyhydroxybutyric, a biodegradable plastic, to substitute for petroleum-based plastics.

(d) Agricultural Energy Savings Information 150,000

This appropriation is to the commissioner of administration for a grant to the Agricultural Utilization Research Institute to conduct a series of conferences, communication products, and intensive workshops in order to transfer the results of state-funded research to agricultural practitioners.

(e) Residential Urban Environmental Resource Audit 150,000

This appropriation is to the commissioner of administration for a grant to the St. Paul Neighborhood Energy Consortium to develop and implement neighborhood workshops and one-on-one consultations as part of an environmental urban resource audit and a broad educational campaign.

(f) Means for Producing Lignin-Based Plastics 100,000

This appropriation is to the commissioner of administration for a grant to the University of Minnesota, Department of Forest Products, to develop means for fabricating engineering

plastics based upon industrial by-product lignins and corresponding raw materials from wheat straw.

(g) Cellulose Rayons for Packaging 150,000

This appropriation is to the commissioner of administration for a grant to Bemidji State University, Center for Environmental Studies, to research and develop cellulose rayons.

(h) Tree and Shrub Planting for Energy in Minnesota Communities 1,250,000

This appropriation is to the commissioner of administration for a grant to the commissioner of natural resources to develop research-based guidelines and publications and to provide matching grants for energy conservation tree planting. $950,000 of this appropriation is available only as cash flow permits.

(i) Oil Overcharge Program Administration 200,000

This appropriation is to the commissioner of administration for processing and oversight of grants and allocations in the Oil Overcharge program.

(j) Energy Efficiency Standards for Residential Construction 75,000

This appropriation is to the commissioner of administration for a grant to the University of Minnesota, Cold Climate Housing Center for the development of performance-based standards for energy efficient new home construction and procedures for implementation. This appropriation must be matched by $75,000 of nonstate funds. This appropriation is available only as cash flow permits.

Subd. 14. MFRF Contingent Account

In addition to the specific amounts appropriated from the Minnesota future resources fund by this section, any increase in the projected revenue up to $600,000 for the biennium to the fund in excess of the amount indicated in subdivision 1 that would otherwise be available for expenditure during the 1992-1993 biennium is appropriated to the legislative commission on Minnesota resources future resources fund contingent account for disbursement by the commission in accordance with the procedure identified in this subdivision.

This appropriation is for acquisition or development of state land or other projects that are part of a natural resources acceleration activity, when deemed to be of an emergency or critical nature. This appropriation is also available for projects initiated by the legislative commission on Minnesota resources that are found to be proper in order for the commission to carry out its legislative charge.

This appropriation is not available until the legislative commission on Minnesota resources has made a recommendation to the legislative advisory commission regarding each expenditure from the account. The legislative advisory commission must then hold a meeting and provide its recommendation on each item, which may be spent only with the approval of the governor.

Subd. 15. General Reduction

As cash flow in the Minnesota future resources fund permits, but no later than June 30, 1993, the commissioner of finance in consultation with the legislative commission on Minnesota's resources director shall transfer $2,000,000 from the unencumbered balance in the fund to the general fund.

Subd. 16. Compatible Data

During the biennium ending June 30, 1993, the data collected by the projects funded under this section that have common value for natural resource planning and management must conform to information architecture as defined in guidelines and standards adopted by the information policy office. Data review committees may be established to develop or comment on plans for data integration and distribution and shall submit semiannual status reports to the legislative commission on Minnesota resources on their findings. In addition, the data must be provided to and integrated with the Minnesota land management information center's geographic data bases with the integration costs borne by the activity receiving funding under this section. This requirement applies to all projects funded under this section, including, but not limited to, the following projects:

Recreation: Subdivision 3, paragraphs (d) and (e);

Water: Subdivision 4, paragraphs (a), (b), (c), (f), and (g);

Agriculture: Subdivision 6, paragraph (d);

Wildlife: Subdivision 9, paragraphs (d), (e), (h), (k), and (p);

Land: Subdivision 10, paragraphs (a), (b), (c), (d), (e), and (f);

Minerals: Subdivision 11.

Subd. 17. Work Program

It is a condition of acceptance of the appropriations made from the Minnesota future resources fund, Minnesota environment and natural resources trust fund, and oil overcharge money according to Minnesota Statutes, section 4.071, subdivision 2, that the agency or entity receiving the appropriation must submit a work program and semiannual progress reports in the form determined by the legislative commission on Minnesota resources. None of the money provided may be spent unless the commission has approved the pertinent work program.

Subd. 18. Temporary Positions

The approved full-time equivalent of the following agencies shall be increased for the biennium as indicated for the appropriations in this section:

Board of Water and Soil Resources - 1

Pollution Control Agency - 6

State Planning Agency - 3

Department of Agriculture - 4

Department of Education - 4

Department of Administration - 1

Department of Natural Resources - 36

Persons employed by a state agency and paid by an appropriation in this section are in the unclassified civil service, and their continued employment is contingent upon the availability of money from the appropriation. The positions are in addition to any other approved complement for the agency. Part-time employment of persons is authorized.

Subd. 19. Match Requirements

Appropriations in this section that must be matched and for which the match has not been

committed by January 1, 1992, must be canceled. Amounts canceled to the Minnesota future resources fund are appropriated to the contingent account created in subdivision 14.

Subd. 20. Patents and Royalties

If an appropriation in this section from the Minnesota future resources fund results in a patent and subsequent royalties, payment of 50 percent of the royalties received, net of patent servicing costs, must be paid to the Minnesota future resources fund, until the entire appropriation made by this section is repaid.

Subd. 21. Carryforward

The appropriation in Laws 1989, chapter 335, article 1, section 29, subdivision 3, paragraph (e), Development of Forest Soil Interpretations, is available until December 31, 1991.

The appropriation in Laws 1989, chapter 335, article 1, section 29, subdivision 3, paragraph (h), Statewide Public Recreation Map, is available until June 30, 1992.

The appropriation in Laws 1989, chapter 335, article 1, section 29, subdivision 11, paragraph (o), High Flotation Tire Research is available until June 30, 1992.

Sec. 15. [ENVIRONMENTAL, RESPONSE, COMPENSATION AND COMPLIANCE ACCOUNT REPORT.]

The commissioner of the pollution control agency, after consultation with representatives of public and private landfill owners and operators, the director of the office of waste management, and the director of the legislative commission on waste management, shall submit to the legislative commission on waste management and to the environment and natural resources committees of the legislature and to the chairs of the environment divisions of the senate finance and house appropriations committees by November 1, 1991, a report proposing procedures and criteria for use of the funds in the environmental response, compensation, and compliance account. A special emphasis shall be placed on an analysis of other fees and funds collected and maintained for addressing landfill related problems. The report shall recommend procedures and criteria for use of the funds to prevent and respond to releases that add to or replace the procedures and criteria of chapter 115B and federal law. The goals to be met by the recommended procedures and criteria are:

(1) administrative efficiency;

(2) expeditious and cost effective prevention and response actions;

(3) diminution of the financial burden on local government units for closed landfill facilities;

(4) preservation of a system that prioritizes use of the funds at sites that

are causing the greatest environmental burden while endeavoring to use the funds equitably among the broad regions of the state;

(5) preservation of incentives and requirements for operators of open landfill facilities to operate the facilities responsibly and to provide financial assurance for closure, postclosure care, and contingency action, while addressing problems of facilities with short term capacity;

(6) provision of immediate funding for unforeseen problems at open or closed landfill facilities that are otherwise financially unable to address those immediate problems;

(7) preservation of the concept of cost recovery against easily identifiable responsible parties for payment of the costs of addressing problems; and

(8) assessment of the relationship between all fees and funds collected and maintained for addressing superfund related problems.

Sec. 16. [TRANSFERS.]

Subdivision 1. [GENERAL PROCEDURE.] *If the appropriation in this article to an agency in the executive branch is specified by program, the agency may transfer unencumbered balances among the programs specified in that section after getting the approval of the commissioner of finance. The commissioner shall not approve a transfer unless the commissioner believes that it will carry out the intent of the legislature. The transfer must be reported immediately to the committee on finance of the senate and the committee on appropriations of the house of representatives. If the appropriation in this act to an agency in the executive branch is specified by activity, the agency may transfer unencumbered balances among the activities specified in that section using the same procedure as for transfers among programs.*

Subd. 2. [TRANSFER PROHIBITED.] *If an amount is specified in this act for an item within an activity, that amount must not be transferred or used for any other purpose.*

Sec. 17. [APPROPRIATION AND BONDS.]

$16,000,000 is appropriated from the bond proceeds fund to be divided as follows:

(a) To the board of water and soil resources for the reinvest in Minnesota conservation reserve program, under Minnesota Statutes, section 103F.515: $1,900,000;

(b) To the commissioner of natural resources for transfer to the critical habitat private sector matching account for purposes of Minnesota Statutes, sections 84.943 and 84.944: $3,000,000;

(c) To the commissioner of natural resources for the following purposes:

(1) state trail acquisition and development, including the Root River trail: $1,000,000;

(2) state park rehabilitation: $2,650,000;

(3) state park development: $750,000;

(4) state forest acquisition within Dorer memorial forest: $145,000.

The commissioner of natural resources shall submit semiannual work plans to the legislative commission on Minnesota resources and shall submit

a semiannual work program to the commission and request its recommendation before spending any money appropriated by this subdivision or by Laws 1989, chapter 300, article 1, section 16, subdivisions 2 and 3, items (a) and (b); or Laws 1990, chapter 610, article 1, section 20, subdivisions 2, 3, 4, 6, and 7, for any purpose. The commission's recommendation is advisory only. Failure to respond to a request within 60 days after receipt is a negative recommendation. Work programs involving land acquisition must include a land acquisition plan.

(d) To the commissioner of trade and economic development for regional park acquisition and development, including Cedar Lake park acquisition in the cities of Minneapolis and St. Louis Park that is identified in the metropolitan parks and open space commission plan, and $250,000 for regional park acquisition outside the seven-county metropolitan area: $6,525,000.

ARTICLE 2

ENVIRONMENT AND NATURAL RESOURCES

Section 1. Minnesota Statutes 1990, section 14.18, is amended to read:

14.18 [PUBLICATION OF ADOPTED RULE; EFFECTIVE DATE.]

Subdivision 1. [GENERALLY.] A rule is effective after it has been subjected to all requirements described in sections 14.131 to 14.20 and five working days after the notice of adoption is published in the State Register unless a later date is required by law or specified in the rule. If the rule adopted is the same as the proposed rule, publication may be made by publishing notice in the State Register that the rule has been adopted as proposed and by citing the prior publication. If the rule adopted differs from the proposed rule, the portions of the adopted rule which differ from the proposed rule shall be included in the notice of adoption together with a citation to the prior State Register publication of the remainder of the proposed rule. The nature of the modifications must be clear to a reasonable person when the notice of adoption is considered together with the State Register publication of the proposed rule, except that modifications may also be made which comply with the form requirements of section 14.07, subdivision 7.

Subd. 2. [POLLUTION CONTROL AGENCY FEES.] *A new fee or fee increase adopted by the pollution control agency is subject to legislative approval during the next biennial budget session following adoption. The commissioner shall submit a report of fee adjustments to the legislature as a supplement to the biennial budget. Any new fee or fee increase remains in effect unless the legislature passes a bill disapproving the new fee or fee increase. A fee or fee increase disapproved by the legislature becomes null and void on July 1 following adjournment.*

Sec. 2. Minnesota Statutes 1990, section 16A.123, subdivision 5, is amended to read:

Subd. 5. [DEPARTMENT OF NATURAL RESOURCES COMPLEMENT.] ~~(a) Beginning with the biennium ending June 30, 1991,~~ The legislature shall establish complements for the department of natural resources based on the number of full-time equivalent positions and dollars appropriated for salary-related expenditures.

The commissioner of natural resources shall provide a biennial report indicating the distribution of the full-time equivalents for the previous

biennium as a supplement to the agency's biennial budget request for succeeding bienniums. The biennial budget document submitted to the legislature by the governor ~~beginning with the 1992-1993 biennium~~ shall indicate, *by program and* by activity, the number of full-time equivalent positions included as base level ~~and recommended changes~~. The governor's salary *and full-time equivalents* requests for the agency shall include all full-time, part-time, and seasonal dollars *and full-time equivalent positions* requested. Any change level request submitted *by the governor* to the legislature for consideration ~~by the governor~~ as part of the governor's biennial budget containing funding for salaries shall indicate the number of additional full-time equivalent positions and salary dollars requested.

Within the full-time equivalent number and amount of salary dollars appropriated for the department, the commissioner shall have the authority to establish as many full-time, part-time, or seasonal positions as required to accomplish the assigned responsibilities for the department. The commissioner shall have the authority to reallocate salary dollars for other operating expenses, but the commissioner shall not have authority to reallocate other operating funds to increase the total amount appropriated for salary-related expenses, including salary supplement, without receiving prior approval according to the process defined in this subdivision.

In the event that the commissioner finds it necessary to exceed the full-time equivalent number or the amount of appropriated dollars and the legislature is not in session, the commissioner shall seek approval of the legislative advisory commission under subdivision 4. Legislative advisory commission approved full-time equivalent positions and dollars shall ~~not~~ *only* become ~~a~~ part of the agency budget base ~~unless authorized by the legislature~~ *if the increase is the result of appropriations made to the agency by the legislature that are in addition to the appropriations made in the omnibus appropriations acts. All other legislative advisory commission authorized full-time equivalent positions or dollar adjustments shall be temporary for the biennium during which they are authorized unless approved by the legislature.*

Sec. 3. Minnesota Statutes 1990, section 18.191, is amended to read:

18.191 [DESTRUCTION OF NOXIOUS WEEDS.]

Except as otherwise specifically provided in sections 18.181 to 18.271, 18.281 to 18.311, and 18.321 to 18.322, it shall be the duty of every occupant of land or, if the land is unoccupied, the owner thereof, or an agent, or the public official in charge thereof, to cut down, otherwise destroy, or eradicate all noxious weeds as defined in section 18.171, subdivision 5, standing, being, or growing upon such land, in such manner and at such times as may be directed or ordered by the commissioner, the commissioner's authorized agents, the county agricultural inspector, or by a local weed inspector having jurisdiction.

Except as provided below, an owner of nonfederal lands underlying public waters or wetlands designated under section 103G.201 is not required to control or eradicate purple loosestrife (Lythrum salicaria) below the ordinary high water level of the public water or wetland. *To the extent provided in this section,* the commissioner of natural resources is responsible for control and eradication of purple loosestrife on public waters and wetlands designated under section 103G.201, except those located upon lands owned in fee title or managed by the United States. The officers, employees, agents, and contractors of the commissioner may enter upon public waters and

wetlands designated under section 103G.201 and may cross adjacent lands as necessary for the purpose of investigating purple loosestrife infestations, formulating methods of eradication, and implementing control and eradication of purple loosestrife. *The commissioner, after consultation with the commissioner of agriculture, shall, by June 1 of each year, compile a priority list of purple loosestrife infestations to be controlled in designated public waters. The commissioner of agriculture must distribute the list to county agricultural inspectors, local weed inspectors, and their appointed agents. The commissioner of natural resources shall control listed purple loosestrife infestations in priority order within the limits of appropriations provided for that purpose. This procedure shall be the exclusive means for control of purple loosestrife on designated public waters by the commissioner of natural resources and shall supersede the other provisions for control of noxious weeds set forth elsewhere in Minnesota Statutes, chapter 18.* The responsibility of the commissioner to control and eradicate purple loosestrife on public waters and wetlands located on private lands and the authority to enter upon private lands ends ten days after receipt by the commissioner of a written statement from the landowner that the landowner assumes all responsibility for control and eradication of purple loosestrife under sections 18.171 to 18.315. State officers, employees, agents, and contractors are not liable in a civil action for trespass committed in the discharge of their duties under this section and are not liable to anyone for damages, except for damages arising from gross negligence.

Sec. 4. Minnesota Statutes 1990, section 84.0855, is amended to read:

84.0855 [SPECIAL RECEIPTS; APPROPRIATION.]

Money received by the commissioner of natural resources as fees for seminars or workshops, ~~for~~ *from* the sale of publications~~,~~ *and* maps, *from the sale of other natural resource related merchandise at the state fair,* or to buy supplies for the use of volunteers, may be credited to one or more special accounts in the state treasury and is appropriated to the commissioner for the purposes for which the money was received. *Money received from sales at the state fair shall be available for state fair related costs.*

Sec. 5. Minnesota Statutes 1990, section 84.82, subdivision 2, is amended to read:

Subd. 2. [APPLICATION, ISSUANCE, REPORTS.] Application for registration or reregistration shall be made to the commissioner of natural resources, or the commissioner of public safety or an authorized deputy registrar of motor vehicles in such form as the commissioner of public safety shall prescribe, and shall state the name and address of every owner of the snowmobile and be signed by at least one owner. *A person who purchases a snowmobile from a retail dealer shall make application for registration to the dealer at the point of sale. The dealer shall issue a temporary registration permit to each purchaser who applies to the dealer for registration. The temporary registration is valid for 60 days from the date of issue. Each retail dealer shall submit completed registration and fees to the deputy registrar at least once a week.* Upon receipt of the application and the appropriate fee as hereinafter provided, such snowmobile shall be registered and a registration number assigned which shall be affixed to the snowmobile in such manner as the commissioner of natural resources shall prescribe. Each deputy registrar of motor vehicles acting pursuant to section 168.33, shall also be a deputy registrar of snowmobiles. The commissioner of natural resources in agreement with the commissioner of public safety may prescribe

the accounting and procedural requirements necessary to assure efficient handling of registrations and registration fees. Deputy registrars shall strictly comply with these accounting and procedural requirements. A fee of 50 cents in addition to that otherwise prescribed by law shall be charged for each snowmobile registered by the registrar or a deputy registrar. The additional fee shall be disposed of in the manner provided in section 168.33, subdivision 2.

Sec. 6. Minnesota Statutes 1990, section 84.82, subdivision 3, is amended to read:

Subd. 3. [FEES FOR REGISTRATION.] (a) The fee for registration of each snowmobile, other than those *used for an agricultural purpose, as defined in section 84.92, subdivision 1c, or those* registered by a dealer or manufacturer pursuant to clause (b) or (c) shall be as follows: ~~$18~~ *$30* for three years and $4 for a duplicate or transfer.

(b) The total registration fee for all snowmobiles owned by a dealer and operated for demonstration or testing purposes shall be $50 per year.

(c) The total registration fee for all snowmobiles owned by a manufacturer and operated for research, testing, experimentation, or demonstration purposes shall be $150 per year. Dealer and manufacturer registrations are not transferable.

Sec. 7. Minnesota Statutes 1990, section 84.944, subdivision 2, is amended to read:

Subd. 2. [DESIGNATION OF ACQUIRED SITES.] The critical natural habitat acquired *in fee title* by the commissioner under this section shall be designated by the commissioner as: (1) an outdoor recreation unit pursuant to section 86A.07, subdivision 3, or (2) as provided in sections 97A.101, 97A.125, 97C.001, *and* 97C.011~~, and 97C.021~~. *The commissioner may so designate any critical natural habitat acquired in less than fee title.*

Sec. 8. Minnesota Statutes 1990, section 84.96, subdivision 5, is amended to read:

Subd. 5. [PAYMENTS.] (a) The commissioner must make payments to the landowner under this subdivision for the easement.

(b) For a permanent easement, the commissioner must pay ~~50 percent of the average equalized estimated market value of cropland in the township as established by the commissioner of revenue~~ *65 percent of the permanent marginal agricultural land payment rate as established by the board of water and soil resources* for the time period when the application is made.

(c) For an easement of limited duration, the ~~landowner shall receive a lump sum payment equal to the present value of the annual payments for the term of the easement based on 50 percent of the mean adjusted cash rental for cropland in the county as established by the commissioner of revenue~~ *commissioner must pay 65 percent of the permanent prairie bank easement rate* for the time period when the application is made.

(d) To maintain and protect native prairies, the commissioner may enter into easements that allow selected agricultural practices. Payment must be based on paragraph (b) or (c) but may be reduced due to the agricultural practices allowed after negotiation with the landowner.

Sec. 9. [84.967] [ECOLOGICALLY HARMFUL SPECIES; DEFINITION.]

For the purposes of sections 10 to 12, "ecologically harmful exotic species" means non-native aquatic plants or wild animals that can naturalize, have high propagation potential, are highly competitive for limiting factors, and cause displacement of, or otherwise threaten, native plants or native animals in their natural communities.

Sec. 10. [84.968] [ECOLOGICALLY HARMFUL EXOTIC SPECIES MANAGEMENT PLAN.]

By January 1, 1993, a long-term statewide ecologically harmful exotic species management plan must be prepared by the commissioner of natural resources and address the following:

(1) coordinated detection and prevention of accidental introductions;

(2) coordinated dissemination of information about ecologically harmful exotic species among resource management agencies and organizations;

(3) a coordinated public awareness campaign regarding ecologically harmful exotic animals and aquatic plants;

(4) a process, where none exists, to designate and classify ecologically harmful exotic species into the following categories:

(i) undesirable wild animals that must not be sold, propagated, possessed, or transported; and

(ii) undesirable aquatic exotic plants that must not be sold, propagated, possessed, or transported;

(5) coordination of control and eradication of ecologically harmful exotic species on public lands and public waters; and

(6) develop a list of exotic wild animal species intended for nonagricultural purposes, or propagation for release by state agencies or the private sector.

Sec. 11. [84.969] [COORDINATING PROGRAM, GRANTS, AND REGIONAL COOPERATION.]

Subdivision 1. [COORDINATING PROGRAM.] *The commissioner of natural resources shall establish a statewide coordinating program to prevent and curb the spread of ecologically harmful exotic animals and aquatic plants.*

Subd. 2. [GRANTS.] *The coordinating program created in subdivision 1 may accept gifts, donations, and grants to accomplish its duties and must seek available federal grants through the federal Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. A portion of these funds shall be used to implement the plan under section 10.*

Subd. 3. [REGIONAL COOPERATION.] *The governor may cooperate, individually and regionally, with other state governors in the midwest for the purposes of ecologically harmful exotic species management and control.*

Sec. 12. [84.9691] [RULEMAKING.]

The commissioner of natural resources may adopt rules, including emergency rules, to restrict the introduction, propagation, use, possession, and spread of ecologically harmful exotic animals and aquatic plants in the state.

Sec. 13. Minnesota Statutes 1990, section 85.015, is amended by adding a subdivision to read:

Subd. 16. [SUPERIOR VISTA TRAIL; ST. LOUIS AND LAKE COUNTIES.] *The trail shall originate at the city of Duluth and shall extend in a northeasterly direction along the shoreline of Lake Superior to the city of Two Harbors. The trail shall be designed for bicycles and hikers, shall utilize existing highway and railroad right-of-way where possible, and shall be laid out in a manner to maximize the view of Lake Superior while traversing the length of the trail.*

Sec. 14. [COORDINATION.]

When developing a plan to implement section 13, the commissioner shall involve the various jurisdictions through which the Superior Vista trail corridor would pass. This includes, but is not limited to, the St. Louis and Lake counties highway departments, the cities of Duluth and Two Harbors, the Minnesota department of transportation, and the St. Louis and Lake counties railroad authorities.

Sec. 15. Minnesota Statutes 1990, section 85.053, subdivision 5, is amended to read:

Subd. 5. [DAILY VEHICLE PERMIT FOR GROUPS.] The commissioner ~~may authorize~~ *shall prescribe a* special daily vehicle state park ~~permits~~ *permit* for groups ~~by rule~~ *for use of state parks, state recreation areas, or state waysides for up to one day under conditions prescribed by the commissioner.*

Sec. 16. Minnesota Statutes 1990, section 85.055, subdivision 1, is amended to read:

Subdivision 1. [FEES.] The fee for state park permits for:

(1) an annual use of state parks is ~~$16~~ *$18*;

(2) a second vehicle state park permit is ~~one-half the annual state park permit fee in clause (1)~~ *$12*;

(3) a special state park permit valid up to two days is ~~$3.25~~ *$4*;

(4) a special daily vehicle state park permit for groups is ~~as prescribed by the commissioner~~ *$2*;

(5) an employee's state park permit is without charge;

(6) a special state park permit for handicapped persons and persons over age 65 under section 85.053, subdivision 7, clauses (1) and (2), is ~~one-half the annual state park permit fee in clause (1)~~ *$12*; and

(7) a special state park permit valid up to two days for handicapped persons and persons over age 65 under section 85.053, subdivision 7, clauses (1) and (3), is ~~$2~~ *$4*.

The fees specified in this subdivision include any sales tax required by state law.

Sec. 17. Minnesota Statutes 1990, section 85.22, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION.] The revolving fund established under Laws 1941, chapter 548, section 37, subdivision E, item 4 is the state parks working capital account. The account is to be used to maintain and operate the revenue producing facilities *and to operate the resource management and interpretive programs* in the state parks within the limits in this section.

Sec. 18. Minnesota Statutes 1990, section 85.22, subdivision 2a, is

amended to read:

Subd. 2a. [RECEIPTS, APPROPRIATION.] All receipts derived from the rental or sale of ~~items in~~ state ~~parks~~ *park items* shall be deposited in the state treasury and be credited to the state parks working capital account. ~~The~~ Money in the account is annually appropriated ~~solely~~ for the purchase and payment of expenses attributable to items for resale or rental.

Sec. 19. Minnesota Statutes 1990, section 86B.415, subdivision 7, is amended to read:

Subd. 7. [WATERCRAFT SURCHARGE.] A surcharge of $2 is placed on each watercraft licensed under subdivisions 1 to ~~6, that is 17 feet in length or longer,~~ 5 for ~~management of~~ *control, public awareness, law enforcement, monitoring, and research of nuisance aquatic exotic species such as zebra mussel,* purple loosestrife, and Eurasian water milfoil ~~according to law~~ *in public waters and public wetlands.*

Sec. 20. [88.86] [MINNESOTA RELEAF PROGRAM.]

The Minnesota releaf program is established in the department of natural resources to encourage, promote, and fund the planting, maintenance, and improvement of trees in this state to reduce atmospheric carbon dioxide levels and promote energy conservation.

Sec. 21. [IMPLEMENTATION PLAN.]

Subdivision 1. [DESCRIPTION.] *(a) The commissioner of natural resources in cooperation with the commissioners of the pollution control agency and department of agriculture shall prepare and submit to the legislative commission on Minnesota resources an implementation plan for the Minnesota releaf program containing the following elements:*

(1) primary and secondary criteria for selecting projects for funding under the Minnesota releaf program; and

(2) recommended procedures for processing grant applications and allocating funds.

(b) The primary criteria developed under paragraph (a), clause (1), must include, but are not limited to:

(1) reduction and mitigation of adverse environmental impacts of atmospheric carbon dioxide; and

(2) promotion of energy conservation.

(c) The secondary criteria developed under paragraph (a), clause (1), must include, but are not limited to:

(1) balancing of urban and rural needs;

(2) preservation of existing trees in urban areas;

(3) promotion of biodiversity, including development of disease-resistant and drought-resistant tree species;

(4) erosion control;

(5) enhancement of wildlife habitat;

(6) encouragement of cost sharing with public and private entities;

(7) enhancement of recreational opportunities in urban and rural areas;

(8) coordination with existing state and federal programs;

(9) acceleration of the planting of harvestable timber;

(10) creation of employment opportunities for disadvantaged youth; and

(11) maximization of the use of volunteers.

Subd. 2. [DUTIES OF THE COMMISSIONER OF NATURAL RESOURCES.] *By February 1, 1992, the commissioner of natural resources shall transmit to the legislature the implementation plan prepared under subdivision 1, and the recommendations prepared under subdivision 3, together with all recommended legislation to implement the Minnesota releaf program and the supporting fee structure.*

Subd. 3. [DUTIES OF THE POLLUTION CONTROL AGENCY.] *(a) The pollution control agency, in consultation with potentially affected parties, shall prepare implementation recommendations for applying a fee on carbon dioxide emissions for the Minnesota releaf program. The agency's analysis must include:*

(1) a review of the carbon dioxide sources and proposed fee base identified in the study prepared in accordance with Laws 1990, chapter 587, section 2;

(2) recommendations regarding exemptions, if any, that should be granted;

(3) a recommended method for measuring the amount of carbon dioxide emitted by various sources;

(4) a recommended procedure for administering and collecting the fees from the sources described in clause (3); and

(5) an estimate of revenue that would be generated by the fees.

(b) The agency shall submit implementation recommendations to the commissioner of natural resources by December 1, 1991.

Sec. 22. [LEGISLATIVE COMMISSION ON MINNESOTA RESOURCES PARTICIPATION.]

The commissioners of natural resources and pollution control agency shall include the preparation of the plans required for the implementation of the Minnesota releaf program as part of the tree and shrub planting project funded in article 1, section 14. In compliance with article 1, section 14, an amended work plan for the tree and shrub planting project including the Minnesota releaf plans shall be submitted to the legislative commission on Minnesota resources for approval.

Sec. 23. Minnesota Statutes 1990, section 92.67, subdivision 1, is amended to read:

Subdivision 1. [SALE REQUIREMENT.] Notwithstanding section 92.45 or any other law, at the request of a lessee or as otherwise provided in this section, the commissioner of natural resources shall sell state property bordering public waters that is leased for the purpose of a private cabin under section 92.46. Requests for sale must be made prior to December 31, 1992, and the commissioner shall complete all requested sales and sales arising from those requests by December 31, ~~1993~~ *1994*, subject to subdivision 3, clause (d). The sale shall be made in accordance with laws providing for the sale of trust fund land except as modified by the provisions of this section. In 1990 and 1991 a request for sale may be withdrawn by

a lessee at any time more than ten days before the day set for a sale. Property withdrawn from sale by its lessee is not subject to sale under this section until the lessee makes another request. Property withdrawn from sale shall continue to be governed by other law.

Sec. 24. Minnesota Statutes 1990, section 97A.075, subdivision 2, is amended to read:

Subd. 2. [MINNESOTA MIGRATORY WATERFOWL STAMP.] The commissioner may use the revenue from the Minnesota migratory waterfowl stamps for:

(1) development of wetlands in the state and designated waterfowl management lakes for maximum migratory waterfowl production including the construction of dikes, water control structures and impoundments, nest cover, rough fish barriers, acquisition of sites and facilities necessary for development and management of existing migratory waterfowl habitat and the creation of migratory waterfowl management lakes;

(2) ~~protection and propagation~~ *management* of migratory waterfowl;

(3) development, restoration, maintenance, or preservation of migratory waterfowl habitat;

(4) acquisition of and access to structure sites; and

(5) necessary related administrative costs not to exceed ten percent of the annual revenue.

Sec. 25. Minnesota Statutes 1990, section 97A.015, subdivision 53, is amended to read:

Subd. 53. [UNPROTECTED WILD ANIMALS.] "Unprotected wild animals" means wild animals that are not protected wild animals including weasel, coyote (brush wolf), gopher, porcupine, skunk, ~~and~~ civet cat, and unprotected birds.

Sec. 26. Minnesota Statutes 1990, section 97A.141, is amended by adding a subdivision to read:

Subd. 4. [COOPERATION WITH METROPOLITAN GOVERNMENTAL UNITS.] *Local units of government owning lands adjacent to public waters within the seven-county metropolitan area shall cooperate with the commissioner to use those lands for public access purposes when identified by the commissioner under subdivision 1. If cooperation does not occur, the commissioner may use condemnation authority under this section to acquire an interest in the local government lands for public access purposes.*

Sec. 27. Minnesota Statutes 1990, section 97A.325, subdivision 2, is amended to read:

Subd. 2. [DEER; *BEAR;* MOOSE; ELK; CARIBOU.] Except as provided in subdivision 1, a person that violates a provision of the game and fish laws relating to buying or selling deer, *bear,* moose, elk, or caribou is guilty of a gross misdemeanor.

Sec. 28. Minnesota Statutes 1990, section 97A.431, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] Persons eligible for a moose license shall be determined under this section and commissioner's order. A person is eligible for a moose license only if the person:

(1) is a resident;

(2) is at least age 16 before the season opens; and

(3) has not been issued a moose license for any of the last five seasons *or after January 1, 1991.*

Sec. 29. Minnesota Statutes 1990, section 97A.435, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] Persons eligible for a turkey license shall be determined by this section and commissioner's order. A person is eligible for a turkey license only if the person is ~~a resident and~~ at least age 16 before the season opens or possesses a firearms safety certificate.

Sec. 30. Minnesota Statutes 1990, section 97A.475, subdivision 2, is amended to read:

Subd. 2. [RESIDENT HUNTING.] Fees for the following licenses, to be issued to residents only, are:

(1) for persons under age 65 to take small game, $10;

(2) for persons age 65 or over, $5;

(3) to take turkey, ~~$14~~ *$16*;

(4) to take deer with firearms, $22;

(5) ~~family license to take deer with firearms, $84;~~

~~(6)~~ to take deer by archery, $22;

~~(7)~~ *(6)* to take moose, for a party of not more than ~~four~~ *six* persons, $275;

~~(8)~~ *(7)* to take bear, $33; ~~and~~

~~(9)~~ *(8)* to take elk, for a party of not more than two persons, $220*; and*

(9) to take antlered deer in more than one zone, $44.

Sec. 31. Minnesota Statutes 1990, section 97A.475, subdivision 3, is amended to read:

Subd. 3. [NONRESIDENT HUNTING.] Fees for the following licenses, to be issued to nonresidents, are:

(1) to take small game, $56;

(2) to take deer with firearms, $110;

(3) to take deer by archery, $110;

(4) to take bear, $165;

(5) to take turkey, ~~$33~~ *$56*; and

(6) to take raccoon, bobcat, fox, coyote, or lynx, $137.50.

Sec. 32. Minnesota Statutes 1990, section 97A.475, subdivision 7, is amended to read:

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

(1) to take fish by angling, ~~$20~~ *$25*;

(2) to take fish by angling limited to seven consecutive days, $16.50;

(3) to take fish by angling for three consecutive days, $13.50;

(4) to take fish by angling for a combined license for a family, ~~$33.50~~ *$35*;

(5) to take fish by angling for a period of 24 hours from the time of issuance, $5; and

(6) to take fish by angling for a combined license for a married couple, limited to 14 consecutive days, $25.

Sec. 33. Minnesota Statutes 1990, section 97A.485, subdivision 7, is amended to read:

Subd. 7. [COUNTY AUDITOR'S COMMISSION.] The county auditor shall retain for the county treasury a commission of four percent of all license fees collected by the auditor and the auditor's subagents, excluding the small game surcharge and issuing fees, *the fishing surcharge and issuing fees*, and the license to take fish by angling for persons age 65 and over. In addition, the auditor shall collect the issuing fees on licenses sold by the auditor to a licensee.

Sec. 34. Minnesota Statutes 1990, section 97B.601, subdivision 4, is amended to read:

Subd. 4. [EXCEPTION TO LICENSE REQUIREMENTS.] (a) A resident under age 16 may take small game without a small game license, and a resident under age 13 may trap without a trapping license, as provided in section 97A.451, subdivision 3.

(b) A person may take small game without a small game license on land occupied by the person as a principal residence.

(c) An owner or occupant may take certain small game causing damage without a small game or trapping license as provided in section 97B.655.

(d) A person may use dogs to pursue and tree raccoons under section 97B.621, subdivision 2, during the closed season without a license.

(e) A person may take turkey without a small game license.

Sec. 35. Minnesota Statutes 1990, section 97B.721, is amended to read:

97B.721 [LICENSE REQUIRED TO TAKE TURKEY.]

A person may not take turkey without ~~a small game license and~~ a turkey license.

Sec. 36. Minnesota Statutes 1990, section 103B.321, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The board shall:

(1) develop guidelines for the contents of comprehensive water plans that provide for a flexible approach to meeting the different water and related land resources needs of counties and watersheds across the state;

(2) coordinate assistance of state agencies to counties and other local units of government involved in preparation of comprehensive water plans, including identification of pertinent data and studies available from the state and federal government;

(3) conduct an active program of information and education concerning

the requirements and purposes of sections 103B.301 to 103B.355 in conjunction with the association of Minnesota counties;

(4) determine contested cases under section 103B.345;

(5) establish a process for review of comprehensive water plans that assures the plans are consistent with state law; ~~and~~

(6) report to the legislative commission on Minnesota resources as required by section 103B.351; *and*

(7) make grants to counties for comprehensive local water planning, implementation of priority actions identified in approved plans, and sealing of abandoned wells.

Sec. 37. Minnesota Statutes 1990, section 116.07, subdivision 4d, is amended to read:

Subd. 4d. [PERMIT FEES.] *(a)* The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of reviewing and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The agency shall adopt rules under section 16A.128 establishing the amounts and methods of collection of any permit fees collected under this subdivision. Any money collected under this ~~subdivision~~ *paragraph* shall be deposited in the special revenue account.

(b) Notwithstanding paragraph (a), and section 16A.128, subdivision 1, the agency shall collect an annual fee from the owner or operator of all stationary sources, emission facilities, emissions units, air contaminant treatment facilities, treatment facilities, potential air contaminant storage facilities, or storage facilities subject to the requirement to obtain a permit under Title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399 et seq., or section 116.081. The annual fee shall be used to pay for all direct and indirect reasonable costs, including attorney general costs, required to develop and administer the permit program requirements of Title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399 et seq., and sections of this chapter and the rules adopted under this chapter related to air contamination and noise. Those costs include the reasonable costs of reviewing and acting upon an application for a permit; implementing and enforcing statutes, rules, and the terms and conditions of a permit; emissions, ambient, and deposition monitoring; preparing generally applicable regulations; responding to federal guidance; modeling, analyses, and demonstrations; preparing inventories and tracking emissions; providing information to the public about these activities; and, after June 30, 1992, the costs of acid deposition monitoring currently assessed under section 116C.69, subdivision 3.

(c) The agency shall adopt fee rules in accordance with the procedures in section 16A.128, subdivisions 1a and 2a, that will result in the collection, in the aggregate, from the sources listed in paragraph (b), of the following amounts:

(1) in fiscal years 1992 and 1993, the amount appropriated by the legislature from the air quality account in the environmental fund for the agency's air quality program; and

(2) for fiscal year 1994 and thereafter, an amount not less than $25 per

ton of each volatile organic compound; pollutant regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112 of the federal Clean Air Act); pollutant regulated under Minnesota Rules, chapter 7005; and each pollutant, except carbon monoxide, for which a national or state primary ambient air quality standard has been promulgated.

The agency must not include in the calculation of the aggregate amount to be collected under the fee rules any amount in excess of 4,000 tons per year of each air pollutant from a source.

(d) To cover the reasonable costs described in paragraph (b), the agency shall provide in the rules promulgated under paragraph (c) for an increase in the fee collected in each year beginning after 1990 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of the year the fee is collected exceeds the Consumer Price Index for the calendar year 1989. For purposes of this paragraph the Consumer Price Index for any calendar year is the average of:

(1) the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year; and

(2) the revision of the Consumer Price Index that is most consistent with the Consumer Price Index for calendar year 1989.

(e) Any money collected under paragraphs (b) to (d) must be deposited in an air quality account in the environmental fund and must be used solely for the activities listed in paragraph (b).

(f) The agency shall adopt the fee rules for this subdivision by September 1, 1991.

Sec. 38. [REPORT.]

The pollution control agency shall report to the legislature by December 30, 1992, on the following:

(1) the basis on which air emission fees are assessed for each pollutant;

(2) the basis on which air emission fees are distributed among various emission sources;

(3) how the scope and costs of Minnesota air emission fees and air quality programs compare to neighboring states; and

(4) the allocation of air emission fees among various programs within the air quality division.

Sec. 39. Minnesota Statutes 1990, section 116P.05, is amended to read:

116P.05 [LEGISLATIVE COMMISSION *ON* MINNESOTA RESOURCES.]

Subdivision 1. [MEMBERSHIP.] (a) A legislative commission on Minnesota resources of 16 members is created, consisting of the chairs of the house and senate committees on environment and natural resources or designees appointed for the terms of the chairs, the chairs of the house appropriations and senate finance committees or designees appointed for the terms of the chairs, six members of the senate appointed by the subcommittee

on committees of the committee on rules and administration, and six members of the house appointed by the speaker. ~~The commission shall develop a budget plan for expenditures from the trust fund and shall adopt a strategic plan as provided in section 116P.08.~~

~~(b) The commission shall recommend expenditures to the legislature from the Minnesota future resources account under section 116P.13.~~ At least two members from the senate and two members from the house must be from the minority caucus. Members are entitled to reimbursement for per diem expenses plus travel expenses incurred in the services of the commission.

~~(c)~~ *(b)* Members shall appoint a chair who shall preside and convene meetings as often as necessary to conduct duties prescribed by this chapter.

~~(d)~~ *(c)* Members shall serve on the commission until their successors are appointed.

~~(e)~~ *(d)* Vacancies occurring on the commission shall not affect the authority of the remaining members of the commission to carry out their duties, and vacancies shall be filled in the same manner under paragraph (a).

Subd. 2. [DUTIES.] *(a) The commission shall recommend a budget plan for expenditures from the environment and natural resources trust fund and shall adopt a strategic plan as provided in section 116P.08.*

(b) The commission shall recommend expenditures to the legislature from the Minnesota future resources fund under section 116P.13.

~~(f)~~ *(c)* The commission may adopt ~~bylaws and~~ operating procedures to fulfill their duties under sections 116P.01 to 116P.13.

Sec. 40. Minnesota Statutes 1990, section 116P.06, is amended to read:

116P.06 [ADVISORY COMMITTEE.]

Subdivision 1. [MEMBERSHIP.] (a) An advisory committee of 11 citizen members shall be appointed by the governor to advise the legislative commission on Minnesota resources on project proposals to receive funding from the trust fund and the development of budget and strategic plans. The governor shall appoint at least one member from each congressional district. The governor shall appoint the chair.

(b) The governor's appointees must be confirmed with the advice and consent of the senate. The membership terms, compensation, removal, and filling of vacancies for citizen members of the advisory committee are governed by section 15.0575.

Subd. 2. [DUTIES.] *(a) The advisory committee shall:*

(1) prepare and submit to the commission a draft strategic plan to guide expenditures from the trust fund;

(2) review the reinvest in Minnesota program during development of the draft strategic plan;

(3) gather input from the resources congress during development of the draft strategic plan;

(4) advise the commission on project proposals to receive funding from the trust fund; and

(5) advise the commission on development of the budget plan.

(b) The advisory committee may review all project proposals for funding

and may make recommendations to the commission on whether the projects:

(1) meet the standards and funding categories set forth in sections 116P.01 to 116P.12;

(2) duplicate existing federal, state, or local projects being conducted within the state; and

(3) are consistent with the most recent strategic plan adopted by the commission.

Sec. 41. Minnesota Statutes 1990, section 116P.07, is amended to read:

116P.07 [RESOURCES CONGRESS.]

The commission must convene a resources congress at least once every biennium *and shall develop procedures for the congress*. The congress must be open to all interested individuals. The purpose of the congress is to collect public input necessary to allow the commission, with the advice of the advisory committee, to develop a strategic plan to guide expenditures from the trust fund. The congress also may be convened to receive and review reports on trust fund projects. *The congress shall also review the reinvest in Minnesota program.*

Sec. 42. Minnesota Statutes 1990, section 116P.08, subdivision 3, is amended to read:

Subd. 3. [STRATEGIC PLAN REQUIRED.] (a) The commission shall adopt a strategic plan for making expenditures from the trust fund, including identifying the priority areas for funding for the next six years. ~~The reinvest in Minnesota program must be reviewed by the advisory committee, resources congress, and commission during the development of the strategic plan.~~ The strategic plan must be updated every two years. The plan is advisory only. The commission shall submit the plan, as a recommendation, to the house of representatives appropriations and senate finance committees by January 1 of each odd-numbered year.

~~(b) The advisory committee shall work with the resources congress to develop a draft strategic plan to be submitted to the commission for approval. The commission shall develop the procedures for the resources congress.~~

~~(c)~~ The commission may accept or modify the draft of the strategic plan submitted to it by the advisory committee before voting on the plan's adoption.

Sec. 43. Minnesota Statutes 1990, section 116P.08, subdivision 4, is amended to read:

Subd. 4. [BUDGET PLAN.] (a) Funding may be provided only for those projects that meet the categories established in subdivision 1.

(b) Projects submitted to the commission for funding may be referred to the advisory committee for recommendation~~, except that research proposals first must be reviewed by the peer review panel. The advisory committee may review all project proposals for funding and may make recommendations to the commission on whether:~~

~~(1) the projects meet the standards and funding categories set forth in sections 116P.01 to 116P.12;~~

~~(2) the projects duplicate existing federal, state, or local projects being conducted within the state; and~~

~~(3) the projects are consistent with the most recent strategic plan adopted by the commission~~.

(c) The commission must adopt a budget plan to make expenditures from the trust fund for the purposes provided in subdivision 1. The budget plan must be submitted to the governor for inclusion in the biennial budget and supplemental budget submitted to the legislature.

(d) Money in the trust fund may not be spent except under an appropriation by law.

Sec. 44. Minnesota Statutes 1990, section 116P.09, subdivision 2, is amended to read:

Subd. 2. [LIAISON OFFICERS.] The commission shall request each department or agency head of all state agencies with a direct interest and responsibility in any phase of environment and natural resources to appoint, and the latter shall appoint for the agency, a liaison officer who shall work closely with the commission and its staff. ~~The designated liaison officer shall attend all meetings of the advisory committee to provide assistance and information to committee members when necessary.~~

Sec. 45. Minnesota Statutes 1990, section 116P.09, subdivision 4, is amended to read:

Subd. 4. [PERSONNEL.] Persons who are employed by a state agency to work on a project and are paid by an appropriation from the trust fund or Minnesota future resources ~~account~~ *fund* are in the unclassified civil service, and their continued employment is contingent upon the availability of money from the appropriation. When the appropriation has been spent, their positions must be canceled and the approved complement of the agency reduced accordingly. Part-time employment of persons for a project is authorized.

Sec. 46. Minnesota Statutes 1990, section 116P.09, subdivision 7, is amended to read:

Subd. 7. [REPORT REQUIRED.] The commission shall, by ~~July 1~~ *January 15* of each ~~even-numbered~~ *odd-numbered* year, submit a report to the governor, the chairs of the house appropriations and senate finance committees, and the chairs of the house and senate committees on environment and natural resources. Copies of the report must be available to the public. The report must include:

(1) a copy of the current strategic plan;

(2) a description of each project receiving money from the trust fund and Minnesota future resources ~~account~~ *fund* during the preceding ~~two years~~ *biennium*;

(3) a summary of any research project completed in the preceding ~~two years~~ *biennium*;

(4) recommendations to implement successful projects and programs into a state agency's standard operations;

(5) to the extent known by the commission, descriptions of the projects anticipated to be supported by the trust fund and Minnesota future resources account during the next ~~two years~~ *biennium*;

(6) the source and amount of all revenues collected and distributed by the commission, including all administrative and other expenses;

(7) a description of the ~~trust fund's~~ assets and liabilities *of the trust fund and the Minnesota future resources fund*;

(8) any findings or recommendations that are deemed proper to assist the legislature in formulating legislation;

(9) a list of all gifts and donations with a value over $1,000; *and*

(10) a comparison of the amounts spent by the state for environment and natural resources activities through the most recent fiscal year; and

(11) a copy of the most recent ~~certified financial and~~ compliance audit.

Sec. 47. [GLENDALOUGH STATE PARK.]

Subdivision 1. [85.012] [Subd. 23a.] [GLENDALOUGH STATE PARK.] *Glendalough state park is established in Otter Tail county.*

Subd. 2. [ACQUISITION.] *The commissioner of natural resources is authorized to acquire by gift or purchase the lands for Glendalough state park. The commissioner shall give emphasis to the management of wildlife within the park and shall interpret these management activities for the public. Except as otherwise provided in this subdivision, all lands acquired for Glendalough state park shall be administered in the same manner as provided for other state parks and shall be perpetually dedicated for that use.*

Subd. 3. [PAYMENT IN LIEU OF TAXES FOR PRIVATE TRACTS.] *(a) If a tract or lot or privately owned land is acquired for inclusion within Glendalough state park and, as a result of the acquisition, taxes are no longer assessed against the tract or lot or improvements on the tract or lot, the following amount shall be paid by the commissioner of natural resources to Otter Tail county for distribution to the taxing districts:*

(1) in the first year after taxes are last required to be paid on the property, 55 percent of the last required payment;

(2) in the second year after taxes are last required to be paid on the property, 40 percent of the last required payment; and

(3) in the third year after taxes are last required to be paid on the property, 20 percent of the last required payment.

(b) The commissioner shall make the payments from money appropriated for state park maintenance and operation. The county auditor shall certify to the commissioner of natural resources the total amount due to a county on or before March 30 of the year in which money must be paid under this section. Money received by a county under this subdivision shall be distributed to the various taxing districts in the same proportion as the levy on the property in the last year taxes were required to be paid on the property.

Subd. 4. [BOUNDARIES.] *The following described lands are located within the boundaries of Glendalough state park:*

Government Lots 3 and 4 and that part of Lake Emma and its lake bed lying in Section 7; all of Section 18; Government Lot 1, the Northeast Quarter of the Northwest Quarter and the Southwest Quarter of the Northwest Quarter of Section 19; all in Township 133 North, Range 39 West.

All of Section 13; Government Lots 1 and 2, the West Half of the Southeast Quarter, the Northeast Quarter and the Southwest Quarter of Section 14; Government Lots 1 and 2, the East 66 feet of the West Half of the Southeast Quarter and the Northeast Quarter of Section 23; Government Lots 1, 2,

3, 4, 5, 6, and 8, the Northwest Quarter of the Northwest Quarter, the East Half of the Southeast Quarter of Section 24; that part of Government Lot 7 of Section 24 lying easterly of the following described line: commencing at the northeast corner of Government Lot 1 of Section 25, Township 133 North, Range 40 West; thence North 89 degrees 22 minutes 29 seconds West on an assumed bearing along the north line of said Section 25 a distance of 75.00 feet to the point of beginning; thence on a bearing of North 37 feet, more or less, to the shoreline of Molly Stark Lake and there terminating; that part of Government Lot 1 of Section 25 lying northerly of County State Aid Highway No. 16 and westerly of the following described line: commencing at the northeast corner of said Government Lot 1; thence on an assumed bearing of South along the east line of said Government Lot 1 a distance of 822.46 feet; thence North 77 degrees 59 minutes 14 seconds West 414.39 feet to the point of beginning; thence North 04 degrees 28 minutes 54 seconds East 707 feet, more or less, to the shoreline of Molly Stark Lake and there terminating; the westerly 50 feet except the northerly 643.5 feet of Government Lot 1 of Section 25; Government Lot 1 of Section 26 except the easterly 50 feet of the northerly 643.5 feet; all in Township 133 north, Range 40 West.

Sec. 48. [REPEALER.]

Minnesota Statutes 1990, section 116.86, is repealed.

Sec. 49. [EFFECTIVE DATE.]

Sections 15 and 16 are effective October 1, 1991. Sections 30, 31, and 32 are effective for the licensing year beginning March 1, 1992, and for each licensing year thereafter.

ARTICLE 3

AGRICULTURE

Section 1. [17.107] [FARM EQUIPMENT SAFETY AND MAINTENANCE PROGRAM FOR YOUTH.]

Subdivision 1. [PROGRAM COORDINATION.] *The Minnesota extension service, in cooperation with the commissioner of agriculture, shall implement a voluntary farm equipment safety program for training and certifying rural youth. The program must be designed to teach young operators to safely maintain and operate tractors and other farm implements. The extension service shall maintain records adequate to verify the names and addresses of students certified by the safety program.*

Subd. 2. [INSTRUCTOR DEVELOPMENT.] *Not later than August 1, 1991, the Minnesota extension service shall design a program for the recruitment and development of qualified instructors for the youth farm equipment safety program created under subdivision 1.*

Subd. 3. [PAYMENT TO INSTRUCTORS.] *From within public or nonpublic funds made available for the youth farm equipment safety program created under subdivision 1, the commissioner of agriculture may make payments of $25 per student to qualified instructors on a per-student basis.*

Sec. 2. Minnesota Statutes 1990, section 18.46, subdivision 6, is amended to read:

Subd. 6. [NURSERY STOCK GROWER.] ~~A nursery operator: A~~ " Nursery ~~operator is any~~ *stock grower" means a* person who owns, leases, manages, or is in charge of a nursery.

Sec. 3. Minnesota Statutes 1990, section 18.46, subdivision 9, is amended to read:

Subd. 9. [NURSERY STOCK DEALER.] ~~A dealer: A~~ *"Nursery stock* dealer ~~is any~~" *means a* person who obtains nursery stock for the purpose of sale or distribution and includes any person who sells and distributes for more than one nursery ~~operator~~ *stock grower*. A person who purchases more than half of the nursery stock offered for sale at a sales location during the current certificate year shall be considered a *nursery stock* dealer rather than a nursery ~~operator~~ *stock grower* for the purposes of determining a proper fee schedule.

Sec. 4. Minnesota Statutes 1990, section 18.46, is amended by adding a subdivision to read:

Subd. 9a. [LANDSCAPER.] *"Landscaper" is a nursery stock dealer who obtains certified nursery stock for immediate sale, distribution, or installation and who does not grow or maintain nursery stock for resale.*

Sec. 5. Minnesota Statutes 1990, section 18.49, subdivision 2, is amended to read:

Subd. 2. [CERTIFICATE.] It is unlawful for a person to sell or distribute nursery stock to a *nursery stock* dealer or nursery ~~operator~~ *stock grower* who does not have a valid ~~certificate of inspection~~ *grower's* or dealer's certificate.

Sec. 6. Minnesota Statutes 1990, section 18.51, is amended to read:

18.51 [*NURSERY STOCK GROWER'S* CERTIFICATE ~~OF INSPECTION~~.]

Subdivision 1. [CERTIFICATE REQUIRED.] Each nursery ~~operator~~ *stock grower* shall obtain a *nursery stock grower's* certificate ~~of inspection~~ from the commissioner. Said certificate shall be obtained before offering nursery stock for sale or distribution. Each certificate shall expire on ~~November 15~~ *December 31* of each year.

Subd. 2. [FEES; PENALTY.] A nursery ~~operator~~ *stock grower* shall pay an annual fee before the commissioner shall issue a certificate of inspection. This fee shall be based on the area of all of the ~~operator's~~ *nursery stock grower's* nurseries as follows:

Nurseries:

(1)	1/2 acre or less	~~$40~~ *$70* per nursery ~~operator~~ *stock grower*
(2)	Over 1/2 acre to and including 2 acres	~~$60~~ *$85* per nursery ~~operator~~ *stock grower*
(3)	Over 2 acres to and including 10 acres	~~$125~~ *$150* per nursery ~~operator~~ *stock grower*
(4)	Over 10 acres to and including 50 acres	~~$360~~ *$400* per nursery ~~operator~~ *stock grower*
(5)	Over 50 acres	$725 per nursery ~~operator~~ *stock grower for the first 50 acres and $1 per acre*

for each additional acre

~~In addition to the above fees,~~ A ~~minimum~~ penalty of ~~$10 or~~ 25 percent of the fee due~~, whichever is greater,~~ shall be charged for any application for renewal not received by January 1 of the year following expiration of a certificate.

Sec. 7. Minnesota Statutes 1990, section 18.52, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATES REQUIRED.] A ~~dealer's~~ *nursery stock dealer* certificate shall be obtained by every *nursery stock* dealer for each location before offering nursery stock for sale or distribution unless the *nursery stock* dealer holds a valid greenhouse or nursery ~~operator's~~ *stock grower's* certificate either of which will permit a single sales location. This certificate or a duplicate thereof shall be displayed in a prominent manner at each place where nursery stock is offered for sale. A certificate to sell or distribute certified nursery stock may be obtained by a *nursery stock* dealer or by an agent through a principal, from the commissioner. The commissioner may refuse to issue a ~~dealer's~~ *nursery stock dealer* or ~~agent's~~ *agent* certificate for cause.

Sec. 8. Minnesota Statutes 1990, section 18.52, subdivision 5, is amended to read:

Subd. 5. [FEES; PENALTY.] A *nursery stock* dealer shall pay an annual fee based on the dealer's gross sales during the preceding certificate year. A *nursery stock* dealer operating for the first year will pay the minimum fee.

Dealers:

(1)	Gross sales up to ~~$1,000~~ *$5,000*	at a location ~~$40~~ *$70* per location
(2)	~~Gross sales over $1,000 and up to $5,000~~	~~at a location $50 per location~~
~~(3)~~	Gross sales over $5,000 up to $10,000	at a location ~~$85~~ *$100* per location
~~(4)~~	*(3)* Gross sales over $10,000 up to $25,000	at a location ~~$125~~ *$200* per location
~~(5)~~	*(4)* Gross sales over $25,000 up to $75,000	at a location ~~$175~~ *$300* per location
~~(6)~~	*(5)* Gross sales over $75,000 up to $100,000	at a location ~~$260~~ *$400* per location
~~(7)~~	*(6)* Gross sales over $100,000 *up to $250,000*	at a location ~~$400~~ *$500* per location
(7)	*Gross sales over $250,000*	*at a location $600 per location*

In addition to the above fees, a minimum penalty of $10 or 25 percent of the fee due, whichever is greater, shall be charged for any application for renewal not received by January 1 of the year following expiration of a certificate.

Sec. 9. Minnesota Statutes 1990, section 18.54, subdivision 2, is amended to read:

Subd. 2. [VIRUS DISEASE-FREE CERTIFICATION.] The commissioner shall have the authority to provide special services such as virus disease-free certification and other similar programs. Participation by nursery ~~operators~~ *stock growers* shall be voluntary. Plants offered for sale as certified virus-free must be grown according to certain procedures in a manner defined by the commissioner for the purpose of eliminating viruses and other injurious disease or insect pests. The commissioner shall collect reasonable fees from participating nursery ~~operators~~ *stock growers* for services and materials that are necessary to conduct this type of work, as provided in section 16A.128.

Sec. 10. Minnesota Statutes 1990, section 18.55, is amended to read:

18.55 [RECIPROCITY WITH OTHER STATES.]

Subdivision 1. [OUT-OF-STATE NURSERY ~~OPERATOR~~ *STOCK GROWER*, DEALER, OR AGENT.] A nursery ~~operator~~ *stock grower*, dealer, or agent from another state which issues certificates to nursery ~~operators~~ *stock growers*, dealers, or agents of Minnesota on the same or similar basis as to nursery ~~operators~~ *stock growers*, dealers, or agents of such state may operate in Minnesota upon complying with the plant pest act without procuring a Minnesota certificate. Any person from another state shipping nursery stock into Minnesota shall be accorded treatment similar to that which is required of Minnesota nursery ~~operators~~ *stock growers*, dealers, or agents who ship or sell nursery stock in such state. No reciprocity shall be extended under this section until the commissioner has first determined which states issue certificates to nursery ~~operators~~ *stock growers*, dealers, or agents of Minnesota on the same or similar basis as to nursery ~~operators~~ *stock growers*, dealers, or agents of such states.

Subd. 2. [FILING OUT-OF-STATE CERTIFICATES OF INSPECTION.] Each out-of-state nursery ~~operator~~ *stock grower* or dealer whose nursery stock is sold, offered for sale, or distributed within this state shall file a certified current copy of an out-of-state certificate in the office of the commissioner. The commissioner may accept, in lieu of such individual certificates, a certified list of current certified nursery ~~operators~~ *stock growers* or dealers from the regulatory agency having jurisdiction in the state of origin, and may distribute such lists to persons in the state of Minnesota requesting them. The commissioner also may supply certified lists of certified Minnesota nursery ~~operators~~ *stock growers* and dealers offering nursery stock for sale in Minnesota and other states on request of any person. If any certified nursery ~~operator~~ *stock grower* or dealer has violated any provisions of the plant pest act, the filed certificate will be voided or the ~~nursery operator's~~ *person's* name will be stricken from the appropriate certified list.

Sec. 11. Minnesota Statutes 1990, section 18.56, is amended to read:

18.56 [TAGS.]

A tag bearing a reasonable facsimile of the *nursery stock grower or dealer* certificate ~~of inspection~~ shall be attached to every package or bundle of nursery stock sold or transported by any person. The form of each tag shall be approved by the commissioner before being used.

Sec. 12. Minnesota Statutes 1990, section 18.57, is amended to read:

18.57 [CARRIERS NOT TO ACCEPT UNTAGGED STOCK.]

All carriers for hire, including railroad companies, express companies

and truck lines shall not accept nursery stock which is not tagged with a valid tag of the nursery *stock grower* or dealer making the shipment. The carrier shall promptly notify the commissioner regarding any prohibited shipment.

Sec. 13. Minnesota Statutes 1990, section 18.60, is amended to read:

18.60 [PENALTIES.]

Subdivision 1. [CERTIFICATE ~~MAY BE REVOKED~~ *REVOCATION.*] *In addition to or in lieu of administrative penalties under subdivision 2,* the certificate of any person violating any of the provisions of the plant pest act may be suspended or revoked by the commissioner ~~upon five days notice and opportunity to be heard~~.

Subd. 2. [~~MISDEMEANOR~~ *ADMINISTRATIVE PENALTY.*] ~~Any person violating any of the provisions of the plant pest act, or any rule promulgated thereunder shall be guilty of a misdemeanor.~~ *The commissioner may impose an administrative penalty on a person who violates sections 18.44 to 18.61. For a first violation, the commissioner may impose an administrative penalty of not more than $1,000 for each violation. For a second or succeeding violation, the commissioner may impose an administrative penalty of not more than $1,500 for each violation. Each day a violation continues is a separate violation. In determining the amount of the administrative penalty to be assessed under this section, the commissioner shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business.*

Subd. 3. [APPEAL.] *A person adversely affected by an act, order, or ruling made under this section, or a rule adopted under the plant pest act, may appeal under chapter 14.*

Sec. 14. Minnesota Statutes 1990, section 27.19, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS.] (a) A person subject to the provisions of this section and sections 27.01 to 27.15 may not:

(1) operate or advertise to operate as a dealer at wholesale without a license;

(2) make any false statement or report as to the grade, condition, markings, quality, or quantity of produce, as defined in section 27.069, received or delivered, or act in any manner to deceive a consignor or purchaser;

(3) refuse to accept a shipment contracted for by the person, unless the refusal is based upon the showing of a state inspection certificate secured with reasonable promptness after the receipt of the shipment showing that the kind and quality of produce, as defined in section 27.069, is other than that purchased or ordered by the person;

(4) fail to account or make a settlement for produce within the required time;

(5) violate or fail to comply with the terms or conditions of a contract entered into by the person for the purchase or sale of produce;

(6) purchase for a person's own account any produce received on consignment, either directly or indirectly, without the consent of the consignor;

(7) issue a false or misleading market quotation, or cancel a quotation during the period advertised by the person;

(8) increase the sales charges on produce shipped to the person by means of "dummy" or fictitious sales;

(9) receive decorative forest products and the products of farms and waters from foreign states or countries for sale or resale, either within or outside of the state, and give the purchaser the impression, through any method of advertising or description, that the produce is of Minnesota origin;

(10) fail to notify in writing all suppliers of produce of the protection afforded to suppliers by the person's licensee bond, including: availability of a bond, notice requirements, and any other conditions of the bond;

(11) make a false statement to the commissioner on an application for license or bond or in response to written questions from the commissioner regarding the license or bond;

(12) commit to pay and not pay in full for all produce committed for. *A processor may not pay an amount less than the full contract price if the crop produced is satisfactory for processing and is not harvested for reasons within the processor's control. If the processor sets the date for planting, bunching, unusual yields, and a processor's inability or unwillingness to harvest must be considered to be within the processor's control. Under this clause growers must be compensated for passed acreage at the same rate for grade and yield as they would have received had the crop been harvested in a timely manner minus any contractual provision for green manure or feed value. Both parties are excused from payment or performance for crop conditions that are beyond the control of the parties*; or

(13) discriminate between different sections, localities, communities, or cities, or between persons in the same community, by purchasing produce from farmers of the same grade, quality, and kind, at different prices, except that price differentials are allowed if directly related to the costs of transportation, shipping, and handling of the produce and a person is allowed to meet the prices of a competitor in good faith, in the same locality for the same grade, quality, and kind of produce. A showing of different prices by the commissioner is prima facie evidence of discrimination.

(b) A separate violation occurs with respect to each different person involved, each purchase or transaction involved, and each false statement.

Sec. 15. Minnesota Statutes 1990, section 28A.08, is amended to read:

28A.08 [LICENSE FEES; PENALTIES.]

License fees, penalties for late renewal of licenses, and penalties for not obtaining a license before conducting business in food handling that are set in this section apply to the sections named except as provided under section 28A.09. Except as specified herein, bonds and assessments based on number of units operated or volume handled or processed which are provided for in said laws shall not be affected, nor shall any penalties for late payment of said assessments, nor shall inspection fees, be affected by this chapter. The ~~late penalty~~ *penalties* may be waived by the commissioner.

Type of food handler	License Fee	Penalties Late Renewal	Penalties No License
1. Retail food handler			

(a) Having gross sales *of only prepackaged nonperishable food* of less than ~~$50,000~~ *$15,000* for the immediately previous license or fiscal year *and filing a statement with the commissioner*	$ 40	$ 15	$ 25
(b) Having under $15,000 gross sales including food preparation or having $15,000 to $50,000 gross sales for the immediately previous license or fiscal year	*$ 55*	*$ 15*	*$ 25*
~~(b)~~ *(c)* Having $50,000 to $250,000 gross sales for the immediately previous license or fiscal year	~~$ 75~~ *$105*	~~$ 25~~ *$ 35*	~~$ 25~~ *$ 75*
~~(c)~~ *(d)* Having $250,000 to $1,000,000 gross sales for the immediately previous license or fiscal year	~~$125~~ *$180*	$ 50	~~$ 50~~ *$100*
~~(d)~~ *(e)* Having ~~over~~ $1,000,000 *to $5,000,000* gross sales for the immediately previous license or fiscal year	~~$250~~ *$500*	~~$ 75~~ *$100*	~~$100~~ *$175*
(f) Having $5,000,000 to $10,000,000 gross sales for the immediately previous license or fiscal year	*$700*	*$150*	*$300*
(g) Having over $10,000,000 gross sales for the immediately previous license or fiscal year	*$800*	*$200*	*$350*
2. Wholesale food handler			
(a) Having gross sales or service of less than $250,000 for the immediately previous license or fiscal year	~~$100~~ *$200*	~~$ 25~~ *$ 50*	~~$ 50~~ *$100*
(b) Having $250,000 to $1,000,000 gross sales or service for the immediately previous license or fiscal year	~~$150~~ *$400*	~~$ 38~~ *$100*	~~$ 75~~ *$200*
(c) Having ~~over~~ $1,000,000 *to $5,000,000* gross sales or service for the immediately previous license or fiscal year	~~$200~~ *$500*	~~$ 50~~ *$125*	~~$100~~ *$250*
(d) Having over $5,000,000 gross sales for the immediately previous license or fiscal year	*$575*	*$150*	*$300*
3. Food broker	~~$ 75~~ *$100*	~~$ 25~~ *$ 30*	~~$ 25~~ *$ 50*
4. Wholesale food processor or manufacturer			

(a) Having gross sales of less than $250,000 for the immediately previous license or fiscal year	~~$200~~ *$275*	~~$ 50~~ *$ 75*	~~$ 75~~ *$150*
(b) Having $250,000 to $1,000,000 gross sales for the immediately previous license or fiscal year	~~$275~~ *$400*	~~$ 75~~ *$100*	~~$100~~ *$200*
(c) Having ~~over~~ $1,000,000 *to $5,000,000* gross sales for the immediately previous license or fiscal year	~~$375~~ *$500*	~~$100~~ *$125*	~~$125~~ *$250*
(d) Having over $5,000,000 gross sales for the immediately previous license or fiscal year	*$575*	*$150*	*$300*
5. Wholesale food processor of meat or poultry products under supervision of the U. S. Department of Agriculture			
(a) Having gross sales of less than $250,000 for the immediately previous license ~~of~~ *or* fiscal year	~~$100~~ *$150*	~~$ 25~~ *$ 50*	~~$ 38~~ *$ 75*
(b) Having $250,000 to $1,000,000 gross sales for the immediately previous license or fiscal year	~~$150~~ *$225*	~~$ 50~~ *$ 75*	~~$ 45~~ *$125*
(c) Having ~~over~~ $1,000,000 *to $5,000,000* gross sales for the immediately previous license or fiscal year	~~$175~~ *$275*	~~$ 50~~ *$ 75*	~~$ 53~~ *$150*
(d) Having over $5,000,000 gross sales for the immediately previous license or fiscal year	*$325*	*$100*	*$175*
6. Wholesale food manufacturer having the permission of the commissioner to use the name Minnesota farmstead cheese	$ 30	$ 10	$ 15
7. Nonresident frozen dairy manufacturer	*$200*	*$ 50*	*$ 75*

Sec. 16. Minnesota Statutes 1990, section 29.22, is amended to read:

29.22 [~~DEALERS~~ *EGG HANDLERS* ANNUAL INSPECTION FEE; DISPOSITION OF FEES.]

Subd. 2. [~~COMPUTATION; FEE SCHEDULE; RECORDS.~~] In addition to the annual ~~dealer's~~ *food handler's* license, required under section 28A.04, there ~~shall be~~ *is* an annual inspection fee applicable to every person who engages in the business of buying for resale, selling, ~~dealing,~~ or trading in eggs except a retail grocer who sells eggs previously candled and graded~~, such~~. *The* fee ~~to~~ *must* be computed on the basis of the number of cases of shell eggs handled at each place of business during the ~~month of April of each year, providing that if said dealer or processor is not operating during the month of April, the department shall estimate the volume of shell eggs~~

~~handled, and may revise the fee after three months of operation. In the event that~~ *highest volume month of each licensing year. If* a given lot of eggs is moved from one location of business to a second location of business and ~~provided that~~ the ~~dealers'~~ *food handler's* license is held by the same person at both locations, the given lot of eggs ~~shall~~ *must* be counted in determining the volume of business on which the inspection fee is based at the first location of business but ~~shall~~ *must* not enter into the computation of volume of business for the second location. For the purpose of determining fees, ~~a case shall be~~ *"case" means* one of 30 dozen capacity. The schedule of fees ~~shall be~~ *is* as follows:

~~VOLUME (30 DOZEN CASES) IN APRIL MINIMUM - MAXIMUM FEE~~

HIGHEST VOLUME OF CASES EACH LICENSING YEAR	*FEE*
1 - ~~100~~ *50*	~~$ 5~~ - $ 10
51 - 100	*$ 25*
101 - 1000	~~$ 10~~ - ~~$ 25~~ *$ 50*
1001 - 2000	~~$ 25~~ - ~~$ 50~~ *$ 75*
2001 - 4000	~~$ 50~~ - ~~$ 75~~ *$100*
4001 - 6000	~~$ 75~~ - ~~$100~~ *$125*
6001 - 8000	~~$100~~ - ~~$125~~ *$150*
8001 - 10,000	~~$125~~ - ~~$150~~ *$200*
OVER 10,000	~~$150~~ - ~~$200~~ *$250*

~~The commissioner shall fix the annual inspection fee within the limits set herein and may annually adjust the fee, as the commissioner deems necessary, within those limits, to more nearly meet the costs of inspection required to enforce the provisions of sections 29.21 to 29.28.~~ Each person subject to ~~such~~ *the* inspection fee *in this section* shall, under the direction of the commissioner, keep ~~such~~ records ~~as may be~~ necessary to accurately determine the volume of shell eggs on which the inspection fee is due and shall prepare annually a written report of ~~such~~ *the* volume upon forms supplied by the commissioner. This report, together with the required inspection fee, ~~shall~~ *must* be filed with the department on or before the last day of May of each year.

Subd. 3. [CANDLERS AND GRADERS.] The commissioner ~~shall have~~ *has* general supervisory powers over the candlers and graders of eggs and may conduct, in collaboration with the ~~institute~~ *college* of agriculture and the extension service of the University of Minnesota, an educational and training program to improve the efficiency and quality of the work done by ~~such~~ candlers.

Subd. 4. [EGG BREAKING ~~PLANTS~~.] Any person engaged in the business of breaking eggs for resale shall at all times comply with the rules of the department in respect to the conduct of ~~such~~ *that* business. The commissioner shall collect from each egg breaking plant laboratory fees for routine analysis and full reimbursement for services performed by a state inspector assigned to that plant on a continuous basis ~~as provided for in~~ *under* section 29.27.

Subd. 5. [~~DEPOSIT~~ *DISPOSITION* OF FEES; ~~APPROPRIATION~~.] All fees collected~~, together with~~ *and* all fines paid for ~~any~~ *a* violation ~~of any provision~~ of sections 29.21 to 29.28 or ~~any~~ rules promulgated ~~thereunder~~ *under those sections*, as well as all license fees and penalties ~~for late license~~

~~renewal, shall~~ *must* be deposited in the state treasury, and ~~shall be~~ credited to a separate account to be known as the egg law inspection fund, which is hereby created, set aside, and appropriated as a revolving fund to be used by the department to help defray the expense of inspection, supervision, and enforcement of sections 29.21 to 29.28 and ~~shall be~~ *is* in addition to and not in substitution for the sums regularly appropriated or otherwise made available for this purpose to the department.

Sec. 17. Minnesota Statutes 1990, section 31.39, is amended to read:

31.39 [ASSESSMENTS; INSPECTION SERVICES; COMMERCIAL CANNERIES ACCOUNT.]

The commissioner is hereby authorized and directed to collect from each commercial cannery an assessment for inspection and services furnished, and for maintaining a bacteriological laboratory and employing such bacteriologists and trained and qualified sanitarians as the commissioner may deem necessary. The assessment to be made on each commercial cannery, for each and every packing season, shall not exceed one-half cent per case on all foods packed, canned, or preserved therein, nor shall the assessment in any one calendar year to any one cannery exceed ~~$2,500~~ *$3,000*, and the minimum assessment to any cannery in any one calendar year shall be $100~~; provided, that the amount of the annual license fee collected under section 28A.08 shall be used to reduce the annual assessment for that year~~. The commissioner shall provide appropriate deductions from assessments for the net weight of meat, chicken, or turkey ingredients which have been inspected and passed for wholesomeness by the United States Department of Agriculture. The commissioner may, when the commissioner deems it advisable, graduate and reduce the assessment to such sum as is required to furnish the inspection and laboratory services rendered. The assessment made and the license fees, penalties, and other sums so collected shall be deposited in the state treasury, as other departmental receipts are deposited, but shall constitute a separate account to be known as the commercial canneries inspection account, which is hereby created, and together with moneys now remaining in said account, set aside, and appropriated as a revolving fund, to meet the expense of special inspection, laboratory and other services rendered, as provided in sections 31.31 to 31.392. The amount of such assessment shall be due and payable on or before December 31, of each year, and if not paid on or before February 15 following, shall bear interest after that date at the rate of seven percent per annum, and a penalty of ten percent on the amount of the assessment shall also be added and collected.

Sec. 18. Minnesota Statutes 1990, section 32.394, subdivision 8, is amended to read:

Subd. 8. [GRADE A INSPECTION FEES.] A processor or marketing organization of milk, milk products, sheep milk, or goat milk who wishes to market Grade A milk or use the Grade A label must apply for Grade A inspection service from the commissioner. A pasteurization plant requesting Grade A inspection service must hold a Grade A permit and pay an annual inspection fee of no more than $500. For Grade A farm inspection service, the fee must be no more than ~~$66~~ *$50* per farm, paid annually by the processor or by the marketing organization on behalf of its patrons. For a farm requiring a reinspection in addition to the required biannual inspections, an additional fee of no more than ~~$33~~ *$25* per reinspection must be paid by the processor or by the marketing organization on behalf of its

patrons. ~~If the commissioner deems it necessary to more nearly meet the cost of the service, the commissioner may annually adjust the assessments within the limits set in this subdivision.~~ *The Grade A farm inspection fee must not exceed the lesser of (1) 40 percent of the department's actual average cost per farm inspection or reinspection; or (2) the dollar limits set in this subdivision.* No fee increase may be implemented until after the commissioner has held three or more public hearings.

Sec. 19. Minnesota Statutes 1990, section 32.394, subdivision 8b, is amended to read:

Subd. 8b. [MANUFACTURING GRADE FARM CERTIFICATION.] A processor or marketing organization of milk, milk products, sheep milk, or goat milk who wishes to market other than Grade A milk must apply for a manufacturing grade farm certification inspection from the commissioner. A manufacturing plant that pasteurizes milk or milk by-products must pay an annual fee based on the number of pasteurization units. This fee must not exceed $140 per unit. The fee for farm certification inspection must not be more than ~~$33~~ *$25* per farm to be paid annually by the processor or by the marketing organization on behalf of its patrons. For a farm requiring more than the one ~~annual~~ inspection ~~required~~ for certification, ~~an additional~~ *a reinspection* fee of no more than ~~$33~~ *$25* must be paid by the processor or by the marketing organization on behalf of its patrons. The fee must be set by the commissioner in an amount necessary to ~~meet~~ *cover 40 percent of* the *department's actual* cost of *providing* the ~~service~~ *annual inspection* but must not exceed the limits in this subdivision. No fee increase may be implemented until after the commissioner has held three or more public hearings.

Sec. 20. Minnesota Statutes 1990, section 32.394, is amended by adding a subdivision to read:

Subd. 8d. [PROCESSOR ASSESSMENT.] *(a) A manufacturer shall pay to the commissioner a fee for fluid milk processed and milk used in the manufacture of fluid milk products sold in Minnesota. Beginning July 1, 1991, the fee is five cents per hundredweight. If the commissioner determines that a different fee, not exceeding nine cents per hundredweight, when combined with general fund appropriations and fees charged under sections 17 and 18, is needed to provide adequate funding for the Grades A and B inspection programs, the commissioner may, by rule, change the fee on processors.*

(b) Processors must report quantities of milk processed under paragraph (a) on forms provided by the commissioner. Processor fees must be paid monthly. The commissioner may require the production of records as necessary to determine compliance with this subdivision.

Sec. 21. Minnesota Statutes 1990, section 41A.09, subdivision 3, is amended to read:

Subd. 3. [PAYMENTS FROM ACCOUNT.] The commissioner of revenue shall make cash payments to producers of ethanol or wet alcohol located in the state. These payments shall apply only to ethanol or wet alcohol fermented in the state. The amount of the payment for each producer's annual production shall be as follows:

(a) For each gallon of ethanol produced:

(1) For the period beginning July 1, 1986, and ending June 30, 1987,

15 cents per gallon;

(2) For the period beginning July 1, 1987, and ending June 30, 2000, 20 cents per gallon.

(b) For each gallon produced of wet alcohol during the period beginning July 1, 1989, and ending June 30, 2000, a payment in cents per gallon calculated by the formula "alcohol purity in percent divided by five," and rounded to the nearest cent per gallon, but not less than 11 cents per gallon. The producer payment for wet alcohol under this section may be paid to either the original producer of wet alcohol or the secondary processor, at the option of the original producer, but not to both.

(c) The total payments from the fund to all producers may not exceed $200,000 during the period beginning July 1, 1986, and ending June 30, 1987, and may not exceed $10,000,000 in any fiscal year during the period beginning July 1, 1987, and ending June 30, *1991, and may not exceed $4,500,000 in any fiscal year during the period beginning July 1, 1991, and ending June 30,* 2000. Total payments to any producer from the account in any fiscal year may not exceed $3,000,000.

By the last day of October, January, April, and July, each producer shall file a claim for payment for production during the preceding three calendar months. The volume of production must be verified by a certified financial audit performed by an independent certified public accountant using generally accepted accounting procedures.

Payments shall be made November 15, February 15, May 15, and August 15.

Sec. 22. [137.341] [FARM SAFETY SPECIALIST POSITION.]

The Minnesota legislature finds that because the extension service has unique opportunities for delivering health and safety messages to farm families, the extension service is urged to retain and, to the extent practicable, keep filled at all times, the staff position of farm safety specialist.

Sec. 23. [137.342] [RESEARCH CENTER FOR AGRICULTURAL HEALTH AND SAFETY.]

Subdivision 1. [CREATION.] *There is created within the division of environmental and occupational health in the University of Minnesota school of public health and under its direction an interagency, interdisciplinary research center for agricultural health and safety. The center shall coordinate funding for, and the findings of, research projects designed to reduce injury and death from farm accidents, reduce long-term exposure to potentially hazardous agricultural agents, and make health care services more available to persons who suffer from health problems related to agriculture.*

Subd. 2. [FARM SAFETY ADVISORY COMMISSION.] *The commissioner of agriculture may appoint a farm safety advisory commission to support, review, and monitor the programs and activities of the research center for agricultural health and safety. Appointees to the commission must represent a broad range of interests including education, production farming, agricultural wholesale and retail businesses, statewide farm organizations, and manufacturers of agricultural machinery and chemicals. The advisory commission may assist in raising funds and developing resources for the promotion of farm safety. The advisory commission may participate in farm safety advertising campaigns, farm equipment safety training, and farm safety audit programs.*

SAFETY EQUIPMENT ON FARM TRACTORS

Sec. 24. [325F.6670] [EQUIPMENT REQUIRED AT TIME OF SALE.]

(a) No farm equipment dealer or other seller required to collect an excise tax under section 297A.02 may sell a farm tractor as defined in section 325F.6651, subdivision 2, unless, at the time of sale, the tractor is equipped with safety equipment as provided in paragraphs (b) and (c).

(b) If originally provided by the manufacturer, the farm tractor must have

(1) power-take-off shields; and

(2) road transport lighting and reflector systems.

(c) Whether or not originally provided by the manufacturer, the farm tractor must have a slow-moving vehicle sign displayed in accordance with section 169.522.

Sec. 25. [FARM SAFETY AUDIT PILOT PROJECT.]

Subdivision 1. [FINDING.] *Farming continues to be one of the most dangerous occupations. All members of farm families experience risks and disabling accidents at a rate much higher than the general population of the state. A pilot project is needed to evaluate the effectiveness of farm safety audits in improving farm safety.*

Subd. 2. [FARM SAFETY AUDIT PILOT PROJECT.] *The Minnesota extension service shall coordinate and carry out a farm safety audit pilot project involving comprehensive farm safety audits, performed as part of a partnership with selected township mutual insurance companies.*

Subd. 3. [REPORT.] *The Minnesota extension service and the commissioner of agriculture shall report by January 1, 1994, to the agriculture committees of the senate and house of representatives on the findings of the farm safety audit pilot project.*

Sec. 26. [FARM VEHICLES AND DRIVERS; PUBLIC ROAD SAFETY RECOMMENDATIONS.]

The commissioner of public safety shall report to the legislature by July 1, 1992, on recommendations for changes in statute, administrative rule, or public education materials and practices to improve public road safety related to requirements for lighting and reflectors on farm vehicles.

Sec. 27. [PESTICIDE APPLICATOR TRAINING; EFFECTIVENESS.]

The Minnesota pesticide applicator education and training review board shall perform an evaluation of the extent to which the Minnesota extension service applicator training programs have resulted in safer handling of pesticides. The commissioner of agriculture shall report to the legislature on the findings of the board not later than April 1, 1992.

Sec. 28. [CONTINUED LEVEL OF DAIRY FARM INSPECTIONS.]

The commissioner of agriculture must continue dairy farm inspections at a level no lower than 1990.

Sec. 29. Laws 1987, chapter 396, article 6, section 2, is amended to read:

Sec. 2. [17.107] [MINNESOTA GROWN MATCHING ACCOUNT.]

Subdivision 1. [ESTABLISHMENT.] The Minnesota grown matching

account is established as a separate account in the state treasury. The account shall be administered by the commissioner of agriculture as provided in this section.

Subd. 2. [FUNDING SOURCES.] The Minnesota grown matching account shall consist of contributions from private sources and appropriations.

Subd. 3. [APPROPRIATIONS MUST BE MATCHED BY PRIVATE FUNDS.] ~~(a)~~ Appropriations to the Minnesota grown matching account may be expended only to the extent that they are matched with contributions to the account from private sources ~~as provided in paragraph (b) for fiscal years 1988 and 1989.~~

~~(b) Private contributions shall be matched~~ on a basis of ~~four dollars~~ *$4* of the appropriation to each ~~one dollar~~ *$1* of private contributions. Matching funds are not available after the appropriation is encumbered. ~~Private contributions made from January 1, 1987, until the end of fiscal year 1987 shall be matched by the appropriation for fiscal year 1988. Amounts that are not matched in fiscal year 1988 are available to be matched in fiscal year 1989.~~

Subd. 4. [EXPENDITURES.] The amount in the Minnesota grown matching account that is matched by private contributions and the private contributions are appropriated to the commissioner of agriculture for promotion of products using the Minnesota grown logo and labeling.

Sec. 30. [EFFECTIVE DATE.]

Sections 1 and 22 are effective the day following final enactment. Section 14 is effective the day following final enactment and covers contracts for the 1991 crop year. Sections 23 and 25 are effective July 1, 1991. Section 24 is effective October 1, 1991."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for environmental, natural resources, and agricultural purposes; regulating the amounts, impositions, and processing of various fees prescribed for various licenses issued and activities regulated by the departments of agriculture and natural resources; amending Minnesota Statutes 1990, sections 14.18; 16A.123, subdivision 5; 18.191; 18.46, subdivisions 6, 9, and by adding a subdivision; 18.49, subdivision 2; 18.51; 18.52, subdivisions 1 and 5; 18.54, subdivision 2; 18.55; 18.56; 18.57; 18.60; 27.19, subdivision 1; 28A.08; 29.22; 31.39; 32.394, subdivisions 8, 8b, and by adding a subdivision; 41A.09, subdivision 3; 84.0855; 84.82, subdivisions 2 and 3; 84.944, subdivision 2; 84.96, subdivision 5; 85.015, by adding a subdivision; 85.053, subdivision 5; 85.055, subdivision 1; 85.22, subdivisions 1 and 2a; 86B.415, subdivision 7; 92.67, subdivision 1; 97A.075, subdivision 2; 97A.015, subdivision 53; 97A.141, by adding a subdivision; 97A.325, subdivision 2; 97A.431, subdivision 2; 97A.435, subdivision 2; 97A.475, subdivisions 2, 3, and 7; 97A.485, subdivision 7; 97B.601, subdivision 4; 97B.721; 103B.321, subdivision 1; 116.07, subdivision 4d; 116P.05; 116P.06; 116P.07; 116P.08, subdivisions 3 and 4; 116P.09, subdivisions 2, 4, and 7; and Laws 1987, chapter 396, article 6, section 2; proposing coding for new law in Minnesota Statutes, chapters 17; 84; 88; 137; and 325F; repealing Minnesota Statutes 1990, section 116.06."

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

Senate Conferees: (Signed) Steven Morse, Charles R. Davis, Gene Merriam, Dennis R. Frederickson, Gary W. Laidig

House Conferees: (Signed) David P. Battaglia, Stephen G. Wenzel, Tom Osthoff, Virgil J. Johnson, Mary Jo McGuire

Mr. Morse moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1533 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. 1533 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	Mehrkens	Ranum
Beckman	Davis	Johnson, D.J.	Merriam	Renneke
Belanger	Day	Johnson, J.B.	Moe, R.D.	Riveness
Benson, D.D.	DeCramer	Johnston	Mondale	Sams
Benson, J.E.	Finn	Knaak	Morse	Samuelson
Berg	Flynn	Kroening	Neuville	Spear
Berglin	Frank	Laidig	Novak	Stumpf
Bernhagen	Frederickson, D.J.	Langseth	Olson	Vickerman
Bertram	Frederickson, D.R.	Larson	Pariseau	Waldorf
Brataas	Halberg	Luther	Piper	
Chmielewski	Hottinger	Marty	Pogemiller	
Cohen	Hughes	McGowan	Price	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 526 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 526

A bill for an act relating to crime; sentencing; clarifying and revising the intensive community supervision program; amending Minnesota Statutes 1990, sections 244.05, subdivision 6; 244.12; 244.13; 244.14; and 244.15.

May 18, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 526, 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. 526, be further amended as follows:

Page 3, lines 17 to 20, delete the new language

Page 3, line 20, after the period insert "*In awarding contracts for intensive*

supervision programs in community corrections act counties, the commissioner shall give first priority to programs that utilize county employees as intensive supervision agents and shall give second priority to programs that utilize state employees as intensive supervision agents. The commissioner may award contracts to other providers in community corrections act counties only if doing so will result in a significant cost savings or a significant increase in the quality of services provided, and only after notifying the chairs of the judiciary committees in the senate and house of representatives."

Page 7, after line 7, insert:

"Sec. 6. Minnesota Statutes 1990, section 244.09, subdivision 2, is amended to read:

Subd. 2. The sentencing guidelines commission shall consist of the following:

(1) the chief justice of the supreme court or a designee;

(2) one judge of the court of appeals, appointed by the chief justice of the supreme court;

(3) one district court judge appointed by the chief justice of the supreme court;

(4) one public defender appointed by the governor upon recommendation of the state public defender;

(5) one county attorney appointed by the governor upon recommendation of the board of ~~governors~~ *directors* of the *Minnesota* county attorneys ~~council~~ *association*;

(6) the commissioner of corrections or a designee;

(7) one peace officer as defined in section 626.84 appointed by the governor;

(8) one probation officer or parole officer appointed by the governor; and

(9) three public members appointed by the governor, one of whom shall be a victim of a crime defined as a felony.

When an appointing authority selects individuals for membership on the commission, the authority shall make reasonable efforts to appoint qualified members of protected groups, as defined in section 43A.02, subdivision 33.

One of the members shall be designated by the governor as chair of the commission."

Page 7, line 8, delete "6" and insert "7"

Page 7, line 9, delete "5" and insert "6"

Amend the title as follows:

Page 1, line 3, after "*program;*" insert "*providing for the composition of the sentencing guidelines commission;*"

Page 1, line 5, after "6;" insert "244.09, subdivision 2;"

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

Senate Conferees: (Signed) Allan H. Spear, Jane B. Ranum, Thomas M.

Neuville

House Conferees: (Signed) Mary Jo McGuire, Lee Greenfield, Art Seaberg

Mr. Spear moved that the foregoing recommendations and Conference Committee Report on S.F. No. 526 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. 526 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Johnson, J.B.	McGowan	Price
Beckman	Flynn	Johnston	Mehrkens	Ranum
Belanger	Frank	Kelly	Metzen	Reichgott
Benson, J.E.	Frederickson, D.J.	Knaak	Mondale	Riveness
Bernhagen	Frederickson, D.R.	Kroening	Morse	Sams
Bertram	Gustafson	Laidig	Neuville	Samuelson
Brataas	Halberg	Langseth	Novak	Spear
Cohen	Hottinger	Larson	Olson	Stumpf
Dahl	Hughes	Lessard	Pariseau	Vickerman
Day	Johnson, D.E.	Luther	Piper	Waldorf
DeCramer	Johnson, D.J.	Marty	Pogemiller	

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

RECESS

Mr. Luther moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 694: Messrs. Riveness, Cohen and Mondale.

H.F. No. 303: Messrs. Merriam, Marty, Ms. Olson, Messrs. Dahl and Mondale.

H.F. No. 218: Messrs. Dahl, Waldorf and Larson.

H.F. No. 143: Messrs. Samuelson, Vickerman and Renneke.

H.F. No. 930: Messrs. Bernhagen; Moe, R.D. and Frederickson, D.R.

H.F. No. 977: Messrs. Morse, Price and Mehrkens.

S.F. No. 598: Messrs. Langseth, DeCramer, Mehrkens, Mses. Flynn and Pappas.

H.F. No. 2: Mses. Berglin, Piper, Messrs. Luther, Merriam and Johnson, D.E.

H.F. No. 833: Messrs. Pogemiller, Metzen and Bernhagen.

H.F. No. 783: Messrs. Morse, Price and Ms. Johnson, J.B.

Mr. Luther moved that the foregoing appointments be approved. The motion prevailed.

RECONSIDERATION

Mr. Moe, R.D. moved that the vote whereby S.F. No. 1533 was passed by the Senate on May 18, 1991, be now reconsidered. The motion prevailed.

S.F. No. 1533 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, J.B.	Merriam	Reichgott
Beckman	Dicklich	Johnston	Metzen	Renneke
Belanger	Finn	Kelly	Moe, R.D.	Riveness
Benson, J.E.	Flynn	Knaak	Mondale	Sams
Berg	Frank	Kroening	Morse	Samuelson
Bernhagen	Frederickson, D.J.	Laidig	Neuville	Solon
Bertram	Frederickson, D.R.	Langseth	Novak	Spear
Brataas	Gustafson	Larson	Olson	Stumpf
Chmielewski	Halberg	Lessard	Pappas	Vickerman
Cohen	Hottinger	Luther	Pariseau	Waldorf
Dahl	Hughes	Marty	Piper	
Davis	Johnson, D.E.	McGowan	Price	
Day	Johnson, D.J.	Mehrkens	Ranum	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the Calendar. The motion prevailed.

CALENDAR

S.F. No. 860: A bill for an act relating to the city of Minneapolis; providing that certain special service districts may provide parking facilities; amending Laws 1988, chapter 719, article 16, section 1, subdivision 3.

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 57 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kelly	Moe, R.D.	Renneke
Beckman	Finn	Knaak	Mondale	Riveness
Belanger	Flynn	Kroening	Morse	Sams
Benson, J.E.	Frank	Laidig	Neuville	Samuelson
Bernhagen	Frederickson, D.J.	Langseth	Novak	Solon
Bertram	Frederickson, D.R.	Larson	Olson	Spear
Brataas	Gustafson	Lessard	Pappas	Stumpf
Chmielewski	Hottinger	Luther	Pariseau	Vickerman
Cohen	Hughes	Marty	Piper	Waldorf
Dahl	Johnson, D.J.	Mehrkens	Pogemiller	
Day	Johnson, J.B.	Merriam	Price	
DeCramer	Johnston	Metzen	Ranum	

So the bill passed and its title was agreed to.

H.F. No. 354: A bill for an act relating to natural resources; providing a deadline for the legislative task force on minerals to submit its report; extending the availability of its appropriation.

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 59 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Johnston	Metzen	Ranum
Beckman	Finn	Kelly	Moe, R.D.	Reichgott
Belanger	Flynn	Knaak	Mondale	Renneke
Benson, J.E.	Frank	Kroening	Morse	Riveness
Bernhagen	Frederickson, D.J.	Laidig	Neuville	Sams
Bertram	Frederickson, D.R.	Langseth	Novak	Samuelson
Brataas	Gustafson	Larson	Olson	Solon
Chmielewski	Halberg	Lessard	Pappas	Spear
Cohen	Hottinger	Luther	Pariseau	Stumpf
Dahl	Hughes	Marty	Piper	Vickerman
Day	Johnson, D.J.	Mehrkens	Pogemiller	Waldorf
DeCramer	Johnson, J.B.	Merriam	Price	

So the bill passed 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. 322 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 322: A bill for an act relating to waste management expenditures; requiring the state resource recovery program to establish a central materials recovery facility and centralized collection and transportation of recyclable materials from state offices and operations; amending Minnesota Statutes 1990, section 115A.15, subdivision 6, and by adding a subdivision.

Mr. Merriam moved to amend H.F. No. 322, as amended pursuant to Rule 49, adopted by the Senate May 16, 1991, as follows:

(The text of the amended House File is identical to S.F. No. 257.)

Page 3, line 2, delete "*$140,000*" and insert "*$48,000*" and delete "*$175,000*" and insert "*$48,000*"

The motion prevailed. So the amendment was adopted.

H.F. No. 322 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnston	Merriam	Price
Beckman	Dicklich	Kelly	Metzen	Ranum
Belanger	Flynn	Knaak	Moe, R.D.	Reichgott
Benson, J.E.	Frank	Kroening	Mondale	Renneke
Bernhagen	Frederickson, D.J.	Laidig	Morse	Riveness
Bertram	Frederickson, D.R.	Langseth	Neuville	Sams
Brataas	Gustafson	Larson	Novak	Solon
Chmielewski	Hottinger	Lessard	Olson	Stumpf
Cohen	Hughes	Luther	Pappas	Vickerman
Dahl	Johnson, D.J.	Marty	Pariseau	Waldorf
Day	Johnson, J.B.	Mehrkens	Piper	

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

MEMBERS EXCUSED

Ms. Traub was excused from the Session of today. Mr. Chmielewski was excused from the Session of today from 11:30 a.m. to 12:00 noon and 5:45 to 6:15 p.m. Mr. DeCramer was excused from the Session of today from 11:30 a.m. to 12:30 p.m. Mr. Lessard was excused from the Session of today from 12:00 noon to 1:00 p.m. Messrs. Belanger and Halberg were excused from the Session of today from 1:30 to 1:45 p.m. Mr. Storm was excused from the Session of today at 4:00 p.m. Ms. Olson was excused from the Session of today from 2:30 to 4:00 p.m. Ms. Reichgott was excused from the Session of today from 5:30 to 6:10 p.m. Mr. Halberg was excused from the Session of today at 6:30 p.m. Mr. Novak was excused from the Session of today from 3:00 to 5:00 p.m. Mr. Hughes was excused from the Session of today at 6:45 p.m.

The following members were excused from today's Session for brief periods of time: Messrs. Johnson, D.J.; Frederickson, D.J.; Pogemiller; Price and Ms. Reichgott.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 8:30 a.m., Monday, May 20, 1991. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

FIFTY-EIGHTH DAY

St. Paul, Minnesota, Monday, May 20, 1991

The Senate met at 8:30 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Arlen Hermodson.

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

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

Adkins	Day	Johnson, J.B.	Metzen	Renneke
Beckman	DeCramer	Johnston	Moe, R.D.	Riveness
Belanger	Dicklich	Kelly	Mondale	Sams
Benson, D.D.	Finn	Knaak	Morse	Samuelson
Benson, J.E.	Flynn	Kroening	Neuville	Solon
Berg	Frank	Laidig	Novak	Spear
Berglin	Frederickson, D.J.	Langseth	Olson	Storm
Bernhagen	Frederickson, D.R.	Larson	Pappas	Stumpf
Bertram	Gustafson	Lessard	Pariseau	Traub
Brataas	Halberg	Luther	Piper	Vickerman
Chmielewski	Hottinger	Marty	Pogemiller	Waldorf
Cohen	Hughes	McGowan	Price	
Dahl	Johnson, D.E.	Mehrkens	Ranum	
Davis	Johnson, D.J.	Merriam	Reichgott	

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

May 14, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 226, 515 and 885.

Warmest regards,
Arne H. Carlson, Governor

May 15, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 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 1991	Date Filed 1991
	375	85	3:28 p.m. May 14	May 15
	1396	86	3:25 p.m. May 14	May 15
	238	88	3:47 p.m. May 14	May 15
	1054	89	3:32 p.m. May 14	May 15
	813	90	3:35 p.m. May 14	May 15
515		92	3:42 p.m. May 14	May 15
885		93	4:55 p.m. May 14	May 15
226		94	4:45 p.m. May 14	May 15

Sincerely,
Joan Anderson Growe
Secretary of State

REPORTS OF COMMITTEES

Mr. Luther moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

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

H.F. No. 1114 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
				1114	768

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1114 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1114 and insert the language after the enacting clause of S.F. No. 768, the first engrossment; further, delete the title of H.F. No. 1114 and insert the title of S.F. No. 768, the first engrossment.

And when so amended H.F. No. 1114 will be identical to S.F. No. 768, and further recommends that H.F. No. 1114 be given its second reading

and substituted for S.F. No. 768, and that the Senate File be indefinitely postponed.

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

SECOND READING OF HOUSE BILLS

H.F. No. 1114 was read the second time.

MOTIONS AND RESOLUTIONS

Ms. Reichgott introduced—

Senate Resolution No. 75: A Senate resolution congratulating Deirdre Chapman for being named a United States Presidential Scholar in the Arts.

Referred to the Committee on Rules and Administration.

Mr. Moe, R.D. introduced—

Senate Resolution No. 76: A Senate resolution recognizing the work of the Regent Candidate Advisory Council and honoring its first two chairs, Melvin D. George and Kenneth N. Dayton.

Referred to the Committee on Rules and Administration.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 300, 919 and 432.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

Mr. President:

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

S.F. No. 598: A bill for an act relating to transportation; establishing state transportation goals and requiring periodic revisions of the state transportation plan; directing a study of rail-highway grade crossings; establishing penalties for violations of grade crossing safety laws; authorizing the commissioner of transportation to make grants and loans for the improvement of commercial navigation facilities; establishing special categories of roads and highways; authorizing local units of government to advance funds for the completion of highway projects; authorizing road authorities to enter

into agreements for the construction, maintenance, and operation of toll facilities; creating a transportation services fund; specifying percentage of unrefunded motor fuel tax revenue that is attributable to use on forest roads; authorizing the use of local bridge grant funds to construct drainage structures; requiring the commissioner of transportation to include light rail transit facilities in the design for reconstruction of interstate highways I-94 and I-35W; requiring a report on metropolitan transportation development and transit development consistent with the report; authorizing the commissioner of transportation to plan, acquire, construct, and equip light rail transit facilities; creating a light rail transit joint powers board; establishing a paratransit advisory council; authorizing transportation research; directing a study of highway corridors; extending the transportation study board and specifying duties; appropriating money; amending Minnesota Statutes 1990, sections 162.02, subdivision 3a; 162.09, subdivision 3a; 162.14, subdivision 6; 169.14, by adding a subdivision; 169.26; 171.13, subdivision 1, and by adding a subdivision; 173.13, subdivision 4; 174.01; 174.03, subdivision 2, and by adding a subdivision; 219.074, by adding a subdivision; 219.402; 296.16, subdivision 1a; 296.421, subdivision 8; 299D.03, subdivision 5; 473.373, subdivision 4a; 473.3993, subdivisions 2 and 3, and by adding a subdivision; 473.3994; and 473.3996; Laws 1990, chapter 610, article 1, section 13, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 3; 160; 161; 162; 174; 219; and 473; proposing coding for new law as Minnesota Statutes, chapters 161; 457A; and 473; repealing Laws 1989, chapter 339, section 21.

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

Kalis, Lieder, Pauly, Rice and Anderson, I.

Senate File No. 598 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

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. 1533, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1533: A bill for an act relating to the organization and operation of state government; appropriating money for the protection of the state's environment and natural resources; amending Minnesota Statutes 1990, sections 14.18; 41A.09, subdivision 3; 85A.02, subdivision 17; 103B.321, subdivision 1; and 116P.11.

Senate File No. 1533 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

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

S.F. No. 793: A bill for an act relating to the environment; establishing maximum content levels of mercury in batteries; prohibiting certain batteries; amending Minnesota Statutes 1990, sections 115A.9155, subdivision 2; 325E.125, subdivision 2, and by adding a subdivision; and 325E.1251.

Senate File No. 793 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

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

S.F. No. 526: A bill for an act relating to crime; sentencing; clarifying and revising the intensive community supervision program; amending Minnesota Statutes 1990, sections 244.05, subdivision 6; 244.12; 244.13; 244.14; and 244.15.

Senate File No. 526 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

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

S.F. No. 880: A bill for an act relating to checks; increasing bank verification requirements for opening checking accounts; prohibiting service charges for dishonored checks on persons other than the issuer; regulating check numbering procedures; requiring the commissioner of commerce to adopt rules regarding verification procedure requirements; modifying procedures and liability for civil restitution for holders of worthless checks; authorizing service charges for use of law enforcement agencies; clarifying criminal penalties; increasing information that banks must provide to holders of worthless checks; imposing penalties; amending Minnesota Statutes 1990, sections 48.512, subdivisions 3, 4, 5, 7, and by adding subdivisions; 332.50, subdivisions 1 and 2; and 609.535, subdivisions 2a and 7.

Senate File No. 880 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1655.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 1655: A bill for an act relating to taxation; authorizing the department of trade and economic development to issue obligations to finance construction of aircraft maintenance and repair facilities; authorizing the metropolitan airports commission to operate outside the metropolitan area; establishing an interagency task force; amending Minnesota Statutes 1990, sections 272.01, subdivision 2; 290.06, by adding a subdivision; 360.013, subdivision 5; 360.032, subdivision 1; 360.038, subdivision 4; 473.608, subdivision 1; and 473.667, subdivision 8a, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 297A; and 473; proposing coding for new law as Minnesota Statutes, chapter 116R.

Mr. Moe, R.D. moved that H.F. No. 1655 be laid on the table. The motion prevailed.

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. 1042, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1042 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1042

A bill for an act relating to economic development; changing the organization of the department of trade and economic development; amending Minnesota Statutes 1990, section 116J.01, subdivision 3.

May 17, 1991

The Honorable Robert Vanasek

Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1042, 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. 1042 be further amended as follows:

Page 1, after line 25, insert:

"Sec. 2. [RECOMMENDATIONS TO LEGISLATURE ON ECONOMIC DEVELOPMENT POLICY.]

The house economic development committee and the senate economic development and housing committee, in consultation with the department of trade and economic development, shall hold public hearings to receive citizen recommendations and shall report to the legislature by January 15, 1993, with recommendations on a statewide economic development policy for the state. The report shall:

(1) review and catalog the responsibilities and the relationships of the various state and local agencies involved in the delivery of services that promote economic development and redevelopment;

(2) recommend ways and means to better coordinate the delivery of economic development services;

(3) identify the ways in which the state provides support to economic development, including financing programs, technical assistance programs, promotion, training and education, and infrastructure development and maintenance;

(4) quantify the amount and types of expenditures on economic development;

(5) identify measures to evaluate the effectiveness of investments in economic development;

(6) consider recent changes in state tax law that affect economic development and redevelopment and evaluate the impact of these changes on local development;

(7) review and comment on proposals submitted to it by the governor and the legislature;

(8) review and comment on research reports, studies, and papers on the public sector role in economic development; and

(9) hold hearings and conduct informal surveys to solicit the positions of business, industry, labor, and service providers.

Sec. 3. [116J.661] [WORKPLACE SAFETY PROGRAM.]

The commissioner shall provide through the business assistance center a program that provides assistance to businesses to create a safe workplace and to reduce the number and severity of workplace injuries. The program must include:

(1) providing information to business through publications, seminars, and other means;

(2) providing specific advice to individual businesses; and

(3) conducting research and developing safety programs with emphasis on businesses that have a high rate of workplace injury."

Amend the title as follows:

Page 1, line 4, after the semicolon insert "providing for a report by the house economic development committee and the senate economic development and housing committee to the legislature on proposed economic development policy; creating a workplace safety program;"

Page 1, line 5, before the period insert "; proposing coding for new law in Minnesota Statutes, chapter 116J"

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

House Conferees: (Signed) Ted Winter, Irv Anderson, Sylvester Uphus

Senate Conferees: (Signed) Dennis R. Frederickson, Tracy L. Beckman, James P. Metzen

Mr. Frederickson, D.R. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1042 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. 1042 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 46 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.E.	Moe, R.D.	Reichgott
Beckman	Day	Kelly	Morse	Sams
Belanger	DeCramer	Laidig	Neuville	Samuelson
Benson, D.D.	Finn	Larson	Novak	Spear
Benson, J.E.	Flynn	Lessard	Olson	Traub
Berg	Frank	Luther	Pappas	Vickerman
Bernhagen	Frederickson, D.J.	Marty	Pariseau	
Bertram	Frederickson, D.R.	McGowan	Piper	
Brataas	Gustafson	Mehrkens	Price	
Dahl	Hughes	Metzen	Ranum	

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. 1050, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1050 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1050

A bill for an act relating to state government; requiring certain notice of proposed executive reorganization orders; permitting the commissioner of administration to lease land to a political subdivision under some circumstances; amending Minnesota Statutes 1990, sections 16B.24, subdivision 6; and 16B.37, subdivision 2.

May 18, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1050, 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. 1050 be further amended as follows:

Pages 1 and 2, delete section 1

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete lines 4 and 5

Page 1, line 6, delete "circumstances;"

Page 1, line 7, delete everything before "16B.37," and insert "section"

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

House Conferees: (Signed) Myron W. Orfield, Phil Carruthers, Dave Bishop

Senate Conferees: (Signed) John Marty, Gene Merriam, Dennis R. Frederickson

Mr. Marty moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1050 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. 1050 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 46 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.E.	Mehrkens	Sams
Beckman	Day	Kelly	Metzen	Samuelson
Belanger	DeCramer	Knaak	Moe, R.D.	Spear
Benson, D.D.	Dicklich	Laidig	Morse	Storm
Benson, J.E.	Finn	Langseth	Neuville	Traub
Berg	Flynn	Larson	Novak	Vickerman
Bernhagen	Frank	Lessard	Pappas	
Bertram	Frederickson, D.J.	Luther	Piper	
Chmielewski	Frederickson, D.R.	Marty	Price	
Dahl	Hughes	McGowan	Ranum	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 655:

H.F. No. 655: A bill for an act relating to traffic regulations; establishing maximum height for rear bumpers of certain semitrailers; allowing certain equipment to be excluded from computing the maximum allowable length of a semitrailer or trailer used in a three-vehicle combination; providing an exception to the length limitation on certain vehicle combinations; limiting maximum weight allowed on certain vehicle tires; conforming state highway weight limitations to federal requirements; imposing a cost-per-mile fee on certain overweight vehicles; adding an exemption to the motor carrier act; authorizing a variance for small cargo tanks; establishing the initial motor carrier contact program; amending Minnesota Statutes 1990, sections 169.73, subdivision 4a; 169.81, subdivisions 2 and 3; 169.825, subdivisions 8 and 10; 169.86, subdivision 5; 174A.06; 221.025; 221.141, subdivision 4; and 221.033, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 221; repealing Minnesota Statutes 1990, sections 221.011, subdivisions 10, 12, 18, 25, and 28; 221.101; and 221.296.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Lasley, Kalis and Marsh have been appointed as such committee on the part of the House.

House File No. 655 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

Mr. DeCramer moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 655, 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 appointed on the part of the House. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 525 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 525

A bill for an act relating to crimes; expanding the definition of drug free zones to include public housing property; increasing the area affected from within 300 feet to within 1,000 feet of a school or park boundary for purposes of increasing penalties for sale or possession of controlled substances; increasing penalties for sale or possession of methamphetamine ("ice"), amphetamine, and sale of marijuana, within a school zone, park zone, or public housing zone; changing the name and duties of the drug abuse prevention resource council; requiring chemical use assessments of persons convicted of felonies; amending Minnesota Statutes 1990, sections 152.01, subdivisions 12a, 14a, and by adding a subdivision; 152.021, subdivision 1; 152.022, subdivision 1; 152.023, subdivision 2; 152.024, subdivision 1; 152.029; 299A.29, subdivisions 3, 5, and by adding subdivisions; 299A.30; 299A.31, subdivision 1; 299A.32; 299A.34, subdivision 2; 299A.35; 299A.36; and 609.115, by adding a subdivision; repealing Minnesota Statutes 1990, sections 244.095; and 299A.29, subdivisions 2 and 4.

May 18, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 525, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 525 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 152.01, is amended by adding a subdivision to read:

Subd. 19. [PUBLIC HOUSING ZONE.] *"Public housing zone" means any public housing project or development administered by a local housing agency, plus the area within 300 feet of the property's boundary, or one city block, whichever distance is greater.*

Sec. 2. Minnesota Statutes 1990, section 152.01, is amended by adding a subdivision to read:

Subd. 20. [UNLAWFULLY.] *"Unlawfully" means selling, possessing, or possessing with intent to sell a controlled substance in a manner not authorized by law.*

Sec. 3. Minnesota Statutes 1990, section 152.021, subdivision 1, is amended to read:

Subdivision 1. [SALE CRIMES.] A person is guilty of controlled substance crime in the first degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing cocaine base;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing

a narcotic drug;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 200 or more dosage units; or

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols, *or one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols in a school zone, a park zone, or a public housing zone.*

Sec. 4. Minnesota Statutes 1990, section 152.022, subdivision 1, is amended to read:

Subdivision 1. [SALE CRIMES.] A person is guilty of controlled substance crime in the second degree if:

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight ~~or~~ *of* three grams or more containing cocaine base;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing a narcotic drug;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 50 or more dosage units;

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols;

(5) the person unlawfully sells any amount of a schedule I or II narcotic drug to a person under the age of 18, or conspires with or employs a person under the age of 18 to unlawfully sell the substance; or

(6) the person unlawfully sells any ~~amount of a schedule I or II narcotic drug~~ *of the following* in a school zone ~~or~~, a park zone, *or a public housing zone:*

(i) any amount of a schedule I or II narcotic drug;

(ii) one or more mixtures containing methamphetamine or amphetamine; or

(iii) one or more mixtures of a total weight of five kilograms or more containing marijuana or Tetrahydrocannabinols.

Sec. 5. Minnesota Statutes 1990, section 152.023, subdivision 2, is amended to read:

Subd. 2. [POSSESSION CRIMES.] A person is guilty of controlled substance crime in the third degree if:

(1) the person unlawfully possesses one or more mixtures of a total weight of three grams or more containing cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug;

(3) the person unlawfully possesses one or more mixtures containing a narcotic drug with the intent to sell it;

(4) the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 more dosage units; ~~or~~

(5) the person unlawfully possesses any amount of a schedule I or II narcotic drug in a school zone ~~or~~, a park zone, *or a public housing zone*; ~~or~~

(6) the person unlawfully possesses one or more mixtures of a total weight of ten kilograms or more containing marijuana or Tetrahydrocannabinols~~.~~; *or*

(7) the person unlawfully possesses one or more mixtures containing methamphetamine or amphetamine in a school zone, a park zone, or a public housing zone.

Sec. 6. Minnesota Statutes 1990, section 152.024, subdivision 1, is amended to read:

Subdivision 1. [SALE CRIMES.] A person is guilty of controlled substance crime in the fourth degree if:

(1) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule I, II, or III, except marijuana or Tetrahydrocannabinols;

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV or V to a person under the age of 18; ~~or~~

(3) the person conspires with or employs a person under the age of 18 to unlawfully sell a controlled substance classified in schedule IV or V*; or*

(4) the person unlawfully sells any amount of marijuana or Tetrahydrocannabinols in a school zone, a park zone, or a public housing zone, except a small amount for no remuneration.

Sec. 7. Minnesota Statutes 1990, section 152.029, is amended to read:

152.029 [PUBLIC INFORMATION: SCHOOL ZONES ~~AND~~, PARK ZONES, *AND PUBLIC HOUSING ZONES*.]

The attorney general shall disseminate information to the public relating to the penalties for committing controlled substance crimes in park zones ~~and~~, school zones, *and public housing zones*. The attorney general shall draft a plain language version of sections 152.022~~,~~ *and* 152.023~~,~~ and ~~244.095~~ *relevant provisions of the sentencing guidelines*, that describes in a clear and coherent manner using words with common and everyday meanings the ~~contents~~ *content* of those ~~sections~~ *provisions*. The attorney general shall publicize and disseminate the plain language version as widely as practicable, including distributing the version to school boards ~~and~~, local governments, *and administrators and occupants of public housing*.

Sec. 8. Minnesota Statutes 1990, section 260.015, subdivision 2a, is amended to read:

Subd. 2a. [CHILD IN NEED OF PROTECTION OR SERVICES.] "Child

in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse, or (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24, (iii) resides with or would reside with a perpetrator of domestic child abuse, or (iv) is a victim of emotional maltreatment as defined in subdivision 5a;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. *An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home*;

(10) has committed a delinquent act before becoming ten years old;

(11) is a runaway;

(12) is an habitual truant; or

(13) is one whose custodial parent's parental rights to another child have

been involuntarily terminated within the past five years.

Sec. 9. Minnesota Statutes 1990, section 260.125, subdivision 3, is amended to read:

Subd. 3. [PRIMA FACIE CASE.] A prima facie case that the public safety is not served or that the child is not suitable for treatment shall have been established if the child was at least 16 years of age at the time of the alleged offense and:

(1) is alleged by delinquency petition to have committed an aggravated felony against the person and (a) in committing the offense, the child acted with particular cruelty or disregard for the life or safety of another; or (b) the offense involved a high degree of sophistication or planning by the juvenile; *or (c) the juvenile, at the time of the offense, used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm;* or

(2) is alleged by delinquency petition to have committed murder in the first degree; or

(3) is alleged by delinquency petition (a) to have committed the delinquent act of escape from confinement to a state juvenile correctional facility or a local juvenile correctional facility and (b) to have committed an offense as part of, or subsequent to, escape from custody that would be a felony listed in section 609.11, subdivision 9, if committed by an adult; or

(4) has been found by the court, pursuant to an admission in court or after trial, to have committed an offense within the preceding 24 months which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed murder in the second or third degree, manslaughter in the first degree, criminal sexual conduct in the first degree or assault in the first degree; or

(5) has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed manslaughter in the second degree, kidnapping, criminal sexual conduct in the second degree, arson in the first degree, aggravated robbery, or assault in the second degree; or

(6) has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months, one or both of which would be the felony of burglary of a dwelling if committed by an adult, and the child is alleged by the delinquency petition to have committed another burglary of a dwelling. For purposes of this subdivision, "dwelling" means a building which is, in whole or in part, usually occupied by one or more persons living there at night; or

(7) has previously been found by the court, pursuant to an admission in court or after trial, to have committed three offenses, none in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed any felony other than those described in clause (2), (4), or (5); or

(8) is alleged by delinquency petition to have committed an aggravated felony against the person, other than a violation of section 609.713, in

furtherance of criminal activity by an organized gang; or

(9) has previously been found by the court, pursuant to an admission in court or after trial, to have committed an offense which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed a felony-level violation of chapter 152 involving the unlawful sale or possession of a schedule I or II controlled substance, while in a park zone or a school zone as defined in section 152.01, subdivisions 12a and 14a. This clause does not apply to a juvenile alleged to have unlawfully possessed a controlled substance in a private residence located within the school zone or park zone; *or*

(10) is alleged by delinquency petition to have committed a violation of section 624.713, subdivision 1, clause (a), and has been previously found by the court, pursuant to an admission in court or after trial, to have committed a violation of section 624.713, subdivision 1, clause (a).

For the purposes of this subdivision, "aggravated felony against the person" means a violation of any of the following provisions: section 609.185; 609.19; 609.195; 609.20, subdivision 1 or 2; 609.221; 609.222; 609.223; 609.245; 609.25; 609.342; 609.343; 609.344, subdivision 1, clause (c) or (d); 609.345, subdivision 1, clause (c) or (d); 609.561; 609.582, subdivision 1, clause (b) or (c); or 609.713.

For the purposes of this subdivision, an "organized gang" means an association of five or more persons, with an established hierarchy, formed to encourage members of the association to perpetrate crimes or to provide support to members of the association who do commit crimes.

Sec. 10. Minnesota Statutes 1990, section 299A.29, is amended by adding a subdivision to read:

Subd. 1a. [CHEMICAL ABUSE.] *"Chemical abuse" means the use of a controlled substance or the abuse of alcoholic beverages.*

Sec. 11. Minnesota Statutes 1990, section 299A.29, subdivision 3, is amended to read:

Subd. 3. [~~DRUG~~ *CONTROLLED SUBSTANCE.*] ~~"Drug" means a~~ "Controlled substance" ~~as defined~~ *has the meaning given* in section 152.01, subdivision 4.

Sec. 12. Minnesota Statutes 1990, section 299A.29, is amended by adding a subdivision to read:

Subd. 4a. [PREVENTION ACTIVITY.] *"Prevention activity" means an activity carried on by a government agency that is designed to reduce chemical abuse and dependency, including education, prevention, treatment, and rehabilitation programs.*

Sec. 13. Minnesota Statutes 1990, section 299A.29, subdivision 5, is amended to read:

Subd. 5. [SUPPLY REDUCTION *ACTIVITY.*] "Supply reduction *activity*" means an activity carried on by a ~~drug program~~ *government* agency that is designed to reduce the supply or use of ~~drugs~~ *controlled substances*, including law enforcement, eradication, and prosecutorial activities.

Sec. 14. Minnesota Statutes 1990, section 299A.30, is amended to read:

299A.30 [OFFICE OF DRUG POLICY.]

Subdivision 1. [OFFICE; ASSISTANT COMMISSIONER.] The office of drug policy is an office in the department of public safety headed by an assistant commissioner appointed by the commissioner to serve in the unclassified service. The assistant commissioner may appoint other employees in the unclassified service. The assistant commissioner shall coordinate the *prevention and supply reduction* activities of ~~drug program~~ *state and local* agencies and ~~serve as~~ *provide one professional* staff *member* to *assist on a full-time basis* the ~~drug~~ *work of the chemical* abuse prevention resource council.

Subd. 2. [DUTIES.] (a) The assistant commissioner shall gather and make available information on ~~demand reduction~~ *prevention* and supply reduction *activities* throughout the state, foster cooperation among ~~drug program~~ *involved state and local* agencies, and assist agencies and public officials in training and other programs designed to improve the effectiveness of ~~demand reduction~~ *prevention* and supply reduction *activities*.

(b) The assistant commissioner shall coordinate the distribution of funds received by the state of Minnesota through the federal Anti-Drug Abuse Act. The assistant commissioner may obtain technical assistance from the state planning agency to perform this function. The assistant commissioner shall recommend to the commissioner recipients of grants under sections 299A.33 and 299A.34, after consultation with the ~~drug~~ *chemical* abuse prevention resource council.

(c) The assistant commissioner shall:

(1) after consultation with all ~~drug program~~ *state* agencies ~~operating in the state~~ *involved in prevention or supply reduction activities*, develop a state ~~drug~~ *chemical abuse and dependency* strategy encompassing the efforts of those agencies and taking into account all money available for ~~demand reduction~~ *prevention* and supply reduction *activities*, from any source;

(2) submit the strategy to the governor and the legislature by January 15 of each year, along with a summary of ~~demand reduction~~ *prevention* and supply reduction *activities* during the preceding calendar year;

(3) assist appropriate professional and occupational organizations, including organizations of law enforcement officers, prosecutors, and educators, in developing and operating informational and training programs to improve the effectiveness of ~~demand reduction~~ *prevention* and supply reduction *activities*; ~~and~~

(4) provide information, *including information on drug trends*, and assistance to ~~drug program~~ *state and local* agencies, both directly and by functioning as a clearinghouse for information from other ~~drug program~~ agencies;

(5) facilitate cooperation among drug program agencies; and

(6) coordinate the administration of prevention, criminal justice, and treatment grants.

Sec. 15. Minnesota Statutes 1990, section 299A.31, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; MEMBERSHIP.] A ~~drug~~ *chemical* abuse prevention resource council consisting of 18 members is established. The commissioners of public safety, education, health, human services, and the state planning agency, and the attorney general shall each appoint one

member from among their employees. The speaker of the house of representatives and the subcommittee on committees of the senate shall each appoint a legislative member. The governor shall appoint an additional ten members who ~~shall demonstrate knowledge in the area of drug abuse prevention,~~ shall represent the demographic and geographic composition of the state and, to the extent possible, shall represent the following ~~groups: parents, educators, clergy, local government, racial and ethnic minority communities, professional providers of drug abuse prevention services, volunteers in private, nonprofit drug prevention programs, and the business community~~*: public health; education including preschool, elementary, and higher education; social services; financial aid services; chemical dependency treatment; law enforcement; prosecution; defense; the judiciary; corrections; treatment research professionals; drug abuse prevention professionals; the business sector; religious leaders; representatives of racial and ethnic minority communities; and other community representatives*. The members shall designate one of the governor's appointees as chair of the council. Compensation and removal of members are governed by section 15.059.

Sec. 16. Minnesota Statutes 1990, section 299A.32, is amended to read:

299A.32 [RESPONSIBILITIES OF COUNCIL.]

Subdivision 1. [PURPOSE OF COUNCIL.] The general purpose of the council is to ~~foster the coordination and development of a statewide drug~~ *serve as an advisory body to the governor and the legislature on all aspects of alcohol and drug* abuse ~~prevention policy~~.

Subd. 2. [SPECIFIC DUTIES AND RESPONSIBILITIES.] In furtherance of the general purpose specified in subdivision 1, the council ~~has the following duties and responsibilities~~ *shall*:

(1) ~~it shall develop a coordinated, statewide drug abuse prevention policy~~ *assist state agencies in the coordination of drug policies and programs and in the provision of services to other units of government, communities, and citizens*;

(2) ~~it shall develop a mission statement that defines the roles and relationships of agencies operating within the continuum of chemical health care~~ *promote among state agencies policies to achieve uniformity in state and federal grant programs and to streamline those programs*;

(3) ~~it shall develop guidelines for drug abuse prevention program development and operation based on its research and program evaluation activities~~ *oversee comprehensive data collection and research and evaluation of alcohol and drug program activities*;

(4) ~~it shall assist local governments and groups in planning, organizing, and establishing comprehensive, community-based drug abuse prevention programs and services;~~

~~(5) it shall coordinate and provide technical assistance to organizations and individuals seeking public or private funding for drug abuse prevention programs, and to government and private agencies seeking to grant funds for these purposes;~~

~~(6) it shall assist providers of drug abuse prevention services in implementing, monitoring, and evaluating new and existing programs and services;~~

~~(7) it shall provide information on and analysis of the relative public and~~

~~private costs of drug abuse prevention, enforcement, intervention, and treatment efforts; and~~

~~(8) it shall advise the assistant commissioner of the office of drug policy in awarding grants and in other duties.~~ *seek the advice and counsel of appropriate interest groups and advise the assistant commissioner of the office of drug policy;*

(5) seek additional private funding for community-based programs and research and evaluation;

(6) evaluate whether law enforcement narcotics task forces should be reduced in number and increased in geographic size, and whether new sources of funding are available for the task forces;

(7) continue to promote clarity of roles among federal, state, and local law enforcement activities; and

(8) establish criteria to evaluate law enforcement drug programs.

Subd. 2a. [GRANT PROGRAMS.] *The council shall review and approve state agency plans regarding the use of federal funds for programs to reduce chemical abuse or reduce the supply of controlled substances. The appropriate state agencies would have responsibility for management of state and federal drug grant programs.*

Subd. 3. [ANNUAL REPORT.] ~~On or before~~ *By* February 1~~, 1991, and~~ each year ~~thereafter~~, the council shall submit a written report to the *governor and the* legislature describing its activities during the preceding year, describing efforts that have been made to enhance and improve utilization of existing resources and to identify deficits in prevention efforts, and recommending appropriate changes, including any legislative changes that it considers necessary or advisable in the area of ~~drug~~ *chemical* abuse prevention policy, programs, ~~or~~ *and* services.

Sec. 17. Minnesota Statutes 1990, section 299A.34, subdivision 2, is amended to read:

Subd. 2. [SELECTION AND MONITORING.] The ~~drug~~ *chemical* abuse prevention resource council shall assist in the selection and monitoring of grant recipients.

Sec. 18. Minnesota Statutes 1990, section 299A.35, is amended to read:

299A.35 [COMMUNITY CRIME REDUCTION PROGRAMS; GRANTS.]

Subdivision 1. [PROGRAMS.] The commissioner shall, in consultation with the ~~drug~~ *chemical* abuse prevention resource council, administer a grant program to fund community-based programs that are designed to enhance the community's sense of personal security and to assist the community in its crime control efforts. Examples of qualifying programs include, but are not limited to, the following:

(1) programs to provide security systems for residential buildings serving low-income persons, elderly persons, and persons who have physical or mental disabilities;

(2) community-based programs designed to discourage young people from involvement in unlawful drug or street gang activities;

(3) neighborhood block clubs and innovative community-based crime

watch programs; and

(4) other community-based crime prevention programs that are innovative and encourage substantial involvement by members of the community served by the program.

Subd. 2. [GRANT PROCEDURE.] A local unit of government or a nonprofit community-based entity may apply for a grant by submitting an application with the commissioner. The applicant shall specify the following in its application:

(1) a description of each program for which funding is sought;

(2) the amount of funding to be provided to the program;

(3) the geographical area to be served by the program; and

(4) statistical information as to the number of arrests in the geographical area for violent crimes and for crimes involving schedule I and II controlled substances. "Violent crime" includes a violation of or an attempt or conspiracy to violate any of the following laws: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; ~~and~~ *or* any provision of chapter 152 that is punishable by a maximum term of imprisonment greater than ten years.

The commissioner shall give priority to funding programs in the geographical areas that have the highest crime rates, as measured by the data supplied under clause (4), and that demonstrate substantial involvement by members of the community served by the program. The maximum amount that may be awarded to an applicant is $50,000.

Subd. 3. [REPORT.] An applicant that receives a grant under this section shall provide the commissioner with a summary of how the grant funds were spent and the extent to which the objectives of the program were achieved. The commissioner shall submit a written report ~~with~~ *to* the legislature, *by February 1 each year,* based on the information provided by applicants under this subdivision.

Sec. 19. Minnesota Statutes 1990, section 299A.36, is amended to read:

299A.36 [OTHER DUTIES.]

The assistant commissioner assigned to the office of drug policy, in consultation with the ~~drug~~ *chemical* abuse prevention resource council, shall:

(1) provide information and assistance upon request to school preassessment teams established under section 126.034 and school and community advisory teams established under section 126.035;

(2) provide information and assistance upon request to the state board of pharmacy with respect to the board's enforcement of chapter 152;

(3) cooperate with and provide information and assistance upon request to the alcohol and other drug abuse section in the department of human services;

(4) assist in coordinating the policy of the office with that of the narcotic enforcement unit in the bureau of criminal apprehension; and

(5) coordinate the activities of the regional drug task forces, provide

assistance and information to them upon request, and assist in the formation of task forces in areas of the state in which no task force operates.

Sec. 20. Minnesota Statutes 1990, section 299C.065, is amended to read:

299C.065 [UNDERCOVER BUY FUND; *WITNESS ASSISTANCE SERVICES.*]

Subdivision 1. The commissioner of public safety shall make grants to local officials for *the following purposes:*

(1) the cooperative investigation of cross jurisdictional criminal activity relating to the possession and sale of controlled substances~~,~~;

(2) receiving or selling stolen goods~~,~~;

(3) participating in gambling activities in violation of section 609.76~~,~~;

(4) violations of section 609.322, 609.323, or any other state or federal law prohibiting the recruitment, transportation, or use of juveniles for purposes of prostitution; *and*

(5) witness assistance services in cases involving criminal gang activity in violation of section 30, or domestic assault, as defined in section 611A.0315.

Subd. 2. A county sheriff or the chief administrative officer of a municipal police department may apply to the commissioner of public safety for a grant for any of the purposes described in subdivision 1, on forms and pursuant to procedures developed by the superintendent. The application shall describe the type of intended criminal investigation, an estimate of the amount of money required, and any other information the superintendent deems necessary.

Subd. 3. A report shall be made to the commissioner at the conclusion of an investigation pursuant to this section stating: (1) the number of persons arrested, (2) the nature of charges filed against them, (3) the nature and value of controlled substances or contraband purchased or seized, (4) the amount of money paid to informants during the investigation, and (5) a separate accounting of the amount of money spent for expenses, other than "buy money", of bureau and local law enforcement personnel during the investigation. The commissioner shall prepare and submit to the legislature by January 1 of each year a report of investigations pursuant to this section.

Subd. 3a. The head of a law enforcement agency that receives a grant under this section for witness assistance services shall file a report with the commissioner at the conclusion of the case detailing the specific purposes for which the money was spent. The commissioner shall prepare and submit to the legislature by January 1 of each year a summary report of witness assistance services provided under this section.

Subd. 4. An application to the commissioner for money is a confidential record. Information within investigative files that identifies or could reasonably be used to ascertain the identity of *assisted witnesses,* sources, or undercover investigators is a confidential record. A report at the conclusion of an investigation is a public record, *except that information in a report pertaining to the identity or location of an assisted witness is private data.*

Sec. 21. Minnesota Statutes 1990, section 485.16, is amended to read:

485.16 [RECORD ALL ACTIONS FILED.]

Subdivision 1. [RECORDS KEPT.] The court administrators of the district courts of the several counties shall keep a record of all actions and proceedings, civil and criminal, filed in the court, and shall furnish to the state appellate courts any information concerning the actions as is prescribed by rule of civil procedure.

Subd. 2. [CRIMINAL DISPOSITIONS REPORTED.] *The court administrator of the district court shall report to the supreme court within 30 days after a judge pronounces sentence following a felony conviction. The report must include the sentence pronounced, whether imposition was stayed, and other information requested by the supreme court.*

Sec. 22. Minnesota Statutes 1990, section 609.05, subdivision 4, is amended to read:

Subd. 4. A person liable under this section may be charged with and convicted of the crime although the person who directly committed it has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act, *or if the person is a juvenile who has not been found delinquent for the act.*

Sec. 23. Minnesota Statutes 1990, section 609.05, is amended by adding a subdivision to read:

Subd. 5. For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.

Sec. 24. Minnesota Statutes 1990, section 609.101, is amended by adding a subdivision to read:

Subd. 3. [CONTROLLED SUBSTANCE OFFENSES; MINIMUM FINES.] *(a) Notwithstanding any other law, when a court sentences a person convicted of:*

(1) a first degree controlled substance crime under section 152.021, it must impose a fine of not less than $2,500 nor more than the maximum fine authorized by law;

(2) a second degree controlled substance crime under section 152.022, it must impose a fine of not less than $1,000 nor more than the maximum fine authorized by law;

(3) a third degree controlled substance crime under section 152.023, it must impose a fine of not less than $750 nor more than the maximum fine authorized by law;

(4) a fourth degree controlled substance crime under section 152.024, it must impose a fine of not less than $500 nor more than the maximum fine authorized by law; and

(5) a fifth degree controlled substance violation under section 152.025, it must impose a fine of not less than $300 nor more than the maximum fine authorized by law.

(b) The court may not waive payment of the fine or authorize payment of it in installments unless the court makes written findings on the record that the convicted person is indigent or that the fine would create undue hardship for the convicted person or that person's immediate family.

(c) The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any term of imprisonment or restitution imposed or ordered by the court.

(d) The court shall collect the fine mandated by this subdivision and forward 70 percent of it to a local drug abuse prevention program existing or being implemented in the county in which the crime was committed. The court shall forward the remaining 30 percent to the state treasurer to be credited to the general fund. If more than one drug abuse prevention program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the community in which the crime was committed, the funding needs of the program, the number of peace officers in each community certified to teach the program, and the number of children served by the program in each community. If no drug abuse prevention program serves communities in that county, the court shall forward 100 percent of the fine proceeds to the state treasurer to be credited to the general fund.

(e) The minimum fines required by this subdivision shall be collected as are other fines. Fine proceeds received by a local drug abuse prevention program must be used to support that program, and may be used for salaries of peace officers certified to teach the program. The drug abuse resistance education program must report receipt and use of money generated under this subdivision as prescribed by the drug abuse resistance education advisory council.

(f) As used in this subdivision, "drug abuse prevention program" and "program" include:

(1) the drug abuse resistance education program described in sections 299A.33 and 299A.331; and

(2) any similar drug abuse education and prevention program that includes the following components:

(A) instruction for students enrolled in kindergarten through grade six that is designed to teach students to recognize and resist pressures to experiment with controlled substances and alcohol;

(B) provisions for parental involvement;

(C) classroom instruction by uniformed law enforcement personnel;

(D) the use of positive student leaders to influence younger students not to use drugs; and

(E) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations.

Sec. 25. Minnesota Statutes 1990, section 609.11, is amended by adding a subdivision to read:

Subd. 5a. [DRUG OFFENSES.] *Notwithstanding section 609.035, whenever a defendant is subject to a mandatory minimum term of imprisonment for a felony violation of chapter 152 and is also subject to this section, the minimum term of imprisonment imposed under this section shall be consecutive to that imposed under chapter 152.*

Sec. 26. Minnesota Statutes 1990, section 609.115, is amended by adding a subdivision to read:

Subd. 8. [CHEMICAL USE ASSESSMENT REQUIRED.] *(a) If a person is convicted of a felony, the probation officer shall determine in the report prepared under subdivision 1 whether or not alcohol or drug use was a contributing factor to the commission of the offense. If so, the report shall*

contain the results of a chemical use assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the defendant to undergo the chemical use assessment if so indicated.

(b) The chemical use assessment report must include a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3. The assessment must be conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An assessor providing a chemical use assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3.

Sec. 27. Minnesota Statutes 1990, section 609.135, subdivision 1a, is amended to read:

Subd. 1a. [FAILURE TO PAY RESTITUTION.] If the court orders payment of restitution as a condition of probation and if the defendant fails to pay the restitution in accordance with the payment schedule or structure established by the court or the probation officer, the defendant's probation officer may, on the officer's own motion or at the request of the victim, ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked. The defendant's probation officer shall ask for the hearing if the restitution ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing and take appropriate action, *including action under subdivision 2, paragraph (f),* before the defendant's term of probation expires.

Sec. 28. Minnesota Statutes 1990, section 609.135, subdivision 2, is amended to read:

Subd. 2. ~~(1)~~ *(a)* If the conviction is for a felony the stay shall be for not more than three years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

~~(2)~~ *(b)* If the conviction is for a gross misdemeanor the stay shall be for not more than two years.

~~(3)~~ *(c)* If the conviction is for a misdemeanor under section 169.121, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

~~(4)~~ *(d)* If the conviction is for a misdemeanor not specified in ~~clause (3)~~ *paragraph (c)*, the stay shall be for not more than one year.

~~(5)~~ *(e)* The defendant shall be discharged when the stay expires, unless the stay has been revoked *or extended under paragraph (f),* or the defendant has already been discharged.

(f) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (e), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution that the defendant owes.

Sec. 29. Minnesota Statutes 1990, section 609.2231, is amended by adding a subdivision to read:

Subd. 5. [SCHOOL OFFICIAL.] *Whoever assaults a school official while the official is engaged in the performance of the official's duties, and inflicts demonstrable bodily harm, is guilty of a gross misdemeanor. As used in this subdivision, "school official" includes teachers, school administrators, and other employees of a public or private school.*

Sec. 30. [609.229] [CRIME COMMITTED FOR BENEFIT OF A GANG.]

Subdivision 1. [DEFINITION.] *As used in this section, "criminal gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, that:*

(1) has, as one of its primary activities, the commission of one or more of the offenses listed in section 609.11, subdivision 9;

(2) has a common name or common identifying sign or symbol; and

(3) includes members who individually or collectively engage in or have engaged in a pattern of criminal activity.

Subd. 2. [CRIMES.] *A person who commits a crime for the benefit of, at the direction of, or in association with a criminal gang, with the intent to promote, further, or assist in criminal conduct by gang members is guilty of a crime and may be sentenced as provided in subdivision 3.*

Subd. 3. [PENALTY.] *(a) If the crime committed in violation of subdivision 2 is a felony, the statutory maximum for the crime is three years longer than the statutory maximum for the underlying crime.*

(b) If the crime committed in violation of subdivision 2 is a misdemeanor, the person is guilty of a gross misdemeanor.

(c) If the crime committed in violation of subdivision 2 is a gross misdemeanor, the person is guilty of a felony and may be sentenced to a term of imprisonment of not more than one year and a day or to payment of a fine of not more than $5,000, or both.

Sec. 31. [609.494] [SOLICITATION OF JUVENILES.]

Subdivision 1. [CRIME.] *A person is guilty of a crime and may be sentenced as provided in subdivision 2 if the person solicits a minor to commit a criminal act.*

Subd. 2. [SENTENCE.] *(a) A person who violates subdivision 1 is guilty of a misdemeanor if the intended criminal act is a misdemeanor, and is guilty of a gross misdemeanor if the intended criminal act is a gross misdemeanor.*

(b) A person who violates subdivision 1 is guilty of a felony if the intended criminal act is a felony, and may be sentenced to imprisonment for not more than one-half the statutory maximum term for the intended criminal act or to payment of a fine of not more than one-half the maximum fine for the intended criminal act, or both.

Sec. 32. Minnesota Statutes 1990, section 609.52, subdivision 3, is amended to read:

Subd. 3. [SENTENCE.] Whoever commits theft may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both, if *the property is a firearm, or* the value of the property or services stolen is more than $35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), or (16); or

(2) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the value of the property or services stolen exceeds $2,500, or if the property stolen was an article representing a trade secret, an explosive or incendiary device, or a controlled substance listed in schedule I or II pursuant to section 152.02 with the exception of marijuana; or

(3) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if:

(a) the value of the property or services stolen is more than $500 but not more than $2,500; or

(b) the property stolen was a controlled substance listed in schedule III, IV, or V pursuant to section 152.02; or

(c) the value of the property or services stolen is more than $200 but not more than $500 and the person has been convicted within the preceding five years for an offense under this section, section 256.98; 268.18, subdivision 3; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(d) the value of the property or services stolen is not more than $500, and any of the following circumstances exist:

(i) the property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

(ii) the property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

(iii) the property is taken from a burning building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

(iv) the property consists of public funds belonging to the state or to any political subdivision or agency thereof; or

(v) ~~the property is a firearm; or~~

~~(vi)~~ the property stolen is a motor vehicle; or

(4) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the value of the property or services stolen is more than $200 but not more than $500; or

(5) in all other cases where the value of the property or services stolen is $200 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $700, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13), the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Sec. 33. Minnesota Statutes 1990, section 609.66, is amended to read:

609.66 [DANGEROUS WEAPONS.]

Subdivision 1. [MISDEMEANOR *AND GROSS MISDEMEANOR CRIMES.*] *(a)* Whoever does any of the following is guilty of a ~~misdemeanor~~ *crime and may be sentenced as provided in paragraph (b)*:

(1) recklessly handles or uses a gun or other dangerous weapon or explosive so as to endanger the safety of another; or

(2) intentionally points a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or

(3) manufactures or sells for any unlawful purpose any weapon known as a slungshot or sand club; or

(4) manufactures, transfers, or possesses metal knuckles or a switch blade knife opening automatically; or

(5) possesses any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or

(6) *outside of a municipality and* without the parent's or guardian's consent, furnishes a child under 14 years of age, or as a parent or guardian permits the child to handle or use, outside of the parent's or guardian's presence, a firearm or airgun of any kind, or any ammunition or explosive.

Possession of written evidence of prior consent signed by the minor's parent or guardian is a complete defense to a charge under clause (6).

(b) A person convicted under paragraph (a) may be sentenced as follows:

(1) if the act was committed in a public housing zone, as defined in section 152.01, subdivision 19, a school zone, as defined in section 152.01, subdivision 14a, or a park zone, as defined in section 152.01, subdivision 12a, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

(2) otherwise, including where the act was committed on residential premises within a zone described in clause (1) if the offender was at the time an owner, tenant, or invitee for a lawful purpose with respect to those residential premises, to imprisonment for not more than 90 days or to payment of a fine of not more than $700, or both.

Subd. 1a. [FELONY *CRIMES.*] *(a)* Whoever does any of the following is guilty of a felony and may be sentenced ~~to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both~~ *as provided in paragraph (b)*:

(1) sells or has in possession any device designed to silence or muffle the discharge of a firearm; *or*

(2) ~~in any municipality of this state, furnishes a minor under 18 years of age with a firearm, airgun, ammunition, or explosive without the written consent of the minor's parent or guardian or of the police department of the municipality; or~~

~~(3)~~ intentionally discharges a firearm under circumstances that endanger the safety of another.

(b) A person convicted under paragraph (a) may be sentenced as follows:

(1) if the act was committed in a public housing zone, as defined in section 152.01, subdivision 19, a school zone, as defined in section 152.01, subdivision 14a, or a park zone, as defined in section 152.01, subdivision 12a, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both; or

(2) otherwise, to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both.

Subd. 1b. [FELONY; FURNISHING TO MINORS.] *Whoever, in any municipality of this state, furnishes a minor under 18 years of age with a firearm, airgun, ammunition, or explosive without the prior consent of the minor's parent or guardian or of the police department of the municipality is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both. Possession of written evidence of prior consent signed by the minor's parent or guardian is a complete defense to a charge under this subdivision.*

Subd. 1c. [FELONY; FURNISHING A DANGEROUS WEAPON.] *Whoever recklessly furnishes a person with a dangerous weapon in conscious disregard of a known substantial risk that the object will be possessed or used in furtherance of a felony crime of violence is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.*

Subd. 2. [EXCEPTIONS.] Nothing in this section prohibits the possession of the articles mentioned by museums or collectors of art or for other lawful purposes of public exhibition.

Sec. 34. Minnesota Statutes 1990, section 609.72, subdivision 1, is amended to read:

Subdivision 1. Whoever does any of the following in a public or private place, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor:

(1) Engages in brawling or fighting; or

(2) Disturbs an assembly or meeting, not unlawful in its character; or

(3) Engages in offensive, obscene, ~~or~~ abusive ~~language or in~~, boisterous ~~and~~, *or* noisy conduct *or in offensive, obscene, or abusive language* tending reasonably to arouse alarm, anger, or resentment in others.

A person does not violate this section if the person's disorderly conduct was caused by an epileptic seizure.

Sec. 35. Minnesota Statutes 1990, section 624.712, subdivision 5, is amended to read:

Subd. 5. "Crime of violence" includes murder in the first, second, and third degrees, manslaughter in the first and second degrees, aiding suicide, aiding attempted suicide, felony violations of assault in the first, second, third, and fourth degrees, *terroristic threats*, use of drugs to injure or to facilitate crime, simple robbery, aggravated robbery, kidnapping, false imprisonment, criminal sexual conduct in the first, second, third, and fourth degrees, felonious theft, arson in the first and second degrees, riot, burglary in the first, second, third, and fourth degrees, reckless use of a gun or dangerous weapon, intentionally pointing a gun at or towards a human being, setting a spring gun, and unlawfully owning, possessing, or operating a machine gun, and an attempt to commit any of these offenses, as each of those offenses is defined in chapter 609. "Crime of violence" also includes felony violations of chapter 152.

Sec. 36. Minnesota Statutes 1990, section 624.713, subdivision 2, is amended to read:

Subd. 2. A person named in subdivision 1, clause *(a) or* (b), who possesses a pistol is guilty of a felony. A person named in any other clause of subdivision 1 who possesses a pistol is guilty of a gross misdemeanor.

Sec. 37. [SENTENCING GUIDELINES COMMISSION STUDY.]

The sentencing guidelines commission shall study sentencing practices under Minnesota Statutes, section 152.023, subdivision 2, clause (1). In its study, the commission shall review: (1) the proportionality of the statutory penalties for and severity level ranking of this crime relative to other controlled substance crimes; (2) the characteristics of offenders sentenced for committing this crime relative to other controlled substance offenders; (3) the sentencing practices of the courts with respect to presumptive sentences, sentencing departures, and conditions of stayed sentences for this crime; and (4) the harm to the community resulting from the commission of this crime relative to other controlled substance crimes. The commission may also include any other sentencing policy issues it deems relevant to this study. The commission shall report its findings to the judiciary committees of the house of representatives and senate by February 15, 1992, and shall recommend any changes to the statute or applicable sentencing guidelines it believes are necessary or appropriate.

Sec. 38. [CHEMICAL USE ASSESSMENT FUNDING.]

The commissioner of human services, in consultation with the commissioner of corrections and the state court administrator, shall appoint a task force of officials of state and local agencies and the judicial branch. The task force shall calculate the additional cost of providing the chemical use assessments of convicted felons required by section 26, and shall report to the legislature by January 1, 1992, its recommendations for funding those assessments.

Sec. 39. [DRUG-IMPAIRED DRIVER STUDY.]

The commissioner of public safety shall study expanding Minnesota's implied consent law to provide for immediate revocation of the driver's

license of a driver who tests positive for the presence of a controlled substance. The commissioner shall report to the judiciary committees in the senate and house of representatives by June 1, 1992. If the commissioner determines that this expansion is feasible, the commissioner shall make specific recommendations concerning the following:

(1) the controlled substances that should be included;

(2) for each controlled substance, the threshold amount that should trigger license revocation, with due consideration of the length of time after use that each controlled substance remains detectable, the level of impairment caused by the controlled substance at different levels, and the state of current testing technology for the controlled substance;

(3) the most feasible method of testing drivers for controlled substances, including a recommendation for training of law enforcement and hospital personnel who will be responsible for conducting the testing; and

(4) an estimate of the cost to the state and local governments.

Sec. 40. [APPROPRIATION.]

$145,000 is appropriated from the general fund to the drug abuse resistance education advisory council to be used to administer the drug abuse resistance education programs. This appropriation is available until June 30, 1993.

Sec. 41. [REPEALERS.]

(a) Minnesota Statutes 1990, sections 244.095; and 299A.29, subdivisions 2 and 4, are repealed.

(b) Minnesota Statutes 1990, section 609.101, subdivision 3, is repealed effective July 1, 1993.

Sec. 42. [EFFECTIVE DATE.]

Sections 1 to 6, 9, 22, 23, 25, and 29 to 36, are effective August 1, 1991, and apply to offenses committed on or after that date. Sections 7, 8, 10 to 20, 37 to 39, and 41 are effective August 1, 1991. Sections 21, 27, and 28 are effective August 1, 1991, and apply to convictions occurring on or after that date. Section 24 is effective July 1, 1991, and applies to crimes committed on or after that date. Section 26 is effective July 1, 1992, and applies to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; expanding the definition of drug free zones to include public housing property; increasing penalties for certain drug crimes committed in a drug free zone; expanding the juvenile code definition of "child in need of protection or services"; making it a prima facie case for adult court certification in the case of certain firearms violations committed by a juvenile; changing the name and duties of the drug abuse prevention resource council and the duties of the office of drug policy; authorizing grants for witness assistance services; requiring reporting of certain criminal convictions; imposing minimum fines in controlled substance cases; providing for consecutive mandatory minimum sentences for firearms and controlled substance violations; requiring chemical use assessments of convicted felony offenders; providing for the collection of restitution; increasing penalties for assaulting a school official; enhancing penalties for committing a crime for the benefit of a criminal gang; increasing

penalties for a variety of weapons offenses; prohibiting soliciting a juvenile to commit a crime; requiring studies; appropriating money; amending Minnesota Statutes 1990, sections 152.01, by adding subdivisions; 152.021, subdivision 1; 152.022, subdivision 1; 152.023, subdivision 2; 152.024, subdivision 1; 152.029; 260.015, subdivision 2a; 260.125, subdivision 3; 299A.29, subdivisions 3, 5, and by adding subdivisions; 299A.30; 299A.31, subdivision 1; 299A.32; 299A.34, subdivision 2; 299A.35; 299A.36; 299C.065; 485.16; 609.05, subdivision 4, and by adding a subdivision; 609.101, by adding a subdivision; 609.11, by adding a subdivision; 609.115, by adding a subdivision; 609.135, subdivisions 1a and 2; 609.2231, by adding a subdivision; 609.52, subdivision 3; 609.66; 609.72, subdivision 1; 624.712, subdivision 5; 624.713, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes, sections 244.095; 299A.29, subdivisions 2 and 4; and 609.101, subdivision 3."

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

Senate Conferees: (Signed) Alan H. Spear, Richard J. Cohen, Randy C. Kelly, Patrick D. McGowan, John Marty

House Conferees: (Signed) Kathleen Vellenga, Howard Orenstein, Marcus Marsh, Loren A. Solberg, Richard H. Jefferson

Mr. Spear moved that the foregoing recommendations and Conference Committee Report on S.F. No. 525 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. 525 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Adkins	DeCramer	Kelly	Moe, R.D.	Riveness
Beckman	Finn	Knaak	Morse	Sams
Belanger	Flynn	Kroening	Neuville	Samuelson
Benson, D.D.	Frank	Laidig	Novak	Spear
Benson, J.E.	Frederickson, D.J.	Langseth	Olson	Storm
Berg	Frederickson, D.R.	Larson	Pappas	Stumpf
Bernhagen	Halberg	Lessard	Pariseau	Traub
Bertram	Hottinger	Luther	Piper	Vickerman
Brataas	Hughes	Marty	Pogemiller	Waldorf
Dahl	Johnson, D.E.	McGowan	Price	
Davis	Johnson, J.B.	Mehrkens	Ranum	
Day	Johnston	Metzen	Reichgott	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 81 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 81

A bill for an act relating to towns; clarifying certain provisions for the terms of town supervisor; providing for the compensation of certain town officers and employees; amending Minnesota Statutes 1990, sections 367.03, subdivision 1; and 367.05, subdivision 1.

May 17, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 81, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 81 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 180.03, is amended by adding a subdivision to read:

Subd. 5. Upon written notice to the county mine inspector, a person, firm, or corporation that is actively and exclusively engaged in the business of cold water aquaculture shall be exempt from the requirements of subdivision 3. The exemption shall only apply to those portions of idle or abandoned open pit mines that are actively being used for aquaculture operations and that are owned by the person, firm, or corporation. A landowner exempted assumes all responsibility for inspection and safety measures pertaining to the affected parcels of land and the county mine inspector is relieved of inspection requirements. The notice provided to the county mine inspector pursuant to this subdivision shall be annual and shall be filed with the county mine inspector's office by January 15 of each year. The notice shall describe the affected parcels of land and shall provide a sworn affidavit by the landowner that the subject property will be actively and exclusively used for aquaculture purposes during the calendar year. Failure to comply with the notice requirement of this subdivision makes the idle or abandoned open pit mines subject to the provisions of subdivision 3.

Sec. 2. Minnesota Statutes 1990, section 272.46, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATION OF TAX LIENS.] The county auditor, upon written application of any person, shall make search of the records of the auditor's office, and ascertain the existence of all tax liens and tax sales as to any lands described in the application, and certify the result of such search under the auditor's hand and official seal, giving the description of the land and all tax liens and tax sales shown by such records, and the amount thereof, the year of tax covered by such lien, the date of tax sale, and the name of the purchaser at such tax sale.

For such service the county auditor shall charge a fee ~~not to exceed $5~~ for each lot or tract of land described in the certificate. The amount of the fee will be established by the county board on or before July 1 of each year. Any number of contiguous tracts of land not exceeding one section, assessed as broad acres, or adjoining lots in the same block, in the city, shall be considered as one lot or parcel within the meaning of this section. The

provisions of this section shall not apply to counties having a population of more than 225,000.

Sec. 3. Minnesota Statutes 1990, section 272.47, is amended to read:

272.47 [COUNTY TREASURER, CERTIFICATE OF CURRENT TAXES; FEE.]

The county treasurer, upon written application of any person, shall make search of the tax duplicates and records of the treasurer's office and ascertain the amount of current tax against any lot or parcel of land described in the application, and shall certify the result of such search under the treasurer's hand and official seal, giving the description of land, year of tax and amount, if any, and for such certificate the treasurer shall be entitled to charge the applicant a fee ~~not to exceed~~ ~~$5~~. The amount of the fee will be established by the county board on or before July 1 of each year. The definition of "lot or parcel," for the purposes of this section, shall be the same as set forth in section 272.46.

This section shall not authorize such treasurer to charge any amount for certifying to taxes on a deed to be recorded or for information with reference to the current tax on any subdivision of land in the county, where no certificate thereof is necessary or required. The provisions of this section shall not apply to counties having a population of more than 200,000.

Sec. 4. Minnesota Statutes 1990, section 279.09, is amended to read:

279.09 [PUBLICATION OF NOTICE AND LIST.]

The county auditor shall cause the notice and list of delinquent real property to be published ~~once in each of two consecutive weeks~~ *twice* in the newspaper designated~~,~~. The first publication ~~of which~~ shall be made on or before March 20 immediately following the filing of such list with the court administrator of the district court. *The second publication shall occur during the fourth week following the first publication. The first publication may include a notice stating that if taxes for a parcel are paid in full not less than one week before the second publication, that parcel and information relating to it will not appear in the second publication. The county auditor shall act in accordance with the notice. Publication charges for the second publication may not exceed the publication charges for the first publication.* The auditor shall deliver such list to the publisher of the newspaper designated, at least 20 days before the date upon which the list shall be published for the first time.

Sec. 5. Minnesota Statutes 1990, section 281.13, is amended to read:

281.13 [NOTICE OF EXPIRATION OF REDEMPTION.]

Every person holding a tax certificate after expiration of three years after the date of the tax sale under which the same was issued, may present such certificate to the county auditor; and thereupon the auditor shall prepare, under the auditor's hand and official seal, a notice, directed to the person or persons in whose name such lands are assessed, specifying the description thereof, the amount for which the same was sold, the amount required to redeem the same, exclusive of the costs to accrue upon such notice, and the time when the redemption period will expire. If, at the time when any tax certificate is so presented, such lands are assessed in the name of the holder of the certificate, such notice shall be directed also to the person or persons in whose name title in fee of such land appears of record in the office of the county recorder. The auditor shall deliver such notice to the

party applying therefor, who shall deliver it to the sheriff of the proper county for service. Within 20 days after receiving it, the sheriff shall serve such notice upon the persons to whom it is directed, if to be found in the sheriff's county, in the manner prescribed for serving a summons in a civil action; if not so found, then upon the person in possession of the land, and make return thereof to the auditor. In the case of land held in joint tenancy the notice shall be served upon each joint tenant. If one or more of the persons to whom the notice is directed cannot be found in the county, and there is no one in possession of the land, of each of which facts the return of the sheriff so specifying shall be prima facie evidence, service shall be made upon those persons that can be found and service shall also be made by ~~three~~ *two* weeks' published notice, proof of which publication shall be filed with the auditor.

When the records in the office of the county recorder show that any lot or tract of land is encumbered by an unsatisfied mortgage or other lien, and show the post office address of the mortgagee or lienee, or if the same has been assigned, the post office address of the assignee, the person holding such tax certificate shall serve a copy of such notice upon such mortgagee, lienee, or assignee by certified mail addressed to such mortgagee, lienee, or assignee at the post office address of the mortgagee, lienee, or assignee as disclosed by the records in the office of the county recorder, at least 60 days prior to the time when the redemption period will expire.

The notice herein provided for shall be sufficient if substantially in the following form:

"NOTICE OF EXPIRATION OF REDEMPTION

Office of the County Auditor

County of . . . . . , State of Minnesota.

To . . . . . .

You are hereby notified that the following described piece or parcel of land, situated in the county of . . . . . , and State of Minnesota, and known and described as follows: . . . . . , is now assessed in your name; that on the . . . . . day of May, ... , at the sale of land pursuant to the real estate tax judgment, duly given and made in and by the district court in and for said county of . . . . . , on the . . . . . day of March, ... , in proceedings to enforce the payment of taxes delinquent upon real estate for the year . . . . . for said county of . . . . . , the above described piece or parcel of land was sold for the sum of $ . . . . . , and the amount required to redeem such piece or parcel of land from such sale, exclusive of the cost to accrue upon this notice, is the sum of $ . . . . . , and interest at the rate of . . . . . percent per annum from said . . . . . day of . . . . . , ... , to the day such redemption is made, and that the tax certificate has been presented to me by the holder thereof, and the time for redemption of such piece or parcel of land from such sale will expire 60 days after the service of this notice and proof thereof has been filed in my office.

Witness my hand and official seal this . . . . . day of . . . . . .

. . . . . .

(OFFICIAL SEAL)

County Auditor of

. . . . . County, Minnesota.

Sec. 6. Minnesota Statutes 1990, section 281.23, subdivision 3, is amended to read:

Subd. 3. [PUBLICATION.] As soon as practicable after the posting of the notice prescribed in subdivision 2, the county auditor shall cause to be published for ~~three~~ *two* successive weeks in the official newspaper of the county, the notice prescribed by subdivision 2.

Sec. 7. Minnesota Statutes 1990, section 367.03, subdivision 1, is amended to read:

Subdivision 1. [OFFICERS, TERMS.] Except in towns operating under option A, three supervisors shall be elected in each town as provided in this section. When a new town is organized and supervisors are elected at a town meeting prior to the annual town election, they shall serve only until the next annual town election. At that election three supervisors shall be elected, one for three years, one for two years, and one for one year, so that the term of one shall expire each year. The number of years for which each is elected shall be indicated on the ballot. When two supervisors are to be elected for three-year terms under option A, a candidate shall indicate on the affidavit of candidacy which of the two offices the candidate is filing for. At following annual town elections one supervisor shall be elected for three years to succeed the one whose term expires at that time *and shall serve until a successor is elected and qualified*. Except in towns operating under option B or option D, or both, at the annual town election in even-numbered years one town clerk and at the annual town election in odd-numbered years one town treasurer shall be elected. The clerk and treasurer each shall serve for two years and until their successors are elected and qualified.

Sec. 8. Minnesota Statutes 1990, section 367.05, subdivision 1, is amended to read:

Subdivision 1. The town board shall set the compensation of supervisors, town assessors, the treasurer, clerk, deputy clerk, if one is employed, ~~the road overseer~~ *deputy treasurer, if one is employed*, and other employees of the town. In addition, supervisors, assessors, treasurers, clerks, deputy clerks, ~~road overseers~~ *deputy treasurers*, and other employees of the town shall be entitled to mileage for the use of their own automobile at a rate to be determined by the town board for necessary travel on official town business. The town board may fix the hours of employment for town employees, and reimburse a town assessor for expenses.

Sec. 9. Minnesota Statutes 1990, section 375.17, is amended to read:

375.17 [PUBLICATION OF FINANCIAL STATEMENTS.]

Annually, not later than the first Tuesday after the first Monday in March, the county board shall make a full and accurate statement of the receipts and expenditures of the preceding year, which shall contain a statement of the assets and liabilities, a summary of receipts, disbursements, and balances of all county funds together with a detailed statement of each fund account, under the form and style prescribed by and on file with the state auditor. The prescribed form and any changes or modifications of it shall so far as practical be uniform for all counties and be approved by the attorney general

and the state printer. Before June 1 the board shall publish the statement *or a summary of the statement in a form as prescribed by the state auditor,* for one issue in a duly qualified legal newspaper in the county. ~~The board may refrain from publishing an itemized account of amounts paid out, to whom and for what purpose to the extent that the published proceedings of the county board contain the information, if all disbursements aggregating $5,000 or more to any person are set forth in a schedule of major disbursements showing amounts paid out, to whom and for what purpose and are made a part of, and published with, the financial statement. The county board may refrain from publishing the names and amounts of salaries and expenses paid to employees but shall publish the totals of disbursements for salaries and expenses. The county board may refrain from publishing the names of persons receiving poor relief or direct relief and the amounts paid to each, but the totals of the disbursements for those purposes must be published.~~ In addition to the publication in the newspaper designated by the board as the official newspaper for publication of the financial statement, the statement *or summary* shall be published in one other newspaper, if one of general circulation is located in a different municipality in the county than the official newspaper. The county board shall call for separate bids for each publication. *If the county board elects to publish the full statement, the county board may:*

(1) refrain from publishing an itemized account of amounts paid out, to whom and for what purpose to the extent that the published proceedings or the financial statement of the county board contain the information, if all disbursements aggregating $100 or more to any person are set forth in a schedule of major disbursements showing amounts paid out, to whom and for what purpose and are made part of, and published with the financial statement;

(2) refrain from publishing the names and amounts of salaries and expenses paid to employees but shall publish the totals of disbursements for salaries and expenses; and

(3) refrain from publishing the names of persons receiving poor relief or direct relief and the amounts paid to each, but the totals of disbursements for those purposes must be published. If a provision of this section is inconsistent with section 393.07, the provisions of that section shall prevail. *The financial statement must be filed with the county auditor for public inspection.*

Sec. 10. Minnesota Statutes 1990, section 375B.03, is amended to read:

375B.03 [ESTABLISHMENT OF SERVICE DISTRICTS.]

Notwithstanding any provision of law requiring uniform property tax rates on real or personal property within the county, any county in this state, except a metropolitan county as defined in section 473.121, subdivision 4, ~~and any other county containing a city of the first class,~~ may establish subordinate service districts to provide and finance any governmental service or function which it is otherwise authorized to undertake. A function or service to be provided shall not include a function or service which the county generally provides throughout the county unless an increase in the level of the service is to be supplied in the service district.

Sec. 11. Minnesota Statutes 1990, section 375B.04, is amended to read:

375B.04 [CREATION BY COUNTY BOARD.]

The county board of commissioners of any county, except a metropolitan county as defined in section 473.121, subdivision 4, ~~and any other county containing a city of the first class,~~ may establish a subordinate service district

in a portion of the county by adoption of an appropriate resolution. Before the adoption of the resolution, the county board shall hold a public hearing on the question of whether or not a subordinate service district shall be established. The resolution shall specify the service or services to be provided within the subordinate service district and shall specify the territorial boundaries of the district.

Sec. 12. [383D.09] [AUDITOR; TREASURER; RECORDER.]

Subdivision 1. The Dakota county board of commissioners may, by resolution, merge the offices of county treasurer and county auditor. The board may provide, by resolution, that the office of county recorder shall not be elective but shall be filled by appointment by the county board as provided in this section. These offices will be referred to as treasurer/auditor and property records.

Subd. 2. As provided by a resolution by the Dakota county board of commissioners and subject to subdivisions 3 and 4, the duties of the elected county treasurer and county auditor required by statute shall be combined and performed by one elected official to be referred to as the county treasurer/auditor. The treasurer/auditor shall perform all duties required by statute to be performed by either a county treasurer or auditor and shall be elected in the manner as provided by statute for those officials. A vacancy in the office of treasurer/auditor shall be filled in accordance with section 375.08.

Upon adoption of a resolution by the Dakota county board of commissioners and subject to subdivisions 3 and 4, the duties of the elected county recorder whose office is made appointive under this section shall be discharged by the board of commissioners acting through a department head appointed by the board for that purpose. The appointed department head shall serve at the pleasure of the board. The board may reorganize, consolidate, reallocate, or delegate the duties to promote efficiency in county government. A reorganization, reallocation, or delegation or other administrative change or transfer shall not impair the discharge of duties required by statute to otherwise be performed by a county recorder.

Subd. 3. The persons elected to be county treasurer, county auditor, and county recorder at the last county general election preceding action under this section shall serve in those capacities and perform their duties, functions, and responsibilities until the completion of the term of office to which each was elected, or until a vacancy occurs in the office, whichever occurs earlier.

Subd. 4. The county board, before action as permitted by subdivision 2 and before any appointment permitted by subdivision 1 or 2, but after adopting a resolution permitted by subdivision 1 or 2, shall publish the resolution once each week for two consecutive weeks in the official publication of the county. The resolution may be implemented without the submission of the question to the voters of the county, unless within 21 days after the second publication of the resolution a petition requesting a referendum, signed by at least 15 percent of the voters in the county voting in the last general election, is filed with the county auditor. If a petition is filed, the resolution may be implemented unless disapproved by a majority of the voters of the county, voting on the question at a regular or special election.

Sec. 13. Minnesota Statutes 1990, section 465.79, subdivision 2, is amended to read:

Subd. 2. [DUTIES OF BOUNDARY COMMISSION.] The boundary

commission shall review ~~metes and bounds~~ *property* descriptions within the city. Upon notice to all known parties in interest, the commission shall attempt to establish agreements between adjoining landowners as to the location of common boundaries *as delineated by a certified land survey*. If agreement cannot be reached, the commission shall make a recommendation as to the location of the common boundary. The commission shall prepare a plan designating all agreed and recommended boundary lines and report to the city council.

Sec. 14. Minnesota Statutes 1990, section 465.79, subdivision 4, is amended to read:

Subd. 4. [JUDICIAL REVIEW.] Following hearing, the council may petition the district court for judicial approval of the proposed plan. *If any affected parcel is land registered under chapter 508 or 508A, the petition must be referred to the examiner of titles for a report.* The council shall provide sufficient information to identify all parties in interest and shall give notice to parties in interest as the court may order. The court shall determine the location of any contested, disputed, or unagreed boundary and shall determine adverse claims to each parcel as provided in chapter 559. After hearing and determining all disputes, the court shall issue its judgment in the form of a plat complying with chapter 505 and *an order* designating the owners and encumbrancers of each lot. *Real property taxes need not be paid or current as a condition of filing the plat, notwithstanding the requirements of section 505.04.*

Sec. 15. Minnesota Statutes 1990, section 471.562, subdivision 3, is amended to read:

Subd. 3. [MUNICIPALITY.] "Municipality" means any city, however organized, *a county,* a housing and redevelopment authority created pursuant to, or exercising the powers contained in, chapter 462, or a port authority created pursuant to, or exercising the powers contained in, chapter 458.

Sec. 16. Minnesota Statutes 1990, section 471.563, is amended to read:

471.563 [USES OF LOAN REPAYMENTS.]

Subject to any restrictions imposed on their use by any related federal or state grant, economic development loan repayments and the proceeds of any bonds issued pursuant to section 471.564 may be applied by a municipality to any of the following purposes:

(1) to finance or otherwise pay the costs of a project;

(2) to pay principal and interest on any bonds issued pursuant to section 469.178, with respect to a project, certification of which is requested before August 1, 1987, or pursuant to chapter 474, 458, 462, or section 471.564, to purchase insurance or other credit enhancement for any of those obligations or to create or maintain reserves therefor; ~~or~~

(3) *to establish and maintain a revolving loan fund for economic development; or*

(4) for any other purpose authorized by law.

If economic development loan repayments are used to pay principal or interest on any such obligations, the municipality may be reimbursed for the amount so applied with interest not exceeding the rate of interest on the obligations from subsequent collections of taxes or other revenues that had been designated as the primary source of payment of the obligations.

Sec. 17. [473.140] [LEGISLATIVE MEMBERS OF METROPOLITAN AGENCIES.]

Subdivision 1. [APPLICATION.] *This section applies to the following agencies or their successor agencies: the metropolitan council; the regional transit board; the metropolitan transit commission; the metropolitan waste control commission; the metropolitan sports facilities commission; the metropolitan airports commission; and the metropolitan mosquito control commission.*

Subd. 2. [LEGISLATIVE MEMBERSHIP.] *One member of the house of representatives and one member of the senate, appointed by the customary appointing authority of each house, serve as nonvoting members of the agency. The legislative members of the regional transit board shall also serve as members of the advisory committee created in section 473.3991.*

Subd. 2a. [EXCLUSION.] *Agency provisions relating to member qualifications, terms of office, removal by the council for cause, vacancies, and compensation do not apply to legislative members of the agency.*

Sec. 18. Minnesota Statutes 1990, section 473.303, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] *(a)* The commission shall consist of ~~eight~~ *ten* members, plus a chair appointed as provided in subdivision 3.

(b) The metropolitan council shall appoint ~~the~~ eight members in accordance with the provisions of section 473.141.

(c) Two members are legislators, one member of the house of representatives and one member of the senate, appointed by the customary appointing authority of each house. The provisions of subdivisions 4, 4a, 5, and 6 do not apply to the legislative members of the commission.

Sec. 19. Minnesota Statutes 1990, section 473.303, subdivision 3, is amended to read:

Subd. 3. [CHAIR.] The chair of the commission shall be appointed by the council and shall be the ~~ninth~~ *11th* member of the commission and shall meet all qualifications established for members, except the chair need only reside within the metropolitan area. The chair shall preside at all meetings of the commission, if present, and shall perform all other duties and functions assigned by the commission or by law. The commission may appoint from among its members a vice-chair to act for the chair during temporary absence or disability.

Sec. 20. Minnesota Statutes 1990, section 473.3991, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The committee consists of:

(1) two members of the governing board of each regional railroad authority that applies for and receives state funding for preliminary engineering of light rail transit facilities;

(2) one member, in addition to those under clause (1), of the governing board of the Hennepin county regional railroad authority;

(3) one member of the governing board of each regional railroad authority not represented under clause (1) that applies for and receives state funding for planning of light rail transit facilities;

(4) two members of the metropolitan transit commission; ~~and~~

(5) the commissioner of transportation or an employee of the department designated by the commissioner; *and*

(6) two legislators, one member of the house of representatives and one member of the senate, appointed to the transit board under section 17.

Appointments under clauses (1) to (3) are made by the respective authorities, and appointments under clause (4) are made by the commission. The regional transit board shall make the appointment for any appointing authority that fails to make the required appointments. Members serve at the pleasure of the agency making the appointment.

Sec. 21. Minnesota Statutes 1990, section 473.3991, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATION.] The regional transit board shall provide staff and administrative services for the committee. The organizations represented on the committee, *other than the legislature,* shall provide information, staff, and technical assistance for the committee as needed.

Sec. 22. Minnesota Statutes 1990, section 473.553, subdivision 3, is amended to read:

Subd. 3. [CHAIR.] The chair shall be appointed by the governor *with the advice and consent of the senate* as the seventh voting member and shall meet all of the qualifications of a member, except the chair need only reside outside the metropolitan area. The chair shall preside at all meetings of the commission, if present, and shall perform all other duties and functions assigned by the commission or by law. The commission may appoint from among its members a vice-chair to act for the chair during temporary absence or disability.

Sec. 23. Minnesota Statutes 1990, section 473.604, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The commission consists of:

(1) the mayor of each of the cities, or a qualified voter appointed by the mayor, for the term of office as mayor;

(2) a number of members appointed from precincts equal or nearest to but not exceeding half the number of districts which are provided by law for the selection of members of the metropolitan council in section 473.123. Each member shall be a resident of the precinct represented. The members shall be appointed by the governor as follows: a number as near as possible to one-fourth, for a term of one year; a similar number for a term of two years; a similar number for a term of three years; and a similar number for a term of four years, all of which terms shall commence on July 1, 1981. The successors of each member shall be appointed for four-year terms commencing in July of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult with each member of the legislature from the precinct for which the member is to be appointed, to solicit the legislator's recommendation on the appointment;

(3) four members appointed from outside of the metropolitan area to reflect fairly the various regions and interests throughout the state that are affected by the operation of the commission's major airport and airport system. Two of these members must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the

commissioner of transportation as a key airport. The other two must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as an intermediate airport. The members must be appointed by the governor as follows: one for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. All of the terms start on July 1, 1989. The successors of each member must be appointed to four-year terms commencing on July 1 of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult each member of the legislature representing the municipality or county from which the member is to be appointed, to solicit the legislator's recommendation on the appointment; and

(4) a chair appointed by the governor for a term of four years, *with the advice and consent of the senate as provided in section 15.066*. The chair may be removed at the pleasure of the governor.

Sec. 24. Minnesota Statutes 1990, section 505.02, subdivision 1, is amended to read:

Subdivision 1. The land shall be surveyed and a plat made setting forth and naming all thoroughfares, showing all public grounds, and giving the dimensions of all lots, thoroughfares and public grounds. All in-lots shall be numbered by beginning the numbering with number one and numbering each lot progressively, through the block in which they are situated, all blocks shall be numbered progressively, by beginning the numbering with the number one and numbering each block progressively through each plat. Consecutive lot or block numbering shall not be continued from one plat into another. All outlots shall be designated by alphabetical order beginning with outlot "A" in each plat. Durable iron monuments shall be set at all angle and curve points on the outside boundary lines of the plat and also at all block and lot corners and at all intermediate points on the block and lot lines indicating changes of direction in the lines and witness corners. The plat shall indicate that all monuments have been set *or will be set within one year after recording, or sooner as specified by the approving local governmental unit. A financial guarantee may be required for the placement of monuments*. There shall be shown on the plat all survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing thereon. The outside boundary lines of the plat shall be correctly designated on the plat and shall show bearings on all straight lines, or angles at all angle points, and central angle and radii and arc length for all curves. All distances shall be shown between all monuments as measured to the nearest hundredth of a foot. All lot distances shall be shown on the plat to the nearest hundredth of a foot and all curved lines within the plat shall show central angles, radii and arc distances. If a curved line constitutes the line of more than one lot in any block of a plat, the central angle for that part of each lot on the curved line shall be shown. The width of all thoroughfares shall be shown on the plat. Ditto marks shall not be used on the plat for any purpose. In any instance where a river, stream, creek, lake or pond constitutes a boundary line within or of the plat, a survey line shall be shown with bearings or angles and distances between all angle points and their relation to a water line, and all distances measured on the survey line between lot lines shall be shown, and the survey line shall be shown as a dashed line. The outside boundary lines of the plat shall close by latitude and departure with an error not to exceed one foot in 7,500 feet. All rivers, streams, creeks, lakes, ponds, swamps,

and all public highways and thoroughfares laid out, opened, or traveled (existing before the platting) shall be correctly located and plainly shown and designated on the plat. The name and adjacent boundary lines of any adjoining platted lands shall be dotted on the plat.

Sec. 25. Minnesota Statutes 1990, section 505.03, subdivision 1, is amended to read:

Subdivision 1. On the plat shall be written an instrument of dedication, which shall be signed and acknowledged by the owner of the land. All signatures on the plat shall be written with black ink (not ball point). The instrument shall contain a full and accurate description of the land platted and set forth what part of the land is dedicated, and also to whom, and for what purpose these parts are dedicated. The surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that all monuments have been *or will be* correctly placed in the ground as shown *or stated, and* that the outside boundary lines are correctly designated on the plat. If there are no wet lands or public highways to be designated in accordance with section 505.02, the surveyor shall so state. The certificate shall be sworn to before any officer authorized to administer an oath. The plat shall, except in cities whose charters provide for official supervision of plats by municipal officers or bodies, together with an abstract and certificate of title, be presented for approval to the council of the city or town board of towns wherein there reside over 5,000 people in which the land is located; and, if the land is located outside the limits of any city, or such town, then to the board of county commissioners of the county in which the land is located.

Sec. 26. [NEW BRIGHTON; GRANULAR CARBON.]

The cities of New Brighton, St. Anthony, and St. Louis Park may contract for the procurement, installation, removal, and treatment of granular activated carbon to be used in a water treatment facility for the treatment of contaminated water for potable consumption without complying with Minnesota Statutes, section 574.26, if the city first determines by resolution that requiring a performance bond will result in no bids or economically disadvantageous bids.

Sec. 27. Laws 1988, chapter 719, article 16, section 1, subdivision 3, is amended to read:

Subd. 3. [SPECIAL SERVICES.] "Special services" means the following services rendered or contracted for by the city:

(1) snow and ice removal;

(2) sweeping and cleaning sidewalks, curbs, gutters, streets, and alleys;

(3) litter, poster, and handbill removal;

(4) construction, repair, operation, and maintenance of sidewalks, curbs, gutters, bus shelters, *parking facilities*, lighting, benches, chairs, tables, telephone booths, traffic signs, fire hydrants, newsstands, kiosks, trash receptacles, utility connections, marquees, awnings, canopies, display cases, information booths, and banners;

(5) landscaping, planting, repair, maintenance, and care of trees, shrubs, bushes, flowers, grass, and other decorative materials;

(6) security personnel, equipment, and systems;

(7) approval and supervision of special activities;

(8) insurance; and

(9) administration, coordination, studies, and preparation of designs.

Special service district funds may be used to pay operating costs of a neighborhood business association composed of a majority of owners or operators of businesses located within the district.

Sec. 28. [COUNTY OF SWIFT; CITY OF BENSON: REORGANIZATION OF JOINT POWERS HOSPITAL.]

Subdivision 1. [AUTHORIZATION.] *Any hospital organized and operating under a joint powers agreement between the county of Swift and the city of Benson may be reorganized and operate pursuant to the provisions of sections 28 to 41, upon compliance with subdivision 2.*

Subd. 2. [REORGANIZATION.] *In order to effect a reorganization, the existing governing body of the hospital shall file its request for reorganization with the county board of the county of Swift and the city council of the city of Benson and the county board and city council shall then at their next regular meetings consider the establishment of a hospital district under sections 28 to 41. Upon the adoption of resolutions by each political subdivision stating that the reorganization is effective and assigning a name to the hospital district the creation of the hospital district shall be effected.*

Subd. 3. [REORGANIZATION; DISSOLUTION.] *After a hospital district is organized under sections 28 to 41 upon approval by the city and the county, it may reorganize and operate under and pursuant to Minnesota Statutes, sections 447.31 to 447.50; or it may be dissolved in accordance with Minnesota Statutes, section 447.38, provided that in that event the county and the city shall be deemed to be the governmental subdivisions that may petition for dissolution and upon dissolution one-third of the assets of the district shall be conveyed to the city and two-thirds shall be conveyed to the county.*

Subd. 4. [POLITICAL SUBDIVISION.] *For the purpose of laws applicable to political subdivisions, the hospital district shall be a political subdivision but shall not have taxing authority.*

Sec. 29. [HOSPITAL BOARD; APPOINTMENT; TERMS.]

Subdivision 1. [GOVERNING BOARD.] *The hospital district shall be governed by a board of directors of at least nine and not more than 12 voting members, elected as provided in subdivision 2. All members of the hospital board at the time the hospital district is organized shall continue in office until the members of the first board of the hospital district are elected and qualify.*

Subd. 2. [ELECTION.] *Three directors shall be elected by the city council and six directors shall be elected by the county board. Up to three additional voting members and additional nonvoting members may be provided for in bylaws adopted pursuant to section 32, subdivision 5. As nearly as possible, one-third of the members of the first board of directors shall be elected for a term to expire one year from the next December 31 following that election, one-third for a term to expire two years from that date, and one-third for a term to expire three years from that date. Each of the political subdivisions electing directors shall assign terms of office to each director according to these staggered terms. Successors to the first board members shall each be*

elected for terms of three years, and all members shall hold office until their successors are elected and qualify. Terms of office shall expire on December 31. In case of vacancy on the board of directors, whether due to death, removal from the district, inability to serve, resignation, removal by the entity that elected the director, or other cause, the majority of the governing body of the entity that elected the director whose position is vacant shall elect a director to fill such vacancy for the then unexpired term.

Subd. 3. [COMPENSATION.] *The members of the board of directors may receive compensation for their services as such and may be reimbursed for reasonable expenses necessarily incurred in the performance of their duties to the extent provided for in bylaws adopted pursuant to section 32, subdivision 5.*

Subd. 4. [IMMUNITY FROM LIABILITY.] *Except as otherwise provided in this subdivision, no person who serves without compensation as a member of the board of directors shall be held civilly liable for an act or omission by that person if the act or omission was in good faith, was within the scope of the person's responsibilities as a member of the board, and did not constitute willful or reckless misconduct. This subdivision does not apply to:*

(1) an action or proceeding brought by the attorney general for a breach of a fiduciary duty as a director;

(2) a cause of action to the extent it is based on federal law; or

(3) a cause of action based on the board member's express contractual obligation.

Nothing in this subdivision shall be construed to limit the liability of a member of the board for physical injury to the person of another or for wrongful death which is personally and directly caused by the board member.

For purposes of this subdivision, the term "compensation" means any thing of value received for services rendered, except:

(1) reimbursement for expenses actually incurred;

(2) a per diem in an amount not to exceed the per diem authorized for state advisory councils and committees pursuant to Minnesota Statutes, section 15.059, subdivision 3; or

(3) payment by the hospital district of insurance premiums on behalf of a member of the board.

Sec. 30. [OFFICERS OF THE BOARD.]

Subdivision 1. [OFFICES; ELECTION.] *At the first meeting of the board of directors of the hospital district, and at each first regular meeting after December 31, the board shall elect, from their number, a chair, a vice-chair, a secretary, and a treasurer. Each officer elected at the first regular meeting after December 31 shall hold office for one year, and until the officer's successor has been duly elected and qualified. In case of vacancy in any office the chair shall appoint a member to fill the vacancy until the next regular election of officers.*

Subd. 2. [DUTIES.] *The officers shall have the duties specified in this subdivision and additional duties as set forth in bylaws adopted in accordance with section 32, subdivision 5. The chair shall preside at all meetings of the board of directors and shall perform all duties usually incumbent*

upon such an officer. The vice-chair shall preside in the absence of the chair. The secretary shall record the minutes of all meetings of the board and be the custodian of all books and records of the district. The treasurer shall be the custodian of money received by the district and shall see that they are properly accounted for. The board may appoint deputies who shall perform any functions and duties of any officer, subject to the supervision and control of the officer.

Sec. 31. [MEETINGS OF THE BOARD.]

Regular meetings of the board of directors shall be held at least quarterly and more frequently as provided in bylaws of the hospital district, at the time and place as the board shall by resolution determine. The meetings may be held at any time upon the call of the chair or of any two other members, upon written notice mailed to each member three days prior to the meeting, or upon other notice as the board, by resolution or according to bylaws adopted by the board of directors, may provide, or without notice, if each member is present or files with the secretary a written consent to the holding of the meeting, which consent may be filed before or after the meeting. Any action within the authority of the board may be taken by the vote of a majority of the members present at a regular or adjourned meeting or at a duly called special meeting if a quorum is present. A majority of all the members of the board shall constitute a quorum, but a lesser number may meet and adjourn from time to time.

Sec. 32. [THE HOSPITAL DISTRICT AND ITS POWERS.]

Subdivision 1. [AUTHORITY; STATUS; PREEXISTING OBLIGATION.] *The hospital district shall have perpetual succession, may contract and be contracted with, may sue and be sued, may, but shall not be required to, use a corporate seal, may acquire real and personal property as it may require, within or without the district, by purchase, gift, devise, lease, condemnation, or otherwise, and may hold, manage, control, sell, convey, or otherwise dispose of such property as its interests require. All of the assets, real and personal, of the preexisting hospital organization owned by the county and the city, doing business as Swift County-Benson Hospital, shall pass to the hospital district in fee title or by lease, and all legally valid and enforceable claims and contract obligations of the preexisting hospital organization shall be assumed by the city of Benson and county of Swift. All taxable property in the district shall continue to be taxable for the payment of any bonded debt previously incurred by the preexisting hospital or by the city of Benson or the county of Swift on behalf of the preexisting hospital. Any properties, real, personal, or mixed, which are acquired, owned, leased, controlled, used, or occupied by the district shall be exempt from general property taxation by the state or any of its political subdivisions, but nothing in sections 28 to 41 shall prevent the levy of special assessments for public improvements benefiting the property.*

Subd. 2. [BUDGET.] *The board of directors shall adopt a budget for each ensuing year and shall provide the budget to the city council and the county board prior to the beginning of the year to which the budget applies. The city council and county board may consider the budget and provide their comments and recommendations to the board of directors.*

Subd. 3. [POWERS.] *The hospital district shall have all the powers necessary and convenient to provide for the acquisition, betterment, operation, maintenance, and administration for the hospital, including nursing home, other facilities for the residential occupancy of ambulatory elderly*

citizens who do not require nursing home or general hospital care and related programs, as the board of directors shall determine to be necessary and expedient. The enumeration of specific powers herein does not restrict the power of the board to take any lawful action which, in the reasonable exercise of its discretion, it deems necessary or convenient for the furtherance of the purpose for which the district exists, whether or not the power to take the action is implied from any of the powers expressly granted. These powers shall include, but not be limited to, the power to:

(1) employ management, administrative, nursing, and other personnel, legal counsel, engineers, architects, accountants, and other qualified persons, who may be paid for their services by monthly salaries, hourly wages, and pension benefits, or by fees as may be agreed on;

(2) cause reports, plans, studies, and recommendations to be prepared;

(3) when acquiring real and personal property as authorized in subdivision 1, contract for the acquisition by option, contract for deed, conditional sales contract, or otherwise;

(4) construct, equip, and furnish necessary buildings and grounds and maintain the same;

(5) adopt bylaws and rules and regulations to govern the operation and administration of any and all hospital, nursing home, and other facilities under its control, and for the admission of persons thereto;

(6) impose and collect charges for all services and facilities provided and made available by it;

(7) borrow money and issue bonds as prescribed in sections 28 to 41;

(8) procure insurance against liability of the district or its officers and employees, or both, for torts committed within the scope of their official duties, whether governmental or proprietary, or for errors and omissions, and against damage to or destruction of any of its facilities, equipment, or other property;

(9) subject to subdivision 4, sell or lease any of its facilities or equipment as may be expedient;

(10) cause annual audits to be made of its accounts, books, vouchers, and funds by competent public accountants; this provision shall be construed to be mandatory;

(11) require a corporate surety bond from officers and employees of the district, and in the amount the board shall determine, and authorize payment of the premiums therefor; or

(12) provide loans to students as provided in Minnesota Statutes, section 447.331.

Subd. 4. [APPROVAL FOR SALE OR LEASE.] *Nothing contained in this section shall be construed to authorize the district or its board of directors to at any time sell, lease, or otherwise transfer the management, control, or operation of the hospital, including nursing home or other facilities, except upon approval by a majority vote of the county board and the city council.*

Subd. 5. [BYLAWS.] *Bylaws shall be adopted to further govern the operation of the hospital district. Bylaws or any amendment or repeal of them, shall first be adopted by the board of directors, but shall not take*

effect until approved by the county board and the city council. Bylaws may address any subject matter pertinent to the organization and operation of the hospital district consistent with sections 28 to 41 and other applicable laws.

Sec. 33. [PAYMENT OF EXPENSES.]

Expenses of acquisition, betterment, administration, operation, and maintenance of the hospital district shall be paid from the revenue derived therefrom and, to the extent authorized by sections 28 to 41, from the proceeds of debt incurred for the benefit of the district, and to the extent determined from time to time by the county board or the city council, from appropriations made by the county board or the city council. Money appropriated by the board of county commissioners and the city council to acquire or improve facilities of the hospital district may be transferred in the discretion of the board of directors to a sinking fund for bonds issued for that purpose. The hospital board may agree to repay to the county and the city any sums appropriated by the county board or the city council for this purpose, out of the net revenues to be derived from operation of its facilities, and subject to the terms agreed on.

Sec. 34. [TEMPORARY BORROWING AUTHORITY.]

Subdivision 1. [CERTIFICATES OF INDEBTEDNESS.] *Subject to the approval of the city and the county, the hospital district may borrow money by issuing certificates of indebtedness in anticipation of revenues and federal aids. Total indebtedness for the certificates must not exceed $50,000. The proceeds must be used for expenses of administration, operation, and maintenance of the district's hospital, nursing home, or other facilities. The approval of the city and county shall be effected by an affirmative vote of their respective governing bodies.*

Subd. 2. [RESOLUTION.] *The district may authorize and borrow and issue the certificates of indebtedness on passage of a resolution specifying the amount and reasons for borrowing. The resolution must be adopted by a vote of at least two-thirds of its board members, excluding board members who may not vote. The board shall fix the amount, date, maturity, form, denomination, and other details of the certificates and the date and place for receipt of bids for their purchase. The board shall direct the secretary to give notice of the date and place fixed.*

Subd. 3. [TERMS OF CERTIFICATES.] *Certificates must become due and payable no later than two years from the date of issuance. Certificates must be negotiable and payable to the order of the payee and have a definite due date but may be payable on or before the due date. Certificates must be sold for at least par and accrued interest and must bear interest at not more than eight percent a year. Interest must be payable at maturity or earlier as the board determines. The proceeds of current county or city appropriations, revenues derived from the facilities of the district and future federal aids, and any other district funds that become available must be applied to the extent necessary to repay the certificates.*

Sec. 35. [HOSPITALS, NURSING HOMES, AND OTHER FACILITIES; FINANCING AND LEASING.]

Subdivision 1. [FINANCING.] *Subject to the approval of the city and the county, the hospital district may issue revenue bonds by resolution of its governing body to finance the acquisition and betterment of hospital, nursing home, and other facilities. This power is in addition to other powers*

granted by law and includes, but is not limited to, the payment of interest during construction and for a reasonable period after construction and the establishment of reserves for bond payment and for working capital. The approval of the city and county shall be effected by an affirmative vote of their respective governing bodies. In connection with the acquisition of any existing hospital or nursing home facilities, the city, county, or district may retire outstanding indebtedness incurred to finance the construction of the existing facilities.

Subd. 2. [PLEDGE OF REVENUE.] *The hospital district may pledge and appropriate the revenues to be derived from its operation of the facilities to pay the principal and interest on the bonds when due and to create and maintain reserves for that purpose, as a first and prior lien on the revenues or, if so provided in the bond resolution, as a lien on the revenues subordinate to the current payment of a fixed amount or percentage or all of the costs of running the facilities.*

Sec. 36. [SECURITY FOR BONDS; PLEDGE OF CREDIT FOR BONDS.]

In the issuance of bonds the revenues or rentals must be pledged and appropriated by resolution for the use and benefit of bondholders generally, or may be pledged by the execution of an indenture or other appropriate instrument to a trustee for the bondholders. The site and facilities, or any part of them, may be mortgaged to the trustee. The governing body may enter into any covenants with the bondholders or trustee that it finds necessary and proper to assure the marketability of the bonds, the completion of the facilities, the segregation of the revenues or rentals and other funds pledged, and the sufficiency of funds for prompt and full payment of bonds and interest. The bonds shall be deemed to be payable wholly from the income of a revenue-producing convenience within the meaning of Minnesota Statutes, section 475.58, unless the appropriate governing body also pledges to their payment the full faith and credit of the county or city. In this event, notice of the intent to issue bonds with a pledge of the full faith and credit of the county or city specifying the maximum amount and the purpose of the bond issue shall be published and if, within ten days of the date of publication, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular election is filed with the secretary, the bonds may not be issued unless approved by a majority of the electors voting on the question at a legal election.

Sec. 37. [MISCELLANEOUS PROVISIONS.]

Bonds issued under sections 28 to 41 must be issued and sold as provided in Minnesota Statutes, chapter 475. If the bonds do not pledge the credit of the hospital district as provided in section 36, the governing body may negotiate their sale without advertisement for bids. They shall not be included in the net debt of any municipality or county, and are not subject to interest rate limitations, as defined or referred to in Minnesota Statutes, sections 475.51 and 475.55.

Sec. 38. [LEASE OF FACILITIES TO NONPROFIT OR PUBLIC CORPORATION.]

Subject to section 32, subdivision 4, the hospital district may lease hospital, nursing home, or other facilities to be run by a nonprofit or public corporation as community facilities. The facilities must be open to all residents of the community on equal terms. The district may lease related

medical facilities to any person, firm, association, or corporation, at rent and on conditions agreed. The term of the lease must not exceed 30 years. The lessee may be granted an option to renew the lease for an additional term or to purchase the facilities. The terms of renewal or purchase must be provided for in the lease. The hospital district may by resolution of its governing body agree to pay to the lessee annually, and to include in each annual budget for hospital and nursing home purposes, a fixed compensation for services agreed to be performed by the lessee in running the hospital, nursing home, or other facilities as a community facility; for any investment by the lessee of its own funds or funds granted or contributed to it in the construction or equipment of the hospital, nursing home, or other facilities; and for any auxiliary services to be provided or made available by the lessee through other facilities owned or operated by it. Services other than those provided for in the lease agreement may be compensated at rates agreed upon later. The lease agreement must, however, require the lessee to pay a net rental not less than the amount required to pay the principal and interest when due on all revenue bonds issued by the hospital district to acquire, improve, and refinance the leased facilities, and to maintain the agreed revenue bond reserve. The lease agreement must not grant the lessee an option to purchase the facilities at a price less than the amount of the bonds issued and interest accrued on them, except bonds and accrued interest paid from the net rentals before the option is exercised.

To the extent that the facilities are leased under this section for use by persons in private medical or dental or similar practice or other private business, a tax on that use must be imposed just as though the user were the owner of the space. It must be collected as provided in Minnesota Statutes, section 272.01, subdivision 2.

Sec. 39. [REFUNDING BONDS.]

The county, city, or hospital district may issue bonds by resolution of its governing body to refund bonds issued for the purposes stated in sections 28 to 41.

Sec. 40. [SWIFT COUNTY.]

The county of Swift may make appropriations in whatever amount it deems appropriate for capital acquisition, capital improvements, maintenance, and operating subsidy for a hospital district created under sections 28 to 41 and any other hospital in the county notwithstanding Minnesota Statutes, sections 376.08 and 376.09 or any other limiting statutes or laws otherwise applicable to the county. The county may also guarantee any indebtedness incurred by or on behalf of the hospital and pledge its full faith and credit in support of it.

Sec. 41. [CITY OF BENSON.]

The city of Benson may make appropriations in whatever amount it deems appropriate for the purposes of capital acquisition, capital improvements, maintenance, and operating subsidy for a hospital district created under sections 28 to 41 notwithstanding any limiting statutes or laws otherwise applicable to the city. The city may also guarantee any indebtedness incurred by or on behalf of the hospital and pledge its full faith and credit in support of it.

Sec. 42. [POWERS SUPPLEMENTARY.]

The powers granted by sections 28 to 41 are supplementary to and not

in substitution for any other powers possessed by political subdivisions in connection with the acquisition, betterment, administration, operation, and maintenance of hospitals, nursing homes, and related facilities and programs or the creation of hospital districts.

Sec. 43. [KOOCHICHING COUNTY; ENTERPRISE ZONE.]

Notwithstanding Minnesota Statutes, section 469.167, subdivision 3, the commissioner of trade and economic development shall designate up to 400 acres in Koochiching county as an enterprise zone under sections 469.166 to 469.173. The applicant must submit an application to the commissioner containing at a minimum documentation required by section 469.169, subdivisions 1; 2, clauses (2), (3), (5), (6), and (7); and 5. The area designated must meet requirements of section 469.168, subdivisions 1, 2, and 3.

The application and application review procedures shall not comply with the provisions of Minnesota Statutes, sections 469.168, subdivision 4; 469.169, subdivisions 2, clauses (1) and (4); 3; 4; and 6.

Sec. 44. [PARK AND RECREATION BOARD DISTRICTS.]

Notwithstanding chapter 1, section 3, of the home rule charter of the city of Minneapolis, the Minneapolis park and recreation board may appoint two members to serve on the Minneapolis reapportionment commission to replace the two members of the commission appointed by the majority and minority caucuses of the city council for the purpose of determining the reapportionment of Minneapolis park and recreation districts.

The two members appointed by the park and recreation board shall participate with the other appointed members of the reapportionment commission to determine the reapportionment of park board districts. Park board commission appointees shall not sit in considering the reapportionment of city council ward boundaries. City council appointees shall not sit in considering the reapportionment of park district boundaries. The reapportionment commission may adopt necessary procedures to ensure full participation by park and recreation board appointees in its process.

Sec. 45. [STANDARDS.]

Within the time specified in chapter 1, section 3, and chapter 16, section 1, of the home rule charter of the city of Minneapolis, the reapportionment commission shall set the boundaries of the park districts in accordance with the following standards:

(1) The ideal population for each district shall be determined by dividing the total population of the city by six. In no case shall any district, when readjusted, have a population more than five percent over or under the ideal population.

(2) Each district shall consist of a contiguous territory not more than twice as long as it is wide. The existence of a lake within a district shall not be contrary to this provision. Whenever possible, district boundary lines shall follow the center line of streets, avenues, alleys and boulevards and as nearly as practicable, shall run due east and west or north and south.

(3) To the extent possible, each newly drawn district shall retain the same numerical designation as the previously existing district from which the newly drawn ward received the largest portion of its population.

(4) The districts must not dilute the voting strength of racial or language minority populations. Where a concentration of a racial or language minority

makes it possible, the districts must increase the probability that members of the minority will be elected.

(5) The districts should attempt to preserve communities of interest where that can be done in compliance with the preceding standards.

(6) Population shall be determined by use of the official population, as stated by census tracts and blocks in the official United States Census. Whenever it is necessary to modify census data in fixing a district boundary, the reapportionment commission may compute the population of any part by use of other pertinent data or may have a special enumeration made of any block or blocks using the standards of the United States Census. If the population of any block or blocks is so determined, the reapportionment commission may assume that the remainder of the census tract has the remaining population shown by the census. In every such case, the determination of the reapportionment commission as to population shall be conclusive, unless clearly contrary to the census.

Sec. 46. [APPLICATION.]

Sections 17 to 23 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 47. [REPEALER.]

Minnesota Statutes 1990, sections 383C.33; 383C.331; 383C.332; 383C.333; 383C.334; 383C.335; 383C.336; 383C.337; 383C.338; 383C.34, are repealed.

Sec. 48. [EFFECTIVE DATE.]

Sections 7 and 8 are effective the day after final enactment. Section 12 is effective the day after the Dakota county board complies with Minnesota Statutes, section 645.021, subdivision 3. Section 26 is effective for the city of New Brighton the day after its governing body complies with section 645.021, subdivision 3. Section 26 is effective for the city of St. Anthony the day after its governing body complies with section 645.021, subdivision 3. Section 26 is effective for the city of St. Louis Park the day after its governing body complies with section 645.021, subdivision 3. Section 27 is effective the day after the governing body of the city of Minneapolis complies with section 645.021, subdivision 3. Sections 28 to 41 are effective the day after the county board of Swift county and the governing body of the city of Benson comply with section 645.021, subdivision 3. Section 47 is effective the day after the county board of St. Louis county complies with section 645.021, subdivision 3. Sections 44 and 45 are effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by a majority of the Minneapolis park and recreation board."

Delete the title and insert:

"A bill for an act relating to local government; setting fees; providing for certain publications and notices; setting conditions for town officers; requiring boundary information; permitting certain accounts; providing for members of metropolitan bodies; providing certain county and city powers; regulating county inspections; permitting certain subordinate service districts; providing for certain Minneapolis districts; amending Minnesota Statutes 1990, sections 180.03, by adding a subdivision; 272.46, subdivision 1; 272.47; 279.09; 281.13; 281.23, subdivision 3; 367.03, subdivision 1; 367.05, subdivision 1; 375.17; 375B.03; 375B.04; 465.79, subdivisions 2 and 4; 471.562, subdivision 3; 471.563; 473.303, subdivisions 2 and 3;

473.3991, subdivisions 2 and 4; 473.553, subdivision 3; 473.604, subdivision 1; 505.02, subdivision 1; 505.03, subdivision 1; Laws 1988, chapter 719, article 16, section 1, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 383D and 473; repealing Minnesota Statutes 1990, sections 383C.33; 383C.331; 383C.332; 383C.333; 383C.334; 383C.335; 383C.336; 383C.337; 383C.338; and 383C.34."

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

Senate Conferees: (Signed) John C. Hottinger, Betty A. Adkins, Dick Day

House Conferees: (Signed) Jerry Janezich, Richard H. Jefferson, Dick Pellow

Mr. Hottinger moved that the foregoing recommendations and Conference Committee Report on S.F. No. 81 be now adopted, and that the bill be repassed as amended by the Conference Committee.

CALL OF THE SENATE

Mr. Frank imposed a call of the Senate for the balance of the proceedings on S.F. No. 81. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Moe, R.D. moved that the recommendations and Conference Committee Report on S.F. No. 81 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Riveness moved that the following members be excused for a Conference Committee on H.F. No. 694 from 8:30 to 9:15 a.m.:

Messrs. Riveness, Cohen and Mondale. The motion prevailed.

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, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 720: A bill for an act relating to housing and economic development; modifying procedures relating to rent escrow actions; modifying procedures relating to the tenant's loss of essential services; modifying provisions relating to tenant remedy actions, retaliatory eviction proceedings, and receivership proceedings; modifying provisions relating to Minnesota housing finance agency low- and moderate-income housing programs; requiring counseling for reverse mortgage loans; modifying certain receivership, assignment of rents and profits, and landlord and tenant provisions; modifying provisions relating to housing and redevelopment

authorities; providing for the issuance of general obligation bonds for housing by the cities of Minneapolis and St. Paul; authorizing the city of Minneapolis to make small business loans; authorizing certain economic development activities within the city of St. Paul; excluding housing districts from the calculation of local government aid reductions; modifying the interest rate reduction program; appropriating money; amending Minnesota Statutes 1990, sections 47.58, by adding a subdivision; 268.39; 273.1399, subdivision 1; 462A.03, subdivisions 10, 13, and 16; 462A.05, subdivision 20, and by adding a subdivision; 462A.08, subdivision 2; 462A.21, subdivisions 4k, 12a, and 14; 462A.22, subdivision 9; 462A.222, subdivision 3; 462C.03, subdivision 10; 469.002, subdivision 24; 469.011, subdivision 4; 469.012, subdivisions 1 and 3; 469.015, subdivisions 3, 4, and by adding a subdivision; 469.176, subdivision 4f; 474A.048, subdivision 2; 481.02, subdivision 3; 504.02; 504.18, subdivision 1; 504.185, subdivision 2; 504.20, subdivisions 3, 4, 5, and 7; 504.27; 559.17, subdivision 2; 566.03, subdivision 1; 566.17, by adding a subdivision; 566.175, subdivision 6; 566.18, subdivision 9; 566.29, subdivisions 2 and 4; and 576.01, subdivision 2; Laws 1974, chapter 285, section 4, as amended; Laws 1987, chapter 404, section 28, subdivision 1; Laws 1988, chapter 594, section 6; Laws 1989, chapter 335, article 1, section 27, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 1990, section 462A.05, subdivisions 28 and 29.

Senate File No. 720 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1991

Mr. Metzen moved that the Senate do not concur in the amendments by the House to S.F. No. 720, 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 - CONTINUED

S.F. No. 785 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 785

A bill for an act relating to financial institutions; permitting interstate banking with additional reciprocating states; amending Minnesota Statutes 1990, section 48.92, subdivision 7.

May 18, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 785, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 785 be

further amended as follows:

Page 1, after line 17, insert:

"Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective April 1, 1992."

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

Senate Conferees: (Signed) Richard J. Cohen, Sam G. Solon, Cal Larson

House Conferees: (Signed) Joel Jacobs, Wesley J. "Wes" Skoglund, Ben Boo

Mr. Cohen moved that the foregoing recommendations and Conference Committee Report on S.F. No. 785 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. 785 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, D.J.	Mehrkens	Price
Beckman	DeCramer	Johnson, J.B.	Merriam	Ranum
Belanger	Dicklich	Johnston	Metzen	Reichgott
Benson, D.D.	Finn	Knaak	Moe, R.D.	Riveness
Benson, J.E.	Flynn	Kroening	Morse	Sams
Berg	Frank	Laidig	Neuville	Samuelson
Bernhagen	Frederickson, D.J.	Langseth	Novak	Spear
Bertram	Frederickson, D.R.	Larson	Olson	Storm
Brataas	Gustafson	Lessard	Pappas	Stumpf
Chmielewski	Hottinger	Luther	Pariseau	Traub
Cohen	Hughes	Marty	Piper	Vickerman
Dahl	Johnson, D.E.	McGowan	Pogemiller	Waldorf

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

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. 1371, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1371 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1371

A bill for an act relating to agriculture; extending the right of first refusal on foreclosed farm land to ten years; amending Minnesota Statutes 1990, section 500.24, subdivision 6.

May 17, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1371, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment.

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

House Conferees: (Signed) Chuck Brown, Andy Steensma, Steve Dille

Senate Conferees: (Signed) Charles A. Berg, Jim Vickerman, John Bernhagen

Mr. Berg moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1371 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. 1371 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnston	Moe, R.D.	Reichgott
Beckman	Dicklich	Knaak	Mondale	Riveness
Belanger	Finn	Kroening	Morse	Sams
Benson, D.D.	Flynn	Laidig	Neuville	Samuelson
Berg	Frank	Langseth	Novak	Solon
Bernhagen	Frederickson, D.J.	Larson	Olson	Spear
Bertram	Frederickson, D.R.	Lessard	Pappas	Storm
Brataas	Halberg	Luther	Pariseau	Stumpf
Cohen	Hottinger	Marty	Piper	Traub
Dahl	Hughes	McGowan	Pogemiller	Vickerman
Davis	Johnson, D.E.	Mehrkens	Price	Waldorf
Day	Johnson, D.J.	Metzen	Ranum	
	Johnson, J.B.			

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

House File No. 20 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 20

A bill for an act relating to insurance; requiring insurers to furnish a summary of claims review findings; proposing coding for new law in Minnesota Statutes, chapter 72A.

May 18, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 20, 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. 20 be further amended as follows:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 1990, section 62E.10, subdivision 2, is amended to read:

Subd. 2. [BOARD OF DIRECTORS; ORGANIZATION.] The board of directors of the association shall be made up of nine members as follows: five insurer directors selected by participating members, subject to approval by the commissioner; four public directors selected by the commissioner, *at least two of whom must be plan enrollees*. Public members may include licensed insurance agents. In determining voting rights at members' meetings, each member shall be entitled to vote in person or proxy. The vote shall be a weighted vote based upon the member's cost of self-insurance, accident and health insurance premium, subscriber contract charges, or health maintenance contract payment derived from or on behalf of Minnesota residents in the previous calendar year, as determined by the commissioner. In approving directors of the board, the commissioner shall consider, among other things, whether all types of members are fairly represented. Insurer directors may be reimbursed from the money of the association for expenses incurred by them as directors, but shall not otherwise be compensated by the association for their services. The costs of conducting meetings of the association and its board of directors shall be borne by members of the association.

Sec. 2. Minnesota Statutes 1990, section 62E.11, is amended by adding a subdivision to read:

Subd. 11. [RATE INCREASE OR BENEFIT CHANGE.] *The association must hold a public meeting to hear public comment at least two weeks before filing a rate increase or benefit change with the commissioner. Notice of the public meeting to hear public comment must be mailed at least two weeks before the meeting to all plan enrollees.*"

Page 1, line 6, delete "Section 1." and insert "Sec. 3."

Amend the title as follows:

Page 1, line 2, after the semicolon insert "regulating the composition of the MCHA board and certain of its meetings;"

Page 1, line 3, after the semicolon insert "amending Minnesota Statutes 1990, sections 62E.10, subdivision 2; and 62E.11, by adding a subdivision;"

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

House Conferees: (Signed) Ted Winter, Wesley J. "Wes" Skoglund, Ron Abrams

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

Mr. Marty moved that the foregoing recommendations and Conference Committee Report on H.F. No. 20 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. 20 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:

Adkins	Day	Johnson, J.B.	Metzen	Reichgott
Beckman	DeCramer	Johnston	Moe, R.D.	Riveness
Belanger	Dicklich	Knaak	Mondale	Sams
Benson, D.D.	Finn	Kroening	Morse	Samuelson
Benson, J.E.	Flynn	Laidig	Neuville	Solon
Bernhagen	Frank	Langseth	Novak	Spear
Bertram	Frederickson, D.J.	Larson	Olson	Storm
Brataas	Frederickson, D.R.	Lessard	Pappas	Stumpf
Chmielewski	Gustafson	Luther	Pariseau	Traub
Cohen	Hughes	Marty	Piper	Vickerman
Dahl	Johnson, D.E.	McGowan	Price	Waldorf
Davis	Johnson, D.J.	Mehrkens	Ranum	

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

House File No. 700 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 700

A bill for an act relating to education; providing for general education revenue; transportation; special programs; community service programs; facilities and equipment; other aids and levies; miscellaneous education related programs; library programs; education agency services; art education programs; maximum effort school loan programs; authorizing bonding; appropriating money; amending Minnesota Statutes 1990, sections 120.08, subdivision 3; 120.101, subdivisions 5, 9, and by adding a subdivision; 120.17, subdivisions 3b and 7a; 120.181; 121.11, subdivision 12; 121.148, subdivision 1; 121.15, subdivisions 7 and 9; 121.155; 121.585, subdivision 3; 121.611, subdivision 2; 121.88, subdivisions 9 and 10; 121.882, subdivisions 2, 6, and by adding a subdivision; 121.904, subdivisions 4a and 4e; 121.912, by adding a subdivision; 122.22, subdivisions 7a and 9; 122.23, subdivisions 2 and 3; 122.242, subdivision 9; 122.531, by adding subdivisions; 122.535, subdivision 6; 123.33, subdivision 1; 123.34, subdivision 9; 123.35, subdivisions 8, 17, and by adding a subdivision; 123.3514, subdivisions 3, 4, 4c, and by adding a subdivision; 123.38, subdivision 2b; 123.702; 123.951; 124.155, subdivision 2; 124.17, subdivisions 1 and 1b; 124.175; 124.19, subdivisions 1, 7, and by adding a subdivision; 124.195, subdivisions 9, 11, and 12; 124.223, subdivisions 1 and 8; 124.225, subdivisions 1, 3a, 7a, 7b, 7d, 8a, 8k, 10, and by adding a subdivision; 124.26, subdivisions 1c and 2; 124.261; 124.2711, subdivisions 1 and 3; 124.2721, subdivisions 1, 2, and 3; 124.2725, subdivisions 6 and 13; 124.273, subdivision 1b; 124.311, subdivision 4; 124.32, subdivisions 1b and 10; 124.332, subdivisions 1 and 2; 124.431, by adding a subdivision; 124.573, subdivisions 2b and 3a; 124.574, subdivision 2b; 124.575, subdivisions 1, 2, 3, and 4; 124.646; 124.83, subdivision 4; 124.86, subdivision 2; 124A.03; 124A.04; 124A.22, subdivisions 2, 4, 5, 8, 9, and by adding subdivisions; 124A.23, subdivisions 1, 4, and 5; 124A.24; 124A.26, subdivision 1; 124A.29, subdivision 1; 124A.30; 124C.03, subdivision 2; 125.12, subdivisions 3, 6b, and by adding subdivisions; 125.17, subdivision 2, and by adding subdivisions; 125.185, subdivisions 4 and 4a; 125.231; 126.22, subdivisions 2 and 4; 126.23; 126.266, subdivision 2; 126.661, subdivision 5, and by adding a subdivision; 126.663, subdivision 2; 126.666, subdivision 2, and by adding subdivisions; 126.67, subdivision 2b; 126.70, subdivisions 1, 2, and 2a; 127.29, by adding a subdivision; 128A.05, subdivision 3; 129C.10; 136D.27, subdivisions 1, 2, and 3; 136D.72, subdivision 1; 136D.74, subdivisions 2, 2a, and 2b; 136D.76, subdivision 2; 136D.87, subdivisions 1, 2, and 3; 141.25, subdivision 8; 141.26, subdivision 5; 145.926; 148.191, subdivision 2; 171.29, subdivision 2; 245A.03, subdivision 2; 260.015, subdivision 19; 268.08, subdivision 6 273.1398, subdivision 6;; 275.06; 275.125, subdivisions 4, 5, 5b, 5c, 8b, 8e, and 11d, and by adding a subdivision; 298.28, subdivision 4; Laws 1989, chapter 329, article 6, section 53, as amended; proposing coding for new law in Minnesota Statutes, chapters 3; 120; 121; 123; 124; 125; 134; 373; 473; repealing Minnesota Statutes 1990, sections 3.865; 3.866; 120.011; 121.111; 122.531, subdivision 5; 123.351, subdivision 10; 123.706; 123.707; 123.744; 124.225, subdivisions 3, 4b, 7c, 8b, 8i, 8j; 124.252; 124.575; 124C.01, subdivision 2; 124C.41, subdivisions 6 and 7; 126.70, subdivisions 2 and 2a; 275.125, subdivision 8c; and Laws 1988, chapter 703, article 1, section 23, as amended; Laws 1989, chapter 293, section 82; Laws 1989, chapter 329, articles 4, section 40; 9, section 30; and 12, section 8; Laws 1990, chapter 562, article 6, section 36.

May 18, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 700, 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. 700 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION REVENUE

Section 1. Minnesota Statutes 1990, section 121.904, subdivision 4a, is amended to read:

Subd. 4a. [LEVY RECOGNITION.] (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district, including distributions made pursuant to section 279.37, subdivision 7, and excluding the amount levied pursuant to sections 124.2721, subdivision 3; 124.575, subdivision 3; and 275.125, subdivision 9a; and Laws 1976, chapter 20, section 4.

(b) In June of each year, the school district shall recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the June and July school district tax settlement revenue received in that calendar year; or

(2) the sum of the state aids and credits enumerated in section 124.155, subdivision 2, which are for the fiscal year payable in that fiscal year plus ~~31.0~~ *37.0* percent of the amount of the levy certified in the prior calendar year according to section 124A.03, subdivision 2, plus or minus auditor's adjustments, not including levy portions that are assumed by the state; or

(3) ~~31.0~~ *37.0* percent of the amount of the levy certified in the prior calendar year, plus or minus auditor's adjustments, not including levy portions that are assumed by the state, which remains after subtracting, by fund, the amounts levied for the following purposes:

(i) reducing or eliminating projected deficits in the reserved fund balance accounts for unemployment insurance and bus purchases;

(ii) statutory operating debt pursuant to section 275.125, subdivision 9a, and Laws 1976, chapter 20, section 4; and

(iii) retirement and severance pay pursuant to sections 124.2725, subdivision 15, 124.4945, and 275.125, subdivisions 4 and 6a, and Laws 1975, chapter 261, section 4; and

(iv) amounts levied for bonds issued and interest thereon, amounts levied for debt service loans and capital loans, amounts levied for down payments under section 124.82, subdivision 3, and amounts levied pursuant to section 275.125, subdivision 14a.

(c) In July of each year, the school district shall recognize as revenue

that portion of the school district tax settlement revenue received in that calendar year and not recognized as revenue for the previous fiscal year pursuant to clause (b).

(d) All other school district tax settlement revenue shall be recognized as revenue in the fiscal year of the settlement. Portions of the school district levy assumed by the state, including prior year adjustments and the amount to fund the school portion of the reimbursement made pursuant to section 273.425, shall be recognized as revenue in the fiscal year beginning in the calendar year for which the levy is payable.

Sec. 2. Minnesota Statutes 1990, section 121.904, subdivision 4e, is amended to read:

Subd. 4e. [COOPERATION LEVY RECOGNITION.] (a) A cooperative district is a district or cooperative that receives revenue according to section 124.2721 or 124.575.

(b) In June of each year, the cooperative district shall recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the sum of the state aids and credits enumerated in section 124.155, subdivision 2, that are for the fiscal year payable in that fiscal year; or

(2) ~~31.0~~ *37.0* percent of the difference between

(i) the sum of the amount of levies certified in the prior year according to sections 124.2721, subdivision 3, and 124.575, subdivision 3; and

(ii) the amount of transition aid paid to the cooperative unit according to section 273.1392 for the fiscal year to which the levy is attributable.

Sec. 3. Minnesota Statutes 1990, section 122.531, is amended by adding a subdivision to read:

Subd. 5a. [SUPPLEMENTAL REVENUE.] *(a) For purposes of computing the supplemental revenue and the minimum allowance under section 124A.22, subdivision 9, paragraph (b), in the case of a consolidation, the newly created district's 1991-1992 revenue and 1991-1992 actual pupil units are the sum of the 1991-1992 revenue and 1991-1992 pupil units, respectively, of the former districts comprising the new district.*

(b) For purposes of computing the supplemental revenue and the minimum allowance under section 124A.22, subdivision 9, paragraph (b), in the case of a dissolution and attachment, a district's 1991-1992 revenue is the revenue of the existing district plus the result of the following calculation:

(1) the 1991-1992 revenue of the dissolved district divided by

(2) the dissolved district's 1991-1992 actual pupil units, multiplied by

(3) the pupil units of the dissolved district in the most recent year before the dissolution allocated to the newly created or enlarged district.

(c) In the case of a dissolution and attachment, the department of education shall allocate the pupil units of the dissolved district to the newly enlarged district based on the allocation of the property on which the pupils generating the pupil units reside.

Sec. 4. Minnesota Statutes 1990, section 124.17, subdivision 1, is amended to read:

Subdivision 1. [PUPIL UNIT.] Pupil units for each resident pupil in

average daily membership shall be counted according to this subdivision.

(a) A handicapped prekindergarten pupil who is enrolled for the entire fiscal year in a program approved by the commissioner and has an individual education plan that requires up to 437 hours of assessment and education services in the fiscal year is counted as one-half of a pupil unit. If the plan requires more than 437 hours of assessment and education services, the pupil is counted as the ratio of the number of hours of assessment and education service to 875, but not more than one.

(b) A handicapped prekindergarten pupil who is enrolled for less than the entire fiscal year in a program approved by the commissioner is counted as the greater of:

(1) one-half times the ratio of the number of instructional days from the date the pupil is enrolled to the date the pupil withdraws to the number of instructional days in the school year~~,~~; or

(2) the ratio of the number of hours of assessment and education service required in the fiscal year by the pupil's individual education program plan to 875, but not more than one.

(c) A prekindergarten pupil who is assessed but determined not to be handicapped is counted as the ratio of the number of hours of assessment service to 875.

(d) A handicapped kindergarten pupil who is enrolled in a program approved by the commissioner is counted as the ratio of the number of hours of assessment and education services required in the fiscal year by the pupil's individual education program plan to 875, but not more than one.

(e) A kindergarten pupil who is not included in paragraph (d) is counted as one-half of a pupil unit.

(f) A pupil who is in any of grades 1 to 6 is counted as one pupil unit.

(g) A pupil who is in any of grades 7 to 12 is counted as ~~1.35~~ *1.3* pupil units.

Sec. 5. Minnesota Statutes 1990, section 124.17, subdivision 1b, is amended to read:

Subd. 1b. [*FISCAL YEAR 1992* AFDC PUPIL UNITS.] *AFDC pupil units for fiscal year 1992 shall be computed according to this subdivision.* In a district in which the number of pupils from families receiving aid to families with dependent children ~~on October 1 of the previous school year~~ *according to section 7* equals six percent or more of the actual pupil units in the district for the current school year, as computed in subdivision 1, each such pupil shall be counted as an additional one-tenth of a pupil unit for each percent of concentration over five percent of such pupils in the district. The percent of concentration shall be rounded down to the nearest whole percent. In a district in which the percent of concentration is less than six, additional pupil units may not be counted for such pupils. A pupil may not be counted as more than .6 additional pupil unit under this subdivision. The weighting in this subdivision is in addition to the weighting provided in subdivision 1.

Sec. 6. Minnesota Statutes 1990, section 124.17, is amended by adding a subdivision to read:

Subd. 1c. [AFDC PUPIL UNITS.] *AFDC pupil units for fiscal year 1993 and thereafter must be computed according to this subdivision.*

(a) The AFDC concentration percentage for a district equals the product of 100 times the ratio of:

(1) the number of pupils enrolled in the district from families receiving aid to families with dependent children according to section 7; to

(2) the number of pupils in average daily membership according to section 7 enrolled in the district.

(b) The AFDC pupil weighting factor for a district equals the lesser of one or the quotient obtained by dividing the district's AFDC concentration percentage by 11.5.

(c) The AFDC pupil units for a district for fiscal year 1993 and thereafter equals the product of:

(1) the number of pupils enrolled in the district from families receiving aid to families with dependent children according to section 7; times

(2) the AFDC pupil weighting factor for the district; times

(3) .65.

Sec. 7. Minnesota Statutes 1990, section 124.17, is amended by adding a subdivision to read:

Subd. 1d. [AFDC PUPIL COUNTS.] *AFDC pupil counts and average daily membership for sections 5 and 6 shall be determined according to this subdivision:*

(a) For districts where the number of pupils from families receiving aid to families with dependent children has increased over the preceding year for each of the two previous years, the number of pupils enrolled in the district from families receiving aid to families with dependent children shall be those counted on October 1 of the previous school year. The average daily membership used shall be from the previous school year.

(b) For districts that do not meet the requirement of paragraph (a), the number of pupils enrolled in the district from families receiving aid to families with dependent children shall be the average number of pupils on October 1 of the second previous school year and October 1 of the previous school year. The average daily membership used shall be the average number enrolled in the previous school year and the second previous school year.

Sec. 8. Minnesota Statutes 1990, section 124A.02, subdivision 16, is amended to read:

Subd. 16. [PUPIL UNITS, AFDC.] "AFDC pupil units" *for fiscal year 1992* means pupil units identified in section 124.17, subdivision 1b.

"AFDC pupil units" for fiscal year 1993 and thereafter means pupil units identified in section 6.

Sec. 9. Minnesota Statutes 1990, section 124A.02, subdivision 23, is amended to read:

Subd. 23. [TRAINING AND EXPERIENCE INDEX.] "Training and experience index" means a measure of a district's teacher training and experience relative to the education and experience of teachers in the state. The measure shall be determined pursuant to section 124A.04 ~~and according~~

~~to a method published in the Minnesota Code of Administrative Rules. The published method shall include the data used and a reasonably detailed description of the steps in the method. The method shall not be subject to the provisions of chapter 14. At least biennially, the department shall recompute the index using complete new data.~~

Sec. 10. Minnesota Statutes 1990, section 124A.03, is amended to read:

124A.03 [REFERENDUM ~~LEVY~~ *REVENUE.*]

Subd. 1b. [REFERENDUM ALLOWANCE.] *A district's referendum revenue allowance equals the referendum revenue authority for that year divided by its actual pupil units for that school year.*

Subd. 1c. [REFERENDUM ALLOWANCE LIMIT.] *(a) Notwithstanding subdivision 1b, a district's referendum allowance must not exceed the greater of:*

(1) the district's referendum allowance for fiscal year 1992; or

(2) 35 percent of the formula allowance for that fiscal year.

Subd. 1d. [SPARSITY EXCEPTION.] *A district that qualifies for sparsity revenue under section 124A.22 is not subject to a referendum allowance limit.*

Subd. 1e. [TOTAL REFERENDUM REVENUE.] *The total referendum revenue for each district equals the district's referendum allowance times the actual pupil units for the school year.*

Subd. 1f. [REFERENDUM EQUALIZATION REVENUE.] *A district's referendum equalization revenue equals ten percent of the formula allowance times the district's actual pupil units for that year.*

Referendum equalization revenue must not exceed a district's referendum revenue allowance times the district's actual pupil units for that year.

Subd. 1g. [REFERENDUM EQUALIZATION LEVY.] *A district's referendum equalization levy equals the district's referendum equalization revenue times the lesser of one or the ratio of the district's adjusted net tax capacity per actual pupil unit to 50 percent of the equalizing factor as defined in section 124A.02, subdivision 8.*

Subd. 1h. [REFERENDUM EQUALIZATION AID.] *(a) A district's referendum equalization aid equals the difference between its referendum equalization revenue and levy.*

(b) For fiscal year 1993, a district's referendum equalization aid is equal to one-third of the amount calculated in clause (a).

(c) For fiscal year 1994, a district's referendum equalization aid is equal to two-thirds of the amount calculated in clause (a).

(d) If a district's actual levy for referendum equalization revenue is less than its maximum levy limit, aid shall be proportionately reduced.

Subd. 1i. [UNEQUALIZED REFERENDUM LEVY.] *Each year, a district may levy an amount equal to the difference between its total referendum revenue according to subdivision 1f and its equalized referendum aid and levy according to subdivisions 1g and 1h.*

Subd. 2. [REFERENDUM ~~LEVY~~ *REVENUE.*] (a) The ~~levy~~ *revenue* authorized by section ~~124A.23~~ *124A.22*, subdivision ~~2~~ *1*, may be increased

in the amount approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the school board or shall be called by the school board upon written petition of qualified voters of the district. The referendum must be held on the first Tuesday after the first Monday in November. The ballot shall state the maximum amount of the increased ~~levy as a percentage of net tax capacity, the amount that will be raised by that local tax rate~~ *revenue per actual pupil unit, the estimated net tax capacity rate* in the first year it is to be levied, and that the ~~local tax rate~~ *revenue* shall be used to finance school operations. The ballot shall designate the specific number of years, *not to exceed five,* for which the referendum authorization shall apply. The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the ~~levy~~ *revenue* proposed by (petition to) the board of . . . . . , School District No. . . . . , be approved?"

If approved, ~~the~~ *an* amount ~~provided by~~ *equal to* the approved ~~local tax rate applied to the net tax capacity~~ *revenue per actual pupil unit times the actual pupil units* for the *school* year ~~preceding~~ *beginning in* the year *after* the levy is certified shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(b) The school board shall prepare and deliver by first class mail at least 15 days but no more than 30 days prior to the day of the referendum to each taxpayer at the address listed on the school district's current year's assessment roll, a notice of the referendum and the proposed ~~levy~~ *revenue* increase. For the purpose of giving mailed notice under this subdivision, owners shall be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer shall be deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. The notice must project the anticipated amount of *tax* increase in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district.

The notice must include the following statement: ~~"In 1989 the legislature reduced property taxes for education by increasing the state share of funding for education. However, state aid for cities and townships was reduced by a corresponding amount. As a result, property taxes for cities and townships may increase.~~ "Passage of this referendum will result in an increase in your property taxes."

(c) A referendum on the question of revoking or reducing the increased ~~levy~~ *revenue* amount authorized pursuant to paragraph (a) may be called by the school board and shall be called by the school board upon the written petition of qualified voters of the district. ~~A levy~~ *A referendum to revoke or reduce the levy amount must be based upon the dollar amount, local tax rate, or amount per actual pupil unit, that was stated to be the basis for the initial authorization. Revenue* approved by the voters of the district pursuant to paragraph (a) must be ~~made~~ *received* at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction referendum may be held to revoke or reduce ~~a levy~~

referendum revenue for any specific year and for years thereafter.

(d) A petition authorized by paragraph (a) or (c) shall be effective if signed by a number of qualified voters in excess of 15 percent of the registered voters of the school district on the day the petition is filed with the school board. A referendum invoked by petition shall be held on the date specified in paragraph (a).

(e) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(f) At least 15 days prior to the day of the referendum, the district shall submit a copy of the notice required under paragraph (b) to the commissioner of education. Within 15 days after the results of the referendum have been certified by the school board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district shall notify the commissioner of education of the results of the referendum.

Sec. 11. Minnesota Statutes 1990, section 124A.04, is amended to read:

124A.04 [TRAINING AND EXPERIENCE INDEX.]

Subdivision 1. [FISCAL YEAR 1992.] The training and experience index *for fiscal year 1992* shall be constructed in the following manner:

(a) The department shall construct a matrix which classifies teachers by the extent of training received in accredited institutions of higher education, and by the years of experience which ~~the district takes~~ *districts take* into account in determining ~~each teacher's salary~~ *teacher salaries*.

(b) For all teachers in the state, the average salary per full-time-equivalent shall be computed for each cell of the matrix.

(c) For each cell of the matrix, the ratio of the average salary in that cell to the average salary in the cell for teachers with no prior years of experience and only a bachelor's degree shall be computed. The department shall use statistical methods to ensure continuously increasing ratios as cells are higher in training or experience.

(d) The index for each district shall be equal to the weighted average of the ratios assigned to the full-time-equivalent teachers in each district.

Subd. 2. [1993 AND LATER.] *The training and experience index for fiscal year 1993 and later fiscal years must be constructed in the following manner:*

(a) The department shall construct a matrix that classifies teachers by the extent of training received in accredited institutions of higher education and by the years of experience that districts take into account in determining teacher salaries.

(b) The average salary for each cell of the matrix must be computed as follows using data from the second year of the previous biennium:

(1) For each school district, multiply the salary paid to full-time equivalent teachers with that combination of training and experience according to the district's teacher salary schedule by the number of actual pupil units in that district.

(2) Add the amounts computed in clause (1) for all districts in the state and divide the resulting sum by the total number of actual pupil units in all districts in the state that employ teachers.

(c) For each cell in the matrix, compute the ratio of the average salary in that cell to the average salary for all teachers in the state. Cells of the matrix in lanes beyond the master's degree plus 30 credits lane must receive the same ratio as the cells in the master's degree plus 30 credits lane.

(d) The index for each district that employs teachers equals the sum of the ratios for each teacher in that district divided by the number of teachers in that district. The index for a district that employs no teachers is zero.

Sec. 12. Minnesota Statutes 1990, section 124A.22, subdivision 2, is amended to read:

Subd. 2. [BASIC REVENUE.] The basic revenue for each district equals the formula allowance times the actual pupil units for the school year. ~~The formula allowance is $2,838 for fiscal year 1990.~~ The formula allowance for *1992 and* subsequent fiscal years is ~~$2,953~~ *$3,050*.

Sec. 13. Minnesota Statutes 1990, section 124A.22, subdivision 3, is amended to read:

Subd. 3. [COMPENSATORY EDUCATION REVENUE.] *(a) For fiscal year 1992,* the compensatory education revenue for each district equals the formula allowance times the AFDC pupil units counted according to section 124.17, subdivision 1b~~, for the school year~~.

(b) For fiscal year 1993 and thereafter, the maximum compensatory education revenue for each district equals the formula allowance times the AFDC pupil units computed according to section 124.17, subdivision 1c.

(c) For fiscal year 1993 and thereafter, the previous formula compensatory education revenue for each district equals the formula allowance times the AFDC pupil units computed according to section 124.17, subdivision 1b.

(d) For fiscal year 1993, the compensatory education revenue for each district equals the district's previous formula compensatory revenue plus one-fourth of the difference between the district's maximum compensatory education revenue and the district's previous formula compensatory education revenue.

(e) For fiscal year 1994, the compensatory education revenue for each district equals the district's previous formula compensatory education revenue plus one-half of the difference between the district's maximum compensatory education revenue and the district's previous formula compensatory education revenue.

(f) For fiscal year 1995, the compensatory education revenue for each district equals the district's previous formula compensatory education revenue plus three-fourths of the difference between the district's maximum compensatory education revenue and the district's previous formula compensatory education revenue.

(g) For fiscal year 1996 and thereafter, the compensatory education revenue for each district equals the district's maximum compensatory education revenue.

Sec. 14. Minnesota Statutes 1990, section 124A.22, subdivision 4, is amended to read:

Subd. 4. [TRAINING AND EXPERIENCE REVENUE.] *(a) For fiscal year 1992,* the training and experience revenue for each district equals the greater of zero or the result of the following computation:

~~(a)~~ *(1)* subtract 1.6 from the training and experience index~~.~~*;*

~~(b)~~ *(2)* multiply the result in clause ~~(a)~~ *(1)* by the product of $700 times the actual pupil units for the school year.

(b) For 1993 and later fiscal years, the maximum training and experience revenue for each district equals the greater of zero or the result of the following computation:

(1) subtract .8 from the training and experience index;

(2) multiply the result in clause (1) by the product of $575 times the actual pupil units for the school year.

(c) For 1993 and later fiscal years, the previous formula training and experience revenue for each district equals the amount of training and experience revenue computed for that district according to the formula used to compute training and experience revenue for fiscal year 1992.

(d) For fiscal year 1993, the training and experience revenue for each district equals the district's previous formula training and experience revenue plus one-fourth of the difference between the district's maximum training and experience revenue and the district's previous formula training and experience revenue.

(e) For fiscal year 1994, the training and experience revenue for each district equals the district's previous formula training and experience revenue plus one-half of the difference between the district's maximum training and experience revenue and the district's previous formula training and experience revenue.

(f) For fiscal year 1995, the training and experience revenue for each district equals the district's previous formula training and experience revenue plus three-fourths of the difference between the district's maximum training and experience revenue and the district's previous formula training and experience revenue.

(g) For fiscal year 1996 and thereafter, the training and experience revenue for each district equals the district's maximum training and experience revenue.

Sec. 15. Minnesota Statutes 1990, section 124A.22, is amended by adding a subdivision to read:

Subd. 4a. [TRAINING AND EXPERIENCE LEVY.] *A district's training and experience levy equals its training and experience revenue times the lesser of one or the ratio of the district's adjusted net tax capacity per actual pupil unit for the year before the year the levy is certified to the equalizing factor for the school year to which the levy is attributable.*

Sec. 16. Minnesota Statutes 1990, section 124A.22, is amended by adding a subdivision to read:

Subd. 4b. [TRAINING AND EXPERIENCE AID.] *A district's training and experience aid equals its training and experience revenue minus its training and experience levy times the ratio of the actual amount levied to the permitted levy.*

Sec. 17. Minnesota Statutes 1990, section 124A.22, subdivision 5, is amended to read:

Subd. 5. [DEFINITIONS.] The definitions in this subdivision apply only

to ~~subdivision~~ *subdivisions 6 and 6a.*

(a) "High school" means a secondary school that has pupils enrolled in at least the 10th, 11th, and 12th grades. If there is no secondary school in the district that has pupils enrolled in at least the 10th, 11th, and 12th grades, the commissioner shall designate one school in the district as a high school for the purposes of this section.

(b) "Secondary average daily membership" means, for a district that has only one high school, the average daily membership of resident pupils in grades 7 through 12. For a district that has more than one high school, "secondary average daily membership" for each high school means the product of the average daily membership of resident pupils in grades 7 through 12 in the high school, times the ratio of six to the number of grades in the high school.

(c) "Attendance area" means the total surface area of the district, in square miles, divided by the number of high schools in the district.

(d) "Isolation index" for a high school means the square root of one-half the attendance area plus the distance in miles, according to the usually traveled routes, between the high school and the nearest high school.

(e) "Qualifying high school" means a high school that has an isolation index greater than 23 and that has secondary average daily membership of less than 400.

(f) "Qualifying elementary school" means an elementary school that is located ~~20~~ *19* miles or more from the nearest elementary school or from the nearest elementary school within the district and, in either case, has an elementary average daily membership of an average of 20 or fewer per grade.

(g) "Elementary average daily membership" means, for a district that has only one elementary school, the average daily membership of resident pupils in kindergarten through grade 6. For a district that has more than one elementary school, "average daily membership" for each school means the average daily membership of kindergarten through grade 6 multiplied by the ratio of seven to the number of grades in the elementary school.

Sec. 18. Minnesota Statutes 1990, section 124A.22, subdivision 8, is amended to read:

Subd. 8. [SUPPLEMENTAL REVENUE.] *(a) A district's supplemental revenue for fiscal year 1992 equals the product of the district's supplemental revenue for fiscal year 1991 times the ratio of:*

(1) the district's 1991-1992 actual pupil units; to

(2) the district's 1990-1991 actual pupil units adjusted for the change in secondary pupil unit weighting from 1.35 to 1.3 made in section 4.

(b) If a district's minimum allowance exceeds the sum of its basic revenue, *previous formula* compensatory *education* revenue, *previous formula* training and experience revenue, secondary sparsity revenue, and elementary sparsity revenue per actual pupil unit for a ~~school~~ *fiscal* year, *and the excess is less than $250 per actual pupil unit*, the district shall receive supplemental revenue equal to the amount of the excess times the actual pupil units for the school year. *If the amount of the excess is more than $250 per actual pupil unit, the district shall receive the greater of (1) $250 times the actual pupil units; or (2) the amount of the excess times the actual pupil units less*

the sum of (i) the difference between the district's training and experience revenue and its previous formula training and experience revenue; and (ii) the difference between the district's compensatory education revenue and its previous formula compensatory education revenue.

Sec. 19. Minnesota Statutes 1990, section 124A.22, subdivision 9, is amended to read:

Subd. 9. [~~DEFINITIONS~~ *DEFINITION* FOR SUPPLEMENTAL REVENUE.] (a) The ~~definitions~~ *definition* in this subdivision ~~apply~~ *applies* only to subdivision 8.

(b) ~~"1987-1988 revenue" means the sum of the following categories of revenue for a district for the 1987-1988 school year:~~

~~(1) basic foundation revenue, tier revenue, and declining pupil unit revenue, according to Minnesota Statutes 1986, as supplemented by Minnesota Statutes 1987 Supplement, chapter 124A, plus any reduction to second tier revenue, according to Minnesota Statutes 1986, section 124A.08, subdivision 5;~~

~~(2) teacher retirement and FICA aid, according to Minnesota Statutes 1986, sections 124.2162 and 124.2163;~~

~~(3) chemical dependency aid, according to Minnesota Statutes 1986, section 124.246;~~

~~(4) gifted and talented education aid, according to Minnesota Statutes 1986, section 124.247;~~

~~(5) arts education aid, according to Minnesota Statutes 1986, section 124.275;~~

~~(6) summer program aid and levy, according to Minnesota Statutes 1986, sections 124A.03 and 124A.033;~~

~~(7) programs of excellence grants, according to Minnesota Statutes 1986, section 126.60; and~~

~~(8) liability insurance levy, according to Minnesota Statutes 1986, section 466.06.~~

~~For the purpose of this subdivision, intermediate districts and other employing units, as defined in Minnesota Statutes 1986, section 124.2161, shall allocate the amount of their teacher retirement and FICA aid for fiscal year 1988 among their participating school districts.~~

~~(c)~~ "Minimum allowance" for a district means:

(1) the district's ~~1987-1988~~ *general education* revenue *for fiscal year 1992*, according to subdivision 1; divided by

(2) the district's ~~1987-1988~~ *1991-1992* actual pupil units~~, adjusted for the change in secondary pupil unit weighting from 1.4 to 1.35 made by Laws 1987, chapter 398; plus~~

~~(3) $143 for fiscal year 1990 and $258 for subsequent fiscal years~~.

Sec. 20. Minnesota Statutes 1990, section 124A.23, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION TAX RATE.] ~~The general education tax rate for fiscal year 1991 is 26.3 percent. Beginning in 1990,~~ The commissioner of revenue shall establish the general education tax rate and certify it to the commissioner of education by July 1 of each year for levies

payable in the following year. The general education tax capacity rate shall be a rate, rounded up to the nearest tenth of a percent, that, when applied to the adjusted net tax capacity for all districts, raises the amount specified in this subdivision. The general education tax rate shall be the rate that raises ~~$845,000,000 for fiscal year 1992 and $887,000,000~~ *$916,000,000* for fiscal year 1993 *and $961,800,000 for fiscal year 1994* and ~~subsequent~~ *later* fiscal years. The general education tax rate certified by the commissioner of revenue may not be changed due to changes or corrections made to a district's adjusted net tax capacity after the tax rate has been certified.

Sec. 21. Minnesota Statutes 1990, section 124A.23, subdivision 4, is amended to read:

Subd. 4. [GENERAL EDUCATION AID.] A district's general education aid is the sum of the following amounts:

(1) the product of (i) the difference between the general education revenue, excluding supplemental revenue, and the general education levy, times (ii) the ratio of the actual amount levied to the permitted levy;

(2) the product of (i) the difference between the supplemental revenue and the supplemental levy, times (ii) the ratio of the actual amount levied to the permitted levy; ~~and~~

(3) shared time aid according to section 124A.02, subdivision 21*;*

(4) referendum aid according to section 10; and

(5) debt service equalization aid according to article 5, section 8.

Sec. 22. Minnesota Statutes 1990, section 124A.23, subdivision 5, is amended to read:

Subd. 5. [USES OF REVENUE.] ~~(a)~~ General education revenue may be used during the regular school year and the summer for general and special school purposes.

~~(b) General education revenue may not be used:~~

~~(1) for premiums for motor vehicle insurance protecting against injuries or damages arising from the operation of district-owned, leased, or controlled vehicles to transport pupils for which state aid is authorized under section 124.223; or~~

~~(2) for any purpose for which the district may levy according to section 275.125, subdivision 5c.~~

Sec. 23. Minnesota Statutes 1990, section 124A.24, is amended to read:

124A.24 [GENERAL EDUCATION LEVY EQUITY.]

If a district's general education levy is determined according to section 124A.23, subdivision 3, an amount must be deducted from state aid authorized in this chapter and chapter 124, receivable for the same school year, and from other state payments receivable for the same school year authorized in chapter 273. The aid in section 124.646 must not be reduced.

The amount of the deduction equals the difference between:

(1) the general education tax rate, according to section 124A.23, times the district's adjusted net tax capacity used to determine the general education aid for the same school year; and

(2) the district's general education revenue, excluding supplemental revenue, for the same school year, according to section 124A.22.

However, ~~for fiscal year 1989, the amount of the deduction shall be one-fourth of the difference between clauses (1) and (2); for fiscal year 1990, the amount of the deduction shall be one-third of the difference between clauses (1) and (2); for fiscal year 1991, the amount of the deduction shall be one-half of the difference between clauses (1) and (2);~~ for fiscal year 1992, the amount of the deduction shall be four-sixths of the difference between clauses (1) and (2); and for fiscal year 1993, the amount of the deduction shall be five-sixths of the difference between clauses (1) and (2).

Sec. 24. Minnesota Statutes 1990, section 124A.26, subdivision 1, is amended to read:

Subdivision 1. [REVENUE REDUCTION.] A district's general education revenue for a school year shall be reduced if the estimated net unappropriated operating fund balance as of June 30 in the prior school year exceeds $600 times the fund balance pupil units in the prior year. For purposes of this subdivision only, fund balance pupil units means the number of *resident* pupil units in average daily membership ~~enrolled in the district~~, including shared time pupils, according to section 124A.02, subdivision 20, *plus*

(1) pupils attending the district for which general education aid adjustments are made according to section 124A.036, subdivision 5; minus

(2) the sum of the resident pupils attending other districts for which general education aid adjustments are made according to section 124A.036, subdivision 5, ~~and excluding~~ *plus* pupils for whom payment is made according to section 126.22, subdivision 8, or 126.23. The amount of the reduction shall equal the lesser of:

(1) the amount of the excess, or

(2) $150 times the actual pupil units for the school year.

The final adjustment payments made under section 124.195, subdivision 6, must be adjusted to reflect actual net operating fund balances as of June 30 of the prior school year.

Sec. 25. Minnesota Statutes 1990, section 124A.29, subdivision 1, is amended to read:

Subdivision 1. [~~GENERAL~~ STAFF DEVELOPMENT *AND PARENTAL INVOLVEMENT* PROGRAMS.] *(a)* Of a district's basic revenue under section 124A.22, subdivision 2, an amount equal to ~~$10~~ *$15* times the number of actual pupil units shall be reserved and may be used only to provide *staff time for peer review under section 125.12 or 125.17 or* staff development programs *for outcome-based education*, according to section 126.70, subdivisions 1 and 2a. *Staff development revenue may be used only for staff time for peer review or outcome-based education activities.* The school board shall determine ~~which programs~~ *the staff development activities* to provide, the manner in which they will be provided, and the extent to which other ~~money~~ *local funds* may be used ~~for the programs~~ *to supplement staff development activities that implement outcome-based education.*

(b) Of a district's basic revenue under section 124A.22, subdivision 2, an amount equal to $5 times the number of actual pupil units must be reserved and may be used only to provide parental involvement programs that implement section 124C.61.

Sec. 26. Minnesota Statutes 1990, section 124A.30, is amended to read:

124A.30 [STATEWIDE AVERAGE REVENUE.]

By October 1 of each year the commissioner shall estimate the statewide average general education revenue per actual pupil unit and *the range in general education revenue among pupils and districts by computing the difference between the fifth and ninety-fifth percentiles of general education revenue. The commissioner must* provide that information to all school districts.

If the disparity in general education revenue as measured by the difference between the fifth and ninety-fifth percentiles increases in any year, the commissioner must propose a change in the general education formula that will limit the disparity in general education revenue to no more than the disparity for the previous school year. The commissioner must submit the proposal to the education committees of the legislature by January 15.

Sec. 27. Minnesota Statutes 1990, section 298.28, subdivision 4, is amended to read:

Subd. 4. [SCHOOL DISTRICTS.] (a) 27.5 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c).

(b) 5.5 cents per taxable ton must be distributed to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 22 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts in which the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted net tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted net tax capacity per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections 298.018; 298.23 to 298.28, exclusive of any amount received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; or any law imposing a tax on severed mineral values that is less than the amount of its levy reduction under section 275.125, subdivision 9, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) On July 15, in years prior to 1988, an amount equal to the increase derived by increasing the amount determined by paragraph (c) in the same proportion as the increase in the steel mill products index over the base year of 1977 as provided in section 298.24, subdivision 1, clause (a), shall

be distributed to any school district described in paragraph (c) where a levy increase pursuant to section 124A.03, subdivision 2, is authorized by referendum, according to the following formula. On July 15, 1988, the increase over the amount established for 1987 shall be determined as if there had been an increase in the tax rate under section 298.24, subdivision 1, paragraph (b), according to the increase in the implicit price deflator. On July 15, 1989, and subsequent years, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1, paragraph (a). Each district shall receive the product of:

(i) $175 times the pupil units identified in section 124.17, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of 1.8 percent times the district's taxable net tax capacity in the second previous year; times

(ii) the lesser of:

(A) one, or

(B) the ratio of *the sum of* the amount certified pursuant to section 124A.03, subdivision ~~2~~ *1g*, in the previous year, *plus the amount certified pursuant to section 124A.03, subdivision 1i, in the previous year, plus the referendum aid according to section 124A.03, subdivision 1h, for the current year,* to the product of 1.8 percent times the district's taxable net tax capacity in the second previous year.

If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of $175 per pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce general education aid which the district receives pursuant to section 124A.23 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

Each district receiving money according to this paragraph shall reserve $25 times the number of pupil units in the district. It may use the money only for outcome-based learning programs that enhance the academic quality of the district's curriculum. The programs must be approved by the commissioner of education.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

Sec. 28. [MORATORIUM ON REFERENDUM INCREASES.]

A school district or an education district may not conduct an election in 1991 under Minnesota Statutes, section 124A.03, subdivision 2, paragraph (a), or 124B.03, subdivision 2, paragraph (a), for property taxes payable in 1992. An election may be conducted under section 124A.03, subdivision 2, paragraph (c), or 124B.03, subdivision 2, paragraph (e).

Sec. 29. [1991 REFERENDUM APPROVAL.]

(a) Notwithstanding any law to the contrary, the commissioner of education may authorize referendum levy elections under Minnesota Statutes,

section 124A.03, or any successor section for 1991 taxes payable in 1992.

(b) The aggregrate amount of referendum levies authorized by the commissioner may not exceed $10,000,000.

(c) A school district that desires to hold an election under Minnesota Statutes, section 124A.03, must submit an application to the commissioner by August 1, 1991.

(d) The commissioner shall prioritize applications and grant authority to hold an election to districts in the following order:

(1) districts that are in statutory operating debt and have an approved plan or have received an extension from the department to file a plan to eliminate the statutory operating debt;

(2) districts that have referendum levy authority expiring in fiscal year 1992 or that have a documented hardship; and

(3) all other districts.

(e) The commissioner must approve, deny, or modify each district's application for referendum levy authority by August 31, 1991.

Sec. 30. [BADGER SCHOOL DISTRICT FUND BALANCE.]

If independent school district No. 676, Badger, receives payment of delinquent property taxes and the payment is more than five percent of the total property taxes paid in the fiscal year in which the payment is received, general education revenue for the district shall not be reduced according to Minnesota Statutes, section 124A.26, subdivision 1, for an excess fund balance for the following two fiscal years.

Sec. 31. [LEVY RECOGNITION DIFFERENCES.]

For each school district that levies under Minnesota Statutes, section 124A.03, the commissioner of education shall calculate the difference between:

(a) the total amount of the levy, under Minnesota Statutes, section 124A.03, that is recognized as revenue for fiscal year 1992 according to section 1; and

(b) the amount of the levy, under Minnesota Statutes, section 124A.03, that would have been recognized as revenue for fiscal year 1992 had the percentage according to section 1 not been increased.

The commissioner shall reduce other aids due the district by the amount of the difference. The total reduction is transferred to the appropriation for general and supplemental education aid in this article.

Sec. 32. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

Subd. 2. [GENERAL AND SUPPLEMENTAL EDUCATION AID.] *For general and supplemental education aid:*

1,625,240,000	. . . . .	*1992*
1,725,543,000	. . . . .	*1993*

The 1992 appropriation includes $247,302,000 for 1991 and

$1,377,938,000 for 1992.

The 1993 appropriation includes $257,763,000 for 1992 and $1,467,780,000 for 1993.

Sec. 33. [REPEALER.]

Minnesota Statutes 1990, sections 122.531, subdivision 5, and 124A.02, subdivision 19, are repealed.

Sec. 34. [EFFECTIVE DATE.]

Sections 6; 10, subdivisions 1c, 1f, 1g, and 1h; 15; and 16 are effective July 1, 1992.

Section 26 is effective July 1, 1992, and applies beginning with the 1992-1993 school year.

Sec. 35. [EFFECTIVE DATE.]

Section 17 is effective retroactively to July 1, 1989. Section 18, paragraph (b), is effective for revenue for 1993 and thereafter.

ARTICLE 2

TRANSPORTATION

Section 1. Minnesota Statutes 1990, section 120.062, subdivision 9, is amended to read:

Subd. 9. [TRANSPORTATION.] If requested by the parent of a pupil, the nonresident district shall provide transportation within the district. The state shall pay transportation aid to the district according to section 124.225.

The resident district is not required to provide or pay for transportation between the pupil's residence and the border of the nonresident district. A parent may be reimbursed by the nonresident district for the costs of transportation from the pupil's residence to the border of the nonresident district if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government. *The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week.*

At the time a nonresident district notifies a parent or guardian that an application has been accepted under subdivision 5 or 6, the nonresident district must provide the parent or guardian with the following information regarding the transportation of nonresident pupils under this section:

(1) a nonresident district may transport a pupil within the pupil's resident district under this section only with the approval of the resident district; and

(2) a parent or guardian of a pupil attending a nonresident district under this section may appeal under section 123.39, subdivision 6, the refusal of the resident district to allow the nonresident district to transport the pupil within the resident district.

Sec. 2. Minnesota Statutes 1990, section 123.3514, subdivision 8, is amended to read:

Subd. 8. [TRANSPORTATION.] A parent or guardian of a pupil enrolled in a course for secondary credit may apply to the pupil's district of residence for reimbursement for transporting the pupil between the secondary school

in which the pupil is enrolled and the post-secondary institution that the pupil attends. The state board of education shall establish guidelines for providing state aid to districts to reimburse the parent or guardian for the necessary transportation costs, which shall be based on financial need. *The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week. However, if the nearest post-secondary institution is more than 25 miles from the pupil's resident secondary school, the weekly reimbursement may not exceed the reimbursement rate per mile times the actual distance between the secondary school and the nearest post-secondary institution times ten.* The state shall pay aid to the district according to the guidelines established under this subdivision. Chapter 14 does not apply to the guidelines.

Sec. 3. Minnesota Statutes 1990, section 124.195, subdivision 11, is amended to read:

Subd. 11. [NONPUBLIC AIDS.] The state shall pay aid according to sections 123.931 to 123.947 for pupils attending nonpublic schools by October 31 of each fiscal year. If a payment advance to meet cash flow needs is requested by a district and approved by the commissioner, the state shall pay basic transportation aid according to section 124.225~~, subdivision 8b~~ attributable to pupils attending nonpublic schools by October 31. This subdivision applies to both the final adjustment payment for the prior fiscal year and the payment for the current fiscal year, as established in subdivision 10.

Sec. 4. Minnesota Statutes 1990, section 124.223, subdivision 1, is amended to read:

Subdivision 1. [TO AND FROM SCHOOL; BETWEEN SCHOOLS.] (a) State transportation aid is authorized for transportation or board of resident elementary pupils who reside one mile or more from the public schools which they could attend; transportation or board of resident secondary pupils who reside two miles or more from the public schools which they could attend; transportation to and from schools the resident pupils attend according to a program approved by the commissioner of education, or between the schools the resident pupils attend for instructional classes; transportation of resident elementary pupils who reside one mile or more from a nonpublic school actually attended; transportation of resident secondary pupils who reside two miles or more from a nonpublic school actually attended; but with respect to transportation of pupils to nonpublic schools actually attended, only to the extent permitted by sections 123.76 to 123.79; transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school. *State transportation aid is not authorized for late transportation home from school for pupils involved in after school activities. State transportation aid is not authorized for summer program transportation except as provided in subdivision 8.*

(b) For the purposes of this subdivision, a district may designate a licensed day care facility, respite care facility, the residence of a relative, or the residence of a person chosen by the pupil's parent or guardian as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian and if that facility or residence is within the attendance area of the school the pupil attends.

(c) State transportation aid is authorized for transportation to and from school of an elementary pupil who moves during the school year within an area designated by the district as a mobility zone, but only for the remainder of the school year. The attendance areas of schools in a mobility zone must be contiguous. To be in a mobility zone, a school must meet both of the following requirements:

~~(i)~~ *(1)* more than 50 percent of the pupils enrolled in the school are eligible for free or reduced school lunch; and

~~(ii)~~ *(2)* the pupil withdrawal rate for the last year is more than 12 percent.

(d) A pupil withdrawal rate is determined by dividing:

~~(i)~~ *(1)* the sum of the number of pupils who withdraw from the school, during the school year, and the number of pupils enrolled in the school as a result of transportation provided under this paragraph, by

~~(ii)~~ *(2)* the number of pupils enrolled in the school.

(e) The district may establish eligibility requirements for individual pupils to receive transportation in the mobility zone.

Sec. 5. Minnesota Statutes 1990, section 124.223, subdivision 8, is amended to read:

Subd. 8. [SUMMER INSTRUCTIONAL PROGRAMS.] State transportation aid is authorized for services described in subdivisions 1 to 7, 9, and 10 when provided *for handicapped pupils* in conjunction with a summer program that meets the requirements of section 124A.27, subdivision 9. *State transportation aid is authorized for services described in subdivision 1 when provided during the summer in conjunction with a learning year program established under section 121.585.*

Sec. 6. Minnesota Statutes 1990, section 124.225, subdivision 1, is amended to read:

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

(a) "FTE" means a transported full-time equivalent pupil whose transportation is authorized for aid purposes by section 124.223.

(b) "Authorized cost for regular transportation" means the sum of:

(1) all expenditures for transportation in the regular category, as defined in paragraph ~~(e)~~ *(c)*, clause (1), for which aid is authorized in section 124.223, plus

(2) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 12-1/2 percent per year of the cost of the fleet, plus

(3) an amount equal to one year's depreciation on district school buses reconditioned by the department of corrections computed on a straight line basis at the rate of 33-1/3 percent per year of the cost to the district of the reconditioning, plus

(4) an amount equal to one year's depreciation on the district's type three school buses, as defined in section 169.44, subdivision 15, which were purchased after July 1, 1982, for authorized transportation of pupils, with the prior approval of the commissioner, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses.

(c) ~~"Adjusted authorized predicted cost per FTE" means the authorized cost predicted by a multiple regression formula determined by the department of education and adjusted pursuant to subdivision 7a.~~

~~(d) "Regular transportation allowance" for the 1989-1990 school year means the adjusted authorized predicted cost per FTE, inflated pursuant to subdivision 7b.~~

~~(e) For purposes of this section,~~ "Transportation category" means a category of transportation service provided to pupils *as follows*:

(1) Regular transportation is transportation services provided during the regular school year under section 124.223, subdivisions 1 and 2, excluding the following transportation services provided under section 124.223, subdivision 1: transportation between schools; noon transportation to and from school for kindergarten pupils attending half-day sessions; ~~late transportation home from school for pupils involved in after school activities;~~ transportation of pupils to and from schools located outside their normal attendance areas under the provisions of a plan for desegregation mandated by the state board of education or under court order; and transportation of elementary pupils to and from school within a mobility zone~~;~~.

(2) Nonregular transportation is transportation services provided under section 124.223, subdivision 1, that are excluded from the regular category~~,~~ and transportation services provided under section 124.223, subdivisions 3, 4, 5, 6, 7, 8, 9, and 10~~;~~.

(3) Excess transportation is transportation to and from school *during the regular school year* for secondary pupils residing at least one mile but less than two miles from the public school they could attend or from the nonpublic school actually attended, and transportation to and from school for pupils residing less than one mile from school who are transported because of extraordinary traffic, drug, or crime hazards~~; and~~.

(4) Desegregation transportation is transportation *during the regular school year* of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the state board or under court order.

(5) Handicapped transportation is transportation provided under section 124.223, subdivision 4, for handicapped pupils between home or a respite care facility and school or other buildings where special instruction required by section 120.17 is provided.

~~(f)~~ *(d)* "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123.932, subdivision 9.

~~(g)~~ *(e)* "Current year" means the school year for which aid will be paid.

~~(h)~~ *(f)* "Base year" means the second school year preceding the school year for which aid will be paid.

~~(i)~~ *(g)* "Base cost" ~~for the 1986-1987 and 1987-1988 base years means the ratio of:~~

~~(1) the sum of:~~

~~(i) the authorized cost in the base year for regular transportation as defined~~

~~in clause (b), plus~~

~~(ii) the actual cost in the base year for excess transportation as defined in paragraph (e), clause (3),~~

~~(2) to the sum of:~~

~~(i) the number of FTE pupils transported in the regular category in the base year, plus~~

~~(ii) the number of FTE pupils transported in the excess category in the base year.~~

~~(j) Base cost for the 1988–1989 base year and later years~~ means the ratio of:

(1) the sum of the authorized cost in the base year for regular transportation as defined in ~~clause~~ *paragraph* (b) plus the actual cost in the base year for excess transportation as defined in ~~clause (e)~~ *paragraph (c)*;

(2) to the sum of the number of weighted FTE pupils transported in the regular and excess categories in the base year.

~~(k) "Predicted base cost" for the 1986–1987 and 1987–1988 base years means the base cost as predicted by subdivision 3.~~

~~(l) "Predicted base cost" for the 1988–1989 base year and later years means the predicted base cost as computed in subdivision 3a.~~

~~(m)~~ *(h)* "Pupil weighting factor" for the excess transportation category for a school district means the lesser of one, or the result of the following computation:

(1) Divide the square mile area of the school district by the number of FTE pupils transported in the regular and excess categories in the base year~~;~~.

(2) Raise the result in clause (1) to the one-fifth power~~;~~.

(3) Divide four-tenths by the result in clause (2).

The pupil weighting factor for the regular transportation category is one.

~~(n)~~ *(i)* "Weighted FTE's" means the number of FTE's in each transportation category multiplied by the pupil weighting factor for that category.

~~(o)~~ *(j)* "Sparsity index" for a school district means the greater of .005 or the ratio of the square mile area of the school district to the sum of the number of weighted FTE's transported by the district in the regular and excess categories in the base year.

~~(p)~~ *(k)* "Density index" for a school district means the greater of one or the result obtained by subtracting the product of the district's sparsity index times 20 from two.

~~(q)~~ *(l)* "Contract transportation index" for a school district means the greater of one or the result of the following computation:

(1) Multiply the district's sparsity index by 20~~;~~.

(2) Select the lesser of one or the result in clause (1)~~;~~.

(3) Multiply the district's percentage of regular FTE's transported *in the current year* using vehicles that are not owned by the school district by the result in clause (2).

~~(r)~~ *(m)* "Adjusted predicted base cost" ~~for the 1988-1989 base year and after~~ means the predicted base cost as computed in subdivision 3a as adjusted under subdivision 7a.

~~(s)~~ *(n)* "Regular transportation allowance" ~~for the 1990-1991 school year and after~~ means the adjusted predicted base cost, inflated and adjusted under subdivision 7b.

~~(t) "Minimum regular transportation allowance" for the 1990-1991 school year and after means the result of the following computation:~~

~~(1) compute the sum of the district's basic transportation aid for the 1989-1990 school year according to subdivision 8a and the district's excess transportation levy for the 1989-1990 school year according to section 275.125, subdivision 5e, clause (a);~~

~~(2) divide the result in clause (1) by the sum of the number of weighted FTE's transported by the district in the regular and excess transportation categories in the 1989-1990 school year;~~

~~(3) select the lesser of the result in clause (2) or the district's base cost for the 1989-1990 base year according to paragraph (j).~~

Sec. 7. Minnesota Statutes 1990, section 124.225, subdivision 3a, is amended to read:

Subd. 3a. [PREDICTED BASE COST.] A district's predicted base cost ~~for the 1988-1989 base year and later years~~ equals the result of the following computation:

(a) Multiply the transportation formula allowance by the district's sparsity index raised to the one-fourth power. The transportation formula allowance is ~~$406 for the 1988-1989 base year and~~ $421 for the 1989-1990 base year *and $434 for the 1990-1991 base year*.

(b) Multiply the result in ~~clause~~ *paragraph* (a) by the district's density index raised to the 35/100 power.

(c) Multiply the result in ~~clause~~ *paragraph* (b) by the district's contract transportation index raised to the 1/20 power.

Sec. 8. Minnesota Statutes 1990, section 124.225, subdivision 7a, is amended to read:

Subd. 7a. [BASE YEAR SOFTENING FORMULA.] ~~Each district's predicted base cost determined for the 1986-1987 and 1987-1988 base years according to subdivision 3 shall be adjusted as provided in this subdivision to determine the district's adjusted authorized predicted cost per FTE for that year.~~

~~(a) If the base cost of the district is within five percent of the predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to the base cost.~~

~~(b) If the base cost of the district is more than five percent greater than the predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to 105 percent of the predicted base cost, plus 40 percent of the difference between (i) the base cost, and (ii) 105 percent of the predicted base cost. However, in no case shall a district's adjusted authorized predicted cost per FTE be less than 80 percent of base cost.~~

~~(c) If the base cost of the district is more than five percent less than the~~

~~predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to 95 percent of the predicted base cost, minus 40 percent of the difference between (i) 95 percent of predicted base cost, and (ii) the base cost. However, in no case shall a district's adjusted authorized predicted cost per FTE be more than 120 percent of base cost.~~

~~(d) For the 1988-1989 base year and later years,~~ Each district's predicted base cost determined according to subdivision 3a must be adjusted as provided in this subdivision to determine the district's adjusted predicted base cost for that year. The adjusted predicted base cost equals 50 percent of the district's base cost plus 50 percent of the district's predicted base cost, but the adjusted predicted base cost cannot be less than 80 percent, nor more than ~~110~~ *105* percent, of the base cost.

Sec. 9. Minnesota Statutes 1990, section 124.225, subdivision 7b, is amended to read:

Subd. 7b. [INFLATION FACTORS.] ~~The adjusted authorized predicted cost per FTE determined for a district under subdivision 7a for the base year shall be increased by 4.1 percent to determine the district's regular transportation allowance for the 1988-1989 school year and by 5.8 percent to determine the district's regular transportation allowance for the 1989-1990 school year.~~ The adjusted predicted base cost determined for a district under subdivision 7a for the base year must be increased by ~~5.4~~ *4.0* percent to determine the district's regular transportation allowance for the ~~1990-1991~~ *1991-1992* school year *and by 2.0 percent to determine the district's regular transportation allowance for the 1992-1993 school year*, but the regular transportation allowance for a district cannot be less than the district's minimum regular transportation allowance according to *Minnesota Statutes 1990, section 124.225*, subdivision 1, paragraph (t).

Sec. 10. Minnesota Statutes 1990, section 124.225, subdivision 7d, is amended to read:

Subd. 7d. [TRANSPORTATION REVENUE.] ~~Beginning in the 1990-1991 school year, the~~ Transportation revenue for each district equals the sum of the district's regular transportation revenue and the district's nonregular transportation revenue.

(a) The regular transportation revenue for each district equals the district's regular transportation allowance according to subdivision 7b times the sum of the number of FTE's transported by the district in the regular ~~and~~, desegregation, *and handicapped* categories in the current school year.

(b) The nonregular transportation revenue for each district *for the 1991-1992 school year* equals the *lesser of the district's actual costs in the 1991-1992 school year for nonregular transportation services or the product of the* district's actual cost in the ~~current~~ *1990-1991* school year for nonregular transportation services *as defined for the 1991-1992 school year in subdivision 1, paragraph (c), times the ratio of the district's average daily membership for the 1991-1992 school year to the district's average daily membership for the 1990-1991 school year according to section 124.17, subdivision 2, times 1.03*, minus the amount of regular transportation revenue attributable to FTE's transported in the desegregation ~~category~~ *and handicapped categories* in the current school year, *plus the excess nonregular transportation revenue for the 1991-1992 school year according to subdivision 7e.*

(c) For the 1992-1993 and later school years, the nonregular transportation revenue for each district equals the lesser of the district's actual cost in the current school year for nonregular transportation services or the product of the district's actual cost in the base year for nonregular transportation services as defined for the current year in subdivision 1, paragraph (c), times the ratio of the district's average daily membership for the current year to the district's average daily membership for the base year according to section 124.17, subdivision 2, times the nonregular transportation inflation factor for the current year, minus the amount of regular transportation revenue attributable to FTE's transported in the desegregation and handicapped categories in the current school year, plus the excess nonregular transportation revenue for the current year according to subdivision 7e. The nonregular transportation inflation factor for the 1992-1993 school year is 1.061.

Sec. 11. Minnesota Statutes 1990, section 124.225, is amended by adding a subdivision to read:

Subd. 7e. [EXCESS NONREGULAR TRANSPORTATION REVENUE.] *(a) A district's excess nonregular transportation revenue for the 1991-1992 school year equals an amount equal to 80 percent of the difference between:*

(1) the district's actual cost in the 1991-1992 school year for nonregular transportation services as defined for the 1991-1992 school year in subdivision 1, paragraph (c), and

(2) the product of the district's actual cost in the 1990-1991 school year for nonregular transportation services as defined for the 1991-1992 school year in subdivision 1, paragraph (c), times 1.15, times the ratio of the district's average daily membership for the 1991-1992 school year to the district's average daily membership for the 1990-1991 school year.

(b) A district's excess nonregular transportation revenue for the 1992-1993 school year and later school years equals an amount equal to 80 percent of the difference between:

(1) the district's actual cost in the current year for nonregular transportation services as defined for the current year in subdivision 1, paragraph (c), and

(2) the product of the district's actual cost in the base year for nonregular transportation services as defined for the current year in subdivision 1, paragraph (c), times 1.30, times the ratio of the district's average daily membership for the current year to the district's average daily membership for the base year.

(c) The state total excess nonregular transportation revenue must not exceed $2,000,000 for the 1991-1992 school year and $2,000,000 for the 1992-1993 school year. If the state total revenue according to paragraph (a) or (b) exceeds the limit set in this paragraph, the excess nonregular transportation revenue for each district equals the district's revenue according to paragraph (a) or (b), times the ratio of the limitation set in this paragraph to the state total revenue according to paragraph (a) or (b).

Sec. 12. Minnesota Statutes 1990, section 124.225, subdivision 8a, is amended to read:

Subd. 8a. [TRANSPORTATION AID.] (a) ~~For the 1988-1989 and 1989-1990 school years, a district's transportation aid is equal to the sum of its basic transportation aid under subdivision 8b, its nonregular transportation~~

~~aid under subdivision 8i, and its nonregular transportation levy equalization aid under subdivision 8j, minus its contracted services aid reduction under subdivision 8k and minus its basic transportation levy limitation for the levy attributable to that school year under section 275.125, subdivision 5.~~

~~(b) For 1990-1991 and later school years,~~ A district's transportation aid equals the product of:

(1) the difference between the transportation revenue and the sum of:

(i) the maximum basic transportation levy for that school year under section 275.125, subdivision 5, plus

(ii) the maximum nonregular transportation levy for that school year under section 275.125, subdivision 5c, plus

(iii) the contracted services aid reduction under subdivision 8k,

(2) times the ratio of the sum of the actual amounts levied under section 275.125, subdivisions 5 and 5c, to the sum of the permitted maximum levies under section 275.125, subdivisions 5 and 5c.

~~(c)~~ *(b)* If the total appropriation for transportation aid for any fiscal year is insufficient to pay all districts the full amount of aid earned, the department of education shall reduce each district's aid in proportion to the number of resident pupils in average daily membership in the district to the state total average daily membership, and shall reduce the transportation levy of off-formula districts in the same proportion.

Sec. 13. Minnesota Statutes 1990, section 124.225, subdivision 8k, is amended to read:

Subd. 8k. [CONTRACTED SERVICES AID REDUCTION.] (a) Each year, a district's transportation aid shall be reduced according to the provisions of this subdivision, if the district contracted for some or all of the transportation services provided in the regular category.

(b) ~~For the 1988-1989 and 1989-1990 school years, the department of education shall compute this subtraction by conducting the multiple regression analysis specified in subdivision 3 and computing the district's aid under two circumstances, once including the coefficient of the factor specified in subdivision 4b, clause (3), and once excluding the coefficient of that factor. The aid subtraction shall equal the difference between the district's aid computed under these two circumstances.~~

~~(c) For 1990-1991 and later school years,~~ The department of education shall determine the subtraction by computing the district's regular transportation revenue, excluding revenue based on the *district's* minimum regular transportation allowance *according to Minnesota Statutes 1990, section 124.225, subdivision 1, paragraph (t)*, under two circumstances, once including the factor specified in subdivision 3a, ~~clause~~ *paragraph* (c), and once excluding the factor. The aid subtraction equals the difference between the district's revenue computed under the two circumstances.

Sec. 14. Minnesota Statutes 1990, section 124.225, subdivision 10, is amended to read:

Subd. 10. [DEPRECIATION.] Any school district that owns school buses or mobile units shall transfer annually from the undesignated fund balance account in its transportation fund to the reserved fund balance account for bus purchases in its transportation fund at least an amount equal to

12-1/2 percent of the original cost of each type one or type two bus or mobile unit until the original cost of each type one or type two bus or mobile unit is fully amortized, plus 20 percent of the original cost of each type three bus included in the district's authorized cost under the provisions of subdivision 1, paragraph (b), clause (4), until the original cost of each type three bus is fully amortized, plus 33-1/3 percent of the cost to the district as of July 1 of each year for school bus reconditioning done by the department of corrections until the cost of the reconditioning is fully amortized; provided, if the district's transportation aid or levy is reduced pursuant to subdivision 8a because the appropriation for that year is insufficient, this amount shall be reduced in proportion to the reduction pursuant to subdivision 8a as a percentage of the district's transportation revenue under subdivision ~~7e~~ *7d*.

Sec. 15. Minnesota Statutes 1990, section 275.125, subdivision 5, is amended to read:

Subd. 5. [BASIC TRANSPORTATION LEVY.] Each year, a school district may levy for school transportation services an amount not to exceed the amount raised by the basic transportation tax rate times the adjusted net tax capacity of the district for the preceding year. ~~The basic transportation tax rate for fiscal year 1991 is 2.04 percent. Beginning in 1990,~~ The commissioner of revenue shall establish the basic transportation tax rate and certify it to the commissioner of education by July 1 of each year for levies payable in the following year. The basic transportation tax rate shall be a rate, rounded up to the nearest hundredth of a percent, that, when applied to the adjusted net tax capacity of taxable property for all districts, raises the amount specified in this subdivision. The basic transportation tax rate for transportation shall be the rate that raises ~~$66,700,000~~ *$64,300,000 for fiscal year 1993 and $68,000,000* for fiscal year ~~1992~~ *1994* and subsequent fiscal years. The basic transportation tax rate certified by the commissioner of revenue must not be changed due to changes or corrections made to a district's adjusted net tax capacity after the tax rate has been certified.

Sec. 16. Minnesota Statutes 1990, section 275.125, subdivision 5b, is amended to read:

Subd. 5b. [TRANSPORTATION LEVY OFF-FORMULA ADJUSTMENT.] ~~(a) In the 1989 and 1990 fiscal years, if the basic transportation levy under subdivision 5 in a district attributable to the fiscal year exceeds the transportation aid computation under section 124.225, subdivisions 8b, 8i, 8j, and 8k, the district's levy limitation shall be adjusted as provided in this subdivision. In the second year following each fiscal year, the district's transportation levy shall be reduced by an amount equal to the difference between (1) the amount of the basic transportation levy under subdivision 5, and (2) the sum of the district's transportation aid computation pursuant to section 124.225, subdivisions 8b, 8i, 8j, and 8k, and the amount of any subtraction made from special state aids pursuant to section 124.2138, subdivision 2, less the amount of any aid reduction due to an insufficient appropriation as provided in section 124.225, subdivision 8a.~~

~~(b) For 1991 and later fiscal years,~~ In a district if the basic transportation levy under subdivision 5 attributable to that fiscal year is more than the difference between (1) the district's transportation revenue under section 124.225, subdivision ~~7e~~ *7d*, and (2) the sum of the district's maximum nonregular levy under subdivision 5c and the district's contracted services aid reduction under section 124.225, subdivision 8k, and the amount of

any reduction due to insufficient appropriation under section 124.225, subdivision 8a, the district's transportation levy in the second year following each fiscal year must be reduced by the amount of the excess.

Sec. 17. Minnesota Statutes 1990, section 275.125, subdivision 5c, is amended to read:

Subd. 5c. [NONREGULAR TRANSPORTATION LEVY.] A school district may also make a levy for unreimbursed nonregular transportation costs pursuant to this subdivision. The amount of the levy shall be the result of the following computation:

(a) multiply

(1) the amount of the district's nonregular transportation revenue under section 124.225, subdivision ~~7e~~ *7d*, that is more than the product of ~~$30~~ *$60* times the district's ~~actual pupil units~~ *average daily membership*, by

(2) ~~60~~ *50* percent;

(b) subtract the result in clause (a) from the district's total nonregular transportation revenue;

(c) multiply the result in clause (b) by the lesser of one or the ratio of (i) the quotient derived by dividing the adjusted net tax capacity of the district for the year before the year the levy is certified by the ~~actual pupil units~~ *average daily membership* in the district for the school year to which the levy is attributable, to (ii) ~~$7,258~~ *$8,000*.

Sec. 18. [LEVY ADJUSTMENT.]

The department of education shall adjust the 1991 levy for each school district by the amount of the change in the district's nonregular transportation levy for fiscal year 1992 according to Minnesota Statutes, section 275.125, subdivision 5c, resulting from the changes to nonregular transportation revenue and levy under sections 5, 10, 11, and 17. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy must be recognized as revenue for fiscal year 1992.

Sec. 19. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

Subd. 2. [TRANSPORTATION AID.] *For transportation aid according to Minnesota Statutes, section 124.225:*

$116,340,000	. . . . .	*1992*
$123,133,000	. . . . .	*1993*

The 1992 appropriation includes $17,679,000 for 1991 and $98,661,000 for 1992.

The 1993 appropriation includes $17,146,000 for 1992 and $105,987,000 for 1993.

$1,500,000 in fiscal year 1992 and $1,000,000 in fiscal year 1993 are for desegregation costs not funded in the regular or nonregular transportation formulas. The department shall allocate these amounts in proportion to the unfunded desegregation costs. Any excess of the 1992 amount is not available for transfer under Minnesota Statutes, section 124.14, subdivision 7 and is available for unfunded desegregation costs in 1993.

Subd. 3. [TRANSPORTATION AID FOR POST-SECONDARY ENROLLMENT OPTIONS.] *For transportation of pupils attending post-secondary institutions according to Minnesota Statutes, section 123.3514:*

$45,000 1992
$45,000 1993

Subd. 4. [TRANSPORTATION AID FOR ENROLLMENT OPTIONS.] *For transportation of pupils attending nonresident districts according to Minnesota Statutes, section 120.0621:*

$15,000 1992
$15,000 1993

Subd. 5. [TRANSFER AUTHORITY.] *If the appropriation in subdivision 3 or 4 for either year exceeds the amount needed to pay the state's obligation for that year under that subdivision, the excess amount may be used to make payments for that year under the other subdivision.*

Subd. 6. [TRANSFER AUTHORITY: FISCAL YEAR 1990 APPROPRIATION.] *If the appropriation in Laws 1989, chapter 329, article 2, section 8, subdivision 3 or 4 for fiscal year 1990, exceeds the amount needed to pay the state's obligation under that subdivision, the excess amount may be used to make payments under the other subdivision.*

Sec. 20. [REPEALER.]

Minnesota Statutes 1990, section 124.225, subdivisions 3, 4b, 7c, 8b, 8i, and 8j, are repealed.

Sec. 21. [EFFECTIVE DATE.]

Section 19, subdivision 6, is effective the day following final enactment.

ARTICLE 3

SPECIAL PROGRAMS

Section 1. Minnesota Statutes 1990, section 120.17, subdivision 3b, is amended to read:

Subd. 3b. [PROCEDURES FOR DECISIONS.] Every district shall utilize at least the following procedures for decisions involving identification, assessment, and educational placement of handicapped children:

(a) Parents and guardians shall receive prior written notice of:

(1) any proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) a proposed placement of their child in, transfer from or to, or denial of placement in a special education program; or

(3) the proposed provision, addition, denial or removal of special education services for their child;

(b) The district shall not proceed with the initial formal assessment of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent or guardian. The refusal of a parent or guardian to consent may be overridden by the decision in a hearing held pursuant to clause ~~(d)~~ *(e)* at the district's initiative;

(c) Parents and guardians shall have an opportunity to meet with appropriate district staff in at least one conciliation conference if they object to any proposal of which they are notified pursuant to clause (a). The conciliation process shall not be used to deny or delay a parent or guardian's right to a due process hearing. If the parent or guardian refuses efforts by the district to conciliate the dispute with the school district, the requirement of an opportunity for conciliation shall be deemed to be satisfied;

(d) *The commissioner shall establish a mediation process to assist parents, school districts, or other parties to resolve disputes arising out of the identification, assessment, or educational placement of handicapped children. The mediation process must be offered as an informal alternative to the due process hearing provided under clause (e), but must not be used to deny or postpone the opportunity of a parent or guardian to obtain a due process hearing.*

(e) Parents, guardians, and the district shall have an opportunity to obtain an impartial due process hearing initiated and conducted by and in the school district responsible for assuring that an appropriate program is provided in accordance with state board rules, if the parent or guardian continues to object to:

(1) a proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) the proposed placement of their child in, or transfer of their child to a special education program;

(3) the proposed denial of placement of their child in a special education program or the transfer of their child from a special education program;

(4) the proposed provision or addition of special education services for their child; or

(5) the proposed denial or removal of special education services for their child.

At least five calendar days before the hearing, the objecting party shall provide the other party with a brief written statement of the objection and the reasons for the objection.

The hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parent or guardian. If the school board and the parent or guardian are unable to agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. The hearing officer shall not be a school board member or employee of the school district where the child resides or of the child's school district of residence, an employee of any other public agency involved in the education or care of the child, or any person with a personal or professional interest which would conflict with the person's objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. If the hearing officer requests an independent educational assessment of a child, the cost of the assessment shall be at district expense. The proceedings shall be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

~~(e)~~ *(f)* The decision of the hearing officer pursuant to clause ~~(d)~~ *(e)* shall be rendered not more than 45 calendar days from the date of the receipt of the request for the hearing. A hearing officer may grant specific extensions

of time beyond the 45-day period at the request of either party. The decision of the hearing officer shall be binding on all parties unless appealed to the hearing review officer by the parent, guardian, or the school board of the district where the child resides pursuant to clause ~~(f)~~ *(g)*.

The local decision shall:

(1) be in writing;

(2) state the controlling facts upon which the decision is made in sufficient detail to apprise the parties and the hearing review officer of the basis and reason for the decision;

(3) state whether the special education program or special education services appropriate to the child's needs can be reasonably provided within the resources available to the responsible district or districts;

(4) state the amount and source of any additional district expenditure necessary to implement the decision; and

(5) be based on the standards set forth in subdivision 3a and the rules of the state board.

~~(f)~~ *(g)* Any local decision issued pursuant to clauses ~~(d)~~ *(e)* and ~~(e)~~ *(f)* may be appealed to the hearing review officer within 30 calendar days of receipt of that written decision, by the parent, guardian, or the school board of the district responsible for assuring that an appropriate program is provided in accordance with state board rules.

If the decision is appealed, a written transcript of the hearing shall be made by the school district and shall be accessible to the parties involved within five calendar days of the filing of the appeal. The hearing review officer shall issue a final *independent* decision based on an impartial review of the local decision and the entire record within ~~30~~ *60* calendar days after the filing of the appeal. The hearing review officer shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument; provided any hearing held to seek additional evidence shall be an impartial due process hearing but shall be deemed not to be a contested case hearing for purposes of chapter 14. The hearing review officer may grant specific extensions of time beyond the 30-day period at the request of any party.

The final decision shall:

(1) be in writing;

(2) include findings and conclusions; and

(3) be based upon the standards set forth in subdivision 3a and in the rules of the state board.

~~(g)~~ *(h)* The decision of the hearing review officer shall be final unless appealed by the parent or guardian or school board to the court of appeals. The judicial review shall be in accordance with chapter 14.

~~(h)~~ *(i)* The commissioner of education~~, having delegated general supervision of special education to the appropriate staff,~~ shall ~~be~~ *select an individual who has the qualifications enumerated in this paragraph to serve as* the hearing review officer ~~except for appeals in which~~:

(1) the ~~commissioner has~~ *individual must be knowledgeable and impartial;*

(2) the individual must not have a personal interest in or specific involvement with the student who is a party to the hearing;

~~(2)~~ *(3)* the ~~commissioner has~~ *individual must not have* been employed as an administrator by the district that is a party to the hearing;

~~(3)~~ *(4)* the ~~commissioner has~~ *individual must not have* been involved in the selection of the administrators of the district that is a party to the hearing;

~~(4)~~ *(5)* the ~~commissioner has~~ *individual must not have* a personal, economic, or professional interest in the outcome of the hearing other than the proper administration of the federal and state laws, rules, and policies;

~~(5)~~ *(6)* the ~~appeal challenges~~ *individual must not have substantial involvement in the development of* a state or local policy ~~which was developed with substantial involvement of the commissioner;~~ or *procedures that are challenged in the appeal;*

~~(6) the appeal challenges the actions of a department employee or official.~~

~~For any appeal to which the above exceptions apply, the state board of education shall name an impartial and competent hearing review officer~~ *and*

(7) the individual is not a current employee or board member of a Minnesota public school district, education district, intermediate unit or regional education agency, the state department of education, the state board of education, or a parent advocacy organization or group.

(j) In all appeals, the parent or guardian of the handicapped student or the district that is a party to the hearing may challenge the impartiality or competence of the proposed hearing review officer by applying to the state board of education.

~~(i)~~ *(k)* Pending the completion of proceedings pursuant to this subdivision, unless the district and the parent or guardian of the child agree otherwise, the child shall remain in the child's current educational placement and shall not be denied initial admission to school.

~~(j)~~ *(l)* The child's school district of residence, a resident district, and providing district shall receive notice of and may be a party to any hearings or appeals under this subdivision.

Sec. 2. Minnesota Statutes 1990, section 120.17, subdivision 7a, is amended to read:

Subd. 7a. [ATTENDANCE AT SCHOOL FOR THE HANDICAPPED.] Responsibility for special instruction and services for a visually disabled or hearing impaired child attending the Minnesota state academy for the deaf or the Minnesota state academy for the blind shall be determined in the following manner:

(a) The legal residence of the child shall be the school district in which the child's parent or guardian resides.

(b) When it is determined pursuant to section 128A.05, subdivision 1 or 2 that the child is entitled to attend either school, the state board shall provide the appropriate educational program for the child. The state board shall make a tuition charge to the child's district of residence for the cost of providing the program. The amount of tuition charged shall not exceed the basic revenue of the district for that child, for the amount of time the child is in the program. For purposes of this subdivision, "basic revenue"

has the meaning given it in section 124A.22, subdivision 2. The district of the child's residence shall pay the tuition and may claim general education aid for the child. The district of the child's residence shall not receive aid pursuant to section 124.32, subdivision 5, for tuition paid pursuant to this subdivision. ~~All~~ Tuition received by the state board, *except for tuition received under clause (c),* shall be deposited in the state treasury *as provided in clause (g).*

(c) *In addition to the tuition charge allowed in clause (b), the academies may charge the child's district of residence for the academy's unreimbursed cost of providing an instructional aide assigned to that child, if that aide is required by the child's individual education plan. Tuition received under this clause must be used by the academies to provide the required service.*

~~(c)~~ *(d)* When it is determined that the child can benefit from public school enrollment but that the child should also remain in attendance at the applicable school, the school district where the institution is located shall provide an appropriate educational program for the child and shall make a tuition charge to the state board for the actual cost of providing the program, less any amount of aid received pursuant to section 124.32. The state board shall pay the tuition and other program costs including the unreimbursed transportation costs. Aids for handicapped children shall be paid to the district providing the special instruction and services. Special transportation shall be provided by the district providing the educational program and the state shall reimburse such district within the limits provided by law.

~~(d)~~ *(e)* Notwithstanding the provisions of clauses (b) and ~~(c)~~ *(d)*, the state board may agree to make a tuition charge for less than the amount specified in clause (b) for pupils attending the applicable school who are residents of the district where the institution is located and who do not board at the institution, if that district agrees to make a tuition charge to the state board for less than the amount specified in clause ~~(c)~~ *(d)* for providing appropriate educational programs to pupils attending the applicable school.

~~(e)~~ *(f)* Notwithstanding the provisions of clauses (b) and ~~(c)~~ *(d)*, the state board may agree to supply staff from the Minnesota state academy for the deaf and the Minnesota state academy for the blind to participate in the programs provided by the district where the institutions are located when the programs are provided to students in attendance at the state schools.

(g) On May 1 of each year, the state board shall count the actual number of Minnesota resident elementary students and the actual number of Minnesota resident secondary students enrolled and receiving education services at the Minnesota state academy for the deaf and the Minnesota state academy for the blind. The state board shall deposit in the state treasury an amount equal to all tuition received less:

(1) the total number of students on May 1 less 175, times the ratio of the number of elementary students to the total number of students on May 1, times the general education formula allowance; plus

(2) the total number of students on May 1 less 175, times the ratio of the number of secondary students on May 1 to the total number of students on May 1, times 1.3, times the general education formula allowance.

(h) The sum provided by the calculation in clause (g), subclauses (1) and (2), must be deposited in the state treasury and credited to the general operation account of the academy for the deaf and the academy for the blind.

(i) There is annually appropriated to the department of education for the Faribault academies the tuition amounts received and credited to the general operation account of the academies under this section.

Sec. 3. [120.173] [ALTERNATIVE DELIVERY OF SPECIALIZED INSTRUCTIONAL SERVICES.]

Subdivision 1. [COMMISSIONER APPROVAL.] *The commissioner of education may approve applications from school districts to provide prevention services as an alternative to special education and other compensatory programs during three school years. A district with an approved program may provide instruction and services in a regular education classroom to eligible pupils. Pupils eligible to participate in the program are low-performing pupils who, based on documented experience, the professional judgment of a classroom teacher, or a team of licensed professionals, would eventually qualify for special education instruction or related services under section 120.17 if the intervention services authorized by this section were unavailable. Pupils may be provided services during extended school days and throughout the entire year.*

Subd. 2. [APPLICATION CONTENTS.] *The application must set forth:*

(1) instructional services available to eligible pupils under section 124.311, subdivision 3, and handicapped pupils under section 120.03;

(2) criteria to select pupils for the program and the assessment procedures to determine eligibility;

(3) involvement in the program of parents of pupils in the program, parent advocates, and community special education advocates;

(4) accounting procedures to document that federal special education money is used to supplement or increase the level of special education instruction and related services provided with state and local revenue, but in no case to supplant the state and local revenue, and that districts are expending at least the amount for special education instruction and related services required by federal law;

(5) the role of regular and special education teachers in planning and implementing the program; and

(6) other information requested by the commissioner.

Subd. 3. [EVALUATION.] *The application shall also set forth the review and evaluation procedures to be used by the district addressing at least the following:*

(1) the number of handicapped and nonhandicapped pupils served;

(2) the impact of the program on the academic progress and social adjustment of the pupils;

(3) the level of satisfaction teachers, parents, and pupils have with the program;

(4) the effect of the program on the number of referrals for special education, federal chapter 1, and other programs;

(5) the amount of time spent by teachers on procedural activities;

(6) the increased amount of time the pupil is in a regular education classroom; and

(7) cost implications.

Subd. 4. [REVIEW FOR EXCESS EXPENDITURES.] *The commissioner shall review each application to determine whether the personnel, equipment, supplies, residential aid, and summer school are necessary to meet the district's obligation to provide special instruction and services to handicapped children according to section 120.17. The commissioner shall not approve revenue for any expenditures determined to be unnecessary.*

Subd. 5. [ANNUAL REPORT.] *Each year the district must submit to the commissioner a report containing the information described in subdivision 3 and section 124.311, subdivision 7.*

Subd. 6. [PUPIL RIGHTS.] *A pupil participating in the program must be individually evaluated according to the pupil's actual abilities and needs. A pupil who is eligible for services under section 120.17 is entitled to procedural protections provided under Public Law Number 94-142 in any matter that affects the identification, evaluation, placement, or change in placement of a pupil. The district must ensure the protection of a pupil's civil rights, provide equal educational opportunities, and prohibit discrimination. Failure to comply with this subdivision will at least cause a district to become ineligible to participate in the program. Notwithstanding rules of the state board of education, a pupil's rights under this section cannot be waived by the state board.*

Sec. 4. Minnesota Statutes 1990, section 120.181, is amended to read:

120.181 [TEMPORARY PLACEMENTS FOR CARE AND TREATMENT OF NONHANDICAPPED PUPILS.]

The responsibility for providing instruction and transportation for a nonhandicapped pupil who has a short-term or temporary physical or emotional illness or disability, as determined by the standards of the state board, and who is temporarily placed for care and treatment for that illness or disability, shall be determined in the following manner:

(a) The school district of residence of the pupil shall be the district in which the pupil's parent or guardian resides or the district designated by the commissioner of education if neither parent nor guardian is living within the state.

(b) Prior to the placement of a pupil for care and treatment, the district of residence shall be notified and provided an opportunity to participate in the placement decision. When an immediate emergency placement is necessary and time does not permit resident district participation in the placement decision, the district in which the pupil is temporarily placed, if different from the district of residence, shall notify the district of residence of the emergency placement within 15 days of the placement.

(c) When a nonhandicapped pupil is temporarily placed for care and treatment in a day program and the pupil continues to live within the district of residence during the care and treatment, the district of residence shall provide instruction and necessary transportation for the pupil. The district may provide the instruction at a school within the district of residence, at the pupil's residence, or in the case of a placement outside of the resident district, in the district in which the day treatment program is located by paying tuition to that district.

(d) When a nonhandicapped pupil is temporarily placed in a residential program for care and treatment, the district in which the pupil is placed

shall provide instruction for the pupil and necessary transportation within that district while the pupil is receiving instruction, and in the case of a placement outside of the district of residence, the nonresident district shall bill the district of residence for the actual cost of providing the instruction *for the regular school year and for summer school*, excluding transportation costs. *When a nonhandicapped pupil is temporarily placed in a residential program outside the district of residence, the administrator of the court placing the pupil shall send timely written notice of the placement to the district of residence.*

(e) The district of residence shall receive general education aid for the pupil and pay tuition and other instructional costs, excluding transportation costs, to the district providing the instruction. Transportation costs shall be paid by the district providing the transportation and the state shall pay transportation aid to that district. For purposes of computing state transportation aid, pupils governed by this subdivision shall be included in the handicapped transportation category.

Sec. 5. Minnesota Statutes 1990, section 124.273, subdivision 1b, is amended to read:

Subd. 1b. [TEACHERS SALARIES.] Each year the state shall pay a school district a portion of the salary~~, calculated from the date of hire,~~ of one full-time equivalent teacher for each 45 pupils of limited English proficiency enrolled in the district. Notwithstanding the foregoing, the state shall pay a portion of the salary~~, calculated from the date of hire,~~ of one-half of a full-time equivalent teacher to a district with 22 or fewer pupils of limited English proficiency enrolled. The portion for a full-time teacher shall be the lesser of ~~61~~ *55.2* percent of the salary or ~~$17,000~~ *$15,320*. The portion for a part-time or limited-time teacher shall be the lesser of ~~61~~ *55.2* percent of the salary or the product of ~~$17,000~~ *$15,320* times the ratio of the person's actual employment to full-time employment.

Sec. 6. Minnesota Statutes 1990, section 124.311, subdivision 4, is amended to read:

Subd. 4. [ELIGIBLE SERVICES.] Assurance of mastery revenue must be used to provide direct instructional services to an eligible pupil, or group of eligible pupils, under the following conditions:

(a) Instruction may be provided at one or more grade levels from kindergarten through grade 8. *If an assessment of pupils' needs within a district demonstrates that the eligible pupils in grades kindergarten through 8 are being appropriately served, a district may serve eligible pupils in grades 9 through 12.*

(b) Instruction must be provided in the usual and customary classroom of the eligible pupil.

(c) Instruction must be provided under the supervision of the eligible pupil's regular classroom teacher. Instruction may be provided by the eligible pupil's classroom teacher, by another teacher, by a team of teachers, or by an education assistant or aide. A special education teacher may provide instruction, but instruction that is provided under this section is not eligible for aid under section 124.32.

(d) The instruction that is provided must differ from the initial instruction the pupil received in the regular classroom setting. The instruction may differ by presenting different curriculum than was initially presented in the

regular classroom, or by presenting the same curriculum:

(1) at a different rate or in a different sequence than it was initially presented;

(2) using different teaching methods or techniques than were used initially; or

(3) using different instructional materials than were used initially.

Sec. 7. Minnesota Statutes 1990, section 124.32, subdivision 1b, is amended to read:

Subd. 1b. [TEACHERS SALARIES.] *(a)* Each year the state shall pay to a district a portion of the salary of each essential person employed in the district's program for handicapped children during the regular school year, whether the person is employed by one or more districts. *The state shall also pay to the Minnesota state academy for the deaf or the Minnesota state academy for the blind a part of the salary of each instructional aide assigned to a child attending the academy, if that aide is required by the child's individual education plan.*

(b) For the 1991-1992 school year, the portion for a full-time person shall be an amount not to exceed the lesser of ~~60~~ *56.4* percent of the salary or ~~$16,727~~ *$15,700*. The portion for a part-time or limited-time person shall be an amount not to exceed the lesser of ~~60~~ *56.4* percent of the salary or the product of ~~$16,727~~ *$15,700* times the ratio of the person's actual employment to full-time employment.

(c) For the 1992-1993 school year and thereafter, the portion for a full-time person is an amount not to exceed the lesser of 55.2 percent of the salary or $15,320. The portion for a part-time or limited-time person is an amount not to exceed the lesser of 55.2 percent of the salary or the product of $15,320 times the ratio of the person's actual employment to full-time employment.

Sec. 8. Minnesota Statutes 1990, section 124.32, subdivision 10, is amended to read:

Subd. 10. [SUMMER SCHOOL.] The state shall pay aid for summer school programs for handicapped children on the basis of subdivisions 1b, 1d, and 5 for the ~~preceding~~ *current* school year. *The state shall also pay to the Minnesota state academy for the deaf or the Minnesota state academy for the blind a part of the salary of each instructional aide assigned to a child attending the academy, if that aide is required by the child's individual education plan.* By March 15 of each year, districts shall submit separate applications for program and budget approval for summer school programs. The review of these applications shall be as provided in subdivision 7. By May 1 of each year, the commissioner shall approve, disapprove or modify the applications and notify the districts of the action and of the estimated amount of aid for the summer school programs.

Sec. 9. [124.321] [SPECIAL EDUCATION LEVY EQUALIZATION REVENUE.]

Subdivision 1. [LEVY EQUALIZATION REVENUE.] *Special education levy equalization revenue for a school district, excluding an intermediate school district, equals the sum of the following amounts:*

(1) 66 percent of the salaries paid to essential personnel in that district minus the amount of state aid and any federal aid, if applicable, paid to

that district for salaries of these essential personnel under section 124.32, subdivisions 1b and 10, for the year to which the levy is attributable, plus

(2) 66 percent of the salaries paid to essential personnel in that district minus the amount of state aid and any federal aid, if applicable, paid to that district for salaries of those essential personnel under section 124.574, subdivision 2b, for the year to which the levy is attributable, plus

(3) 61 percent of the salaries paid to limited English proficiency program teachers in that district minus the amount of state aid and any federal aid, if applicable, paid to that district for salaries of these teachers under section 124.273, subdivision 1b, for the year to which the levy is attributable, plus

(4) the alternative delivery levy revenue determined according to section 10, subdivision 4, plus

(5) the amount allocated to the district by special education cooperatives or intermediate districts in which it participates according to subdivision 2.

A district that receives alternative delivery levy revenue according to section 10, subdivision 4, shall not receive levy equalization revenue under clause (1) or subdivision 2, clause (1), for the same fiscal year.

Subd. 2. [REVENUE ALLOCATION FROM COOPERATIVES AND INTERMEDIATE DISTRICTS.] *(a) For purposes of this section, a special education cooperative or an intermediate district shall allocate to participating school districts the sum of the following amounts:*

(1) 66 percent of the salaries paid to essential personnel in that cooperative or intermediate district minus the amount of state aid and any federal aid, if applicable, paid to that cooperative or intermediate district for salaries of these essential personnel under section 124.32, subdivisions 1b and 10, for the year to which the levy is attributable, plus

(2) 66 percent of the salaries paid to essential personnel in that district minus the amount of state aid and any federal aid, if applicable, paid to that district for salaries of those essential personnel under section 124.574, subdivision 2b, for the year to which the levy is attributable, plus

(3) 61 percent of the salaries paid to limited English proficiency program teachers in that cooperative or intermediate district minus the amount of state aid and any federal aid, if applicable, paid to that cooperative or intermediate district for salaries of these teachers under section 124.273, subdivision 1b, for the year to which the levy is attributable.

(b) A special education cooperative or an intermediate district that allocates amounts to participating school districts under this subdivision must report the amounts allocated to the department of education.

(c) For purposes of this subdivision, the Minnesota state academy for the deaf or the Minnesota state academy for the blind each year shall allocate an amount equal to 66 percent of salaries paid to instructional aides in either academy minus the amount of state aid and any federal aid, if applicable, paid to either academy for salaries of these instructional aides under sections 124.32, subdivisions 1b and 10, for the year to each school district that assigns a child with an individual education plan requiring an instructional aide to attend either academy. The school districts that assign a child who requires an instructional aide may make a levy in the amount of the

costs allocated to them by either academy.

(d) When the Minnesota state academy for the deaf or the Minnesota state academy for the blind allocates unreimbursed portions of salaries of instructional aides among school districts that assign a child who requires an instructional aide, for purposes of the districts making a levy under this subdivision, the academy shall provide information to the department of education on the amount of unreimbursed costs of salaries it allocated to the school districts that assign a child who requires an instructional aide.

Subd. 3. [SPECIAL EDUCATION LEVY.] *To receive special education levy revenue, a district may levy an amount equal to the district's special education levy equalization revenue as defined in subdivision 1 multiplied by the lesser of one, or the ratio of:*

(1) the quotient derived by dividing the adjusted net tax capacity of the district for the year preceding the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to

(2) $3,540.

Subd. 4. [SPECIAL EDUCATION LEVY EQUALIZATION AID.] *A district's special education levy equalization aid is the difference between its special education levy equalization revenue and its special education levy. If a district does not levy the entire amount permitted, special education levy equalization aid must be reduced in proportion to the actual amount levied.*

Subd. 5. [PRORATION.] *In the event that the special education levy equalization aid for any year is prorated, a district having its aid prorated may levy an additional amount equal to the amount not paid by the state due to proration.*

Sec. 10. [124.322] [ALTERNATIVE DELIVERY REVENUE.]

Subdivision 1. [ELIGIBILITY.] *A district is eligible for alternative delivery revenue if the commissioner of education has approved the application of the district according to section 3.*

Subd. 2. [AMOUNT OF ALTERNATIVE DELIVERY REVENUE.] *For the first fiscal year after approval of an application, a district shall receive the sum of the revenue it received for the preceding fiscal year for its special education program under sections 124.32, subdivisions 1b, 2, 5, and 10, and Minnesota Statutes 1990, section 275.125, subdivision 8c, or section 9, subdivisions 1 and 2, as applicable, multiplied by 1.03. For each of the next two fiscal years, the district shall receive the amount it received for the previous fiscal year multiplied by 1.03.*

Subd. 3. [ALTERNATIVE DELIVERY AID.] *For the first fiscal year after approval of an application, a district shall receive the sum of the aid it received for the preceding fiscal year under section 124.32, subdivisions 1b, 2, 5, and 10, multiplied by 1.03. The aid for the first year of revenue shall not be prorated. For each of the next two fiscal years, the district shall receive the amount of aid it received for the previous fiscal year multiplied by 1.03. A district that receives aid under this subdivision shall not receive aid under section 124.32, subdivisions 1b, 2, 5, and 10, for the same fiscal year.*

Subd. 4. [ALTERNATIVE DELIVERY LEVY REVENUE.] *A district*

shall receive alternative delivery levy revenue equal to the difference between the alternative delivery revenue and the alternative delivery aid. If the alternative delivery aid for a district is prorated for the second or third fiscal years, the alternative delivery levy revenue shall be increased by the amount not paid by the state due to proration. For fiscal year 1993 and thereafter, the alternative delivery levy revenue shall be included under section 9, subdivision 1, for purposes of computing the special education levy under section 9, subdivision 3, and the special education levy equalization aid under section 9, subdivision 4.

Subd. 5. [USE OF REVENUE.] *Revenue under this section shall be used to implement the approved program.*

Sec. 11. Minnesota Statutes 1990, section 124.332, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] A district is eligible for individualized learning and development aid if the school board of the district has adopted a district instructor-learner ratio specified by the district's curriculum advisory committee and submits its ratio to the department of education by *the* April 15, ~~1990~~ *preceding the year for which the district will receive aid.*

Sec. 12. Minnesota Statutes 1990, section 124.332, subdivision 2, is amended to read:

Subd. 2. [AID AMOUNT.] An eligible district shall receive individualized learning and development aid in an amount equal to ~~$62.25~~ *$64 for 1991-1992 and $66 for 1992-1993 and thereafter* times the district's average daily membership in kindergarten ~~and grade 1~~ *to grade 2 for the 1991-1992 school year, and in kindergarten to grade 3 for the 1992-1993 school year and thereafter.* Aid received under this subdivision must be used only to achieve the district's instructor-learner ratios and prepare and use individualized learning plans for learners in ~~kindergarten and grade 1~~ *the grades for which the district is receiving aid.* If the district has achieved and is maintaining the district's instructor-learner ratios, then the district may use the aid to work to improve program offerings throughout the district.

Sec. 13. Minnesota Statutes 1990, section 124.573, subdivision 2b, is amended to read:

Subd. 2b. [SECONDARY VOCATIONAL AID.] ~~For 1989-1990 and later school years,~~ A district's or cooperative center's "secondary vocational aid" for secondary vocational education programs for a ~~school~~ *fiscal* year equals the sum of the following amounts for each program:

(a) the greater of zero, or 75 percent of the difference between:

(1) the salaries paid to essential, licensed personnel in that school year for services rendered in that program, and

(2) 50 percent of the general education revenue attributable to secondary pupils for the number of hours that the pupils are enrolled in that program; and

(b) ~~30~~ *40* percent of approved expenditures for the following:

(1) contracted services provided by a public or private agency other than a Minnesota school district or cooperative center under section 124.573, subdivision 3a;

(2) necessary travel between instructional sites by licensed secondary

vocational education personnel;

(3) necessary travel by licensed secondary vocational education personnel for vocational student organization activities held within the state for instructional purposes;

(4) curriculum development activities that are part of a five-year plan for improvement based on program assessment;

(5) necessary travel by licensed secondary vocational education personnel for noncollegiate credit bearing professional development; and

(6) specialized vocational instructional supplies.

Sec. 14. Minnesota Statutes 1990, section 124.573, subdivision 3a, is amended to read:

Subd. 3a. [AID FOR CONTRACTED SERVICES.] In addition to the provisions of subdivisions 2 and 3, a school district or cooperative center may contract with a public or private agency other than a Minnesota school district or cooperative center for the provision of secondary vocational education services. ~~For the 1986-1987 school year, the state shall pay each district or cooperative center 40 percent of the amount of a contract entered into pursuant to this subdivision. For the 1987-1988 school year, the state shall pay each district or cooperative center 35 percent of the amount of a contract entered into under this subdivision.~~ The state board shall promulgate rules relating to program approval procedures and criteria for these contracts and aid shall be paid only for contracts approved by the commissioner of education. For the purposes of subdivision 4, the district or cooperative center contracting for these services shall be construed to be providing the services.

Sec. 15. Minnesota Statutes 1990, section 124.574, subdivision 2b, is amended to read:

Subd. 2b. [SALARIES.] Each year the state shall pay to any district or cooperative center a portion of the salary of each essential licensed person employed during that ~~school~~ *fiscal* year for services rendered in that district or center's secondary vocational education programs for handicapped children.

(a) For fiscal year 1992, the portion for a full-time person shall be an amount not to exceed the lesser of ~~60~~ *56.4* percent of the salary or ~~$16,727~~ *$15,700*. The portion for a part-time or limited-time person shall be the lesser of ~~60~~ *56.4* percent of the salary or the product of ~~$16,727~~ *$15,700* times the ratio of the person's actual employment to full-time employment.

(b) For fiscal year 1993 and thereafter, the portion for a full-time person is an amount not to exceed the lesser of 55.2 percent of the salary or $15,320. The portion for a part-time or limited-time person is the lesser of 55.2 percent of the salary or the product of $15,320 times the ratio of the person's actual employment to full-time employment.

Sec. 16. Minnesota Statutes 1990, section 124.86, is amended to read:

124.86 [STATE REVENUE FOR AMERICAN INDIAN *TRIBAL CONTRACT OR GRANT* SCHOOLS.]

Subdivision 1. [AUTHORIZATION.] Each year each American Indian-controlled *tribal* contract or grant school authorized by the United States Code, title 25, section 450f, that is located on a reservation within the state

is eligible to receive tribal contract *or grant* school aid subject to the requirements in this subdivision.

(a) The school must plan, conduct, and administer an education program that complies with the requirements of this chapter and chapters 120, 121, 122, 123, 124A, 124C, 125, 126, 129, and 268A.

(b) The school must comply with all other state statutes governing independent school districts.

(c) The state tribal contract or grant school aid must be used to supplement, and not to replace, the money for American Indian education programs provided by the federal government.

Subd. 2. [REVENUE AMOUNT.] An American Indian-controlled *tribal* contract or grant school that is located on a reservation within the state and that complies with the requirements in subdivision 1 is eligible to receive tribal contract or grant school aid. The amount of aid is derived by:

(1) multiplying the formula allowance under section 124A.22, subdivision 2, times the difference between (a) the actual pupil units as defined in section 124A.02, subdivision 15, ~~in attendance during the fall count week~~ *in average daily membership* and (b) the number of pupils for the current school year, weighted according to section 124.17, subdivision 1, receiving benefits under section 123.933 or 123.935 or for which the school is receiving reimbursement under section 126.23;

(2) subtracting from the result in clause (1) the amount of money allotted to the school by the federal government through the Indian School Equalization Program of the Bureau of Indian Affairs, according to Code of Federal Regulations, title 25, part 39, subparts A to E, for the basic program as defined by section 39.11, paragraph (b), for the base rate as applied to kindergarten through twelfth grade, excluding *small school adjustments and* additional weighting, but not money allotted through subparts F to L for contingency funds, school board training, student training, interim maintenance and minor repair, interim administration cost, prekindergarten, and operation and maintenance, and the amount of money that is received according to section 126.23;

(3) dividing the result in clause (2) by the actual pupil units *in average daily membership*; and

(4) multiplying the actual pupil units *in average daily membership* by the lesser of $1,500 or the result in clause (3).

Subd. 3. [~~LAW~~ WAIVER.] Notwithstanding subdivision 1, paragraphs (a) and (b), a *tribal* contract *or grant* school:

(1) is not subject to the Minnesota election law;

(2) has no authority under this section to levy for property taxes, issue and sell bonds, or incur debt; and

(3) may request through its managing tribal organization a recommendation of the state board of education, for consideration of the legislature, that a *tribal* contract *or grant* school not be subject to specified statutes related to independent school districts.

Subd. 4. [EARLY CHILDHOOD FAMILY EDUCATION REVENUE.] *A school receiving aid under this section is eligible to receive early childhood*

family education revenue to provide early childhood family education programs for parents and children who are enrolled or eligible for enrollment in a federally recognized tribe. The revenue equals 1.5 times the statewide average expenditure per participant under section 124.2711, times the number of children and parents participating full time in the program. The program shall comply with section 121.882, except that the school is not required to provide a community education program or establish a community education advisory council. The program shall be designed to improve the skills of parents and promote American Indian history, language, and culture. The school shall make affirmative efforts to encourage participation by fathers. Admission may not be limited to those enrolled in or eligible for enrollment in a federally recognized tribe.

Sec. 17. [125.62] [GRANTS TO PREPARE INDIAN TEACHERS.]

Subdivision 1. [ESTABLISHMENT.] *A grant program is established to assist American Indian people to become teachers and to provide additional education for American Indian teachers. The state board may award a joint grant to each of the following:*

(1) the Duluth campus of the University of Minnesota and independent school district No. 709, Duluth;

(2) Bemidji state university and independent school district No. 38, Red Lake;

(3) Moorhead state university and one of the school districts located within the White Earth reservation; and

(4) Augsburg college and special school district No. 1, Minneapolis.

Subd. 2. [APPLICATION.] *To obtain a joint grant, a joint application shall be submitted to the state board of education. The application must be developed with the participation of the parent advisory committee, established according to section 126.51, and the Indian advisory committee at the post-secondary institution. The joint application shall set forth:*

(1) the in-kind, coordination, and mentorship services to be provided by the post-secondary institution; and

(2) the coordination and mentorship services to be provided by the school district.

Subd. 3. [REVIEW AND COMMENT.] *The state board shall submit the joint application to the Minnesota Indian scholarship committee for review and comment.*

Subd. 4. [GRANT AMOUNT.] *The state board may award a joint grant in the amount it determines to be appropriate. The grant shall include money for the post-secondary institution, school district, student scholarships, and student loans.*

Subd. 5. [INFORMATION TO STUDENT APPLICANTS.] *At the time a student applies for a scholarship and loan, the student shall be provided information about the fields of licensure needed by school districts in the part of the state within which the district receiving the joint grant is located. The information shall be acquired and periodically updated by the recipients of the joint grant. Information provided to students shall clearly state that scholarship and loan decisions are not based upon the field of licensure selected by the student.*

Subd. 6. [ELIGIBILITY FOR SCHOLARSHIPS AND LOANS.] *The following Indian people are eligible for scholarships:*

(1) a student, including a teacher aide employed by a district receiving a joint grant, who intends to become a teacher and who is enrolled in a post-secondary institution receiving a joint grant;

(2) a licensed employee of a district receiving a joint grant, who is enrolled in a master of education program; and

(3) a student who, after applying for federal and state financial aid and an Indian scholarship according to section 124.48, has financial needs that remain unmet. Financial need shall be determined according to the uniform methodology for needs determination.

A person who has actual living expenses in addition to those addressed by the uniform methodology for needs determination may receive a loan according to criteria established by the state board. A contract shall be executed between the state and the student for the amount and terms of the loan.

Subd. 7. [LOAN FORGIVENESS.] *The loan may be forgiven if the recipient is employed as a teacher, as defined in section 125.12 or 125.17, in an eligible school or program in Minnesota. One-fifth of the principal of the outstanding loan amount shall be forgiven for each year of eligible employment, or a pro rata amount for eligible employment during part of a school year, part-time employment as a substitute teacher, or other eligible part-time teaching. The following schools and programs are eligible for the purposes of loan forgiveness:*

(1) a school or program operated by a school district;

(2) a tribal contract school eligible to receive aid according to section 124.86;

(3) a head start program;

(4) an early childhood family education program; or

(5) a program providing educational services to children who have not entered kindergarten.

If a person has an outstanding loan obtained through this program, the duty to make payments of principal and interest may be deferred during any time period the person is enrolled at least one-half time in an advanced degree program in a field that leads to employment by a school district. To defer loan obligations, the person shall provide written notification to the state board of education and the recipients of the joint grant that originally authorized the loan. Upon approval by the state board and the joint grant recipients, payments shall be deferred.

The loan forgiveness program, loan deferral, and procedures to administer the program shall be approved by the higher education coordinating board.

Subd. 8. [REVOLVING FUND.] *The Indian teacher preparation loan repayment revolving account is established in the state treasury. Any amounts repaid or contributed by a teacher who received a scholarship or loan under this program shall be deposited in the account. All money in the account is annually appropriated to the state board of education and shall be used to enable Indian students to participate in the program.*

Sec. 18. Minnesota Statutes 1990, section 126.51, subdivision 1a, is amended to read:

Subd. 1a. [RESOLUTION OF CONCURRENCE.] *Each year* by ~~September 15 and June 15 of each school year~~ *December 1*, the school board or American Indian school shall submit to the department of education a copy of a resolution adopted by the parent committee. The copy must be signed by the chair of the committee and must state whether the committee concurs with the educational programs for American Indian children offered by the school board or American Indian school. If the committee does not concur with the educational programs, the reasons for nonconcurrence and recommendations shall be submitted with the resolution. *By resolution, the school board shall respond, in cases of nonconcurrence, to each recommendation made by the committee and state its reasons for not implementing the recommendations.*

Sec. 19. [127.281] [EXCLUSION AND EXPULSION OF HANDICAPPED PUPILS.]

When a pupil who has an individual education plan is excluded or expelled under sections 127.26 to 127.39 for misbehavior that is not a manifestation of the pupil's handicapping condition, the district shall provide special education and related services after a period of suspension, if suspension is imposed. The district shall initiate a review of the pupil's individual education plan within ten days of the commencement of an expulsion, exclusion, or a suspension of ten days or more.

Sec. 20. [128B.011] [PINE POINT SCHOOL GOVERNANCE AND STANDARDS.]

Subdivision 1. [GOVERNANCE.] *The care, management, and control of Pine Point school is vested in the White Earth reservation tribal council. The council has the same powers and duties as a school board under chapters 120 to 129 and other provisions applicable to school boards. The tribal council may delegate powers and duties for the operation of the school to the Indian education committee. The committee may exercise powers and duties delegated to it.*

Subd. 2. [STANDARDS.] *The school is a public school providing instruction for pupils in kindergarten through the 8th grade. Instruction shall meet the same standards for instruction as are required for other public schools.*

Subd. 3. [COOPERATION WITH SCHOOL DISTRICTS.] *If the council determines it cannot adequately provide certain services, the council shall purchase or share services with one or more school districts or other provider for instruction, administration, or other requirements of operating the school, including curriculum, teachers, support services, supervision, administration, financial accounting and reporting, and other instructional and noninstructional programs. The council is encouraged to cooperate with school districts to increase and improve instructional and support services available to the pupils in the school.*

Sec. 21. Minnesota Statutes 1990, section 128B.03, is amended by adding a subdivision to read:

Subd. 3a. [STATE REVENUES.] *The state shall pay to the council for the support of the school all aids, revenues, and grants available to a school district as though the school were a school district. The aids, revenues, and grants include, but are not limited to, the following:*

(1) general education revenue, as defined in section 124A.22, subdivision 1, including at least compensatory revenue;

(2) transportation revenue;

(3) capital expenditure facilities revenue;

(4) capital expenditure equipment revenue;

(5) special education revenue;

(6) limited English proficiency aid;

(7) career teacher aid;

(8) assurance of mastery revenue;

(9) school lunch revenue;

(10) school milk revenue;

(11) health and safety revenue;

(12) Indian language and culture grants;

(13) arts planning grants; and

(14) all other aids, revenues, or grants available to a school district.

If there are eligibility requirements for an aid, revenue, or grant, the requirements shall be met in order to obtain the aid, revenue, or grant, except that a requirement to levy shall be waived. To compute the amount of aid, revenue, or grant requiring a levy, the amount of the levy shall be zero.

If a school district obtains revenue from the proceeds of a levy, the council shall be deemed to have levied and the state shall pay aid equal to the amount that would have been levied. The amount shall be approved by the commissioner of education.

The proceeds of any aid, grant, or revenue shall be used only as provided in the applicable statute.

Sec. 22. Minnesota Statutes 1990, section 128B.03, subdivision 4, is amended to read:

Subd. 4. [~~DISTRICT 309~~ FEDERAL AID.] ~~(a)~~ The school board of independent school district No. 309 must transfer to the council, to the extent permissible, any federal aids or grants which the school district is eligible for or entitled to because of:

(1) the population in the ~~experimental~~ school attendance area;

(2) the pupils actually attending the ~~experimental~~ school;

(3) the program of the ~~experimental~~ school;

(4) the boundaries of the attendance area of the ~~experimental~~ school; or

(5) a related reason.

~~(b) For the sole purpose of receiving federal impact aid, the experimental school on the land comprising the former independent school district No. 25 is a local education agency, according to Code of Federal Regulations, title 34, section 222.80. The school and the land must not be included, for the purpose of determining federal impact aid, in independent school district No. 309.~~

Sec. 23. Minnesota Statutes 1990, section 128B.03, subdivision 5, is amended to read:

Subd. 5. [AUDITS; ~~STATE AUDITOR LAW~~.] The council must have an audit done annually of the accounts of the ~~experimental~~ school. The audit must be finished within one year after the year for which the audit is made. ~~The council is subject to chapter 6, relating to the state auditor.~~

Sec. 24. Minnesota Statutes 1990, section 128B.03, subdivision 7, is amended to read:

Subd. 7. [INSURANCE.] The council may buy the insurance specified in sections 123.35, subdivision 13, and 123.41. The council must buy insurance to the extent required by chapter 466 and is not liable beyond the extent provided by ~~section 466.12, subdivision 3a~~ *chapter 466*. The term "average number of pupils" in section 466.12, subdivision 3a, means, for this subdivision, the average number of pupils attending the ~~experimental~~ school.

Sec. 25. Minnesota Statutes 1990, section 128B.04, is amended to read:

128B.04 [~~ALL PUPILS IN AREA ARE~~ RESIDENT PUPILS.]

~~For chapter 120,~~ A pupil in kindergarten through 8th grade who resides within former independent school district No. 25 is a resident pupil ~~of the experimental school attendance area, as if the area were a school district~~ *for the purposes of chapter 120. Pupils enrolled in the school may not be counted by independent school district No. 309 for the purposes of receiving revenue according to chapters 120 to 129.*

Sec. 26. Minnesota Statutes 1990, section 128B.05, subdivision 2, is amended to read:

Subd. 2. [COUNCIL TEACHERS ARE UNIT.] Teachers employed by the council are employees of the ~~experimental school~~ *council* and are an "appropriate unit" or a "unit" under chapter 179A, notwithstanding section 179A.03, subdivision 2.

Sec. 27. Minnesota Statutes 1990, section 128B.05, subdivision 3, is amended to read:

Subd. 3. [DISTRICT 309 TEACHERS.] Teachers employed by the school board of independent school district No. 309 who are assigned by the board to the ~~experimental~~ school remain employees of the board.

Sec. 28. Minnesota Statutes 1990, section 128B.06, subdivision 1, is amended to read:

Subdivision 1. [EDUCATION CODE.] The management of the ~~experimental~~ school by the council is governed by the education code and other law affecting ~~public~~ school districts.

Sec. 29. Minnesota Statutes 1990, section 128B.08, is amended to read:

128B.08 [REPORTS TO LEGISLATURE.]

Before December 1 of each year the council must submit a report to the legislature on the ~~experimental~~ school established by this chapter. The report must document the success or failure of the ~~experimental~~ school.

Sec. 30. Minnesota Statutes 1990, section 128B.09, is amended to read:

128B.09 [~~END OF EXPERIMENT;~~ TRANSFER ~~BACK~~ TO DISTRICT

309.]

~~At any time before July 1, 1991, the experimental status of~~ The school may be ~~ended on~~ *closed by* unanimous vote ~~of the officers~~ of the *tribal* council ~~and 30 days' notice to the school board of independent school district No. 309~~ *effective June 30 of any year*. ~~Then~~ The school board of independent school district No. 309 ~~must resume management of the entire district~~ *shall assume responsibility for the pupils in the school* on ~~the next~~ July 1.

Sec. 31. Minnesota Statutes 1990, section 128B.10, subdivision 1, is amended to read:

Subdivision 1. [EXTENSION.] This chapter is repealed July 1, ~~1991~~ *1993*.

Sec. 32. Minnesota Statutes 1990, section 128B.10, subdivision 2, is amended to read:

Subd. 2. [STATE AUDIT.] The state auditor shall conduct an audit of the school's finances for *each even-numbered* fiscal ~~years 1989 and 1990~~ *year without charge to the school*. ~~A preliminary or, if completed, a final~~ *The* report ~~for fiscal year 1989~~ *of each audit* shall be submitted ~~by February 15, 1990,~~ to the White Earth reservation tribal council, the Pine Point Indian education committee, ~~and~~ the *commissioner of* education ~~committees of the legislature~~, *and the legislative reference library*.

Sec. 33. [CAPITAL EXPENDITURE REVENUE TRANSFER.]

Independent school district No. 309, Park Rapids, shall pay to the White Earth reservation tribal council capital expenditure facilities revenue and capital expenditure equipment revenue that the school district received as a result of including the pupils enrolled in Pine Point school in the school district's pupil count for those revenues. By June 30, 1991, Park Rapids shall pay the amount attributable to fiscal years 1988, 1989, 1990, and 1991. The amounts attributable to fiscal years before 1988 shall be paid according to a schedule agreed upon by the tribal council and the school board. The amounts to be paid shall reflect total revenue and not state aid.

Upon request of the tribal council or the school district, the amounts to be paid shall be approved by the state board of education.

Sec. 34. [STATE AUDITOR'S BILLING FOR PINE POINT SCHOOL.]

The state auditor may not bill the White Earth tribal council or the Pine Point Indian education committee for the costs or expenses of audits conducted of the school's finances for fiscal years 1989 and 1990. Any bills for the audits shall not be paid by the tribal council or the Indian education committee.

Sec. 35. [ESTABLISHMENT OF REVOLVING FUND AND APPLICABILITY OF LOAN REPAYMENTS.]

All loan repayments made by a person according to Laws 1989, chapter 329, article 3, section 22, shall be deposited in the Indian teacher preparation loan repayment revolving fund by the commissioner of finance.

Sec. 36. [1992 SPECIAL EDUCATION LEVY ADJUSTMENT.]

A district's maximum special education levy for fiscal year 1992 equals the district's special education levy revenue for fiscal year 1992 according to the provisions in this article for special education levy equalization revenue. A district may levy for taxes payable in 1992 an amount equal to

the difference between its maximum special education levy for fiscal year 1992 and the amount it levied for taxes payable in 1991 under Minnesota Statutes 1990, section 275.125, subdivision 8c. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy shall be recognized as revenue for fiscal year 1992.

Sec. 37. [INDIVIDUALIZED LEARNING AND DEVELOPMENT AID.]

Notwithstanding Minnesota Statutes, section 124.332, subdivision 1, a district may submit its instructor learner ratio to the commissioner for the 1991-1992 school year by August 1, 1991.

Sec. 38. [INSTRUCTION TO THE REVISOR.]

In the next edition of Minnesota Statutes, the revisor of statutes shall delete each term in column A and insert the term in column B wherever the terms in column A appear within the education code.

Column A	*Column B*
Handicapped children	*Children with a disability*
Handicapping conditions	*Disabling conditions*
Handicapped pupil	*Pupil with a disability*
Nonhandicapped pupil	*Pupil without a disability*
Nonhandicapped children	*Children without a disability*
Handicapped student	*Pupil with a disability*
Handicapped child	*Child with a disability*
Children with handicaps	*Children with disabilities*
Handicapped youth	*Youth with a disability*
Handicapped individuals	*Individuals with a disability*

Sec. 39. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

Subd. 2. [SPECIAL EDUCATION AID.] *For special education aid according to Minnesota Statutes, section 124.32:*

$167,105,000 1992
$167,238,000 1993

The 1992 appropriation includes $24,996,000 for 1991 and $142,109,000 for 1992.

The 1993 appropriation includes $25,078,000 for 1992 and $142,160,000 for 1993.

Subd. 3. [SPECIAL PUPIL AID.] *For special education aid according to Minnesota Statutes, section 124.32, subdivision 6, for pupils with handicaps placed in residential facilities within the district boundaries for whom no district of residence can be determined:*

$395,000 1992
$436,000 1993

If the appropriation for either year is insufficient, the appropriation for the other year is available. If the appropriations for both years are insufficient, the appropriation for special education aid may be used to meet the special pupil obligations.

Subd. 4. [SUMMER SPECIAL EDUCATION AID.] *For special education summer program aid according to Minnesota Statutes, section 124.32, subdivision 10:*

$4,885,000	. . . . .	*1992*
$4,865,000	. . . . .	*1993*

The 1992 appropriation is for 1991 summer programs.

The 1993 appropriation is for 1992 summer programs.

Subd. 5. [TRAVEL FOR HOME-BASED SERVICES.] *For aid for teacher travel for home-based services according to Minnesota Statutes, section 124.32, subdivision 2b:*

$66,000	. . . . .	*1992*
$71,000	. . . . .	*1993*

The 1992 appropriation includes $7,000 for 1991 and $59,000 for 1992.

The 1993 appropriation includes $10,000 for 1992 and $61,000 for 1993.

Subd. 6. [RESIDENTIAL FACILITIES AID.] *For residential facilities aid under aid according to Minnesota Statutes, section 124.32, subdivision 5:*

$2,315,000	. . . . .	*1992*
$2,535,000	. . . . .	*1993*

Subd. 7. [LIMITED ENGLISH PROFICIENCY PUPILS PROGRAM AID.] *For aid to educational programs for pupils of limited English proficiency according to Minnesota Statutes, section 124.273:*

$3,853,000	. . . . .	*1992*
$3,994,000	. . . . .	*1993*

The 1992 appropriation includes $512,000 for 1991 and $3,341,000 for 1992.

The 1993 appropriation includes $589,000 for 1992 and $3,405,000 for 1993.

Subd. 8. [AMERICAN INDIAN POST-SECONDARY PREPARATION GRANTS.] *For American Indian post-secondary preparation grants according to Minnesota Statutes, section 124.481:*

$857,000	. . . . .	*1992*
$857,000	. . . . .	*1993*

Any balance in the first year does not cancel but is available in the second year.

Subd. 9. [AMERICAN INDIAN LANGUAGE AND CULTURE PROGRAMS.] *For grants to American Indian language and culture education programs according to Minnesota Statutes, section 126.54, subdivision 1:*

$591,000	. . . . .	*1992*
$590,000	. . . . .	*1993*

The 1992 appropriation includes $89,000 for 1991 and $502,000 for 1992.

The 1993 appropriation includes $88,000 for 1992 and $502,000 for 1993.

Any balance in the first year does not cancel but is available in the second year.

Subd. 10. [SECONDARY VOCATIONAL; PUPILS WITH DISABILITIES.] *For aid for secondary vocational education for pupils with disabilities according to Minnesota Statutes, section 124.574:*

$4,691,000 1992
$4,652,000 1993

The 1992 appropriation includes $729,000 for 1991 and $3,962,000 for 1992.

The 1993 appropriation includes $699,000 for 1992 and $3,953,000 for 1993.

Subd. 11. [ASSURANCE OF MASTERY.] *For assurance of mastery aid according to Minnesota Statutes, section 124.311:*

$12,410,000 1992
$12,784,000 1993

The 1992 appropriation includes $1,751,000 for 1991 and $10,659,000 for 1992.

The 1993 appropriation includes $1,881,000 for 1992 and $10,903,000 for 1993.

Subd. 12. [INDIVIDUALIZED LEARNING AND DEVELOPMENT AID.] *For individualized learning and development aid according to Minnesota Statutes, section 124.331:*

$11,325,000 1992
$15,892,000 1993

The 1992 appropriation includes $1,068,000 for 1991 and $10,257,000 for 1992.

The 1993 appropriation includes $1,810,000 for 1992 and $14,082,000 for 1993.

Subd. 13. [SPECIAL PROGRAMS EQUALIZATION AID.] *For special education levy equalization aid according to section 9:*

$9,215,000 1993

This appropriation is based on a formula entitlement of $10,841,000.

Subd. 14. [AMERICAN INDIAN SCHOLARSHIPS.] *For American Indian scholarships according to Minnesota Statutes, section 124.48:*

$1,600,000 1992
$1,600,000 1993

Any unexpended balance remaining in the first year does not cancel but is available in the second year.

Subd. 15. [AMERICAN INDIAN EDUCATION.] *For certain American Indian education programs in school districts:*

$175,000 1992
$175,000 1993

The 1992 appropriation includes $26,000 for 1991 and $149,000 for 1992.

The 1992 appropriation includes $26,000 for 1992 and $149,000 for 1993.

These appropriations are available for expenditure with the approval of the commissioner of education.

The commissioner must not approve the payment of any amount to a school district or school under this subdivision unless that school district or school is in compliance with all applicable laws of this state.

Up to the following amounts may be distributed to the following schools and school districts for each fiscal year: $54,800 to Pine Point School; $9,700 to independent school district No. 166; $14,900 to independent school district No. 432; $14,100 to independent school district No. 435; $42,200 to independent school district No. 707; and $39,100 to independent school district No. 38. These amounts shall be spent only for the benefit of American Indian pupils and to meet established state educational standards or statewide requirements.

Before a district or school can receive money under this subdivision, the district or school must submit to the commissioner of education evidence that it has complied with the uniform financial accounting and reporting standards act, Minnesota Statutes, sections 121.90 to 121.917.

Subd. 16. [INDIAN TEACHER PREPARATION GRANTS.] *For joint grants to assist Indian people to become teachers:*

$190,000 1992
$190,000 1993

Up to $70,000 each year is for a joint grant to the University of Minnesota at Duluth and the Duluth school district.

Up to $40,000 each year is for a joint grant to each of the following:

(1) Bemidji state university and the Red Lake school district;

(2) Moorhead state university and a school district located within the White Earth reservation; and

(3) Augsburg college and the Minneapolis school district.

Money not used for students at one location may be transferred for use at another location.

Any unexpended balance remaining the first year does not cancel but is available in the second year.

Subd. 17. [TRIBAL CONTRACT SCHOOLS.]

For tribal contract school aid according to Minnesota Statutes, section 124.86:

$600,000 1992
$600,000 1993

Subd. 18. [EARLY CHILDHOOD PROGRAMS AT TRIBAL SCHOOLS.] *For early childhood family education programs at tribal contract schools:*

$68,000 1992
$68,000 1993

Subd. 19. [SECONDARY VOCATIONAL EDUCATION AID.] *For secondary vocational education aid according to Minnesota Statutes, section 124.573:*

$11,452,000 1992
$11,977,000 1993

The 1992 appropriation includes $1,758,000 for 1991 and $9,694,000 for 1992.

The 1993 appropriation includes $1,710,000 for 1992 and $10,267,000 for 1993.

Subd. 20. [COMMUNITY LIVING PROGRAMS FOR YOUTHS WITH DISABILITIES.] *For grants throughout the state to develop programs to provide education-to-community living services for youths with disabilities:*

$500,000 1992

The appropriation shall be available until June 30, 1993.

Sec. 40. [REPEALER.]

Minnesota Statutes 1990, sections 128B.01; 128B.03, subdivisions 3 and 8; 128B.07; and 275.125, subdivision 8c, are repealed.

Sec. 41. [EFFECTIVE DATE.]

Section 9 is effective for revenue for fiscal year 1993 and thereafter. Section 17, subdivision 8, is effective the day following final enactment.

ARTICLE 4

COMMUNITY SERVICES

Section 1. Minnesota Statutes 1990, section 121.88, subdivision 9, is amended to read:

Subd. 9. [YOUTH SERVICE PROGRAMS.] A school board may offer, as part of a community education program with a youth development program, a youth service program for pupils to promote active citizenship and to address community needs through youth service. The school board may award up to one credit, or the equivalent, toward graduation for a pupil who completes the youth service requirements of the district. The community education advisory council shall design the program in cooperation with the district planning, evaluating and reporting committee and local organizations that train volunteers or need volunteers' services. Programs must include:

(1) preliminary training for pupil volunteers conducted, when possible, by organizations experienced in such training;

(2) supervision of the pupil volunteers to ensure appropriate placement and adequate learning opportunity;

(3) sufficient opportunity, in a positive setting for human development, for pupil volunteers to develop general skills in preparation for employment, to enhance self esteem and self worth, and to give genuine service to their community; ~~and~~

(4) integration of academic learning with the service experience; *and*

(5) integration of youth community service with elementary and secondary curriculum.

Youth service projects include, but are not limited to, the following:

(1) human services for the elderly, including home care and related services;

(2) tutoring and mentoring;

(3) training for and providing emergency services;

(4) services at extended day programs; and

(5) environmental services.

The commissioner shall maintain a list of acceptable projects with a description of each project. A project that is not on the list must be approved by the commissioner.

A youth service project must have a community sponsor that may be a governmental unit or nonprofit organization. To assure that pupils provide additional services, each sponsor must assure that pupil services do not displace employees or reduce the workload of any employee.

The commissioner must assist districts in planning youth service programs, implementing programs, and developing recommendations for obtaining community sponsors.

Sec. 2. Minnesota Statutes 1990, section 121.88, subdivision 10, is amended to read:

Subd. 10. [EXTENDED DAY PROGRAMS.] A school board may offer, as part of a community education program, an extended day program for children from kindergarten through grade 6 for the purpose of expanding students' learning opportunities. A program must include the following:

(1) adult supervised programs while school is not in session;

(2) parental involvement in program design and direction;

(3) partnerships with the K-12 system, and other public, private, or nonprofit entities; and

(4) opportunities for trained secondary school pupils to work with younger children in a supervised setting as part of a community service program.

The district may charge a sliding fee based upon family income for extended day programs. The district may receive money from other public or private sources for the extended day program. The school board of the district shall develop standards for school age child care programs. *Districts with programs in operation before July 1, 1990, must adopt standards before October 1, 1991. All other districts must adopt standards within one year after the district first offers services under a program authorized by this subdivision.* The state board of education may not adopt rules for extended day programs.

Sec. 3. Minnesota Statutes 1990, section 121.882, subdivision 2, is amended to read:

Subd. 2. [PROGRAM CHARACTERISTICS.] Early childhood family education programs are programs for children in the period of life from birth to kindergarten, for the parents of such children, and for expectant parents. The programs may include the following:

(1) programs to educate parents about the physical, mental, and emotional development of children;

(2) programs to enhance the skills of parents in providing for their children's learning and development;

(3) learning experiences for children and parents;

(4) activities designed to detect children's physical, mental, emotional, or behavioral problems that may cause learning problems;

(5) activities and materials designed to encourage self-esteem, skills, and behavior that prevent sexual and other interpersonal violence;

(6) educational materials which may be borrowed for home use;

(7) information on related community resources; or

(8) other programs or activities *to improve the health, development, and learning readiness of children.*

The programs shall not include activities for children that do not require substantial involvement of the children's parents. The programs shall be reviewed periodically to assure the instruction and materials are not racially, culturally, or sexually biased. The programs shall encourage parents to be aware of practices that may affect equitable development of children.

Sec. 4. Minnesota Statutes 1990, section 121.882, subdivision 6, is amended to read:

Subd. 6. [COORDINATION.] A district is encouraged to coordinate the program with its special education and vocational education programs and with related services provided by other governmental agencies and nonprofit agencies.

A district is encouraged to coordinate adult basic education programs provided to parents and early childhood family education programs provided to children to accomplish the goals of section 124C.61.

Sec. 5. Minnesota Statutes 1990, section 121.882, is amended by adding a subdivision to read:

Subd. 7a. [ALTERNATIVE COUNCIL.] *A school board may direct the community education council, required according to section 121.88, subdivision 2, to perform the functions of the advisory council for early childhood family education.*

Sec. 6. Minnesota Statutes 1990, section 123.702, is amended to read:

123.702 [SCHOOL BOARD RESPONSIBILITIES.]

Subdivision 1. Every school board shall provide for a ~~voluntary~~ *mandatory* program of early childhood ~~health and~~ developmental screening for children ~~once before entering kindergarten~~ *who are four years old and older but who have not entered kindergarten or first grade in a public school.* This screening program shall be established either by one board, by two or more boards acting in cooperation, by educational cooperative service units, by early childhood family education programs, or by other existing programs. ~~No school board may make~~ This screening examination *is* a mandatory prerequisite to ~~enroll~~ *enrolling* a student *in kindergarten or first grade in a public school. A child need not submit to developmental screening provided by a school board if the child's health records indicate to the school board that the child has received comparable developmental screening from a public or private health care organization or individual health care provider.* The school districts are encouraged to reduce the costs of preschool ~~health~~

developmental screening programs by utilizing volunteers in implementing the program.

Subd. 1a. A child must not be enrolled in this state in a public school until the parent or guardian of the child submits to the school principal or other person having general control and supervision of the school a record indicating the months and year the child received developmental screening and the results of the screening. If a child is transferred from one kindergarten to another or from one first grade to another, the parent or guardian of the child must be allowed 30 days to submit the child's record, during which time the child may attend school.

Subd. ~~1a~~ *1b*. A screening program shall include at least the following components ~~to the extent the school board determines they are financially feasible~~: developmental assessments, hearing and vision screening *or referral*, ~~review of health history and~~ immunization ~~status~~ *review and referral*, ~~and assessments of height and weight~~ *review of any special family circumstances that might affect development, identification of additional risk factors that may influence learning, an interview with the parent about the child, and referral for assessment, diagnosis, and treatment when potential needs are identified*. All screening components shall be consistent with the standards of the state commissioner of health for early ~~and periodic~~ *developmental* screening programs. ~~No child shall be required to submit to any component of this screening program to be eligible for any other component.~~ No *developmental* screening program shall provide laboratory tests, a health history or a physical examination to any child ~~who has been provided with those laboratory tests or a health history or physical examination within the previous 12 months~~. The school district shall request *from the public or private health care organization or the individual health care provider* the results of any laboratory test, health history or physical examination within the 12 months preceding a *child's* scheduled screening ~~clinic~~. *If a child is without health coverage, the school district shall refer the child to an appropriate health care provider.* A school board may offer additional components such as nutritional, physical and dental assessments, blood pressure, and laboratory tests. State aid shall not be paid for additional components.

Subd. 2. If any child's screening indicates a condition which requires diagnosis or treatment, the child's parents shall be notified of the condition and the school board shall ensure that an appropriate follow-up and referral process is available~~, in accordance with procedures established pursuant to section 123.703, subdivision 1~~.

Subd. 3. The school board shall ~~actively encourage participation~~ *inform each resident family with a child eligible to participate* in the *developmental* screening program *about the availability of the program and the state's requirement that a child receive developmental screening before enrolling in kindergarten or first grade in a public school.*

Subd. 4. ~~Every~~ *A* school board ~~shall~~ *may* contract with or purchase service from an approved early ~~and periodic~~ *developmental* screening program in the area ~~wherever possible~~. *Developmental screening must be conducted by an individual who is licensed as, or has the training equal to, a special education teacher, school psychologist, kindergarten teacher, prekindergarten teacher, school nurse, public health nurse, registered nurse, or physician. The individual may be a volunteer.*

Subd. 4a. The school district shall provide the parent or guardian of the child screened with a record indicating the month and year the child received

developmental screening and the results of the screening. The district shall keep a duplicate copy of the record of each child screened.

Subd. 5. Every school board shall integrate and utilize volunteer screening programs in implementing sections 123.702 to ~~123.704~~ *123.705 wherever possible.*

Subd. 6. A school board may ~~contract with health care providers to operate the screening programs and shall~~ consult with local societies of health care providers.

Subd. 7. In selecting personnel to implement the screening program, the school district shall give priority first to qualified volunteers ~~and second to other persons possessing the minimum qualifications required by the rules adopted by the state board of education and the commissioner of health~~.

Sec. 7. [123.7045] [DEVELOPMENTAL SCREENING AID.]

Each school year, the state shall pay a school district $25 for each child screened according to the requirements of section 123.702.

Sec. 8. Minnesota Statutes 1990, section 124.26, subdivision 1c, is amended to read:

Subd. 1c. [PROGRAM APPROVAL.] To receive aid under this section, a district must submit an application by June 1 describing the program, on a form provided by the department. The program must be approved by the commissioner according to the following criteria:

(1) how the needs of different levels of learning will be met;

(2) for continuing programs, an evaluation of results;

(3) anticipated number and education level of participants;

(4) coordination with other resources and services;

(5) participation in a consortium, if any, and money available from other participants;

(6) management and program design;

(7) volunteer training and use of volunteers;

(8) staff development services;

(9) program sites and schedules; and

(10) program expenditures that qualify for aid.

The commissioner may contract with a private, nonprofit organization to provide services that are not offered by a district or that are supplemental to a district's program. The program provided under a contract must be approved according to the same criteria used for district programs.

Adult basic education programs may be approved under this subdivision for up to two years. Two-year program approval shall be granted to an applicant who has demonstrated the capacity to:

(1) offer comprehensive learning opportunities and support service choices appropriate for and accessible to adults at all basic skill need levels;

(2) provide a participatory and experimental learning approach based on the strengths, interests, and needs of each adult, that enables adults with basic skill needs to:

(i) identify, plan for, and evaluate their own progress toward achieving their defined educational and occupational goals;

(ii) master the basic academic reading, writing, and computational skills, as well as the problem-solving, decision making, interpersonal effectiveness, and other life and learning skills they need to function effectively in a changing society;

(iii) locate and be able to use the health, governmental, and social services and resources they need to improve their own and their families' lives; and

(iv) continue their education, if they desire, to at least the level of secondary school completion, with the ability to secure and benefit from continuing education that will enable them to become more employable, productive, and responsible citizens;

(3) plan, coordinate, and develop cooperative agreements with community resources to address the needs that the adults have for support services, such as transportation, flexible course scheduling, convenient class locations, and child care;

(4) collaborate with business, industry, labor unions, and employment-training agencies, as well as with family and occupational education providers, to arrange for resources and services through which adults can attain economic self-sufficiency;

(5) provide sensitive and well trained adult education personnel who participate in local, regional, and statewide adult basic education staff development events to master effective adult learning and teaching techniques;

(6) participate in regional adult basic education peer program reviews and evaluations; and

(7) submit accurate and timely performance and fiscal reports.

Sec. 9. Minnesota Statutes 1990, section 124.26, subdivision 2, is amended to read:

Subd. 2. Each district or group of districts providing adult basic ~~and continuing~~ education programs shall establish and maintain accounts separate from all other district accounts for the receipt and disbursement of all funds related to these programs. All aid received pursuant to this section shall be utilized solely for the purposes of adult basic ~~and continuing~~ education programs. In no case shall federal and state aid equal more than 90 percent of the actual cost of providing these programs.

Sec. 10. [124.2601] [ADULT BASIC EDUCATION REVENUE.]

Subdivision 1. [FULL-TIME EQUIVALENT.] *In this section "full-time equivalent" means 408 contact hours for a student at the adult secondary instructional level and 240 contact hours for a student at a lower instructional level. "Full-time equivalent" for an English as a second language student means 240 contact hours.*

Subd. 2. [PROGRAMS FUNDED.] *Adult basic education programs established under section 124.26 and approved by the commissioner are eligible for revenue under this section.*

Subd. 3. [AID.] *Adult basic education aid for each district with an eligible program equals 65 percent of the general education formula allowance times the number of full-time equivalent students in its adult basic education*

program.

Subd. 4. [LEVY.] *A district with an eligible program may levy an amount not to exceed the amount raised by .21 percent times the adjusted tax capacity of the district for the preceding year.*

Subd. 5. [REVENUE.] *Adult basic education revenue is equal to the sum of a district's adult basic education aid and its adult basic education levy.*

Subd. 6. [AID GUARANTEE.] *Any adult basic education program that receives less state aid under subdivision 3 than from the aid formula for fiscal year 1992 shall receive the amount of aid it received in fiscal year 1992.*

Subd. 7. [PRORATION.] *If the total appropriation for adult basic education aid is insufficient to pay all districts the full amount of aid earned, the department of education shall proportionately reduce each district's aid.*

Sec. 11. [124.2605] [GED TEST FEES.]

The commissioner of education shall pay 60 percent of the costs of a GED test taken by an eligible individual.

Sec. 12. Minnesota Statutes 1990, section 124.261, is amended to read:

124.261 [ADULT HIGH SCHOOL GRADUATION AID.]

Subdivision 1. [AID ELIGIBILITY.] Adult high school graduation aid for eligible pupils age 21 or over, equals 65 percent of the general education formula allowance times ~~1.35~~ *1.30* times the average daily membership under section 124.17, subdivision 2e. Adult high school graduation aid must be paid in addition to any other aid to the district. Pupils age 21 or over may not be counted by the district for any purpose other than adult high school graduation aid.

Subd. 2. [AID FOLLOWS PUPIL.] *Adult high school graduation aid accrues to the account and the fund of the eligible programs, under section 126.22, subdivision 3, that serve adult diploma students.*

Sec. 13. Minnesota Statutes 1990, section 124.2711, is amended to read:

124.2711 [EARLY CHILDHOOD FAMILY EDUCATION ~~AID~~ *REVENUE.*]

Subdivision 1. [~~MAXIMUM~~ REVENUE.] ~~(a) The maximum revenue for early childhood family education programs for the 1989 and 1990 fiscal years for a school district is the amount of revenue derived by multiplying $84.50 times the greater of 150 or the number of people under five years of age residing in the school district on September 1 of the preceding school year.~~

~~(b) For 1991 and later fiscal years,~~ The ~~maximum~~ revenue for early childhood family education programs for a school district is the amount of revenue earned by multiplying ~~$87.75~~ *$96.50 for fiscal year 1992 or $101.25 for fiscal year 1993* times the greater of:

(1) 150; or

(2) the number of people under five years of age residing in the school district on September 1 of the last school year.

Subd. 2. [POPULATION.] For the purposes of subdivision 1, data reported to the department of education according to the provisions of section 120.095 may be used to determine the number of people under five years

of age residing in the district. The commissioner, with the assistance of the state demographer, shall review the number reported by any district operating an early childhood family education program. If requested, the district shall submit to the commissioner an explanation of its methods and other information necessary to document accuracy. If the commissioner determines that the district has not provided sufficient documentation of accuracy, the commissioner may request the state demographer to prepare an estimate of the number of people under five years of age residing in the district and may use this estimate for the purposes of subdivision 1.

Subd. 2a. [EARLY CHILDHOOD FAMILY EDUCATION LEVY.] *To obtain early childhood family education revenue, a district may levy an amount equal to the tax rate of .596 percent times the adjusted tax capacity of the district for the year preceding the year the levy is certified. If the amount of the early childhood family education levy would exceed the early childhood family education revenue, the early childhood family education levy shall equal the early childhood family education revenue.*

Subd. 3. [*EARLY CHILDHOOD FAMILY EDUCATION* AID.] If a district complies with the provisions of section 121.882, it shall receive early childhood family education aid equal to~~:~~

~~(a)~~ the difference between the ~~maximum~~ *early childhood family education* revenue~~, according to subdivision 1,~~ and the ~~permitted~~ *early childhood family education* levy ~~attributable to the same school year, according to section 275.125, subdivision 8b, times~~

~~(b) the ratio of the district's actual levy to its permitted levy attributable to the same school year, according to section 275.125, subdivision 8b.~~

~~In fiscal year 1990 only, a district receiving early childhood family education aid under this subdivision or levy under section 275.125, subdivision 8b, shall receive an additional amount of aid equal to $.95 times the greater of 150 or the number of people under five years of age residing in the district on September 1 of the last school year~~. *If the district does not levy the entire amount permitted, the early childhood family education aid shall be reduced in proportion to the actual amount levied.*

Subd. 4. [USE OF REVENUE RESTRICTED.] ~~The proceeds of the aid authorized by this section and the levy authorized by section 275.125, subdivision 8b, shall~~ *Early childhood family education revenue may* be used only for early childhood family education programs. *Not more than five percent of early childhood family education revenue may be used to administer early childhood family education programs. The increase in revenue for fiscal years 1992 and 1993 shall be used to:*

(1) increase participation of families so that the total participation in early childhood family education programs in the district more nearly reflects the demographic, racial, cultural, and ethnic diversity of the district; and

(2) provide programs for families who, because of poverty and other barriers to learning, may need programs designed to meet their needs.

Sec. 14. Minnesota Statutes 1990, section 124.2713, subdivision 1, is amended to read:

Subdivision 1. [TOTAL COMMUNITY EDUCATION REVENUE.]

Community education revenue equals the sum of a district's general community education revenue~~, youth development plan revenue,~~ and youth service program revenue.

Sec. 15. Minnesota Statutes 1990, section 124.2713, subdivision 3, is amended to read:

Subd. 3. [GENERAL COMMUNITY EDUCATION REVENUE.] ~~For fiscal year 1991 and thereafter,~~ The general community education revenue for a district equals $5.95 times the greater of 1,335 or the population of the district. The population of the district is determined according to section 275.14.

Sec. 16. Minnesota Statutes 1990, section 124.2713, subdivision 5, is amended to read:

Subd. 5. [YOUTH SERVICE REVENUE.] Youth service program revenue is available to a district that has implemented a youth development plan and a youth service program. Youth service revenue equals ~~25~~ *75* cents *for fiscal year 1992 and 85 cents for fiscal year 1993 and thereafter,* times the greater of 1,335 or the population of the district.

Sec. 17. Minnesota Statutes 1990, section 124.2713, subdivision 6, is amended to read:

Subd. 6. [COMMUNITY EDUCATION LEVY.] To obtain community education revenue, a district may levy the amount raised by a tax rate of 1.07 percent *for fiscal year 1992 and 1.095 percent for fiscal year 1993 and thereafter,* times the adjusted net tax capacity of the district ~~for taxes payable in 1991 and thereafter~~. If the amount of the community education levy would exceed the community education revenue, the community education levy shall equal the community education revenue.

Sec. 18. Minnesota Statutes 1990, section 124.2713, subdivision 9, is amended to read:

Subd. 9. [USE OF YOUTH *SERVICE* REVENUE.] Youth ~~development~~ *service* revenue may be used ~~only~~ to implement ~~the~~ *a* youth development plan approved by the school board~~. Youth service revenue may be used only~~ *and* to provide a youth service program according to section 121.88, subdivision 9.

Sec. 19. Minnesota Statutes 1990, section 124C.03, subdivision 2, is amended to read:

Subd. 2. [MEMBERS; MEETINGS; OFFICERS.] The interagency adult learning advisory council shall have ~~16~~ *20* to ~~18~~ *22* members. Members must have experience in educating adults or in programs addressing welfare recipients and incarcerated, unemployed, and underemployed people.

The members of the interagency adult learning advisory council are appointed as follows:

(1) one member appointed by the commissioner of the state planning agency;

(2) one member appointed by the commissioner of jobs and training;

(3) one member appointed by the commissioner of human services;

(4) one member appointed by the director of the refugee and immigrant assistance division of the department of human services;

(5) one member appointed by the commissioner of corrections;

(6) one member appointed by the commissioner of education;

(7) one member appointed by the chancellor of the state board of technical colleges;

(8) one member appointed by the chancellor of community colleges;

(9) one member appointed by the Minnesota adult literacy campaign or by another nonprofit literacy organization, as designated by the commissioner of the state planning agency;

(10) one member appointed by the council on Black Minnesotans;

(11) one member appointed by the Spanish-speaking affairs council;

(12) one member appointed by the council on Asian-Pacific Minnesotans;

(13) one member appointed by the Indian affairs council; and

(14) one member appointed by the disability council.

~~Up to four additional members of the council may be nominated by the participating agencies.~~ Based on the council's recommendations, the commissioner of the state planning agency must appoint at least ~~two~~ *six*, but not more than ~~four~~ *eight*, additional members. Nominees shall include, but are not limited to, representatives of local education, government, nonprofit agencies, employers, labor organizations, and libraries.

The council shall elect its officers.

Sec. 20. Minnesota Statutes 1990, section 126.22, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE PUPILS.] The following pupils are eligible to participate in the high school graduation incentives program:

(a) any pupil who is between the ages of 12 and 16, except as indicated in clause (6), and who:

(1) is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test; or

(2) is at least one year behind in satisfactorily completing coursework or obtaining credits for graduation; or

(3) is pregnant or is a parent; or

(4) has been assessed as chemically dependent; or

(5) has been excluded or expelled according to sections 127.26 to 127.39; or

(6) is between the ages of 12 and 21 and has been referred by a school district for enrollment in an eligible program or a program pursuant to section 126.23; or

(b) any pupil who is between the ages of 16 and 19 who is attending school, and who is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test, or is at least one year behind in obtaining credits for graduation, or is pregnant or is a parent, or has been assessed as chemically dependent; or

(c) any person between 16 and 21 years of age who has not attended a high school program for at least 15 consecutive school days, excluding those

days when school is not in session, and who is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test, or is at least one year behind in obtaining credits for graduation, or is pregnant or is a parent, or has been assessed as chemically dependent; or

(d) any person who is at least 21 years of age and who:

(1) has received fewer than 14 years of public or nonpublic education, beginning at age 5;

(2) has ~~already completed the studies ordinarily required in the 10th grade but has~~ not completed the requirements for a high school diploma ~~or the equivalent~~; and

(3) at the time of application, (i) is eligible for unemployment compensation benefits or has exhausted the benefits, (ii) is eligible for or is receiving income maintenance and support services, as defined in section 268.0111, subdivision 5, or (iii) is eligible for services under the displaced homemaker program, state wage-subsidy program, or any programs under the federal Jobs Training Partnership Act or its successor.

(e) an elementary school pupil who is determined by the district of attendance to be at risk of not succeeding in school is eligible to participate in the program.

Notwithstanding section 127.27, subdivision 7, the provisions of section 127.29, subdivision 1, do not apply to a pupil under age 21 who participates in the high school graduation incentives program.

Sec. 21. Minnesota Statutes 1990, section 126.22, subdivision 3, is amended to read:

Subd. 3. [ELIGIBLE PROGRAMS.] (a) A pupil who is eligible according to subdivision 2, clause (a), (b), (c), (d), or (e), may enroll in any program approved by the state board of education under Minnesota Rules, part 3500.3500, or area learning centers under sections 124C.45 to 124C.48, or according to section 121.11, subdivision 12.

(b) A pupil who is eligible according to subdivision 2, clause (b), (c), or (d), may enroll in post-secondary courses under section 123.3514.

(c) A pupil who is eligible under subdivision 2, clause (a), (b), (c), (d), or (e), may enroll in any public elementary or secondary education program. However, a person who is eligible according to subdivision 2, clause (d), may enroll only if the school board has adopted a resolution approving the enrollment.

(d) A pupil who is eligible under subdivision 2, clause (a), (b), (c), or (e), may enroll part time or full time in any nonprofit, nonpublic, nonsectarian school that has contracted with the school district of residence to provide educational services.

(e) ~~An~~ *A pupil who is* eligible ~~institution providing eligible programs as defined in this~~ *under* subdivision *2, clause (c) or (d),* may ~~contract with an entity providing~~ *enroll in any* adult basic education programs *approved under section 124.26 and operated* under the community education program contained in section 121.88 ~~for actual program costs~~.

Sec. 22. Minnesota Statutes 1990, section 126.22, is amended by adding a subdivision to read:

Subd. 3a. [ADDITIONAL ELIGIBLE PROGRAM.] *A pupil who is at least 16 years of age, who is eligible under subdivision 2, clause (a), (b), or (c), and who has been enrolled only in a public school, if the pupil has been enrolled in any school, during the year immediately before transferring under this subdivision, may transfer to any nonprofit, nonpublic school that has contracted with the school district of residence to provide nonsectarian educational services. Such a school must enroll every eligible pupil who seeks to transfer to the school under this program subject to available space.*

Sec. 23. Minnesota Statutes 1990, section 126.22, subdivision 4, is amended to read:

Subd. 4. [PUPIL ENROLLMENT.] Any eligible pupil ~~under subdivision 2~~ may apply to enroll in an eligible program ~~under subdivision 3, using the form specified in section 120.0752, subdivision 2. Notwithstanding section 120.0752,~~ Approval of the resident district is not required for:

(1) an eligible pupil ~~under subdivision 2~~ to enroll in ~~a nonresident district that has an~~ *any* eligible program *in a nonresident district* under subdivision 3 or an area learning center established under section 124C.45*; or*

(2) an eligible pupil under subdivision 2, clause (c) or (d), to enroll in an adult basic education program approved under section 124.26.

Sec. 24. Minnesota Statutes 1990, section 126.22, subdivision 8, is amended to read:

Subd. 8. [ENROLLMENT VERIFICATION.] For a pupil attending an eligible program ~~full time~~ under subdivision 3, paragraph (d), the department of education shall pay ~~85~~ *88* percent of the basic revenue of the district to the eligible program and ~~15~~ *12* percent of the basic revenue to the resident district within 30 days after the eligible program verifies enrollment using the form provided by the department. ~~For a pupil attending an eligible program part time, basic revenue shall be reduced proportionately, according to the amount of time the pupil attends the program, and the payments to the eligible program and the resident district shall be reduced accordingly.~~ A pupil for whom payment is made according to this section may not be counted by any district for any purpose other than computation of basic revenue, according to section 124A.22, subdivision 2. If payment is made for a pupil under this subdivision, a school district shall not reimburse a program under section 126.23 for the same pupil.

Sec. 25. Minnesota Statutes 1990, section 126.22, is amended by adding a subdivision to read:

Subd. 9. [SEVERABILITY.] *If for any reason any portion of this section is found by a court to be unconstitutional, the remaining portions of the section shall remain in effect.*

Sec. 26. Minnesota Statutes 1990, section 145.926, is amended to read:

145.926 [WAY TO GROW/SCHOOL READINESS PROGRAM.]

Subdivision 1. [ADMINISTRATION.] The commissioner of state planning shall administer the way to grow/school readiness program, in ~~consultation~~ *collaboration* with the commissioners of *health,* human services and education, to promote intellectual, social, emotional, and physical development and school readiness of children prebirth to age ~~five~~ *six* by coordinating and improving access to community-based and neighborhood-based services that support and assist all parents in meeting the health and

developmental needs of their children at the earliest possible age.

Subd. 2. [PROGRAM COMPONENTS.] *(a) A way to grow/school readiness program must:*

(1) collaborate and coordinate delivery of services with other community organizations and agencies serving children prebirth to age six and their families;

(2) target services to families with children prebirth to age six with services increasing based on need;

(3) build on existing services and coordinate a continuum of prebirth to age six essential services, including but not limited to prenatal health services, parent education and support, and preschool programs;

(4) provide strategic outreach efforts to families using trained paraprofessionals such as home visitors; and

(5) support of neighborhood oriented and culturally specific social support, information, outreach, and other programs to promote healthy development of children and to help parents obtain the information, resources, and parenting skills needed to nurture and care for their children.

(b) A way to grow/school readiness program may include:

(1) a program of home visitors to contact pregnant women early in their pregnancies, encourage them to obtain prenatal care, and provide social support, information, and referrals regarding prenatal care and well-baby care to reduce infant mortality, low birth weight, and childhood injury, disease, and disability;

(2) a program of home visitors to provide social support, information, and referrals regarding parenting skills and to encourage families to participate in parenting skills programs and other family supportive services;

(3) support of neighborhood-based or community-based parent-child and family resource centers or interdisciplinary resource teams to offer supportive services to families with preschool children;

(4) staff training, technical assistance, and incentives for collaboration designed to raise the quality of community services relating to prenatal care, child development, health, and school readiness;

(5) programs to raise general public awareness about practices that promote healthy child development and school readiness;

(6) ~~support of neighborhood oriented and culturally specific social support, information, outreach, and other programs to promote healthy development of children and to help parents obtain the information, resources, and parenting skills needed to nurture and care for their children;~~

~~(7)~~ programs to expand public and private collaboration to promote the development of a coordinated and culturally specific system of services available to all families;

~~(8)~~ *(7)* support of periodic screening and evaluation services for preschool children to assure adequate developmental progress;

~~(9)~~ *(8)* support of health, educational, and other developmental services needed by families with preschool children;

~~(10)~~ *(9)* support of family prevention and intervention programs needed

to address risks of child abuse or neglect;

~~(11)~~ *(10)* development or support of a jurisdiction-wide coordinating agency to develop and oversee programs to enhance child health, development, and school readiness with special emphasis on neighborhoods with a high proportion of children in need; and

~~(12)~~ *(11)* other programs or services to improve the health, development, and school readiness of children in target neighborhoods and communities.

Subd. 3. [ELIGIBLE GRANTEES.] An application for a grant may be submitted by any of the following entities:

(1) a city, town, county, school district, or other local unit of government;

(2) two or more governmental units organized under a joint powers agreement;

(3) a community action agency that satisfies the requirements of section 268.53, subdivision 1; or

(4) a nonprofit organization, or consortium of nonprofit organizations, that demonstrates collaborative effort with at least one unit of local government.

Subd. 4. [~~PILOT PROJECTS~~ *DISTRIBUTION*.] The commissioner of state planning shall ~~award grants for one pilot project in each of the following areas of the state:~~

~~(1) a first class city located within the metropolitan area as defined in section 473.121, subdivision 2;~~

~~(2) a second class city located within the metropolitan area as defined in section 473.121, subdivision 2;~~

~~(3) a city with a population of 50,000 or more that is located outside of the metropolitan area as defined in section 473.121, subdivision 2; and~~

~~(4) the area of the state located outside of the metropolitan area as defined in section 473.121, subdivision 2~~ *give priority to funding existing programs at their current levels*.

To the extent possible, the commissioner of state planning shall award grants to applicants with experience or demonstrated ability in providing comprehensive, multidisciplinary, community-based programs with objectives similar to those listed in subdivision 2, or in providing other human services or social services programs using a multidisciplinary, community-based approach.

Subd. 5. [APPLICATIONS.] Each grant application must propose a five-year program designed to accomplish the purposes of this section. The application must be submitted on forms provided by the commissioner of state planning. The grant application must include:

(1) a description of the specific neighborhoods that will be served under the program and the name, address, and a description of each community agency or agencies with which the applicant intends to contract to provide services using grant money;

(2) a letter of intent from each community agency identified in clause (1) that indicates the agency's willingness to participate in the program and approval of the proposed program structure and components;

(3) a detailed description of the structure and components of the proposed program and an explanation of how each component will contribute to accomplishing the purposes of this section;

(4) a description of how public and private resources, including schools, health care facilities, government agencies, neighborhood organizations, and other resources, will be coordinated and made accessible to families in target neighborhoods, including letters of intent from public and private agencies indicating their willingness to cooperate with the program;

(5) a detailed, proposed budget that demonstrates the ability of the program to accomplish the purposes of this section using grant money and other available resources, including funding sources other than a grant; and

(6) a comprehensive evaluation plan for measuring the success of the program in meeting the objectives of the overall grant program and the individual grant project, including an assessment of the impact of the program in terms of at least three of the following criteria:

(i) utilization rates of community services;

(ii) availability of support systems for families;

(iii) birth weights of newborn babies;

(iv) child accident rates;

(v) utilization rates of prenatal care;

(vi) reported rates of child abuse; ~~and~~

(vii) rates of health screening and evaluation*; and*

(viii) school readiness of way to grow participants compared to nonparticipants.

Subd. 6. [MATCH.] Each dollar of state money must be matched with 50 cents of nonstate money. ~~The pilot project selected under subdivision 4, clause (4),~~ *Programs* may match state money with in-kind contributions, including volunteer assistance.

Subd. 7. [ADVISORY COMMITTEES.] The commissioner of state planning shall establish a program advisory committee consisting of persons knowledgeable in child development, child *health* and family services, ~~and the needs of people of color and high risk populations~~ *who reflect the geographic, cultural, racial, and ethnic diversity of the state*; and representatives of the commissioners of state planning ~~and~~, education, *human services, and health. This program advisory committee shall review grant applications, assist in distribution of the grants, and monitor progress of the way to grow/school readiness program.* Each grantee must establish a program advisory board of 12 or more members to advise the grantee on program design, operation, and evaluation. The board must include representatives of local units of government and representatives of the project area who reflect the geographic, cultural, racial, and ethnic diversity of that community.

Subd. 8. [REPORT.] ~~The commissioner of state planning shall provide a biennial report to the legislature on the program administration and the activities of projects funded under this section.~~ *The advisory committee shall report to the education committee of the legislature by January 15, 1993, on the evaluation required in subdivision 5, clause (6), and shall make recommendations for establishing successful way to grow programs in*

unserved areas of the state.

Sec. 27. [REPORT REQUIRED.]

School districts contracting with a nonprofit, nonpublic school must prepare for the department of education a report describing the nonsectarian educational services provided to eligible pupils under Minnesota Statutes, section 126.22, subdivision 3a. The department shall report to the education committees of the legislature at the end of each school year on districts' experiences in contracting.

Sec. 28. [COMMISSIONER OF EDUCATION TO ESTABLISH ELIGIBILITY STANDARDS.]

The commissioner of education shall establish standards to determine the eligibility of an individual to take a GED test at a reduced cost. The standards shall be established without rulemaking under Minnesota Statutes, chapter 14. The standards shall include the following:

(1) the individual shall have resided in Minnesota at least 90 days;

(2) the individual is not currently enrolled in a program leading to a high school diploma; and

(3) the individual shall not take more than three tests at a reduced cost.

Sec. 29. [EXPIRATION.]

Minnesota Statutes, section 126.22, subdivision 3a, expires July 1, 1993.

Sec. 30. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

Subd. 2. [ADULT BASIC EDUCATION AID.] *For adult basic education aid according to Minnesota Statutes, section 124.26 in fiscal year 1992 and 124.2601 in fiscal year 1993:*

$5,902,000	. . . . .	*1992*
$6,069,000	. . . . .	*1993*

The 1992 appropriation includes $761,000 for 1991 and $5,141,000 for 1992.

The 1993 appropriation includes $907,000 for 1992 and $5,162,000 for 1993.

Up to $275,000 each year may be used for contracts with private, nonprofit organizations for approved programs.

Subd. 3. [ADULTS WITH DISABILITIES PROGRAM AID.] *For adults with disabilities programs according to Minnesota Statutes, section 124.2715:*

$670,000	. . . . .	*1992*
$670,000	. . . . .	*1993*

Any balance in the first year does not cancel and is available for the second year.

Subd. 4. [COMMUNITY EDUCATION AID.] *For community education aid according to Minnesota Statutes, section 124.2713:*

$3,636,000 1992
$3,464,000 1993

The 1992 appropriation includes $498,000 for 1991 and $3,138,000 for 1992.

The 1993 appropriation includes $552,000 for 1992 and $2,912,000 for 1993.

Subd. 5. [EARLY CHILDHOOD FAMILY EDUCATION AID.] *For early childhood family education aid according to Minnesota Statutes, section 124.2711:*

$12,856,000 1992
$12,624,000 1993

The 1992 appropriation includes $1,549,000 for 1991 and $11,307,000 for 1992.

The 1993 appropriation includes $1,996,000 for 1992 and $10,628,000 for 1993.

Subd. 6. [HEALTH AND DEVELOPMENTAL SCREENING AID.] *For health and developmental screening aid according to Minnesota Statutes, sections 123.702 and 123.7045:*

$1,489,000 1992
$1,607,000 1993

The 1992 appropriation includes $86,000 for 1991 and $1,403,000 for 1992.

The 1993 appropriation includes $247,000 for 1992 and $1,360,000 for 1993.

Any balance in the first year does not cancel but is available in the second year.

Subd. 7. [HEARING IMPAIRED ADULTS.] *For programs for hearing impaired adults according to Minnesota Statutes, section 121.201:*

$70,000 1992
$70,000 1993

Subd. 8. [ADULT GRADUATION AID.] *For adult graduation aid:*

$1,331,000 1992
$1,364,000 1993

The 1992 appropriation includes $171,000 for 1991 and $1,160,000 for 1992.

The 1993 appropriation includes $204,000 for 1992 and $1,160,000 for 1993.

Subd. 9. [GED TESTS.] *For payment of 60 percent of the costs of GED tests:*

$180,000 1993

Subd. 10. [EVALUATION OF BASIC SKILLS PROGRAMS.] *For continuing an independent statewide evaluation of basic skills programs:*

$75,000 1992

This appropriation is available until June 30, 1993. The commissioner

shall contract with an organization that is not connected with the delivery system.

Subd. 11. [GED AND LEARN TO READ ON TV.] *For statewide purchase of broadcast costs, publicity, and coordination of the GED on TV series and the learn to read on TV series:*

$100,000 1992
$100,000 1993

The department may contract for these services.

Up to $10,000 of this appropriation for each fiscal year is available to contract for these services.

Sec. 31. [APPROPRIATION.]

Subdivision 1. [STATE PLANNING AGENCY.] *The sums indicated in this section are appropriated from the general fund to the state planning agency for the fiscal years designated.*

Subd. 2. [WAY TO GROW.] *For grants for way to grow programs according to Minnesota Statutes, section 145.926:*

$950,000 1992

This appropriation is available until June 30, 1993.

Sec. 32. Laws 1989, chapter 329, article 4, section 20, is amended to read:

Sec. 20. [REPEALER.]

Minnesota Statutes 1988, sections 123.703; 123.705; 124.271, subdivisions 2b, 3, 4, and 7; 129B.48; and 275.125, subdivision 8, are repealed July 1, 1989. Section 12, subdivision 3a, is repealed July 1, 1990. ~~Minnesota Statutes, sections 123.702 and 123.704, and~~ Section 5, subdivision 3a, ~~are~~ *is* repealed July 1, ~~1993~~ *1992*. Section 15 is repealed June 30, 1995.

Sec. 33. [REPEALER.]

Minnesota Statutes 1990, sections 123.706 and 123.707, are repealed.

Minnesota Statutes 1990, sections 124.2713, subdivision 4; and 275.125, subdivision 8b, are repealed. Minnesota Statutes 1990, section 124.26, subdivision 8, is repealed effective July 1, 1991. Minnesota Statutes 1990, section 124.26, subdivision 7, is repealed effective July 1, 1992.

Sec. 34. [EFFECTIVE DATE.]

Section 10, subdivision 4, is effective July 1, 1991. Section 10, subdivisions 1, 2, 3, 5, 6, and 7, are effective July 1, 1992. Reimbursements according to section 11 are available July 1, 1992.

ARTICLE 5

FACILITIES AND EQUIPMENT

Section 1. Minnesota Statutes 1990, section 121.148, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER APPROVAL.] In determining whether to give a school facility a positive, negative, or unfavorable review and comment, the commissioner must evaluate the proposals for facilities using the information provided under section 121.15, subdivision 7.

The commissioner may submit a negative review and comment for a project if the district has not submitted its capital facilities plan required under section 124.243, subdivision 1, to the commissioner.

Sec. 2. Minnesota Statutes 1990, section 121.15, subdivision 7, is amended to read:

Subd. 7. [INFORMATION REQUIRED.] A school board proposing to construct a facility described in subdivision 6 shall submit to the commissioner a proposal containing information including at least the following:

(a) the geographic area proposed to be served, whether within or outside the boundaries of the school district;

(b) the people proposed to be served, including census findings and projections for the next ten years of the number of preschool and school-aged people in the area;

(c) the reasonably anticipated need for the facility or service to be provided;

(d) a description of the construction in reasonable detail, including: the expenditures contemplated; the estimated annual operating cost, including the anticipated salary and number of new staff necessitated by the proposal; and an evaluation of the energy efficiency and effectiveness of the construction, including estimated annual energy costs; *and a description of the telephone capabilities of the facility and its classrooms;*

(e) a description of existing facilities within the area to be served and within school districts adjacent to the area to be served; the extent to which existing facilities or services are used; the extent to which alternate space is available, including other school districts, post-secondary institutions, other public or private buildings, or other noneducation community resources; and the anticipated effect that the facility will have on existing facilities and services;

(f) the anticipated benefit of the facility to the area;

(g) if known, the relationship of the proposed construction to any priorities that have been established for the area to be served;

(h) the availability and manner of financing the facility and the estimated date to begin and complete the facility;

(i) desegregation requirements that cannot be met by any other reasonable means;

(j) the relationship of the proposed facility to the cooperative integrated learning needs of the area; and

(k) the effects of the proposed facility on the district's operating budget.

Sec. 3. Minnesota Statutes 1990, section 121.15, subdivision 9, is amended to read:

Subd. 9. [PUBLICATION.] At least 20 days but not more than 60 days before a referendum for bonds or solicitation of bids ~~to construct a facility described in subdivision 6,~~ *for a project that has received a positive or unfavorable review and comment under section 121.148,* the school board shall publish the commissioner's review and comment *of that project* in the legal newspaper of the district. Supplementary information shall be available to the public.

Sec. 4. Minnesota Statutes 1990, section 121.155, is amended to read:

121.155 [JOINT POWERS AGREEMENTS FOR ~~EDUCATIONAL~~ FACILITIES.]

Subdivision 1. [INSTRUCTIONAL FACILITIES.] Any group of districts may form a joint powers district under section 471.59 representing all participating districts to build or acquire a facility to be used for instructional purposes. The joint powers board must submit the project for review and comment under section 121.15. The joint powers board must hold a hearing on the proposal. The joint powers district must submit the question of authorizing the borrowing of funds for the project to the voters of the joint powers district at a special election. The question submitted shall state the total amount of funding needed from all sources. The joint powers board may issue the bonds according to chapter 475 and certify the levy required by section 475.61 only if a majority of those voting on the question vote in the affirmative and only after the school boards of each member district have adopted a resolution pledging the full faith and credit of that district. The resolution shall irrevocably commit that district to pay a proportionate share, based on pupil units, of any debt levy shortages that, together with other funds available, would allow the joint powers board to pay the principal and interest on the obligations. The district's payment of its proportionate share of the shortfall shall be made from the district's capital expenditure fund. The clerk of the joint powers board must certify the vote of the bond election to the commissioner of education.

Subd. 2. [SHARED FACILITIES.] *A group of governmental units may form a joint powers district under section 471.59 representing all participating units to build or acquire a facility. The joint powers board must submit the project for review and comment under section 121.15. The joint powers board must hold a hearing on the proposal. The joint powers district must submit the question of authorizing the borrowing of funds for the project to the voters of the joint powers district at a special election. The question submitted shall state the total amount of funding needed from all sources. The joint powers board may issue the bonds according to chapter 475 and certify the levy required by section 475.61 only if a majority of those voting on the question vote in the affirmative and only after the boards of each member unit have adopted a resolution pledging the full faith and credit of that unit. The resolution must irrevocably commit that unit to pay an agreed upon share of any debt levy shortages that, together with other funds available, would allow the joint powers board to pay the principal and interest on the obligations. The clerk of the joint powers board must certify the vote of the bond election to the commissioner of education.*

Sec. 5. Minnesota Statutes 1990, section 124.195, subdivision 9, is amended to read:

Subd. 9. [PAYMENT PERCENTAGE FOR CERTAIN AIDS.] One hundred percent of the aid for the current fiscal year must be paid for the following aids: management information center subsidies, according to section 121.935; reimbursement for transportation to post-secondary institutions, according to section 123.3514, subdivision 8; aid for the program for adults with disabilities, according to section 124.271, subdivision 7; school lunch aid, according to section 124.646; tribal contract school aid, according to section 124.85; hearing impaired support services aid, according to section 121.201; Indian post-secondary preparation grants according to section 124.481; ~~and~~ integration grants according to Laws 1989, chapter

329, article 8, section 14, subdivision 3; *and debt service aid according to section 124.95, subdivision 5.*

Sec. 6. Minnesota Statutes 1990, section 124.83, subdivision 4, is amended to read:

Subd. 4. [HEALTH AND SAFETY LEVY.] To receive health and safety revenue, a district may levy an amount equal to the district's health and safety revenue as defined in subdivision 3 multiplied by the lesser of one, or the ratio of:

~~(1)~~ the quotient derived by dividing ~~(a) the adjusted gross tax capacity for fiscal year 1991, and (b)~~ the adjusted net tax capacity ~~for 1992 and later fiscal years,~~ of the district for the year preceding the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to

~~(2) $7,103.60 for fiscal year 1991 and $5,304 for 1992 and later fiscal years~~ *$3,515.*

Sec. 7. [124.84] [HANDICAPPED ACCESS AND FIRE SAFETY IMPROVEMENTS TO SCHOOL BUILDINGS.]

Subdivision 1. [REMOVAL OF ARCHITECTURAL BARRIERS.] *If a school board has insufficient money in its capital expenditure fund to remove architectural barriers from a building it owns in order to allow a pupil to attend a school in the pupil's attendance area or to meet the needs of an employee with a disability, a district may submit an application to the commissioner of education containing at least the following:*

(1) program modifications that the board considered, such as relocating classrooms, providing an accessible unisex bathroom, providing alternative library resources, or using special equipment, such as bookcarts, and the reasons the modifications were not feasible;

(2) a description of the proposed building modifications and the cost of the modifications; and

(3) the age and market value of the building.

Individuals developing an application for a school district shall complete a workshop, developed jointly by the commissioner of education and the council on disability, about access criteria.

In consultation with the council on disability, the commissioner shall develop criteria to determine the cost effectiveness of removing barriers in older buildings.

The commissioner shall approve or disapprove an application within 60 days of receiving it.

Subd. 2. [FIRE SAFETY MODIFICATIONS.] *If a school district has insufficient money in its capital expenditure fund to make modifications to a school building required by a fire inspection conducted according to section 121.1502, the district may submit an application to the commissioner of education containing information required by the commissioner. The commissioner shall approve or disapprove of the application according to criteria established by the commissioner. The criteria shall take into consideration the cost effectiveness of making modifications to older buildings.*

Subd. 3. [LEVY AUTHORITY.] *The district may levy up to $150,000 each year for two years, as approved by the commissioner.*

Sec. 8. [124.95] [DEBT SERVICE EQUALIZATION PROGRAM.]

Subdivision 1. [DEFINITIONS.] *For purposes of this section, the required debt service levy of a district is defined as follows:*

(1) the amount needed to produce between five and six percent in excess of the amount needed to meet when due the principal and interest payments on the obligations of the district, including the amounts necessary for repayment of energy loans according to section 216C.37, debt service loans and capital loans, minus

(2) the amount of any surplus remaining in the debt service fund when the obligations and interest on them have been paid.

Subd. 2. [ELIGIBILITY.] *To be eligible for debt service equalization revenue, the following conditions must be met:*

(1) the required debt service levy of a district must exceed the amount raised by a level of eight percent times the adjusted net tax capacity of the district;

(2) for bond issues approved after July 1, 1990, the construction project must have received a positive review and comment according to section 121.15;

(3) the commissioner has determined that the district has met the criteria under section 124.431, subdivision 2, for new projects; and

(4) the bond schedule must be approved by the commissioner and, if necessary, adjusted to reflect a 20-year maturity schedule.

Subd. 3. [DEBT SERVICE EQUALIZATION REVENUE.] *(a) For fiscal years 1995 and later, the debt service equalization revenue of a district equals the required debt service levy minus the amount raised by a levy of 12 percent times the adjusted net tax capacity of the district.*

(b) For fiscal year 1993, debt service equalization revenue equals one-third of the amount calculated in paragraph (a).

(c) For fiscal year 1994, debt service equalization revenue equals two-thirds of the amount calculated in paragraph (a).

Subd. 4. [EQUALIZED DEBT SERVICE LEVY.] *To obtain debt service equalization revenue, a district must levy an amount not to exceed the district's debt service equalization revenue times the lesser of one or the ratio of:*

(1) the quotient derived by dividing the adjusted net tax capacity of the district for the year before the year the levy is certified by the actual pupil units in the district for the year to which the levy is attributable; or

(2) the equalizing factor as defined in section 124A.02, subdivision 8, for the year to which the levy is attributable.

Subd. 5. [DEBT SERVICE EQUALIZATION AID.] *A district's debt service equalization aid is the difference between the debt service equalization revenue and the equalized debt service levy. A district's debt service equalization aid must not be prorated.*

Subd. 6. [DEBT SERVICE EQUALIZATION AID PAYMENT SCHEDULE.] *Debt service equalization aid must be paid as follows: one-third before September 15, one-third before December 15, and one-third before March 15 of each year.*

Sec. 9. [124.96] [ANNUAL DEBT SERVICE EQUALIZATION AID APPROPRIATION.]

There is annually appropriated from the general fund to the department of education the amount necessary for debt service equalization aid. This amount must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund.

Sec. 10. [124.97] [DEBT SERVICE LEVY.]

A school district may levy the amounts necessary to make payments for bonds issued and for interest on them, including the bonds and interest on them, issued as authorized by Minnesota Statutes 1974, section 275.125, subdivision 3, clause (7)(C); and the amounts necessary for repayment of debt service loans and capital loans, minus the amount of debt service equalization revenue of the district.

Sec. 11. Minnesota Statutes 1990, section 272.02, subdivision 8, is amended to read:

Subd. 8. [PROPERTY LEASED TO SCHOOL DISTRICTS.] Property that is leased or rented to a school district is exempt from taxation if it meets the following requirements:

(1) the lease must be for a period of at least 12 consecutive months;

(2) the terms of the lease must require the school district to pay a nominal consideration for use of the building;

(3) the school district must use the property to provide direct instruction in any grade from kindergarten through grade 12 ~~or~~; special education for handicapped children ~~or~~; adult basic and continuing education as described in section 124.26; *preschool and early childhood family education; or community education programs*, including provision of administrative services directly related to the educational program at that site; and

(4) the lease must provide that the school district has the exclusive use of the property during the lease period.

Sec. 12. Minnesota Statutes 1990, section 275.125, subdivision 4, is amended to read:

Subd. 4. [MISCELLANEOUS LEVY AUTHORIZATIONS.] (a) A school district may levy ~~the amounts necessary to make payments for bonds issued and for interest thereon, including the bonds and interest thereon, issued as authorized by Minnesota Statutes 1974, section 275.125, subdivision 3, clause (7)(C); the amounts necessary for repayment of debt service loans and capital loans;~~ the amounts necessary to pay the district's obligations under section 6.62; the amount authorized for liabilities of dissolved districts pursuant to section 122.45; the amounts necessary to pay the district's obligations under section 268.06, subdivision 25; the amounts necessary to pay for job placement services offered to employees who may become eligible for benefits pursuant to section 268.08; the amounts necessary to pay the district's obligations under section 127.05; the amounts authorized by section 122.531; the amounts necessary to pay the district's obligations under section 122.533; and for severance pay required by this section and section 122.535, subdivision 6.

(b) An education district that negotiates a collective bargaining agreement for teachers under section 122.937 may certify to the department of education the amount necessary to pay all of the member districts' obligations

and the education district's obligations under section 268.06, subdivision 25.

The department of education must allocate the levy amount proportionately among the member districts based on adjusted net tax capacity. The member districts must levy the amount allocated.

(c) Each year, a member district of an education district that levies under this subdivision must transfer the amount of revenue certified under paragraph (b) to the education district board according to this subdivision. By June 20 and November 30 of each year, an amount must be transferred equal to:

(1) 50 percent times

(2) the amount certified in paragraph (b) minus homestead and agricultural credit aid allocated for that levy according to section 273.1398, subdivision 6.

Sec. 13. Minnesota Statutes 1990, section 275.125, subdivision 11d, is amended to read:

Subd. 11d. [EXTRA CAPITAL EXPENDITURE LEVY ~~FOR LEASING BUILDINGS~~ *TO LEASE A BUILDING AND LAND.*] When a district finds it economically advantageous to rent or lease a building *or land* for any instructional purposes and it determines that the capital expenditure facilities revenues authorized under section 124.243 are insufficient for this purpose, it may apply to the commissioner for permission to make an additional capital expenditure levy for this purpose. An application for permission to levy under this subdivision must contain financial justification for the proposed levy, the terms and conditions of the proposed lease, and a description of the space to be leased and its proposed use. The criteria for approval of applications to levy under this subdivision must include: the reasonableness of the price, the appropriateness of the space to the proposed activity, the feasibility of transporting pupils to the leased building *or land*, conformity of the lease to the laws and rules of the state of Minnesota, and the appropriateness of the proposed lease to the space needs and the financial condition of the district. The commissioner must not authorize a levy under this subdivision in an amount greater than the cost to the district of renting or leasing a building *or land* for approved purposes. The proceeds of this levy must not be used for leasing or renting a facility owned by a district or for custodial or other maintenance services.

Sec. 14. [373.42] [COUNTY FACILITIES GROUP.]

Subdivision 1. [ESTABLISHMENT.] *Each county outside of the seven-county metropolitan area must establish a county facilities group by July 1, 1992.*

Subd. 2. [MEMBERSHIP.] *A county facilities group consists of at least one representative from the county board, one representative from each city located within the county, one representative from each school district located within the county, up to three representatives of townships selected by the county board, and two other members selected by the county board.*

Subd. 3. [DUTIES.] *The county facilities group shall develop an inventory of all public buildings located within the county. The inventory shall include an assessment of the condition of each public building and document any under used space in the buildings.*

Subd. 4. [COMMENT.] *The county facilities group shall review and comment on any proposed joint facility and may submit comments to the commissioner of education on any school district facility that is proposed within the county.*

Sec. 15. [473.23] [PUBLIC FACILITIES REVIEW.]

Subdivision 1. [INVENTORY.] *The metropolitan council, in consultation with appropriate state agencies and local officials, must develop an inventory of all public buildings located within the metropolitan area. The inventory must include an assessment of the condition of each public building and document any under used space in the buildings.*

Subd. 2. [SHARED FACILITIES.] *The metropolitan council must review and comment on any joint facility proposed under section 121.155 and may submit comments to the commissioner of education on any school district facility that is proposed within the metropolitan area.*

Sec. 16. [APPLICATION.]

Section 15 applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 17. [HEALTH AND SAFETY LEVY ADJUSTMENT.]

The department of education shall adjust the 1991 payable 1992 levy for each school district or intermediate district by the amount of the change in the district's health and safety levy for fiscal year 1992 according to Minnesota Statutes, section 124.83, subdivision 4, resulting from the change to the health and safety equalizing factor. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy must be recognized as revenue for fiscal year 1992.

Sec. 18. [BONDS FOR CERTAIN CAPITAL FACILITIES.]

In addition to other bonding authority, with approval of the commissioner, independent school districts No. 393, LeSueur, No. 508, St. Peter, and No. 734, Henderson, may issue general obligation bonds for certain capital projects under this section. The bonds must be used only to make capital improvements including equipping school buildings, improving handicap accessibility to school buildings, and bringing school buildings into compliance with fire codes.

Before a district issues bonds under this subdivision, it must publish notice of the intended projects, related costs, and the total amount of district indebtedness.

A bond issue tentatively authorized by the board under this subdivision becomes finally authorized unless a petition signed by more than 15 percent of the registered voters of the school district is filed with the school board within 30 days of the board's action. The percentage is to be determined with reference to the number of registered voters in the school district on the last day before the petition is filed with the school board. The petition must call for a referendum on the question of whether to issue the bonds for the projects under this section. The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this section.

The bonds may be issued in a principal amount, that when combined with interest thereon, will be paid off with 50 percent of current and anticipated revenue for capital facilities under this section or a successor section for

the current year plus projected revenue not greater than the current year for the next ten years. Once finally authorized, the district must set aside 50 percent of the current year's revenue for capital facilities under this section or a successor section each year in a separate account until all principal and interest on the bonds is paid. The district must annually transfer this amount from its capital fund to the debt redemption fund. The bonds must be paid off within ten years of issuance. The bonds must be issued in compliance with Minnesota Statutes, chapter 475, except as otherwise provided in this section.

Sec. 19. [HUTCHINSON SCHOOL DISTRICT LEASE PURCHASE LEVY.]

Notwithstanding Minnesota Statutes, section 275.125 or other law, independent school district No. 423, Hutchinson, may levy each year for the annual payments required on a lease purchase agreement for a facility for level V emotionally and behaviorally disturbed special education students.

Sec. 20. [ST. PAUL SCHOOL DISTRICT BONDS.]

Subdivision 1. [BONDING AUTHORIZATION.] *To provide funds to acquire or better school facilities, independent school district No. 625 may by two-thirds majority vote of all the members of the board of directors issue general obligation bonds in one or more series in calendar years 1992 to 1996 as provided in this section. The aggregate principal amount of any bonds issued under this section in calendar year 1992 must not exceed $12,700,000 and in calendar years 1993 to 1996 must not exceed $9,000,000 each year. Issuance of the bonds is not subject to Minnesota Statutes, section 475.58 or 475.59. As with other bonds issued by independent school district No. 625, the first sentence of Minnesota Statutes, section 475.53, subdivision 5, does not apply to issuance of the bonds. The bonds must otherwise be issued as provided in Minnesota Statutes, chapter 475. The authority to issue bonds under this section is in addition to any bonding authority authorized by Minnesota Statutes, chapter 124, or other law. The amount of bonding authority authorized under this section must be disregarded in calculating the bonding or net debt limits of Minnesota Statutes, chapter 124, or any other law other than Minnesota Statutes, section 475.53, subdivision 4.*

Subd. 2. [TAX LEVY FOR DEBT SERVICE.] *To pay the principal of and interest on bonds issued under subdivision 1, independent school district No. 625 must levy a tax annually in an amount required under Minnesota Statutes, section 475.61, subdivisions 1 and 3. The tax authorized under this section is in addition to the taxes authorized to be levied under Minnesota Statutes, chapter 124A or 275, or other law.*

Sec. 21. [TAXPAYER NOTIFICATION.]

Subdivision 1. [APPLICABILITY.] *This section applies to bonding authority granted under section 20.*

Subd. 2. [NOTICE.] *(a) A school board must prepare a notice of the public meeting on the proposed sale of all or any of the bonds and mail the notice to each postal patron residing within the school district. The notice must be mailed at least 15 days but not more than 30 days before the meeting. Notice of the meeting must also be posted in the administrative office of the school district and must be published twice during the 14 days before the meeting in the official newspaper of the city in which the school district is located.*

(b) The notice must contain the following information:

(1) the proposed dollar amount of bonds to be issued;

(2) the dollar amount of the levy increase necessary to pay the principal and interest on the newly authorized bonds;

(3) the estimated levy amount and net tax capacity rate necessary to make the debt service payments on any existing outstanding debt;

(4) the projected effects on individual property types; and

(5) the required levy and principal and interest on all outstanding bonds in addition to the bonds proposed under clause (1).

(c) To comply with paragraph (b), clause (4), the notice must show the projected annual dollar increase and net tax capacity rate increase for a representative range of residential homestead, residential nonhomestead, apartments, and commercial-industrial properties located within each state senate district in the school district.

Subd. 3. [BOND AUTHORIZATION.] *A school board may vote to issue bonds newly authorized under section 20 only after complying with the requirements of subdivision 2.*

Sec. 22. [EFFECTIVE DATE; LOCAL APPROVAL.]

Sections 20 and 21 are effective the day after the governing body of independent school district No. 625 complies with Minnesota Statutes, sections 645.021, subdivision 3.

Sec. 23. [MAXIMUM EFFORT CAPITAL LOAN DEBT REDEMPTION EXCESS.]

(a) Notwithstanding Minnesota Statutes, section 124.431, subdivision 11, or any other law to the contrary, a school district having an outstanding capital loan that has an excess amount in the debt redemption fund as calculated according to Minnesota Statutes, section 124.431, subdivision 11, may apply to the commissioner for an adjustment to the amount of excess owed to the state. The commissioner may reduce the excess that a district owes the state if a district's capital loan is outstanding and if the commissioner determines that any of the following conditions apply:

(1) a district is likely to incur a substantial property tax delinquency that will adversely affect the district's ability to make its scheduled bond payments;

(2) a district's agreement with its bondholders or its taxpayers could be impaired; or

(3) the district's tax capacity per pupil is less than one-tenth of the equalizing factor as defined in Minnesota Statutes, section 124A.02, subdivision 8.

(b) The amount of the excess that may be forgiven may not exceed $200,000 in a single year for any district.

Sec. 24. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

Subd. 2. [CAPITAL EXPENDITURE FACILITIES AID.] *For capital*

expenditure facilities aid according to Minnesota Statutes, section 124.243, subdivision 5:

$73,185,000 1992
$72,731,000 1993

The 1992 appropriation includes $10,920,000 for 1991 and $62,265,000 for 1992.

The 1993 appropriation includes $10,988,000 for 1992 and $61,743,000 for 1993.

Subd. 3. [CAPITAL EXPENDITURE EQUIPMENT AID.] *For capital expenditure equipment aid according to Minnesota Statutes, section 124.244, subdivision 3:*

$36,593,000 1992
$36,365,000 1993

The 1992 appropriation includes $5,460,000 for 1991 and $31,133,000 for 1992.

The 1993 appropriation includes $5,493,000 for 1992 and $30,872,000 for 1993.

Subd. 4. [HEALTH AND SAFETY AID.] *For health and safety aid according to Minnesota Statutes, section 124.83, subdivision 5:*

$11,560,000 1992
$11,351,000 1993

The 1992 appropriation includes $1,650,000 for 1991 and $9,910,000 for 1992.

The 1993 appropriation includes $1,748,000 for 1992 and $9,603,000 for 1993.

For fiscal year 1993, total health and safety revenue may not exceed $58,800,000. The state board of education shall establish criteria for prioritizing district health and safety project applications not to exceed this amount. The criteria may not discriminate between the number of pupils in and the geographic location of school districts.

Subd. 5. [MAXIMUM EFFORT SCHOOL LOAN FUND.] *For the maximum effort school loan fund:*

$6,139,000 1993

These appropriations shall be placed in the loan repayment account of the maximum effort school loan fund for the payment of the principal and interest on school loan bonds, as provided in Minnesota Statutes, section 124.46, to the extent that money in the fund is not sufficient to pay when due the full amount of principal and interest due on school loan bonds. The purpose of these appropriations is to ensure that sufficient money is available in the fund to prevent a statewide property tax levy as would otherwise be required pursuant to Minnesota Statutes, section 124.46, subdivision 3. Notwithstanding the provisions of Minnesota Statutes, section 124.39, subdivision 5, any amount of the appropriation made in this section which is not needed to pay when due the principal and interest due on school loan bonds shall not be transferred to the debt service loan account of the maximum effort school loan fund but instead shall cancel to the general fund.

Subd. 6. [DEBT SERVICE AID.] *For debt service aid according to Minnesota Statutes, section 124.95, subdivision 5:*

$4,950,000 1993

Sec. 25. [EFFECTIVE DATE.]

Sections 5, 8, 9, 10, and 12 are effective for revenue for fiscal year 1993.

Section 7 is effective for revenue for fiscal year 1994.

ARTICLE 6

EDUCATION ORGANIZATION AND COOPERATION

Section 1. Minnesota Statutes 1990, section 120.08, subdivision 3, is amended to read:

Subd. 3. [SEVERANCE PAY.] A district shall pay severance pay to a teacher who is~~:~~

~~(1)~~ placed on unrequested leave of absence by the district ~~because the teacher's position is discontinued~~ as a result of an agreement under this section~~; and~~

~~(2) not employed by another district for the school year following the teacher's placement on unrequested leave of absence~~. *A teacher is eligible under this subdivision if the teacher:*

(1) is a teacher, as defined in section 125.12, subdivision 1, but not a superintendent;

(2) has a continuing contract with the district according to section 125.12, subdivision 4.

The amount of severance pay shall be equal to the teacher's salary for the school year during which the teacher was placed on unrequested leave of absence minus the gross amount the teacher was paid during the 12 months following the teacher's termination of salary, by an entity whose teachers by statute or rule must possess a valid Minnesota teaching license, and minus the amount a teacher receives as severance or other similar pay according to a contract with the district or district policy. These entities include, but are not limited to, the school district that placed the teacher on unrequested leave of absence, another school district in Minnesota, an education district, an intermediate school district, an ECSU, a board formed under section 471.59, a technical college, a state residential academy, the Minnesota center for arts education, a vocational center, or a special education cooperative. These entities do not include a school district in another state, a Minnesota public post-secondary institution, or a state agency. Only amounts earned by the teacher as a substitute teacher or in a position requiring a valid Minnesota teaching license shall be subtracted. A teacher may decline any offer of employment as a teacher without loss of rights to severance pay.

To determine the amount of severance pay that is due for the first six months following termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district shall pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose. To determine the amount of severance pay that is due for the second six months of the 12 months following the termination of the teacher's salary, the district may require the teacher to provide documented

evidence of the teacher's employers and gross earnings during that period. The district shall pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose.

A teacher who receives severance pay under this subdivision waives all further reinstatement rights under section 125.12, subdivision 6a or 6b. If the teacher receives severance pay, the teacher shall not receive credit for any years of service in the district paying severance pay prior to the year in which the teacher becomes eligible to receive severance pay.

The severance pay ~~shall be equivalent to the teacher's salary for one year and~~ is subject to section 465.72. The district may levy *annually* according to section 275.125, subdivision 4, for the severance pay.

Sec. 2. Minnesota Statutes 1990, section 121.912, is amended by adding a subdivision to read:

Subd. 6. [ACCOUNT TRANSFER FOR REORGANIZING DISTRICTS.] *A school district that has reorganized according to section 122.22, 122.23, or sections 122.241 to 122.248 may make permanent transfers between any of the funds in the newly created or enlarged district with the exception of the debt redemption fund. Fund transfers under this section may be made only during the year following the effective date of reorganization.*

Sec. 3. [121.915] [REORGANIZATION OPERATING DEBT.]

The "reorganization operating debt" of a school district means the net negative undesignated fund balance in all school district funds, other than capital expenditure, building construction, debt redemption, trust and agency, and post-secondary vocational technical education funds, calculated in accordance with the uniform financial accounting and reporting standards for Minnesota school districts as of:

(1) June 30 of the fiscal year before the first year that a district receives revenue according to section 124.2725; or

(2) June 30 of the fiscal year before the effective date of reorganization according to section 122.22 or 122.23.

Sec. 4. Minnesota Statutes 1990, section 121.935, is amended by adding a subdivision to read:

Subd. 5a. [DISTRICT COMPUTING SUBSIDIES.] *The appropriation for regional management information centers shall be allocated among the centers according to the allocation for fiscal year 1991. Any part of the appropriation for fiscal year 1991 that was not distributed directly to the centers shall be added to the allocation according to the proportions each center received for fiscal year 1991. Payment of the amount appropriated shall be to school districts. Each school district shall receive a payment equal to:*

(1) the number of pupil units in the district divided by the number of pupil units in all of the districts that are members of the center; times

(2) the allocation for the center of which the district is a member.

The payment shall be used by the district to purchase services from a regional management information center, another school district, or other provider, or to provide the services. The payment shall be deposited in the district's capital expenditure fund.

Sec. 5. Minnesota Statutes 1990, section 121.935, is amended by adding a subdivision to read:

Subd. 7. [LIMITATION ON PARTICIPATION AND FINANCIAL SUPPORT.] *(a) No school district shall be required by any type of formal or informal agreement, including a joint powers agreement, or otherwise to participate in or provide financial support for the purposes of the agreement for a time period in excess of one fiscal year. Any agreement, part of an agreement, or other type of requirement to the contrary is void.*

(b) This subdivision shall not affect the continued liability of a school district for its share of bonded indebtedness or other debt incurred as a result of any agreement before the effective date of this section. The school district is liable only until the obligation or debt is discharged and only according to the payment schedule in effect on the effective date of this section, except that the payment schedule may be altered for the purpose of restructuring debt or refunding bonds outstanding on the effective date of this section if the annual payments of the school district are not increased and if the total obligation of the school district for its share of outstanding bonds or other debt is not increased.

(c) To cease participating in or providing financial support for any of the services or activities relating to the agreement or to terminate participation in the agreement, the school board shall adopt a resolution and notify other parties to the agreement of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year or, at the option of the school board, June 30 of the following fiscal year.

(d) Before issuing bonds or incurring other debt, the governing body responsible for implementing the agreement shall adopt a resolution proposing to issue bonds or incur other debt and the proposed financial effect of the bonds or other debt upon each participating district. The resolution shall be adopted within a time sufficient to allow the school board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in article 9, section 33, and sections 125.12 and 125.17. The governing body responsible for implementing the agreement shall notify each participating school board of the contents of the resolution. Within 120 days of receiving the resolution of the governing body, the school board of the participating district shall adopt a resolution stating:

(1) its concurrence with issuing bonds or incurring other debt;

(2) its intention to cease participating in or providing financial support for the service or activity related to the bonds or other debt; or

(3) its intention to terminate participation in the agreement.

A school board adopting a resolution according to clause (1) is liable for its share of bonded indebtedness or other debt as proposed by the governing body implementing the agreement. A school board adopting a resolution according to clause (2) is not liable for the bonded indebtedness or other debt, as proposed by the governing body, related to the services or activities in which the district ceases participating or providing financial support. A school board adopting a resolution according to clause (3) is not liable for the bonded indebtedness or other debt proposed by the governing body implementing the agreement.

(e) After the effective date of this section, a district is liable according to paragraph (d) for its share of bonded indebtedness or other debt incurred

by the governing body implementing the agreement to the extent that the bonds or other debt are directly related to the services or activities in which the district participates or for which the district provides financial support. The district has continued liability only until the obligation or debt is discharged and only according to the payment schedule in effect at the time the governing body implementing the agreement provides notice to the school board, except that the payment schedule may be altered for the purpose of refunding the outstanding bonds or restructuring other debt if the annual payments of the district are not increased and if the total obligation of the district for the outstanding bonds or other debt is not increased.

Sec. 6. Minnesota Statutes 1990, section 122.22, subdivision 7a, is amended to read:

Subd. 7a. Before the day of a hearing ordered pursuant to this section, each district adjoining the district proposed for dissolution shall provide the following information and resolution to the county auditor of the county containing the greatest land area of the district proposed for dissolution:

(a) The outstanding bonded debt, *outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, and the capital loan obligation* of the district;

(b) The net tax capacity of the district;

(c) The most current school tax rates for the district, including any referendum, discretionary, or other optional levies being assessed currently and the expected duration of the levies;

(d) A resolution passed by the school board of the district stating that if taxable property of the dissolved district is attached to it, one of the following requirements is imposed: (1) the taxable property of the dissolving district which is attached to its district shall not be liable for the bonded debt, *outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or the capital loan obligation* of the district which existed as of the time of the attachment; (2) the taxable property of the dissolving district which is attached to its district shall be liable for the payment of the bonded debt, *outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or the capital loan obligation* of the district which existed as of the time of the attachment in the proportion which the net tax capacity of that part of the dissolving district which is included in the newly enlarged district bears to the net tax capacity of the entire district as of the time of attachment; or (3) the taxable property of the dissolving district which is attached to its district shall be liable for some specified portion of the amount that could be requested pursuant to subclause (2).

An apportionment pursuant to subclause (2) or (3) shall be made by the county auditor of the county containing the greatest land area of the district proposed for transfer.

An apportionment of bonded indebtedness, *outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or capital loan obligation* pursuant to subclause (2) or (3) shall not relieve any property from any tax liability for payment of any bonded *or capital* obligation, but taxable property in a district enlarged pursuant to this section becomes primarily liable for the payment of the bonded debt, *outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or capital loan obligation* to the extent of the proportion stated.

Sec. 7. Minnesota Statutes 1990, section 122.22, subdivision 9, is amended to read:

Subd. 9. An order issued under subdivision 8, clause (b), shall contain the following:

(a) A statement that the district is dissolved unless the results of an election held pursuant to subdivision 11 provide otherwise;

(b) A description by words or plat or both showing the disposition of territory in the district to be dissolved;

(c) The outstanding bonded debt, *outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, and the capital loan obligation* of the district to be dissolved;

(d) A statement requiring the fulfillment of the requirements imposed by each adjoining district to which territory in the dissolving district is to be attached regarding the assumption of its outstanding preexisting bonded indebtedness by any territory from the dissolving district which is attached to it;

(e) An effective date for the order. The effective date shall be at least three months after the date of the order, and shall be July 1 of an odd-numbered year; and

(f) Other information the county board may desire to include.

The auditor shall within ten days from its issuance serve a copy of the order by mail upon the clerk of the district to be dissolved and upon the clerk of each district to which the order attaches any territory of the district to be dissolved and upon the auditor of each other county in which all or any part of the district to be dissolved or any district to which the order attaches territory lies, and upon the commissioner.

Sec. 8. Minnesota Statutes 1990, section 122.23, subdivision 2, is amended to read:

Subd. 2. *(a)* Upon a resolution of a school board in the area proposed for consolidation or upon receipt of a petition therefor executed by 25 percent of the voters resident in the area proposed for consolidation or by 50 such voters, whichever is lesser, the county auditor of the county which contains the greatest land area of the proposed new district shall forthwith cause a plat to be prepared. The resolution or petition shall show the approximate area proposed for consolidation.

(b) The resolution or petition may propose ~~either~~ *the following:*

(1) that the bonded debt of the component districts will be paid according to the levies previously made for that debt under chapter 475, as provided in subdivision 16a, or that the taxable property in the newly created district will be taxable for the payment of *all or a portion of* the bonded debt previously incurred by any component district as provided in subdivision 16b. ~~The resolution or petition may also propose~~*;*

(2) that obligations for a capital loan or an energy loan made according to section 216C.37 or sections 298.292 to 298.298 outstanding in a preexisting district as of the effective date of consolidation remain solely with the preexisting district that obtained the loan, or that all or a portion of the loan obligations will be assumed by the newly created or enlarged district and paid by the newly created or enlarged district on behalf of the

preexisting district that obtained the loan;

~~(c)~~ *(3)* that referendum levies previously approved by voters of the component districts pursuant to section 124A.03, subdivision 2, or its predecessor provision, be combined as provided in section 122.531, subdivision 2a or 2b, or that the referendum levies be discontinued~~.~~ ~~The resolution or petition may also propose~~;

(4) that the board of the newly created district consist of seven members~~,~~ ~~and may also propose the establishment of~~; *or*

(5) that separate election districts from which school board members will be elected, the boundaries of these election districts, and the initial term of the member elected from each of these election districts *be established.* If a county auditor receives more than one request for a plat and the requests involve parts of identical districts, the auditor shall forthwith prepare a plat which in the auditor's opinion best serves the educational interests of the inhabitants of the districts or areas affected.

(c) The plat shall show:

~~(a)~~ *(1)* Boundaries of the proposed district, as determined by the county auditor, and present district boundaries,

~~(b)~~ *(2)* The location of school buildings in the area proposed as a new district and the location of school buildings in adjoining districts,

~~(c)~~ *(3)* The boundaries of any proposed separate election districts, and

~~(d)~~ *(4)* Other pertinent information as determined by the county auditor.

Sec. 9. Minnesota Statutes 1990, section 122.23, subdivision 3, is amended to read:

Subd. 3. A supporting statement to accompany the plat shall be prepared by the county auditor. The statement shall contain:

(a) The adjusted net tax capacity of property in the proposed district,

(b) If a part of any district is included in the proposed new district, the adjusted net tax capacity of the property and the approximate number of pupils residing in the part of the district included shall be shown separately and the adjusted net tax capacity of the property and the approximate number of pupils residing in the part of the district not included shall also be shown,

(c) The reasons for the proposed consolidation, including a statement that at the time the plat is submitted to the state board of education, no proceedings are pending to dissolve any district involved in the plat unless all of the district to be dissolved and all of each district to which attachment is proposed is included in the plat,

(d) A statement showing that the jurisdictional fact requirements of subdivision 1 are met by the proposal,

(e) Any proposal contained in the resolution or petition regarding the disposition of the bonded debt, *outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, capital loan obligations,* or referendum levies of component districts,

(f) Any other information the county auditor desires to include, and

(g) The signature of the county auditor.

Sec. 10. Minnesota Statutes 1990, section 122.241, subdivision 1, is

amended to read:

Subdivision 1. [SCOPE.] Sections 122.241 to 122.248 establish procedures for school boards that adopt, by resolution, a five-year written agreement:

(1) to provide at least secondary instruction cooperatively for at least *one or* two years, *if the districts cooperate according to subdivision 2*; and

(2) to combine into one district ~~after cooperating~~.

Sec. 11. Minnesota Statutes 1990, section 122.241, subdivision 2, is amended to read:

Subd. 2. [COOPERATION REQUIREMENTS.] Cooperating districts shall:

(1) implement a written agreement according to section 122.541 no later than the first year of cooperation;

(2) all be members of one education district, if any one of the districts is a member, no later than the end of the second year of cooperation; and

(3) all be members of one ECSU, if any one of the districts is a member.

Clause (1) does not apply to a district that implemented an agreement for secondary education, according to section 122.535, during any year before the 1991-1992 school year. If the districts cooperate for one or more years, the agreement may be continued during those years.

Sec. 12. Minnesota Statutes 1990, section 122.242, subdivision 9, is amended to read:

Subd. 9. [FINANCES.] The plan must state:

(1) whether debt service for the bonds outstanding at the time of combination remains solely with the district that issued the bonds or whether *all or a portion of* the debt service for the bonds will be assumed by the combined district and paid by the combined district on behalf of the district that issued the bonds;

(2) *whether obligations for a capital loan or energy loan made according to section 216C.37 or sections 298.292 to 298.298 outstanding at the time of combination remain solely with the district that obtained the loan, or whether all or a portion of all the loan obligations will be assumed by the combined district and paid by the combined district on behalf of the district that obtained the loan;*

(3) the treatment of debt service levies and referendum levies;

~~(3)~~ *(4) whether the cooperating or combined district will levy for reorganization operating debt according to section 3, clause (1); and*

(5) two-, five-, and ten-year projections, prepared by the department of education upon the request of any district, of revenues, expenditures, and property taxes for each district if it cooperated and combined and if it did not.

Sec. 13. Minnesota Statutes 1990, section 122.243, subdivision 2, is amended to read:

Subd. 2. [VOTER APPROVAL.] ~~During the first or second year of cooperation,~~ A referendum on the question of combination shall be conducted *during the first or second year of cooperation for districts that cooperate*

according to section 122.241, or no more than 18 months before the effective date of combination for districts that do not cooperate. The referendum shall be on a date called by the school boards. The referendum shall be conducted by the school boards according to the Minnesota election law, as defined in section 200.01. If the referendum fails, the same question or a modified question may be submitted the following school year. If a question is submitted, the second referendum must be conducted on a date before October 1. If the referendum fails again, the ~~same question may not be submitted~~ *districts shall modify their cooperation and combination plan.* A ~~different question~~ *third referendum* may be ~~submitted~~ *conducted* on any date before October 1. Referendums shall be conducted on the same date in all districts.

Sec. 14. Minnesota Statutes 1990, section 122.247, is amended by adding a subdivision to read:

Subd. 2a. [CAPITAL LOAN.] *The combined school board may levy for the obligations for a capital loan outstanding at the time of combination, consistent with the plan adopted according to section 122.242 and any subsequent modifications. The primary obligation to levy as required by the capital loan remains with taxable property in the preexisting district that obtained the capital loan. However, the obligation of a capital loan may be extended to all of the taxable property in the combined district.*

Sec. 15. Minnesota Statutes 1990, section 122.247, subdivision 3, is amended to read:

Subd. 3. [TRANSITIONAL LEVY.] The board of the combined district, *or the boards of combining districts that have received voter approval for the combination under section 122.243, subdivision 2,* may levy for the expenses of negotiation, administrative expenses directly related to the transition from cooperation to combination, and the cost of necessary new athletic and music uniforms. The board *or boards* may levy this amount over three or fewer years. All expenses must be approved by the state board of education.

Sec. 16. Minnesota Statutes 1990, section 122.531, is amended by adding a subdivision to read:

Subd. 4a. [REORGANIZATION OPERATING DEBT LEVIES.] *(a) A district that is cooperating or has combined according to sections 122.241 to 122.248 may levy to eliminate reorganization operating debt as defined in section 3, clause (1). The amount of the debt must be certified over a period of five years. After the effective date of combination according to sections 122.241 to 122.248, the levy may be certified and spread only either on the property in the combined district that would have been taxable in the preexisting district that incurred the debt or on all of the taxable property in the combined district.*

(b) A district that has reorganized according to section 122.22 or 122.23 may levy to eliminate reorganization operating debt as defined in section 3, clause (2). The amount of debt must be certified over a period not to exceed five years and may be spread either only on the property in the newly created or enlarged district which was taxable in the preexisting district that incurred the debt or on all of the taxable property in the newly created or enlarged district.

Sec. 17. [122.5311] [OBLIGATIONS UPON DISTRICT REORGANIZATION.]

Subdivision 1. [CAPITAL LOAN OBLIGATIONS.] *If a district has a capital loan outstanding at the time of reorganization according to section 122.22, 122.23, or sections 122.241 to 122.248, and if the plan for reorganization provides for payment of all or a portion of the capital loan obligation by the newly created or enlarged district or makes no provision for payment, all of the taxable property in the newly created or enlarged district is taxable for the payment to the extent stated in the plan. Notwithstanding any contract to the contrary, if all of the taxable property in the newly created or enlarged district is taxable for the payment of the capital loan and until the capital loan is retired or cancelled, the maximum effort debt service levy shall be recalculated annually by the department of education to be equal to the required debt service levy plus an additional amount. The additional amount shall be the greater of:*

(i) zero, or

(ii) the maximum effort debt service levy of the preexisting district minus the required debt service levy of the preexisting district that received the capital loan.

For the purpose of the recalculation, additional bond issues after the date of the reorganization shall not impact the maximum effort debt service levy or the required debt service levy.

Notwithstanding any contract to the contrary, the plan for reorganization may specify that the obligation for a capital loan remains solely with the preexisting district that incurred the obligation. This subdivision does not relieve any property from any tax liability for payment of any capital loan obligation.

Subd. 2. [ENERGY LOAN OBLIGATIONS.] *If a district has an energy loan outstanding at the time of reorganization according to section 122.22, 122.23, or sections 122.241 to 122.248, and if the plan for reorganization provides for payment of all or a portion of the energy loan obligation by the newly created or enlarged district or makes no provision for payment, all of the taxable property in the newly created or enlarged district is taxable for the payment.*

Notwithstanding any contract to the contrary, the plan for reorganization may specify that the obligation for an energy loan remains solely with the preexisting district that incurred the obligation. This subdivision does not relieve any property from any tax liability for payment of any energy loan obligation.

Sec. 18. Minnesota Statutes 1990, section 122.535, subdivision 6, is amended to read:

Subd. 6. [SEVERANCE PAY.] A district shall pay severance pay to a teacher who is:

~~(1)~~ placed on unrequested leave of absence by the district ~~because the teacher's position is discontinued~~ as a result of the agreement; ~~and~~

~~(2) not employed by another district for the school year following the teacher's placement on unrequested leave of absence~~. *A teacher is eligible under this subdivision if the teacher:*

(1) is a teacher, as defined in section 125.12, subdivision 1, but not a superintendent;

(2) has a continuing contract with the district according to section 125.12,

subdivision 4.

The amount of severance pay shall be equal to the teacher's salary for the school year during which the teacher was placed on unrequested leave of absence minus the gross amount the teacher was paid during the 12 months following the teacher's termination of salary, by an entity whose teachers by statute or rule must possess a valid Minnesota teaching license, and minus the amount a teacher receives as severance or other similar pay according to a contract with the district or district policy. These entities include, but are not limited to, the school district that placed the teacher on unrequested leave of absence, another school district in Minnesota, an education district, an intermediate school district, an ECSU, a board formed under section 471.59, a technical college, a state residential academy, the Minnesota center for arts education, a vocational center, or a special education cooperative. These entities do not include a school district in another state, a Minnesota public post-secondary institution, or a state agency. Only amounts earned by the teacher as a substitute teacher or in a position requiring a valid Minnesota teaching license shall be subtracted. A teacher may decline any offer of employment as a teacher without loss of rights to severance pay.

To determine the amount of severance pay that is due for the first six months following termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district shall pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose. To determine the amount of severance pay that is due for the second six months of the 12 months following the termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district shall pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose.

A teacher who receives severance pay under this subdivision waives all further reinstatement rights under section 125.12, subdivision 6a or 6b. If the teacher receives severance pay, the teacher shall not receive credit for any years of service in the district paying severance pay prior to the year in which the teacher becomes eligible to receive severance pay.

The severance pay ~~shall be equivalent to the teacher's salary for one year and~~ is subject to section 465.72. The district may levy *annually* according to section 275.125, subdivision 4, for the severance pay.

Sec. 19. Minnesota Statutes 1990, section 122.91, subdivision 5, is amended to read:

Subd. 5. [JOINDER AND WITHDRAWAL.] (a) A member school district must not withdraw from an education district that receives revenue under section 124.2721 before the end of the fiscal year for which a levy under section 124.2721 has been certified.

(b) Notwithstanding paragraph (a), a school district that certified a levy under section ~~124.2725 for fiscal year 1991~~ *124.2721* may *apply to the department of education to* transfer from ~~one~~ *the* education district to ~~another to comply with section 122.241, subdivision 2, clause (2).~~ *which it currently belongs to a different education district before June 1 of the calendar year after the levy was certified if any of the following conditions are met as a result of the transfer:*

(1) all member school districts of a special education cooperative established under section 120.17 or 471.59, or a cooperative center for vocational education established under section 123.351 become members of the same education district;

(2) the location of the school district allows the education district into which the school district is applying to transfer to provide services more effectively than the current education district; or

(3) the number of boards governing special education cooperatives established under section 120.17 or 471.59, cooperative centers for vocational education established under section 123.351, or other educational organizations that operate within the geographic area of either education district is reduced.

(c) The department of education must accept or reject an application for transfer under this section within 30 days of receiving the application. The commissioner must adjust the revenue of both education districts so that the education district revenue attributable to the transferring school district is transferred from the previous education district to the new education district.

~~(c)~~ *(d)* By August 1 of each year, an education district must notify the department of education concerning which school districts will be members of the education district for the purposes of certifying to the department of education the amount of revenue to be raised under section 124.2721.

Sec. 20. Minnesota Statutes 1990, section 122.94, is amended by adding a subdivision to read:

Subd. 1a. [LIMITATION ON PARTICIPATION AND FINANCIAL SUPPORT.] *(a) No district shall be required by an agreement or otherwise to participate in or provide financial support for a education district for a time period in excess of one fiscal year. Any agreement, part of an agreement, or other type of requirement to the contrary is void.*

(b) This subdivision shall not affect the continued liability of a school district for its share of debt incurred by the education district board before the effective date of this section. The school district is liable only until the obligation or debt is discharged and only according to the payment schedule in effect on June 30, 1993, except that the payment schedule may be altered for the purpose of restructuring debt outstanding on the effective date of this section if the annual payments of the school district are not increased and if the total obligation of the school district for its share of debt is not increased.

(c) To cease participating in or providing financial support for any of the services or activities provided by the education district or to withdraw from the education district, the school board of the school district shall adopt a resolution and notify the education district board of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year or, at the option of the school board, June 30 of the following fiscal year.

(d) Before incurring debt, the board of an education district shall adopt a resolution proposing to incur debt and the proposed financial effect of the debt upon each school district. The resolution shall be adopted within a time sufficient to allow the school board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines

set forth in article 9, section 33, and sections 125.12 and 125.17. The board of the education district shall notify each participating school board of the contents of the resolution. Within 120 days of receiving the resolution of the board of the education district, the school board of the participating district shall adopt a resolution stating:

(1) its concurrence with incurring other debt;

(2) its intention to cease participating in or providing financial support for the service or activity related to the debt; or

(3) its intention to withdraw from the education district.

A school board adopting a resolution according to clause (1) is liable for its share of debt as proposed by the education district board. A school board adopting a resolution according to clause (2) is not liable for the debt, as proposed by the board of the education district, related to the services or activities in which the school district ceases participating or providing financial support. A school board adopting a resolution according to clause (3) is not liable for the debt proposed by the education district board.

(e) On and after July 1, 1993, a school district is liable according to paragraph (d) for its share of debt incurred by the education district to the extent that the debt is directly related to the services or activities in which the school district participates or for which the school district provides financial support. The school district has continued liability only until the debt is discharged and only according to the payment schedule in effect at the time the education district board provides notice to the school board, except that the payment schedule may be altered for the purpose of restructuring debt if the annual payments of the school district are not increased and if the total obligation of the school district for the debt is not increased.

Sec. 21. Minnesota Statutes 1990, section 122.94, subdivision 6, is amended to read:

Subd. 6. [COMMON ACADEMIC CALENDAR.] For 1991-1992 and later school years, the agreement must require a common academic calendar for all member districts of an education district. For purposes of this subdivision, a common academic calendar must include ~~at least~~ the following:

(1) ~~the number of days of instruction~~ *at least the same number of instructional days in common as are offered by the member district with the fewest number of instructional days*;

(2) the *same* first and last days of instruction in a school year; and

(3) ~~the specific days reserved for staff development~~ *at least the same number of staff development days in common as are provided by the member district with the fewest number of staff development days.*

~~Before the 1990-1991 school year, each education district must report to the state board of education on ways that other components of the academic calendar in each member district will affect the implementation of the five-year plan described in section 122.945. Other components include the length of the school day, the time the school day begins and ends, and the number of periods in the day.~~

Sec. 22. Minnesota Statutes 1990, section 123.35, is amended by adding a subdivision to read:

Subd. 19. [LIMITATION ON ALL AGREEMENTS.] *(a) No district shall be required by an agreement or otherwise to participate in or provide financial support for a regional center for a time period in excess of one fiscal year. Any agreement, part of an agreement, or other type of requirement to the contrary is void.*

(b) This subdivision shall not affect the continued liability of a district for its share of bonded indebtedness or other debt incurred by the center before the effective date of this section. The district is liable only until the obligation or debt is discharged and only according to the payment schedule in effect on June 30, 1993, except that the payment schedule may be altered for the purpose of restructuring debt or refunding bonds outstanding on the effective date of this section if the annual payments of the district are not increased and if the total obligation of the district for its share of outstanding bonds or other debt is not increased.

(c) To cease participating in or providing financial support for any of the services or activities provided by the center or to withdraw from the center, the school board shall adopt a resolution and notify the center of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year or, at the option of the school board, June 30 of the following fiscal year.

(d) Before issuing bonds or incurring other debt, the board of a center shall adopt a resolution proposing to issue bonds or incur other debt and the proposed financial effect of the bonds or other debt upon each participating district. The resolution shall be adopted within a time sufficient to allow the school board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in article 9, section 33, and sections 125.12 and 125.17. The board of the center shall notify each participating school board of the contents of the resolution. Within 120 days of receiving the resolution of the board of the center, the school board of the participating district shall adopt a resolution stating:

(1) its concurrence with issuing bonds or incurring other debt;

(2) its intention to cease participating in or providing financial support for the service or activity related to the bonds or other debt; or

(3) its intention to withdraw from the regional center.

A school board adopting a resolution according to clause (1) is liable for its share of bonded indebtedness or other debt as proposed by the board of the regional center. A school board adopting a resolution according to clause (2) is not liable for the bonded indebtedness or other debt, as proposed by the board of the regional center, related to the services or activities in which the district ceases participating or providing financial support. A school board adopting a resolution according to clause (3) is not liable for the bonded indebtedness or other debt proposed by the board of the regional center.

(e) On and after July 1, 1993, a district is liable according to paragraph (d) for its share of bonded indebtedness or other debt incurred by the regional center to the extent that the bonds or other debt are directly related to the services or activities in which the district participates or for which the district provides financial support. The district has continued liability only until the obligation or debt is discharged and only according to the payment schedule in effect at the time the board of the regional center provides notice to the school board, except that the payment schedule may be altered for

the purpose of refunding the outstanding bonds or restructuring other debt if the annual payments of the district are not increased and if the total obligation of the district for the outstanding bonds or other debt is not increased.

Sec. 23. Minnesota Statutes 1990, section 123.351, subdivision 8, is amended to read:

Subd. 8. [ADDITION AND WITHDRAWAL OF DISTRICTS.] Upon approval by majority vote of a school board, of the center board, and of the state board of education, an adjoining school district may become a member in the center and be governed by the provisions of this section and the agreement in effect.

(a) No district shall be required by an agreement or otherwise to participate in or provide financial support for a center for a time period in excess of one fiscal year. Any agreement, part of an agreement, or other type of requirement to the contrary is void.

(b) This subdivision shall not affect the continued liability of a district for its share of bonded indebtedness or other debt incurred by the center before the effective date of this section. The district is liable only until the obligation or debt is discharged and only according to the payment schedule in effect on June 30, 1993, except that the payment schedule may be altered for the purpose of restructuring debt or refunding bonds outstanding on the effective date of this section if the annual payments of the district are not increased and if the total obligation of the district for its share of outstanding bonds or other debt is not increased.

(c) To cease participating in or providing financial support for any of the services or activities provided by the center or to withdraw from the center, the school board shall adopt a resolution and notify the center of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year or, at the option of the school board, June 30 of the following fiscal year.

(d) Before issuing bonds or incurring other debt, the board of a center shall adopt a resolution proposing to issue bonds or incur other debt and the proposed financial effect of the bonds or other debt upon each participating district. The resolution shall be adopted within a time sufficient to allow the school board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in article 9, section 33, and sections 125.12 and 125.17. The board of the center shall notify each participating school board of the contents of the resolution. Within 120 days of receiving the resolution of the board of the center, the school board of the participating district shall adopt a resolution stating:

(1) its concurrence with issuing bonds or incurring other debt;

(2) its intention to cease participating in or providing financial support for the service or activity related to the bonds or other debt; or

(3) its intention to withdraw from the regional center.

A school board adopting a resolution according to clause (1) is liable for its share of bonded indebtedness or other debt as proposed by the board of the regional center. A school board adopting a resolution according to clause (2) is not liable for the bonded indebtedness or other debt, as proposed by the board of the center, related to the services or activities in which the district ceases participating or providing financial support. A school board

adopting a resolution according to clause (3) is not liable for the bonded indebtedness or other debt proposed by the board of the center.

(e) On and after July 1, 1993, a district is liable according to paragraph (d) for its share of bonded indebtedness or other debt incurred by the center to the extent that the bonds or other debt are directly related to the services or activities in which the district participates or for which the district provides financial support. The district has continued liability only until the obligation or debt is discharged and only according to the payment schedule in effect at the time the board of the center provides notice to the school board, except that the payment schedule may be altered for the purpose of refunding the outstanding bonds or restructuring other debt if the annual payments of the district are not increased and if the total obligation of the district for the outstanding bonds or other debt is not increased.

Any participating district may withdraw from the center and from the agreement in effect by a majority vote of the full board membership of the participating school district desiring withdrawal and upon compliance with provisions in the agreement establishing the center. Upon receipt of the withdrawal resolution reciting the necessary facts, the center board shall file a certified copy with the county auditors of the counties affected. The withdrawal shall become effective ~~at the end of~~ the ~~next~~ following ~~school year~~ *July 1* but the withdrawal shall not affect the continued liability of the withdrawing district for bonded indebtedness it incurred prior to the effective withdrawal date.

Sec. 24. Minnesota Statutes 1990, section 123.58, is amended by adding a subdivision to read:

Subd. 4a. [LIMITATION ON PARTICIPATION AND FINANCIAL SUPPORT.] *(a) No district shall be required by an agreement or otherwise to participate in or provide financial support for an ECSU for a time period in excess of one fiscal year. Any agreement, part of an agreement, or other type of requirement to the contrary is void.*

(b) This subdivision shall not affect the continued liability of a district for its share of debts or obligations incurred by the ECSU before the effective date of this section. The district is liable only until the debt or obligation is discharged and only according to the payment schedule in effect on the effective date of this section, except that the payment schedule may be altered for the purpose of restructuring or refunding debt or obligations outstanding on the effective date of this section if the annual payments of the district are not increased and if the total obligation of the district for its share of outstanding debt or obligations is not increased.

(c) To cease participating in or providing financial support for any of the services or activities provided by the ECSU or to withdraw from the ECSU, the school board shall adopt a resolution and notify the ECSU of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year or, at the option of the school board, June 30 of the following fiscal year.

(d) Before incurring debt or obligations, the ECSU board shall adopt a resolution proposing to incur debt or obligations and the proposed financial effect of the debt or obligations upon each participating district. The resolution shall be adopted within a time sufficient to allow the school board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in article 9, section 33, and

sections 125.12 and 125.17. The ECSU board shall notify each participating school board of the contents of the resolution. Within 120 days of receiving the resolution of the ECSU board, the school board of the participating district shall adopt a resolution stating:

(1) its concurrence with incurring the debt or obligations;

(2) its intention to cease participating in or providing financial support for the service or activity related to the debt or obligations; or

(3) its intention to withdraw from the ECSU.

A school board adopting a resolution according to clause (1) is liable for its share of debt or obligations as proposed by the ECSU board. A school board adopting a resolution according to clause (2) is not liable for the debt or obligations, as proposed by the ECSU board, related to the services or activities in which the district ceases participating or providing financial support. A school board adopting a resolution according to clause (3) is not liable for the debt or obligations proposed by the ECSU board.

(e) After the effective date of this section, a district is liable according to paragraph (d) for its share of debt or obligations incurred by the ECSU to the extent that the debt or obligations are directly related to the services or activities in which the district participates or for which the district provides financial support. The district has continued liability only until the debt or obligation is discharged and only according to the payment schedule in effect at the time the ECSU board provides notice to the school board, except that the payment schedule may be altered for the purpose of refunding or restructuring debt or obligations if the annual payments of the district are not increased and if the total obligation of the district for the outstanding debt or obligation is not increased.

Sec. 25. Minnesota Statutes 1990, section 123.58, is amended by adding a subdivision to read:

Subd. 9a. [ALLOCATION OF STATE APPROPRIATION.] *The appropriation for ECSUs shall be allocated among the ECSUs according to the allocation for fiscal year 1991. Payment of the amount appropriated shall be to school districts. Each school district shall receive a payment equal to:*

(1) the number of pupil units in the district divided by the number of pupil units in all of the districts that are members of the ECSU; times

(2) the allocation for the ECSU of which the district is a member.

The payment shall be used by the district to purchase educational services from an ECSU, another school district, or other provider, or to provide other educational services.

Sec. 26. Minnesota Statutes 1990, section 124.2721, is amended by adding a subdivision to read:

Subd. 1a. [ELIGIBILITY.] *A school district is eligible for education district revenue if the district certified a levy for education district revenue in 1992 for taxes payable in 1993. The pupil units of a school district that is a member of intermediate district No. 287, 916, or 917 may not be used to obtain revenue under this section. The pupil units of a school district may not be used to obtain revenue under this section and section 124.575.*

Sec. 27. Minnesota Statutes 1990, section 124.2721, subdivision 2, is

amended to read:

Subd. 2. [REVENUE.] Each year the education district board shall certify to the department of education the amount of education district revenue to be raised. Education district revenue shall be the lesser of:

(1) the amount certified by the education district board~~:~~, or

(2) ~~the sum of:~~

~~(i) $60 in basic education district revenue; and~~

~~(ii) $50 for education districts authorized to receive revenue under Laws 1990, chapter 562, article 6, section 36, subdivision 2,~~ *$50* times the actual pupil units in the education district.

Sec. 28. Minnesota Statutes 1990, section 124.2721, is amended by adding a subdivision to read:

Subd. 2a. [REVENUE.] *For fiscal year 1994 and thereafter, education district revenue shall be $50 times the number of pupil units in the district.*

Sec. 29. Minnesota Statutes 1990, section 124.2721, subdivision 3, is amended to read:

Subd. 3. [LEVY.] The education district levy is equal to the following:

(1) the education district revenue according to subdivision 2, times

(2) the lesser of

(a) one, or

(b) the ratio of the adjusted net tax capacity of the education district divided by the number of actual pupil units in the education district to an amount equal to ~~the sum of subdivision 2, clause (2), items (i) and (ii), for which the education district is eligible~~ *$50* divided by 1.87 percent.

The department of education shall allocate the levy amount proportionately among the member districts based on adjusted tax capacity. The member districts shall levy the amount allocated.

Sec. 30. Minnesota Statutes 1990, section 124.2721, is amended by adding a subdivision to read:

Subd. 3a. [LEVY.] *Beginning with the levy attributable to fiscal year 1994 and thereafter, the education district levy for a school district is equal to the following:*

(1) the sum of the education district revenue according to subdivision 2 for all member school districts of the education district, times

(2) the lesser of

(a) one, or

(b) the ratio of the adjusted net tax capacity of the education district divided by the number of actual pupil units in the education district to the amount in clause (1) divided by 1.87 percent, times

(3) the ratio of the adjusted net tax capacity of the school district to the total adjusted net tax capacity of the education district.

Sec. 31. Minnesota Statutes 1990, section 124.2721, is amended by adding a subdivision to read:

Subd. 4a. [AID.] *For fiscal year 1994 and thereafter, education district aid equals the education district revenue minus the education district levy, times the ratio of the actual amount levied to the permitted levy. If the permitted education district levy exceeds the education district revenue, the department shall reduce other aids due the district by the amount equal to the difference between the permitted levy and the revenue. The amount reduced is annually appropriated to the department of education for aid payments under this subdivision.*

Sec. 32. Minnesota Statutes 1990, section 124.2721, is amended by adding a subdivision to read:

Subd. 5a. [USES OF REVENUE.] *For fiscal year 1994 and thereafter, education district revenue shall be used only for one or more of the following purposes:*

(1) purchase educational programs offered by another school district, education district, secondary vocational cooperative, special education cooperative, intermediate school district, joint powers board, or an ECSU;

(2) provide educational programs offered by an education district;

(3) provide additional revenue for early childhood family education programs, head start programs, or other educational programs for children who have not entered kindergarten;

(4) provide additional revenue for early childhood health and developmental screening or other health services for children from birth through 12th grade;

(5) provide services needed by pupils described in section 126.22 or children of any age who have characteristics, as designated by the district, that may interfere with learning and developing;

(6) provide secondary course offerings if the courses have specific learner outcomes and teachers participate in determining the outcomes;

(7) provide preparation time for elementary teachers or additional revenue for staff development for outcome-based education or site-based decision making;

(8) provide revenue for expenditures related to interdistrict cooperation according to section 122.541, agreements for secondary education according to section 122.535, additional revenue for cooperation and combination according to sections 122.241 to 122.248, dissolution and attachment according to section 122.22, or consolidation according to section 122.23;

(9) provide additional revenue for education programs for adults to earn high school diplomas or equivalency certificates;

(10) collaborate with local health and human service agencies to provide comprehensive and coordinated services for children and families;

(11) implement a career teacher program according to sections 124C.27 to 124C.31;

(12) provide extended day programs for children in elementary school;

(13) pay fees charged by a regional management information center, according to section 121.935, subdivision 6, or an educational cooperative service unit, according to section 123.58, subdivision 9; or

(14) make repairs or improvements to buildings as required by a fire

safety inspection according to section 121.1502.

The school district may provide the programs and services itself or contract with a public education organization or a public or private health or human service organization. The school district shall not use education district revenue to increase the salaries of the employees of the school district.

Sec. 33. Minnesota Statutes 1990, section 124.2721, is amended by adding a subdivision to read:

Subd. 5b. [FUND TRANSFER AUTHORIZED.] *For fiscal year 1994 and thereafter, notwithstanding section 121.912, a district using the education district revenue for fire safety improvements required by fire inspections shall transfer each year the amount needed to make the improvements from the general fund to the capital expenditure fund. A district using education district revenue for purposes that would otherwise be paid from the community service fund shall transfer each year the amount needed from the general fund to the community service fund.*

Sec. 34. Minnesota Statutes 1990, section 124.2725, subdivision 4, is amended to read:

Subd. 4. [INCREASING LEVY.] (a) *For districts that combine without cooperating, the percentage in subdivision 3, clause (2), shall be:*

(1) 50 percent for the first year of combination; and

(2) 25 percent for the second year of combination.

(b) For districts that combine after one year of cooperation, the percentage in subdivision 3, clause (2), shall be:

(1) 100 percent for the first year of cooperation;

(2) 75 percent for the first year of combination;

(3) 50 percent for the second year of combination; and

(4) 25 percent for the third year of combination.

~~(b)~~ *(c)* For districts that combine after two years of cooperation, the percentage in subdivision 3, clause (2), shall be:

(1) 100 percent for the first year of cooperation;

(2) 75 percent for the second year of cooperation;

(3) 50 percent for the first year of combination; and

(4) 25 percent for the second year of combination.

Sec. 35. Minnesota Statutes 1990, section 124.2725, subdivision 5, is amended to read:

Subd. 5. [COOPERATION AND COMBINATION AID.] (a) *Districts that combine without cooperating shall receive cooperation and combination aid for the first two years of combination. Cooperation and combination aid shall not be paid after two years of combining.*

(b) Districts that combine after one year of cooperation shall receive cooperation and combination aid for the first year of cooperation and three years of combination. ~~Cooperation and combination aid is equal to the difference between the cooperation and combination revenue and the cooperation and combination levy.~~ Aid shall not be paid after three years of combining.

~~(b)~~ *(c)* Districts that combine after two years of cooperation shall receive cooperation and combination aid for the first two years of cooperation and the first two years of combination. ~~Cooperation and combination aid is equal to the difference between the cooperation and combination revenue and the cooperation and combination levy.~~ Aid shall not be paid after two years of combining.

(d) In each case, cooperation and combination aid is equal to the difference between the cooperation and combination revenue and the cooperation and combination levy.

Sec. 36. Minnesota Statutes 1990, section 124.2725, subdivision 6, is amended to read:

Subd. 6. [ADDITIONAL AID.] In addition to the aid in subdivision 5, districts shall receive aid ~~under this subdivision. For the first year of cooperation, a district shall receive, for each resident and nonresident pupil receiving instruction in a cooperating district, $100 times the actual pupil units. For the first year of combination, the combined district shall receive, for each resident and nonresident pupil receiving instruction in the combined district, $100 times the actual pupil units~~ *according to the following:*

(1) for districts that combine without cooperating, $100 times the actual pupil units in the district in the first year of combination; or

(2) for districts that combine after one year of cooperation, $100 times the actual pupil units in each district for the first year of cooperation, for each resident and nonresident pupil receiving instruction in the cooperating district, and $100 times the actual pupil units in the combined district for the first year of combination; or

(3) for districts that combine after two years of cooperation, $100 times the actual pupil units in each district for the first year of cooperation, for each resident and nonresident pupil receiving instruction in the cooperating district, and $100 times the actual pupil units in the combined district for the first year of combination.

Sec. 37. Minnesota Statutes 1990, section 124.2725, subdivision 8, is amended to read:

Subd. 8. [PERMANENT REVENUE.] (a) ~~For the third year of combination and thereafter,~~ *When a combined district is no longer eligible for aid under subdivision 5, it may receive revenue according to this subdivision.* A combined district that is not a member of an education district that receives revenue under section 124.2721 may levy *each year* the lesser of

(i) $50 times the actual pupil units in the combined district; or

(ii) $50,000.

(b) A combined district that is a member of an education district receiving revenue under section 124.2721 must not receive revenue under this subdivision.

Sec. 38. Minnesota Statutes 1990, section 124.2725, subdivision 10, is amended to read:

Subd. 10. [REVENUE LIMIT.] Revenue under this section shall not exceed the revenue received by cooperating districts or a combined district with 2,000 actual pupil units. *Revenue for cooperating districts subject to the limitation in this subdivision shall be allocated according to the number*

of pupil units in the districts.

Sec. 39. [124.2727] [INTERMEDIATE DISTRICT REVENUE.]

Subdivision 1. [ELIGIBILITY.] *A school district is eligible for intermediate school district revenue if the property in the school district was subject to taxation by or on behalf of an intermediate school district for taxes payable in 1991. Independent school district Nos. 138 and 141 are eligible for intermediate school district revenue upon joining intermediate district No. 916.*

Subd. 2. [REVENUE.] *Intermediate school district revenues for an eligible school district are equal to the product of:*

(1) the greater of:

(i) the quotient obtained by dividing five-sixths of the levy certified by the intermediate school district for taxes payable in 1989 by the sum of the actual pupil units of the eligible school districts for the fiscal year to which the levy is attributable; or

(ii) $50, times

(2) the actual pupil units in the school district for the year to which the levy is attributable.

Subd. 3. [LEVY.] *The intermediate school district levy for an eligible school district is equal to the product of:*

(1) the quotient obtained by dividing the sum of the amounts computed in subdivision 2 for all eligible member districts of the intermediate school district by the total adjusted net tax capacity of the intermediate school district; times

(2) the adjusted net tax capacity of the school district.

Subd. 4. [REVENUE ADJUSTMENTS.] *The intermediate school district revenue adjustment for an eligible school district is equal to the intermediate school district revenue minus the intermediate school district levy times the ratio of the actual amount levied to the permitted levy. If the permitted intermediate school district levy exceeds the intermediate school district revenue, the department shall reduce other aid due the district by the amount equal to the difference between the permitted levy and the revenue. The amount reduced is annually appropriated to the department of education for revenue adjustments under this subdivision.*

Subd. 5. [REVENUE USES.] *Five-elevenths of the proceeds of the revenue must be used for special education and six-elevenths of the proceeds of the revenue must be used for secondary vocational education. The district may provide special education or secondary vocational education, or both. The district may purchase some or all of either type of education from the intermediate district, another school district, or any other provider.*

Subd. 6. [ALTERNATIVE LEVY AUTHORITY.] *(a) An intermediate school district may levy, as a single taxing district, according to this paragraph, an amount that may not exceed the greater of:*

(1) five-sixths of the levy certified for taxes payable in 1989; or

(2) the lesser of (i) $50 times the actual pupil units in each participating district for the fiscal year to which the levy is attributable, or (ii) 1.43 percent of the adjusted net tax capacity. The levy shall be certified according

to section 275.07. Upon such certification, the county auditors shall levy and collect the levies and remit the proceeds of the levy to the intermediate school district. The levies shall not be included in computing the limitation upon the levy of any of the participating districts.

(b) Five-sixths of the proceeds of the levy shall be used for special education. Six-elevenths of the proceeds of the levy shall be used for secondary vocational education.

(c) To levy according to paragraph (a), a majority of the full membership of the school board of each member of the intermediate school district shall adopt a resolution in August of any year stating its decision not to levy according to this section and authorizing the intermediate district to levy according to paragraph (a). Any member district may adopt a resolution by the following February 1 or February 1 of any subsequent year to levy as a school district the amount authorized by this section. The resolution may or may not also contain the school board's decision to withdraw from the intermediate school district or to cease participating in or providing financial support for any of the services or activities of the intermediate school district. Upon withdrawal from or cessation of participation in or support for the services or activities of the intermediate district, the board of the intermediate district shall pay to the district $50 times the number of actual pupil units in the school district, or a prorated amount if the member district ceases participation in or providing financial support for any activities or services of the intermediate district.

Sec. 40. Minnesota Statutes 1990, section 124.493, is amended by adding a subdivision to read:

Subd. 3. [APPLICATIONS.] *Districts that apply for a cooperative secondary facilities grant after May 1, 1991, shall:*

(1) submit a plan as set forth in section 122.242 for approval by the state board of education; and

(2) comply with the provisions of sections 122.243 to 122.247, applicable to combined districts.

The districts are not eligible for cooperation and combination revenue under section 124.2725. Sections 124.494, 124.4945, and 124.4946 do not apply to districts applying for a grant after May 1, 1991, except for provisions in the sections relating to acquiring, constructing, remodeling, or improving a building or site of a cooperative secondary facility.

Sec. 41. Minnesota Statutes 1990, section 124.575, is amended by adding a subdivision to read:

Subd. 1a. [ELIGIBILITY.] *Beginning in fiscal year 1994 a school district is eligible for secondary vocational cooperative revenue if the school district certified a levy for secondary vocational cooperative revenue in 1992 for taxes payable in 1993. The pupil units of a district that is a member of intermediate school district No. 287, 916, or 917 may not be used to obtain revenue under this section. The pupil units of a district may not be used to obtain revenue under this section and section 124.2721.*

Sec. 42. Minnesota Statutes 1990, section 124.575, is amended by adding a subdivision to read:

Subd. 2a. [REVENUE.] *For fiscal year 1994 and thereafter, secondary vocational cooperative revenue shall be $20 times the actual pupil units in*

the district.

Sec. 43. Minnesota Statutes 1990, section 124.575, is amended by adding a subdivision to read:

Subd. 3a. [LEVY.] *Beginning with the levy attributable to fiscal year 1994 and thereafter, the secondary vocational cooperative levy for a school district is equal to the following:*

(1) the sum of the secondary vocational cooperative revenue according to subdivision 2 for all member school districts of the secondary vocational cooperative according to subdivision 1, times

(2) the lesser of

(a) one, or

(b) the ratio of the adjusted net tax capacity of the secondary vocational cooperative divided by the number of actual pupil units in the secondary vocational cooperative to an amount equal to $20 divided by .78 percent, times

(3) the ratio of the adjusted net tax capacity of the school district to the total adjusted net tax capacity of the secondary vocational cooperative.

Sec. 44. Minnesota Statutes 1990, section 124.575, is amended by adding a subdivision to read:

Subd. 4a. [AID.] *For fiscal year 1994 and thereafter, secondary vocational cooperative aid equals the secondary vocational cooperative revenue minus the secondary vocational cooperative levy, times the ratio of the actual amount levied to the permitted levy. If the permitted amount of the secondary vocational cooperative levy exceeds the secondary vocational cooperative revenue, the department shall reduce other aids due the district by the amount equal to the difference between the permitted levy and the revenue. The amount reduced is annually appropriated to the department of education for aid payments under this subdivision.*

Sec. 45. Minnesota Statutes 1990, section 124.575, is amended by adding a subdivision to read:

Subd. 5. [USE OF REVENUE.] *Secondary vocational cooperative revenue shall be used to provide or purchase vocational offerings, special education for handicapped pupils, or other educational programs or services offered by a secondary vocational center, school district, or other provider.*

Sec. 46. Minnesota Statutes 1990, section 124B.03, subdivision 2, is amended to read:

Subd. 2. [REFERENDUM LEVY.] (a) The amount of general education revenue certified by an education district board under section 124B.10 may be increased in any amount that is approved by the voters of the education district at a referendum called for the purpose. The referendum may be called by the education district board or must be called by the education district board upon written petition of qualified voters of the education district. The referendum must be held on the first Tuesday after the first Monday in November. The ballot shall state the maximum amount of the increased levy ~~as a percentage of net tax capacity~~ *per actual pupil unit*, the *total* amount that will be raised ~~by that local tax rate~~ in the first year it is to be levied, and that the ~~local tax rate~~ *proceeds of the levy* must be used to finance school operations. The ballot shall designate a specific number

of years for which the referendum authorization applies *which may not exceed five years*. The ballot may contain a text with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the levy proposed by (petition to) the board of . . . . . , Education District No. . . . . , be approved?"

(b) ~~If~~ *An* approved~~, the~~ amount ~~provided by the approved local tax rate applied to the net tax capacity~~ *per actual pupil unit times the number of actual pupil units in the education district* for the *fiscal* year before the year the levy is certified is authorized for certification for the number of years approved~~, if applicable,~~ or until revoked or reduced by the voters of the education district at a later referendum.

(c) The education district board shall prepare and deliver by first class mail at least 15 days but no more than 30 days prior to the day of the election to each taxpayer at the address listed on each member district's current year's assessment roll, a notice of the referendum and the proposed levy increase. For the purpose of giving mailed notice under this subdivision, owners shall be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer shall be deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. The notice must project the anticipated amount of *tax* increase in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the education district.

(d) The notice must include the following statement: ~~"In 1989, the legislature reduced property taxes for education by increasing the state share of funding for education. However, state aid for cities and townships was reduced by a corresponding amount. As a result, property taxes for cities and townships may increase.~~ "Passage of this referendum will result in an increase in your property taxes."

(e) A referendum on the question of revoking or reducing the increased levy amount authorized under paragraph (a) may be called by the education district board and must be called by the education district board upon the written petition of qualified voters of the education district. A levy approved by the voters of the education district under paragraph (a) must be made at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one election may be held to revoke or reduce a levy for any specific year and for later years.

(f) A petition authorized by paragraph (a) or (e) shall be effective if signed by a number of qualified voters in excess of 15 percent of the average number of voters at the two most recent districtwide school elections in all the member school districts. A referendum invoked by petition must be held on the day specified in paragraph (a).

(g) The approval of 50 percent plus one of those voting on the question is required to pass a referendum.

(h) Within 30 days after the education district holds a referendum according to this subdivision, the education district shall notify the commissioner of education of the results of the referendum.

(i) The department shall allocate the amount certified by the education district board under paragraph (a) or subdivision 1 proportionately among the member districts based on net tax capacity. The member districts ~~shall~~ *may* levy *an amount up to* the amount allocated.

~~(j) Each year, a member district shall transfer referendum revenue to the education district board according to this subdivision. By June 20 and November 30 of each year, an amount must be transferred equal to:~~

~~(1) 50 percent times~~

~~(2) the amount certified in this subdivision minus homestead and agricultural credit aid allocated for that levy according to section 273.1398, subdivision 6.~~

Sec. 47. Minnesota Statutes 1990, section 136D.22, is amended by adding a subdivision to read:

Subd. 3. [LIMITATION ON PARTICIPATION AND FINANCIAL SUPPORT.] *(a) No school district shall be required by an agreement or otherwise to participate in or provide financial support for an intermediate school district for a time period in excess of one fiscal year. Any agreement, part of an agreement, or other type of requirement to the contrary is void.*

(b) This subdivision shall not affect the continued liability of a school district for its share of bonded indebtedness or other debt incurred by the intermediate school district before the effective date of this section. The school district is liable only until the obligation or debt is discharged and only according to the payment schedule in effect on the effective date of this section, except that the payment schedule may be altered for the purpose of restructuring debt or refunding bonds outstanding on the effective date of this section if the annual payments of the school district are not increased and if the total obligation of the school district for its share of outstanding bonds or other debt is not increased.

(c) To cease participating in or providing financial support for any of the services or activities provided by the intermediate district or to withdraw from the intermediate district, the school board shall adopt a resolution and notify the intermediate board of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year or, at the option of the school board, June 30 of the following fiscal year.

(d) Before issuing bonds or incurring other debt, the board of an intermediate district shall adopt a resolution proposing to issue bonds or incur other debt and the proposed financial effect of the bonds or other debt upon each participating school district. The resolution shall be adopted within a time sufficient to allow the school board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in article 9, section 33, and sections 125.12 and 125.17. The intermediate board shall notify each participating school board of the contents of the resolution. Within 120 days of receiving the resolution of the intermediate board, the school board of the participating district shall adopt a resolution stating:

(1) its concurrence with issuing bonds or incurring other debt;

(2) its intention to cease participating in or providing financial support for the service or activity related to the bonds or other debt; or

(3) its intention to withdraw from the intermediate district.

A school board adopting a resolution according to clause (1) is liable for

its share of bonded indebtedness or other debt as proposed by the board of the intermediate district. A school board adopting a resolution according to clause (2) is not liable for the bonded indebtedness or other debt, as proposed by the board of the intermediate district, related to the services or activities in which the school district ceases participating or providing financial support. A school board adopting a resolution according to clause (3) is not liable for the bonded indebtedness or other debt proposed by the board of the intermediate district.

(e) After the effective date of this section, a school district is liable according to paragraph (d) for its share of bonded indebtedness or other debt incurred by the intermediate district to the extent that the bonds or other debt are directly related to the services or activities in which the school district participates or for which the school district provides financial support. The school district has continued liability only until the obligation or debt is discharged and only according to the payment schedule in effect at the time the board of the intermediate district provides notice to the school board, except that the payment schedule may be altered for the purpose of refunding the outstanding bonds or restructuring other debt if the annual payments of the school district are not increased and if the total obligation of the school district for the outstanding bonds or other debt is not increased.

Sec. 48. [136D.281] [BONDS.]

Subdivision 1. [PURPOSE.] *The intermediate school board, acting in its own behalf, may issue bonds for the acquisition and betterment of school facilities or equipment or for the funding or refunding of outstanding bonds, warrants, orders, or certificates of indebtedness.*

Subd. 2. [GENERAL LAW.] *Chapter 475 shall be applicable in all respects.*

Subd. 3. [RESOLUTION.] *The purpose and the amount of any borrowing shall first be approved by resolution of the school board of the intermediate school district. When the resolution has been adopted by the intermediate school board it shall be published once in a newspaper of general circulation in said district.*

Subd. 4. [REFERENDUM.] *The intermediate school board shall not sell and issue bonds for acquisition or betterment purposes until the question of their issuance has been submitted to the voters of the intermediate school district at a special election held in and for the intermediate district. The date of the election, the question to be submitted, and all other necessary conduct of the election shall be fixed by the intermediate school board. The election shall be conducted and canvassed under the direction of the intermediate school board in accordance with chapter 205A, insofar as applicable.*

If a majority of the total number of votes cast on the question within the intermediate school district is in favor of the question, the intermediate school board may proceed with the sale and issuance of the bonds.

Subd. 5. [GENERAL OBLIGATION BONDS.] *The full faith, credit, and unlimited taxing powers of the intermediate school district shall be pledged to the payment of all bonds and certificates of indebtedness, and none of the obligations shall be included in the net debt of any participating school district as defined by section 475.51, subdivision 4, or any other similar law.*

Subd. 6. [LEVIES FOR PAYMENT.] *The intermediate school board upon*

awarding a contract for the sale of the bonds shall certify to the county auditor or county auditors the years and amounts of taxes required to be levied for the payment of the bonds as provided by section 475.61. The county auditor shall cause taxes to be spread in each year until bonds and interest have been paid upon all of the assessable, taxable valuation of the intermediate school district.

Subd. 7. [TAX EXEMPT SECURITIES.] *In all other respects chapter 475 shall apply and the bonds shall be deemed authorized securities within the provisions of section 50.14 and shall be deemed instruments of a public governmental agency.*

Sec. 49. Minnesota Statutes 1990, section 136D.29, is amended to read:

136D.29 [TERM OF AGREEMENT; DISSOLUTION, BOND TAXES.]

The agreement shall state the term of its duration and may provide for the method of termination and distribution of assets after payment of all liabilities of the joint school board. No termination shall affect the obligation to continue to levy taxes required for payment of any bonds issued ~~as provided in section 136D.28~~ *before termination.*

Sec. 50. Minnesota Statutes 1990, section 136D.71, is amended to read:

136D.71 [LISTED DISTRICTS MAY FORM INTERMEDIATE DISTRICT.]

Subdivision 1. [AGREEMENT.] Notwithstanding any other law to the contrary, two or more of the independent school districts numbered 12 and 16 of Anoka county, independent school districts numbered 621, 622, 623, and 624 of Ramsey county, and independent school districts numbered 832, 833, and 834 of Washington county, are hereby authorized to enter into an agreement to establish a special intermediate school district upon majority vote of the full membership of each of the boards of the districts entering into the agreement. When such resolution has been adopted by the board of one of the districts, it shall be published once in a newspaper of general circulation in said district. If a petition for referendum on the question of said district entering into such agreement is filed with the clerk of the said board within 60 days after publication of such resolution, signed by the qualified voters of said district equal to five percent of the number of voters at the last annual school election. No board shall enter into such agreement until the question of whether the district shall enter into the agreement has been submitted to the voters of said district at a special election. Said election shall be conducted and canvassed in accordance with chapter 205A.

If a majority of the total number of votes cast on the question within said district is in favor of the question, the board of said school district may thereupon proceed to enter into an agreement to establish the special intermediate school district for purposes herein described. Such school district so created shall be known as northeastern metropolitan intermediate school district, state of Minnesota. The commissioner of education shall assign an appropriate identification number as provided by section 122.03.

Subd. 2. [LIMITATION ON PARTICIPATION AND FINANCIAL SUPPORT.] *(a) No school district shall be required by an agreement or otherwise to participate in or provide financial support for an intermediate school district for a time period in excess of one fiscal year. Any agreement, part of an agreement, or other type of requirement to the contrary is void.*

(b) This subdivision shall not affect the continued liability of a school district for its share of bonded indebtedness or other debt incurred by the intermediate school district before the effective date of this section. The school district is liable only until the obligation or debt is discharged and only according to the payment schedule in effect on the effective date of this section, except that the payment schedule may be altered for the purpose of restructuring debt or refunding bonds outstanding on the effective date of this section if the annual payments of the school district are not increased and if the total obligation of the school district for its share of outstanding bonds or other debt is not increased.

(c) To cease participating in or providing financial support for any of the services or activities provided by the intermediate district or to withdraw from the intermediate district, the school board shall adopt a resolution and notify the intermediate board of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year or, at the option of the school board, June 30 of the following fiscal year.

(d) Before issuing bonds or incurring other debt, the board of an intermediate district shall adopt a resolution proposing to issue bonds or incur other debt and the proposed financial effect of the bonds or other debt upon each participating school district. The resolution shall be adopted within a time sufficient to allow the school board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in article 9, section 33, and sections 125.12 and 125.17. The intermediate board shall notify each participating school board of the contents of the resolution. Within 120 days of receiving the resolution of the intermediate board, the school board of the participating district shall adopt a resolution stating:

(1) its concurrence with issuing bonds or incurring other debt;

(2) its intention to cease participating in or providing financial support for the service or activity related to the bonds or other debt; or

(3) its intention to withdraw from the intermediate district.

A school board adopting a resolution according to clause (1) is liable for its share of bonded indebtedness or other debt as proposed by the board of the intermediate district. A school board adopting a resolution according to clause (2) is not liable for the bonded indebtedness or other debt, as proposed by the board of the intermediate district, related to the services or activities in which the school district ceases participating or providing financial support. A school board adopting a resolution according to clause (3) is not liable for the bonded indebtedness or other debt proposed by the board of the intermediate district.

(e) After the effective date of this section, a school district is liable according to paragraph (d) for its share of bonded indebtedness or other debt incurred by the intermediate district to the extent that the bonds or other debt are directly related to the services or activities in which the school district participates or for which the school district provides financial support. The school district has continued liability only until the obligation or debt is discharged and only according to the payment schedule in effect at the time the board of the intermediate district provides notice to the school board, except that the payment schedule may be altered for the purpose of refunding the outstanding bonds or restructuring other debt if the annual payments of the

school district are not increased and if the total obligation of the school district for the outstanding bonds or other debt is not increased.

Sec. 51. Minnesota Statutes 1990, section 136D.72, subdivision 1, is amended to read:

Subdivision 1. [MEMBERS.] The district shall be operated by a school board ~~of not less than six nor more than 12 members. The board shall consist~~ *consisting* of at least one member from each of the school districts within the special intermediate school district. Board members shall be members of the school boards of the respective school districts and shall be appointed by their respective school boards. Members shall serve at the pleasure of their respective school boards and may be subject to recall by a majority vote of the school board. They shall report at least quarterly to their boards on the activities of the intermediate district.

Sec. 52. Minnesota Statutes 1990, section 136D.76, subdivision 2, is amended to read:

Subd. 2. [JOINDER.] *An independent school district must receive the approval of the state board of education and the state board of technical colleges to become a participant in the intermediate school district. Thereafter,* upon approval of the majority vote of its board and of the intermediate school board ~~as well as approval of the state board of education~~ *and without the requirement for an election, independent school district No. 138 of Chisago and Isanti counties and independent school district No. 141 of Chisago and Washington counties, and* any other independent school district adjoining the territory embraced in the intermediate school district may become a participant in the intermediate school district and be governed by the provisions of sections 136D.71 to 136D.77 thereafter. The net tax capacity of the property within the geographic confines of such district shall become proportionately liable for any indebtedness issued, outstanding or authorized of the intermediate school district.

Sec. 53. Minnesota Statutes 1990, section 136D.82, is amended by adding a subdivision to read:

Subd. 3. [LIMITATION ON PARTICIPATION AND FINANCIAL SUPPORT.] *(a) No school district shall be required by an agreement or otherwise to participate in or provide financial support for an intermediate school district for a time period in excess of one fiscal year. Any agreement, part of an agreement, or other type of requirement to the contrary is void.*

(b) This subdivision shall not affect the continued liability of a school district for its share of bonded indebtedness or other debt incurred by the intermediate school district before the effective date of this section. The school district is liable only until the obligation or debt is discharged and only according to the payment schedule in effect on the effective date of this section, except that the payment schedule may be altered for the purpose of restructuring debt or refunding bonds outstanding on the effective date of this section if the annual payments of the school district are not increased and if the total obligation of the school district for its share of outstanding bonds or other debt is not increased.

(c) To cease participating in or providing financial support for any of the services or activities provided by the intermediate district or to withdraw from the intermediate district, the school board shall adopt a resolution and notify the intermediate board of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year

or, at the option of the school board, June 30 of the following fiscal year.

(d) Before issuing bonds or incurring other debt, the board of an intermediate district shall adopt a resolution proposing to issue bonds or incur other debt and the proposed financial effect of the bonds or other debt upon each participating school district. The resolution shall be adopted within a time sufficient to allow the school board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in article 9, section 33, and sections 125.12 and 125.17. The intermediate board shall notify each participating school board of the contents of the resolution. Within 120 days of receiving the resolution of the intermediate board, the school board of the participating district shall adopt a resolution stating:

(1) its concurrence with issuing bonds or incurring other debt;

(2) its intention to cease participating in or providing financial support for the service or activity related to the bonds or other debt; or

(3) its intention to withdraw from the intermediate district.

A school board adopting a resolution according to clause (1) is liable for its share of bonded indebtedness or other debt as proposed by the board of the intermediate district. A school board adopting a resolution according to clause (2) is not liable for the bonded indebtedness or other debt, as proposed by the board of the intermediate district, related to the services or activities in which the school district ceases participating or providing financial support. A school board adopting a resolution according to clause (3) is not liable for the bonded indebtedness or other debt proposed by the board of the intermediate district.

(e) After the effective date of this section, a school district is liable according to paragraph (d) for its share of bonded indebtedness or other debt incurred by the intermediate district to the extent that the bonds or other debt are directly related to the services or activities in which the school district participates or for which the school district provides financial support. The school district has continued liability only until the obligation or debt is discharged and only according to the payment schedule in effect at the time the board of the intermediate district provides notice to the school board, except that the payment schedule may be altered for the purpose of refunding the outstanding bonds or restructuring other debt if the annual payments of the school district are not increased and if the total obligation of the school district for the outstanding bonds or other debt is not increased.

Sec. 54. [136D.88] [BONDS.]

Subdivision 1. [PURPOSE.] *The intermediate school board, acting in its own behalf, may issue bonds for the acquisition and betterment of school facilities or equipment or for the funding or refunding of outstanding bonds, warrants, orders, or certificates of indebtedness.*

Subd. 2. [GENERAL LAW.] *Chapter 475 shall be applicable in all respects.*

Subd. 3. [RESOLUTION.] *The purpose and the amount of any borrowing shall first be approved by resolution of the school board of the intermediate school district. When the resolution has been adopted by the intermediate school board it shall be published once in a newspaper of general circulation in the district.*

Subd. 4. [REFERENDUM.] *The intermediate school board shall not sell and issue bonds for acquisition or betterment purposes until the question of their issuance has been submitted to the voters of the intermediate school district at a special election held in and for the intermediate district. The date of the election, the question to be submitted, and all other necessary conduct of the election shall be fixed by the intermediate school board. The election shall be conducted and canvassed under the direction of the intermediate school board in accordance with chapter 205A, insofar as applicable.*

If a majority of the total number of votes cast on the question within the intermediate school district is in favor of the question, the intermediate school board may thereupon proceed with the sale and issuance of the bonds.

Subd. 5. [GENERAL OBLIGATION BONDS.] *The full faith, credit, and unlimited taxing powers of the intermediate school district shall be pledged to the payment of all bonds and certificates of indebtedness, and none of the obligations shall be included in the net debt of any participating school district as defined by section 475.51, subdivision 4, or any other similar law.*

Subd. 6. [LEVIES FOR PAYMENT.] *The intermediate school board upon awarding a contract for the sale of the bonds shall certify to the county auditor or county auditors the years and amounts of taxes required to be levied for the payment of the bonds as provided by section 475.61. The county auditor shall cause taxes to be spread in each year until bonds and interest have been paid upon all of the assessable, taxable valuation of the intermediate school district.*

Subd. 7. [TAX EXEMPT SECURITIES.] *In all other respects chapter 475 shall apply and the bonds shall be deemed authorized securities within the provisions of section 50.14, and shall be deemed instruments of a public governmental agency.*

Sec. 55. Minnesota Statutes 1990, section 136D.90, is amended to read:

136D.90 [~~TERM OF AGREEMENT,~~ DISSOLUTION, BOND TAXES.]

Subdivision 1. [TERM OF AGREEMENT AND TERMINATION.] The agreement shall state the term of its duration and may provide for the method of termination and distribution of assets after payment of all liabilities of the joint school board. No termination shall affect the obligation to continue to levy taxes required for payment of any bonds issued ~~as provided in section 136D.89~~ *before termination.*

Subd. 2. [WITHDRAWAL.] *(a) No school district shall be required by an agreement or otherwise to participate in or provide financial support for an intermediate school district for a time period in excess of one fiscal year. Any agreement, part of an agreement, or other type of requirement to the contrary is void.*

(b) This subdivision shall not affect the continued liability of a school district for its share of bonded indebtedness or other debt incurred by the intermediate school district before the effective date of this section. The school district is liable only until the obligation or debt is discharged and only according to the payment schedule in effect on the effective date of this section, except that the payment schedule may be altered for the purpose of restructuring debt or refunding bonds outstanding on the effective date of this section if the annual payments of the school district are not increased

and if the total obligation of the school district for its share of outstanding bonds or other debt is not increased.

(c) To cease participating in or providing financial support for any of the services or activities provided by the intermediate district or to withdraw from the intermediate district, the school board shall adopt a resolution and notify the intermediate board of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year or, at the option of the school board, June 30 of the following fiscal year.

(d) Before issuing bonds or incurring other debt, the board of an intermediate district shall adopt a resolution proposing to issue bonds or incur other debt and the proposed financial effect of the bonds or other debt upon each participating school district. The resolution shall be adopted within a time sufficient to allow the school board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in article 9, section 33, and sections 125.12 and 125.17. The intermediate board shall notify each participating school board of the contents of the resolution. Within 120 days of receiving the resolution of the intermediate board, the school board of the participating district shall adopt a resolution stating:

(1) its concurrence with issuing bonds or incurring other debt;

(2) its intention to cease participating in or providing financial support for the service or activity related to the bonds or other debt; or

(3) its intention to withdraw from the intermediate district.

A school board adopting a resolution according to clause (1) is liable for its share of bonded indebtedness or other debt as proposed by the board of the intermediate district. A school board adopting a resolution according to clause (2) is not liable for the bonded indebtedness or other debt, as proposed by the board of the intermediate district, related to the services or activities in which the school district ceases participating or providing financial support. A school board adopting a resolution according to clause (3) is not liable for the bonded indebtedness or other debt proposed by the board of the intermediate district.

(e) After the effective date of this section, a school district is liable according to paragraph (d) for its share of bonded indebtedness or other debt incurred by the intermediate district to the extent that the bonds or other debt are directly related to the services or activities in which the school district participates or for which the school district provides financial support. The school district has continued liability only until the obligation or debt is discharged and only according to the payment schedule in effect at the time the board of the intermediate district provides notice to the school board, except that the payment schedule may be altered for the purpose of refunding the outstanding bonds or restructuring other debt if the annual payments of the school district are not increased and if the total obligation of the school district for the outstanding bonds or other debt is not increased.

Sec. 56. Minnesota Statutes 1990, section 275.125, by adding a subdivision.

Subd. 11g. [EXTRA CAPITAL EXPENDITURE LEVY FOR INTERACTIVE TELEVISION.] *A school district with its central administrative*

office located within economic development region one, two, three, four, five, seven, eight, and ten may levy up to .5 percent of the adjusted net tax capacity of the district for the construction, maintenance, and lease costs of an interactive television system for instructional purposes. The approval by the commissioner of education and the application procedures set forth in subdivision 11d shall apply to the levy authority in this subdivision.

Sec. 57. Laws 1989, chapter 329, article 6, section 53, subdivision 6, as amended by Laws 1990, chapter 562, article 7, section 13, is amended to read:

Subd. 6. [TELECOMMUNICATIONS GRANT.] For grants of up to $20,000 each to independent school districts Nos. 356, 353, 444, 441, 524, 564, 592, 440, 678, 676, 682, 690, 390, 593, 595, 630, 600, 599, 447, 742, 627, 628, *561*, and 454 to support cooperative educational technology programs:

$340,000 . . . . . 1991.

The amount appropriated shall not cancel but shall be available until June 30, 1992.

After June 30, 1991, any remaining amount is available for grants of up to $20,000 each to independent school districts Nos. 402, 403, 404, 409, 411, 412, 413, 414, 418, 584, 601, 603, 791, 891, and 896. Any other district listed in this section that have not received a grant prior to June 30, 1991, may apply for a grant from any remaining amount. The department may establish a deadline for grant applications.

Sec. 58. [AID PAYMENTS.]

(a) Notwithstanding Minnesota Statutes, section 122.541, or any other law to the contrary, it is the intent of the legislature that all pupils residing in independent school district No. 483, Motley, who are enrolled and attending school in kindergarten through grade 12 in independent school district No. 793, Staples, be treated as nonresident pupils enrolled and attending school in independent school district No. 793, Staples, under Minnesota Statutes, section 120.062 beginning with the 1990-1991 school year.

(b) The department of education shall:

(1) determine the amount of state education aid calculated under Minnesota Statutes, section 120.062, subdivision 12, due district No. 793 as a result of this section;

(2) reduce state education aid for district No. 483 in an amount equal to the amount of aid due district No. 793 under clause (1) plus $110,198.19 for the cost to district No. 793 of educating 48 resident pupils of district No. 483 who attended kindergarten through grade 6 in district No. 793 during the 1989-1990 school year; and

(3) deposit the amount of state education aid calculated under clauses (1) and (2) in a separate account in the state treasury.

Notwithstanding any law to the contrary, the state treasurer shall use the revenue deposited in the account under clause (3) to pay to independent school district No. 793 that amount of state education aid, plus a proportionate share of the interest earned on the account, representing partial or total satisfaction of any final judgment entered against independent school district No. 483 in the cases of independent school district No. 483, Motley v. Tom Nelson, in his official capacity as commissioner of education, file

numbers C8-90-9736 and C6-90-2671, and independent school district No. 793 v. Ervin Bjergarfile number C6-90-2059, after all time for appeal from the judgments has expired. The treasurer shall pay any remaining revenue plus proportionate interest to independent school district No. 483. For independent school district No. 793 or independent school district No. 483 to receive payment, the attorney representing the district shall submit to the state treasurer a certified copy of the judgment and an affidavit stating that the judgment is a final judgment and the time for appeal from the judgment has expired.

Sec. 59. [RUSHFORD-PETERSON FUND TRANSFER AUTHORIZATION.]

Independent school district No. 239, Rushford-Peterson, may make permanent transfers between any of the funds in the district, with the exception of the debt redemption fund, during the 90 days following the effective date of this section.

Sec. 60. [REVENUE ADJUSTMENTS.]

(a) The department of education shall adjust the 1991 payable 1992 levy for each school district by the amount of the change in the district's education district levy for fiscal year 1992 according to Minnesota Statutes, section 124.2721, subdivision 3, resulting from the change to education district revenue under this article. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy shall be recognized as revenue for fiscal year 1992.

(b) The department of education shall adjust the 1991 payable 1992 levy for each member district of an intermediate district that levies according to section 39, subdivision 3, by the amount of the change in the school district's intermediate district levy for fiscal year 1992 according to section 39, subdivision 3, resulting from the change to intermediate district revenue under this article. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy shall be recognized as revenue for fiscal year 1992.

The department of education shall adjust the 1991 payable 1992 levy for each intermediate district that levies according to section 39, subdivision 6, by the amount of the change in the intermediate district's levy for fiscal year 1992 according to section 39, subdivision 2, resulting from the change to intermediate district revenue under this article. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy shall be recognized as revenue for fiscal year 1992.

Sec. 61. [DISTRICTS WITH SECONDARY EDUCATION AGREEMENTS.]

A district that has had an agreement for secondary education according to Minnesota Statutes, section 122.535, with one or more districts continuously since the 1987-1988 school year is eligible for cooperation and combination revenue if it meets the requirements of Minnesota Statutes, sections 122.241 to 122.248, not later than the first year of cooperation. The department of education shall extend the deadline for submitting a plan in 1991.

Sec. 62. [FINLAYSON AND HINCKLEY COOPERATION AND COMBINATION.]

Independent school district Nos. 570, Finlayson, and 573, Hinckley, may

cooperate and combine under Minnesota Statutes, sections 122.241 to 122.248, and receive revenue under Minnesota Statutes, section 124.2725, even if the districts are not contiguous. The districts shall comply with all other requirements for cooperation and combination.

Sec. 63. [APPLICABILITY.]

The provisions relating to capital loans for cooperating and combining districts apply to all districts that have contracts for capital loans the day following final enactment of this act.

Sec. 64. [PREK-12 AND COMMUNITY EDUCATION SERVICE DELIVERY SYSTEM.]

Subdivision 1. [PURPOSE.] *The purpose of this section is to design and implement a statewide delivery system for educational services that will reduce the number of different cooperative organizations and the multiple levels of administration that accompany those organizations.*

Subd. 2. [SCOPE OF THE SYSTEM.] *(a) A new statewide delivery system must be designed and implemented by the state board of education by June 30, 1995, for all prekindergarten through grade 12 and community education services provided by the organizations enumerated in this paragraph:*

(1) the Minnesota department of education;

(2) educational cooperative service units established under Minnesota Statutes, section 123.58;

(3) intermediate school districts established under Minnesota Statutes, chapter 136D;

(4) education districts established under Minnesota Statutes, section 122.91;

(5) regional management information centers established under Minnesota Statutes, section 121.935;

(6) secondary vocational cooperatives established under Minnesota Statutes, section 123.351;

(7) special education cooperatives established under Minnesota Statutes, section 120.17 or 471.59;

(8) technology cooperatives; and

(9) other joint powers agreements established under Minnesota Statutes, section 471.59.

(b) The state board shall compile a list of services and programs provided or administered by each type of organization listed in paragraph (a), clauses (1) to (9).

Subd. 3. [REQUIREMENTS FOR THE SYSTEM.] *The new statewide delivery system must provide for no more than three organizations for education service delivery:*

(1) a school district, as defined in Minnesota Statutes, chapter 123;

(2) an area education organization to provide those programs and services most efficiently and effectively provided through a joint effort of school districts; and

(3) a state level administrative organization comprised of a state board

of education and a state department of education with central and regional delivery centers.

Subd. 4. [LOCAL SCHOOL DISTRICT PLANNING.] *To assist the state board in designing a new education delivery system as described in subdivision 3, each school district shall develop a plan for the efficient and effective delivery of educational programs and services within the new education delivery system. The plan developed by each district must contain the following components enumerated in this subdivision:*

(1) a list of necessary services provided by the organizations listed in subdivision 2;

(2) a description of the necessary services to be provided by the school district, the area education organization, and the central and regional delivery centers of the department of education described in subdivision 3;

(3) a specification of the optimal number of school districts and number of pupils that an area education organization and regional center of the department of education should serve;

(4) a method for determining the boundaries of area education organizations and regional centers of the department;

(5) a description of how services provided in the area education organizations should be funded;

(6) a determination of the role of the school district, the area education organization, and the central and regional centers of the department in ensuring that health and other social services necessary to maximize a pupil's ability to learn are provided to pupils; and

(7) any additional information requested by the state board of education.

In the development of its plan, each district shall confer with teachers and residents within the district, hold public meetings as necessary, and inform the public concerning its plan and any recommendations. School districts must meet jointly to discuss aspects of the plan which involve multiple school districts. Each district must submit the plan to the state board by a date specified by the board. School districts cooperating under Minnesota Statutes, sections 122.241 to 122.248, 122.535, or 122.541 must submit a joint plan.

Subd. 5. [STATE BOARD OF EDUCATION TO DIRECT LOCAL SCHOOL DISTRICT PLANNING.] *The state board of education shall direct local school district efforts to develop the plan described in subdivision 4. To assist school districts in planning, the board shall provide each school district with the list of services and programs compiled according to subdivision 2. The commissioner of education shall provide staff assistance to the state board as required by the board to direct this planning process.*

Subd. 6. [STATE BOARD OF EDUCATION REPORTS TO THE LEGISLATURE.] *(a) The state board of education shall set a date by which school districts must submit their plan to the board. The board shall report to the legislature by February 1, 1992, on school district progress in the planning process. The board shall make a final report to the legislature by January 1, 1993. The final report must contain recommendations for the design of an education service delivery system in accordance with this section and recommendations for legislation required to implement the system.*

(b) The report must include recommendations specifying at which organizational level of the education delivery system described in subdivision 3 collective bargaining could take place most effectively and efficiently. The board must consult with the bureau of mediation services in developing these recommendations.

(c) The final report must include recommendations of the legislative commission on children, youth, and their families established according to article 8, section 1 on coordinating local health, correctional, educational, job, and human services to improve the efficiency and effectiveness of services to children and families and to eliminate duplicative and overlapping services.

Sec. 65. [EARLY RECOGNITION OF COOPERATION REVENUE.]

Independent school district Nos. 543, Deer Creek, and 819, Wadena, may recognize cooperation revenue received for fiscal year 1993 according to Minnesota Statutes, section 124.2725, subdivision 6, in fiscal year 1992.

Sec. 66. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

Subd. 2. [EDUCATION DISTRICT AID.] *For education district aid according to Minnesota Statutes, section 124.2721:*

$2,798,000	. . . . .	*1992*
$2,290,000	. . . . .	*1993*

The 1992 appropriation includes $555,000 for 1991 and $2,243,000 for 1992.

The 1993 appropriation includes $395,000 for 1992 and $1,895,000 for 1993.

Subd. 3. [COOPERATION AND COMBINATION AID.] *For aid for districts that cooperate and combine according to Minnesota Statutes, section 124.2725:*

$2,327,000	. . . . .	*1992*
$4,148,000	. . . . .	*1993*

The 1992 appropriation includes $210,000 for 1991 and $2,116,000 for 1992.

The 1993 appropriation includes $373,000 for 1992 and $3,775,000 for 1993.

Subd. 4. [SECONDARY VOCATIONAL COOPERATIVE AID.] *For secondary vocational cooperative aid according to Minnesota Statutes, section 124.575:*

$178,000	. . . . .	*1992*
$165,000	. . . . .	*1993*

The 1992 appropriation includes $24,000 for 1991 and $154,000 for 1992.

The 1993 appropriation includes $27,000 for 1992 and $138,000 for 1993.

Subd. 5. [EDUCATIONAL COOPERATIVE SERVICE UNITS.] *For educational cooperative service units:*

$748,000	. . . . .	*1992*
$748,000	. . . . .	*1993*

The 1992 appropriation includes $112,000 for 1991 and $636,000 for 1992.

The 1993 appropriation includes $112,000 for 1992 and $636,000 for 1993.

Money from this appropriation may be transmitted to ECSU boards of directors for general operations in amounts of up to $68,000 per ECSU for each fiscal year. The ECSU whose boundaries coincide with the boundaries of development region 11 and the ECSU whose boundaries encompass development regions six and eight may receive up to $136,000 for each fiscal year.

Before releasing money to the ECSUs, the department of education shall ensure that the annual plan of each ECSU explicitly addresses the specific educational services that can be better provided by an ECSU than by a member district. The annual plan must include methods to increase direct services to school districts in cooperation with the state department of education. The department may withhold all or a part of the money for an ECSU if the department determines that the ECSU has not been providing services according to its annual plan.

Subd. 6. [MANAGEMENT INFORMATION CENTERS.] *For management information centers according to Minnesota Statutes, section 121.935, subdivision 5:*

$3,411,000	. . . . .	*1992*
$3,411,000	. . . . .	*1993*

$356,000 each year is for software support of the ESV information system.

Sec. 67. [REPEALER.]

Subdivision 1. [JULY 1, 1991.] *Minnesota Statutes 1990, 124C.02; 136D.27, subdivision 1; 136D.74, subdivision 2; 136D.87, subdivision 1; and 275.125, subdivisions 8d, are repealed.*

Subd. 2. [IMMEDIATE.] *Minnesota Statutes 1990, sections 124.493, subdivision 2; 136D.28; 136D.30; 136D.89; 136D.91; and Laws 1990, chapter 562, article 6, section 36, are repealed.*

The repeal of Minnesota Statutes, sections 136D.28 and 136D.89, shall not affect any rights or duties relating to bonds issued according to the repealed sections.

Subd. 3. [July 1, 1993.] *Minnesota Statutes 1990, sections 121.935, subdivision 5; 121.91, subdivision 7; 122.945, subdivision 4; 124.2721, subdivision 3a; and 124.535, subdivision 3a.*

Sec. 68. [EFFECTIVE DATE.]

Sections 2, 3, 6, 7, 8, 9, 12, 14, 16, and 17 are effective for school districts with an effective date of reorganization according to Minnesota Statutes, section 122.22 or 122.23 after June 30, 1990, and for school districts that certified a levy according to Minnesota Statutes, section 124.2725 after July 1, 1989.

Sections 39, 47, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, and 67, subdivision 2, are effective the day following final enactment.

Sections 4, 5, 20, 22, 23, 24, 25, 26, 28, 30, 31, 32, 33, 41, 42, 43, 44, 45, and 67, subdivision 3, are effective July 1, 1993.

Sec. 69. [RETROACTIVE EFFECT.]

Notwithstanding the effective date of Laws 1990, chapter 562, article 6, section 6, a district shall pay severance pay, according to section 18, to a teacher who was placed on unrequested leave of absence as a result of an agreement for secondary education according to Minnesota Statutes 1990, section 122.535, effective on or about the close of the 1989-1990 school year, if the teacher is otherwise eligible according to section 18. The amount of the severance pay is the amount specified in section 18.

ARTICLE 7

OTHER AIDS AND LEVIES

Section 1. [120.0111] [MISSION STATEMENT.]

The mission of public education in Minnesota, a system for lifelong learning, is to ensure individual academic achievement, an informed citizenry, and a highly productive work force. This system focuses on the learner, promotes and values diversity, provides participatory decision-making, ensures accountability, models democratic principles, creates and sustains a climate for change, provides personalized learning environments, encourages learners to reach their maximum potential, and integrates and coordinates human services for learners.

Sec. 2. Minnesota Statutes 1990, section 120.101, is amended by adding a subdivision to read:

Subd. 5b. [INSTRUCTIONAL DAYS.] *Every child required to receive instruction according to subdivision 5 shall receive instruction for at least the number of days per year required in the following schedule:*

(1) 1995-1996, 172;

(2) 1996-1997, 174;

(3) 1997-1998, 176;

(4) 1998-1999, 178;

(5) 1999-2000, 180;

(6) 2000-2001, 182;

(7) 2001-2002, 184;

(8) 2002-2003, 186;

(9) 2003-2004, 188; and

(10) 2004-2005, and later school years, 190.

Sec. 3. Minnesota Statutes 1990, section 121.585, subdivision 3, is amended to read:

Subd. 3. [HOURS OF INSTRUCTION.] Pupils participating in a program must be able to receive the same total number of hours of instruction they would receive if they were not in the program. If a pupil has not completed the graduation requirements of the district after completing the minimum

number of secondary school hours of instruction, the district may allow the pupil to continue to enroll in courses needed for graduation.

For the purposes of section 120.101, subdivision 5, the minimum number of hours for a year determined for the appropriate grade level of instruction shall constitute ~~170~~ *the number of* days of instruction *required under section 120.101, subdivision 5b.* Hours of instruction that occur after the close of the instructional year in June shall be attributed to the following fiscal year.

Sec. 4. Minnesota Statutes 1990, section 121.608, is amended to read:

121.608 [EDUCATIONAL EFFECTIVENESS PLAN.]

The commissioner of education shall develop a comprehensive statewide plan for maintaining and improving educational effectiveness in ~~the schools~~ *early childhood family education programs through secondary education programs. The plan shall include provisions for the participation of post-secondary teacher preparation programs and early childhood family education programs.* The plan shall encourage implementation of educational effectiveness strategies based on research findings in the area, develop in-service programs for school district staff, integrate developments in educational technology with classroom instruction, and develop a mechanism for establishing a statewide network to coordinate and disseminate information on research in educational effectiveness. The commissioner may employ consultants and specialists to assist in the development of the plan, and, to the extent possible, shall utilize the information provided by the planning, evaluation, and reporting process and the statewide assessment program. The plan shall be revised as necessary.

Sec. 5. Minnesota Statutes 1990, section 121.609, subdivision 2, is amended to read:

Subd. 2. [RESEARCH AND DEVELOPMENT OF IN-SERVICE PROGRAM.] The commissioner shall administer a research and development program of educational effectiveness *and outcome-based education* in-service. The advisory task force established in subdivision 1 may recommend modifications in the in-service program as necessary.

Sec. 6. [121.831] [LEARNING READINESS PROGRAMS.]

Subdivision 1. [ESTABLISHMENT.] *A district or a group of districts may establish a learning readiness program for eligible children.*

Subd. 2. [CHILD ELIGIBILITY.] *A child is eligible to participate in a learning readiness program if the child is:*

(1) at least four years old but has not entered kindergarten; and

(2) has participated or will participate in an early childhood screening program according to section 123.702.

A child may participate in a program provided by the district in which the child resides or by any other district.

Subd. 3. [PROGRAM ELIGIBILITY.] *A learning readiness program shall include the following:*

(1) a comprehensive plan to coordinate social services to provide for the needs of participating families and for collaboration with agencies or other community-based organizations providing services to families with young children;

(2) a development and learning component to help a child develop socially, intellectually, physically, and emotionally in a manner appropriate to the child;

(3) health referral services to address the medical, dental, mental health, and nutritional needs of the children;

(4) a nutrition component to meet the nutritional needs of the children; and

(5) involvement of parents in the educational, health, social service, and other needs of the children.

Subd. 4. [PROGRAM CHARACTERISTICS.] *Learning readiness programs may include the following:*

(1) an individualized service plan to meet the individual needs of each child;

(2) participation by families who are representative of the racial, cultural, and economic diversity of the community;

(3) parent education to increase parents' knowledge, understanding, skills, and experience in child development and learning;

(4) substantial parent involvement, that may include developing curriculum or serving as a paid or volunteer educator, resource person, or other staff;

(5) identification of the needs of families with respect to the child's learning readiness;

(6) a plan to expand collaboration with public organizations, businesses, nonprofit organizations, or other private organizations to promote the development of a coordinated system of services available to all families with eligible children;

(7) coordination of treatment and follow-up services for all identified physical and mental health problems;

(8) staff and program resources, including interpreters, that reflect the racial and ethnic population of the children in the program;

(9) transportation for eligible children and their parents for whom other forms of transportation are not available or would constitute an excessive financial burden; and

(10) substantial outreach efforts to assure participation by families with greatest needs.

Subd. 5. [PURCHASE OR CONTRACT FOR SERVICES.] *Whenever possible, a district may contract with a public organization or nonprofit organization providing developmentally appropriate services meeting one or more of the program requirements in subdivision 3, clauses (1) to (4). A district may also pay tuition or fees to place an eligible child in an existing program or establish a new program. Services may be provided in a site-based program or in the home of the child or a combination of both. The district may not limit participation to residents of the district.*

Subd. 6. [COORDINATION WITH OTHER PROVIDERS.] *The district shall optimize coordination of the learning readiness program with existing service providers located in the community. To the extent possible, resources shall follow the children based on the services needed, so that children have*

a stable environment and are not moved from program to program.

Subd. 7. [ADVISORY COUNCIL.] *Each learning readiness program shall have an advisory council which shall advise the school board in creating and administering the program and shall monitor the progress of the program. The council shall ensure that children at greatest risk receive appropriate services. The school board shall:*

(1) appoint parents of children enrolled in the program who represent the racial, cultural, and economic diversity of the district and representatives of early childhood service providers as representatives to an existing advisory council; or

(2) appoint a joint council made up of members of existing boards, parents of participating children, and representatives of early childhood service providers.

Subd. 8. [PRIORITY CHILDREN.] *The district shall give high priority to providing services to eligible children identified, through a means such as the early childhood screening process, as being developmentally disadvantaged or experiencing risk factors that could impede their learning readiness.*

Subd. 9. [CHILD RECORDS.] *A record of a child's progress and development shall be maintained in the child's cumulative record while enrolled in the learning readiness program. The cumulative record shall be used for the purpose of planning activities to suit individual needs and shall become part of the child's permanent record.*

Subd. 10. [SUPERVISION.] *A program provided by a school board shall be supervised by a licensed early childhood teacher or a certified early childhood educator. A program provided according to a contract between a school district and a nonprofit organization or another private organization shall be supervised according to the terms of the contract.*

Subd. 11. [DISTRICT STANDARDS.] *The school board of the district shall develop standards for the learning readiness program.*

Subd. 12. [PROGRAM FEES.] *A district may adopt a sliding fee schedule based on a family's income but shall waive a fee for a participant unable to pay. The fees charged must be designed to enable eligible children of all socioeconomic levels to participate in the program.*

Subd. 13. [ADDITIONAL REVENUE.] *A district or an organization contracting with a district may receive money or in-kind services from a public or private organization.*

Sec. 7. Minnesota Statutes 1990, section 123.3514, subdivision 3, is amended to read:

Subd. 3. [DEFINITIONS.] For purposes of this section, an "eligible institution" means a Minnesota public post-secondary institution, *a private, nonprofit two-year trade and technical school granting associate degrees,* or a private, residential, two-year or four-year, liberal arts, degree-granting college or university located in Minnesota. "Course" means a course or program.

Sec. 8. Minnesota Statutes 1990, section 123.3514, is amended by adding a subdivision to read:

Subd. 11. [PUPILS AT A DISTANCE FROM AN ELIGIBLE INSTITUTION.] *A pupil who is enrolled in a secondary school that is located 40 miles or more from the nearest eligible institution may request that the resident district offer at least one accelerated or advanced academic course within the resident district in which the pupil may enroll for post-secondary credit. A pupil may enroll in a course offered under this subdivision for either secondary or post-secondary credit according to subdivision 5.*

A district must offer an accelerated or advanced academic course for post-secondary credit if one or more pupils requests such a course under this subdivision. The district may decide which course to offer, how to offer the course, and whether to offer one or more courses. The district must offer at least one such course in the next academic period and must continue to offer at least one accelerated or advanced academic course for post-secondary credit in later academic periods.

Sec. 9. Minnesota Statutes 1990, section 123.951, is amended to read:

123.951 [SCHOOL SITE MANAGEMENT AGREEMENT.]

(a) A school board may enter into an agreement with a school site management team concerning the governance, management, or control of ~~a~~ *any* school *in the district. Upon a written request from a proposed school site management team*, an initial school site management team shall be appointed by the school board and ~~shall~~ *may* include the school principal, representatives of teachers in the school, representatives of other employees in the school, representatives of parents of pupils in the school, representatives of pupils in the school, representatives of other members in the community, ~~and~~ *or* others determined appropriate by the board. The ~~permanent~~ school site management team shall ~~consist of at least~~ *include* the school principal ~~and representatives elected by each group represented on the initial team~~ *or other person having general control and supervision of the school.*

~~The school board may delegate any of its powers or duties to the school site management team.~~

(b) School site management agreements must focus on creating management teams and in involving staff members in decision making.

(c) An agreement may include:

(1) a strategic plan for districtwide decentralization of resources developed through staff participation;

(2) a decision-making structure that allows teachers to identify problems and the resources needed to solve them; and

(3) a mechanism to allow principals, or other persons having general control and supervision of the school, to make decisions regarding how resources are best allocated and to act as advocates for additional resources on behalf of the entire school.

(d) Any powers or duties not ~~specifically~~ delegated *to the school site management team in the school site management agreement* shall remain with the school board.

(e) Approved agreements shall be filed with the commissioner. If a school board denies a request to enter into a school site management agreement, it shall provide a copy of the request and the reasons for its denial to the commissioner.

Sec. 10. Minnesota Statutes 1990, section 124.19, subdivision 1, is amended to read:

Subdivision 1. [INSTRUCTIONAL TIME.] Every district shall maintain school in session or provide instruction in other districts for at least ~~175~~ *the number of* days *required in subdivision 1b*, not including summer school, or the equivalent in a district operating a flexible school year program. A district that holds school for the required minimum number of days and is otherwise qualified is entitled to state aid as provided by law. If school is not held for the required minimum number of days, state aid shall be reduced by the ratio that the difference between ~~175~~ *the required number of* days and the number of days school is held bears to ~~175~~ *the required number of* days, multiplied by 60 percent of the basic revenue, as defined in section 124A.22, subdivision 2, of the district for that year. However, districts maintaining school for fewer than the required minimum number of days do not lose state aid (1) if the circumstances causing loss of school days below the required minimum number of days are beyond the control of the board, (2) if proper evidence is submitted, and (3) if a good faith attempt made to make up time lost due to these circumstances. The loss of school days resulting from a lawful employee strike shall not be considered a circumstance beyond the control of the board. Days devoted to meetings authorized or called by the commissioner may not be included as part of the required minimum number of days of school. For grades 1 to 12, ~~not more than five~~ days ~~may be~~ devoted to parent-teacher conferences, teachers' workshops, or other staff development opportunities as part of the required minimum number of days *must not exceed the difference between the number of days required in subdivision 1b and the number of instructional days required in subdivision 1b*. For kindergarten, ~~not more than ten~~ days ~~may be~~ devoted to parent-teacher conferences, teachers' workshops, or other staff development opportunities as part of the required minimum number of days *must not exceed twice the number of days for grades 1 to 12*.

Sec. 11. Minnesota Statutes 1990, section 124.19, is amended by adding a subdivision to read:

Subd. 1b. [REQUIRED DAYS.] *Each district shall maintain school in session or provide instruction in other districts for at least the number of days required for the school years listed below:*

(1) 1995-1996, 177;

(2) 1996-1997, 179;

(3) 1997-1998, 181;

(4) 1998-1999, 183;

(5) 1999-2000, 185;

(6) 2000-2001, 187;

(7) 2001-2002, 189;

(8) 2002-2003, 191;

(9) 2003-2004, 193; and

(10) 2004-2005, and later school years, 195.

Sec. 12. Minnesota Statutes 1990, section 124.19, subdivision 7, is amended to read:

Subd. 7. [ALTERNATIVE PROGRAMS.] (a) This subdivision applies to an alternative program that has been approved by the state board of education pursuant to Minnesota Rules, part 3500.3500, as exempt from Minnesota Rules, part 3500.1500, requiring a school day to be at least six hours in duration.

(b) To receive general education revenue for a pupil in an alternative program, a school district must meet the requirements in this paragraph. The program must be approved by the commissioner of education. In approving a program, the commissioner may use the process used for approving state designated area learning centers under section 124C.49.

(c) In addition to the requirements in paragraph (b), to receive general education revenue for a pupil in an alternative program that has an independent study component, a school district must meet the requirements in this paragraph.

The school district must develop with the pupil a continual learning plan for the pupil. A district must allow a minor pupil's parent or guardian to participate in developing the plan, if the parent or guardian wants to participate. The plan must identify the learning experiences and expected outcomes needed for satisfactory credit for the year and for graduation. The plan must be updated each year.

General education revenue for a pupil in an approved alternative program without an independent study component must be prorated for a pupil participating for less than a full school year, or its equivalent.

General education revenue for a pupil in an approved alternative program that has an independent study component must be paid for each hour of teacher contact time and each hour of independent study time completed toward a credit necessary for graduation. Average daily membership for a pupil shall equal the number of hours of teacher contact time and independent study time divided by ~~1,020 hours~~ *the product of the number of instructional days required for that year and six*, but not more than one, except as otherwise provided in section 121.585.

For an alternative program having an independent study component, the commissioner shall require a description of the courses in the program, the kinds of independent study involved, the expected learning outcomes of the courses, and the means of measuring student performance against the expected outcomes.

Sec. 13. [124.2615] [LEARNING READINESS AID.]

Subdivision 1. [PROGRAM REVIEW AND APPROVAL.] *By February 15, 1991, for the 1991-1992 school year or by January 1 of subsequent school years, a district must submit to the commissioners of education, health, human services, and jobs and training:*

(1) a description of the services to be provided;

(2) a plan to ensure children at greatest risk receive appropriate services;

(3) a description of procedures and methods to be used to coordinate public and private resources to maximize use of existing community resources, including school districts, health care facilities, government agencies, neighborhood organizations, and other resources knowledgeable in early childhood development;

(4) comments about the district's proposed program by the advisory council

required by section 6, subdivision 7; and

(5) agreements with all participating service providers.

Each commissioner may review and comment on the program, and make recommendations to the commissioner of education, within 30 days of receiving the plan.

Subd. 2. [AMOUNT OF AID.] *A district is eligible to receive learning readiness aid if the program plan as required by subdivision 1 has been approved by the commissioner of education. For fiscal year 1992, the aid is equal to:*

(1) $200 times the number of eligible four-year old children residing in the district, as determined according to section 124.2711, subdivision 2; plus

(2) $100 times the result of;

(3) the ratio of the number of pupils enrolled in the school district from families eligible for the free or reduced school lunch program to the total number of pupils enrolled in the school district; times

(4) the number of children in clause (1).

For fiscal year 1993 and thereafter, a district shall receive learning readiness aid equal to:

(1) $500 times the number of all participating eligible children; plus

(2) $200 times the number of participating eligible children identified according to section 6, subdivision 8.

Subd. 3. [USE OF AID.] *Learning readiness aid shall be used only to provide a learning readiness program and may be used to provide transportation. Not more than five percent of the aid may be used for the cost of administering the program. Aid must be used to supplement and not supplant local, state, and federal funding. Aid may not be used to purchase land or construct buildings, but may be used to lease or renovate existing buildings.*

Subd. 4. [SEPARATE ACCOUNTS.] *The district shall deposit learning readiness aid in a separate account within the community education fund.*

Sec. 14. [124C.10] [CITATION.]

Sections 15 and 16 may be cited as the Minnesota local partnership act.

Sec. 15. [124C.11] [PURPOSE OF THE MINNESOTA LOCAL PARTNERSHIP ACT.]

The purpose of the Minnesota local partnership act is to design methods to focus on the development and learning of children and youth in Minnesota in the 1990's and the next century. Cooperation and collaboration of all services, including education, health, and human services for children and youth will be encouraged at the local and state level. The program will provide incentives to design a system of child-focused coordinated services to enhance the learning and development of individual children and youth.

Sec. 16. [124C.12] [MINNESOTA LOCAL PARTNERSHIP PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] *A program is established under the*

direction of the state board of education, with the cooperation of the commissioners of education, health, and human services. It is expected that participants and other districts will become exemplary districts by the year 2000.

Subd. 2. [ELIGIBILITY.] *An applicant for revenue may be any one of the following:*

(1) a school district located in a city of the first class offering a program in cooperation with other districts or by itself, in one or more areas in the district or in the entire district;

(2) at least two cooperating school districts located in the seven-county metropolitan area but not located in a city of the first class;

(3) a group of school districts that are all members of the same education district;

(4) an education district;

(5) a group of cooperating school districts none of which are members of any education district; or

(6) a school district.

Subd. 3. [COMMUNITY EDUCATION COUNCIL.] *Each revenue recipient must establish one or more community education councils. A community education council may be composed of elected representatives of local governments, an education district board, school boards, human service providers, health providers, education providers, community service organizations, clergy, local education sites, and local businesses. The community education council shall plan for the education, human service, and health needs of the community and collaborative ways to modify or build facilities for use by all community residents. A council formed under this subdivision may be an expansion of and replace the community education advisory council required by section 121.88, subdivision 2.*

Subd. 4. [APPLICATION PROCESS.] *To obtain revenue, a district or districts must submit an application to the state board in the form and manner established by the state board. Additional information may be required by the state board.*

Subd. 5. [REVENUE.] *The state board may award revenue to up to four applicants. The board may determine the size of the award based upon the application. Recipients must be located throughout the state.*

Subd. 6. [PROCEEDS OF REVENUE.] *Revenue may be used for initial planning expenses and for implementing child-focused learning and development programs.*

Sec. 17. Minnesota Statutes 1990, section 125.185, subdivision 4, is amended to read:

Subd. 4. The board shall adopt rules to license public school teachers and interns subject to chapter 14. The board shall adopt rules for examination of teachers, as defined in section 125.03, subdivision 5. The rules may allow for completion of the examination of skills in reading, writing, and mathematics before entering or during a teacher education program. The board shall adopt rules to approve teacher education programs. The board of teaching shall provide the leadership and shall adopt rules by October 1, 1988, for the redesign of teacher education programs to implement a

research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teaching education program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.

These rules shall ~~encourage~~ *require* teacher educators to *work directly with elementary or secondary school teachers in elementary or secondary schools to* obtain *a* periodic *exposure to the* elementary or secondary teaching ~~experience~~ *environment*. The board shall also grant licenses to interns and to candidates for initial licenses. The board shall design and implement an assessment system which requires candidates for initial licensure and first continuing licensure to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels. The board shall receive recommendations from local committees as established by the board for the renewal of teaching licenses. The board shall grant life licenses to those who qualify according to requirements established by the board, and suspend or revoke licenses pursuant to sections 125.09 and 214.10. Notwithstanding any law or rule to the contrary, the board shall not establish any expiration date for application for life licenses. With regard to vocational education teachers the board of teaching shall adopt and maintain as its rules the rules of the state board of education and the state board of technical colleges.

Sec. 18. Minnesota Statutes 1990, section 125.185, subdivision 4a, is amended to read:

Subd. 4a. *Notwithstanding section 125.05, or any other law to the contrary, the authority of the board of teaching and the state board of education to approve teacher education programs and to issue teacher licenses expires on June 30, 1996. Any license issued by the board of teaching or the state board of education after the effective date of this section must expire by June 30, 1996.*

The board of teaching, in cooperation with the state board of education and the higher education coordinating board, shall develop policies and corresponding goals for making teacher education curriculum more consistent with the purpose of state public education. The revised teacher education curriculum must be consistent with the board of teaching rules required under subdivision 4 for redesigning teacher education programs to implement a research-based, results-oriented curriculum. The revised teacher education curriculum may include a requirement that teacher education programs contain a one-year mentorship program. The mentorship program must provide students with elementary or secondary teaching experience and appropriate professional support and evaluation from licensed classroom teachers, including mentor teachers. By February 1, 1992, the board of teaching shall provide the education committees of the legislature with detailed written guidelines, strategies, and programs to implement the revised teacher education curriculum. By February 1, 1993, the board of teaching and the state board of education shall adopt rules under chapter 14 that are consistent with the guidelines, strategies, and programs provided to the legislature, including amending board rules governing the issuing, expiring, and renewing of teacher licenses.

The higher education coordinating board shall assist the state's teacher preparation institutions in developing teacher education curriculum for their students that is consistent with the guidelines, programs, and strategies

approved by the legislature. The institutions must use the revised teacher education curriculum to instruct their students beginning in the 1996-1997 school year.

Subd. 4b. Prior to the adoption by the board of teaching of any rule which must be submitted to public hearing, a representative of the commissioner shall appear before the board of teaching and at the hearing required pursuant to section 14.14, subdivision 1, to comment on the cost and educational implications of that proposed rule.

Sec. 19. [125.1885] [ALTERNATIVE PREPARATION LICENSING FOR ADMINISTRATORS.]

Subdivision 1. [REQUIREMENTS.] *(a) A preparation program that is an alternative to a graduate program in education administration for public school administrators to acquire an entrance license is established. The program may be offered in any administrative field.*

(b) To participate in the alternative preparation program, the candidate must:

(1) have a master's degree in an administrative area;

(2) have been offered an administrative position in a school district, group of districts, or an education district approved by the state board of education to offer an alternative preparation licensure program;

(3) have five years of experience in a field related to administration; and

(4) document successful experiences working with children and adults.

(c) An alternative preparation license is of one year duration and is issued by the state board of education to participants on admission to the alternative preparation program.

Subd. 2. [CHARACTERISTICS.] *The alternative preparation program has the characteristics enumerated in this subdivision:*

(1) staff development conducted by a resident mentorship team made up of administrators, teachers, and post-secondary faculty members;

(2) an instruction phase involving intensive preparation of a candidate for licensure before the candidate assumes responsibility for an administrative position;

(3) formal instruction and peer coaching during the school year;

(4) assessment, supervision, and evaluation of a candidate to determine the candidate's specific needs and to ensure satisfactory completion of the program;

(5) a research-based and results-oriented approach focused on skills administrators need to be effective;

(6) assurance of integration of education theory and classroom practices; and

(7) the shared design and delivery of staff development between school district personnel and post-secondary faculty.

Subd. 3. [PROGRAM APPROVAL.] *(a) The state board of education shall approve alternative preparation programs based on criteria adopted by the board, after receiving recommendations from an advisory task force appointed by the board.*

(b) An alternative preparation program at a school district, group of schools, or an education district must be affiliated with a post-secondary institution that has a graduate program in educational administration for public school administrators.

Subd. 4. [APPROVAL FOR STANDARD ENTRANCE LICENSE.] *The resident mentorship team must prepare for the state board of education an evaluation report on the performance of the alternative preparation licensee during the school year and a positive or negative recommendation on whether the alternative preparation licensee shall receive a standard entrance license.*

Subd. 5. [STANDARD ENTRANCE LICENSE.] *The state board of education shall issue a standard entrance license to an alternative preparation licensee who has successfully completed the school year in the alternative preparation program and who has received a positive recommendation from the licensee's mentorship team.*

Subd. 6. [QUALIFIED ADMINISTRATOR.] *A person with a valid alternative preparation license is a qualified administrator within the meaning of section 125.04.*

Sec. 20. [125.189] [LICENSURE REQUIREMENTS.]

In addition to other requirements, a candidate for a license or an applicant for a continuing license to teach hearing-impaired students in kindergarten through grade 12 must demonstrate the minimum level of proficiency in American sign language as determined by the Quality Assurance Systems Project of the department of education.

Sec. 21. Minnesota Statutes 1990, section 126.23, is amended to read:

126.23 [AID FOR PRIVATE ALTERNATIVE PROGRAMS.]

If a pupil enrolls in a nonsectarian alternative program operated by a private organization that has contracted with a school district to provide educational services for eligible pupils under section 126.22, subdivision 2, the resident district must reimburse the provider an amount equal to at least ~~85~~ *88* percent of the basic revenue of the district for each pupil attending the program full time. For a pupil attending the program part time, basic revenue paid to the program shall be reduced proportionately, according to the amount of time the pupil attends the program, and basic revenue paid to the district shall be reduced accordingly. Pupils for whom a district provides reimbursement may not be counted by the district for any purpose other than computation of basic revenue, according to section 124A.22, subdivision 2. If payment is made to a district or program for a pupil under this section, the department of education shall not make a payment for the same pupil under section 126.22, subdivision 8.

Sec. 22. Minnesota Statutes 1990, section 126.661, subdivision 5, is amended to read:

Subd. 5. [ESSENTIAL LEARNER OUTCOMES.] "Essential learner outcomes" means the specific basic learning experiences that ~~must be~~ *are* provided for all students *and are used as the basis for assessing educational progress statewide.*

Sec. 23. Minnesota Statutes 1990, section 126.661, is amended by adding a subdivision to read:

Subd. 7. [OUTCOME-BASED EDUCATION.] *Outcome-based education*

is a pupil-centered, results-oriented system premised on the belief that all individuals can learn. In this system:

(1) what a pupil is to learn is clearly identified;

(2) each pupil's progress is based on the pupil's demonstrated achievement;

(3) each pupil's needs are accommodated through multiple instructional strategies and assessment tools; and

(4) each pupil is provided time and assistance to realize her or his potential.

Sec. 24. Minnesota Statutes 1990, section 126.663, subdivision 2, is amended to read:

Subd. 2. [STATE LEARNER OUTCOMES.] The state board of education, with the assistance of the state curriculum advisory committee ~~and the office on educational leadership~~, shall identify and adopt learner goals, essential learner outcomes, and integrated learner outcomes for curriculum areas, under section 120.101, subdivision 6, *including the curriculum areas of communication skills, fine arts, mathematics, science, social studies, and health and physical education,* and for career vocational curricula. Learner outcomes shall include thinking and problem solving skills. *Learner outcomes shall consist of a sequence of outcomes beginning with early childhood programs through secondary education programs.*

Sec. 25. Minnesota Statutes 1990, section 126.663, subdivision 3, is amended to read:

Subd. 3. [MODEL LEARNER OUTCOMES.] The department shall develop and maintain model learner outcomes in state board identified subject areas, including career vocational learner outcomes. The department shall make learner outcomes available upon request by a district. Learner outcomes shall be for pupils in ~~kindergarten to~~ *early childhood through* grade 12. The department shall consult with each of the public post-secondary systems and with the higher education coordinating board in developing model learner outcomes appropriate for entry into post-secondary institutions. Learner outcomes shall include thinking and problem solving skills.

Sec. 26. Minnesota Statutes 1990, section 126.666, subdivision 2, is amended to read:

Subd. 2. [CURRICULUM ADVISORY COMMITTEE.] Each school board shall establish a curriculum advisory committee to permit active community participation in all phases of the PER process. The *district* advisory committee, *to the extent possible,* shall be representative of the *diversity of the* community served by the district *and the learning sites within the district,* and include principals, teachers, parents, support staff, *pupils,* and other community residents. *The district may establish building teams as subcommittees of the district advisory committee. The district committee shall retain responsibility for recommending to the school board districtwide learner outcomes, assessments, and program evaluations. Learning sites may establish expanded curriculum, assessments, and program evaluations.* Whenever possible, parents and other community residents shall comprise at least two-thirds of the advisory committee. The committee shall make recommendations to the board about the programs enumerated in section 124A.27, that the committee determines should be

offered. The recommendations shall be based on district *and learning site* needs and priorities.

Sec. 27. Minnesota Statutes 1990, section 126.666, is amended by adding a subdivision to read:

Subd. 4a. [STUDENT EVALUATION.] *The school board shall annually provide high school graduates or GED recipients who received a diploma or its equivalent from the school district with an opportunity to report to the board on the following:*

(1) the quality of district instruction and services;

(2) the quality of district delivery of instruction and services;

(3) the utility of district facilities; and

(4) the effectiveness of district administration.

Sec. 28. Minnesota Statutes 1990, section 126.666, is amended by adding a subdivision to read:

Subd. 4b. [PERIODIC REPORT.] *Each school district at least once per six school years shall collect consumers' opinions, including the opinions of currently enrolled students, parents, and other district residents, regarding their level of satisfaction with their school experience. The district shall report the results of the consumer evaluation according to the requirements of subdivision 4.*

Sec. 29. Minnesota Statutes 1990, section 126.67, subdivision 2b, is amended to read:

Subd. 2b. [DISTRICT ASSESSMENTS.] As part of the PER process, each year a district shall, in at least three grades *or for three age levels*, conduct assessments among at least a sample of pupils for each subject area in that year of the curriculum review cycle. The district's curriculum review cycle shall not exceed six years. Assessments may not be conducted in the same curriculum area for two consecutive years. The district may use tests from the assessment item bank, the local assessment program developed by the department, or other tests. As they become available, districts shall use state developed measures to assure state progress toward *achieving* the state ~~core~~ *board adopted essential learner outcomes in each subject area at least once during the* curriculum *review cycle*. Funds are provided for districts that choose to use the local assessment program or the assessment item bank.

Sec. 30. Minnesota Statutes 1990, section 126.70, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY FOR REVENUE.] A school board may use the revenue authorized in section 124A.29 *for staff time for peer review under section 125.12 or 125.17, or* if it establishes ~~a~~ *an outcome-based* staff development advisory committee and adopts a staff development plan *on outcome-based education* according to this subdivision. A majority of the advisory committee must be teachers representing various grade levels and subject areas. The advisory committee must also include ~~representatives of~~ parents~~,~~ and administrators. The advisory committee shall develop a staff development plan *containing proposed outcome-based education activities and related expenditures* and *shall* submit ~~it~~ *the plan* to the school board. If the school board approves the plan, the district may use the staff development revenue authorized in section 124A.29. *Copies of approved plans*

must be submitted to the commissioner.

Sec. 31. Minnesota Statutes 1990, section 126.70, subdivision 2, is amended to read:

Subd. 2. [CONTENTS OF THE PLAN.] The plan may include:

(1) procedures the district will use to analyze ~~and identify teaching and curricular~~ *outcome-based education* needs~~, including the need for mentor teachers~~;

(2) ~~short- and long-term curriculum and staff development needs;~~

~~(3)~~ integration with in-service and curricular efforts already in progress;

~~(4)~~ *(3)* goals to be achieved and the means to be used; *and*

~~(5)~~ *(4)* procedures for evaluating progress~~; and~~

~~(6) whether the school board intends to offer contracts under the excellence in teaching program~~.

Sec. 32. Minnesota Statutes 1990, section 126.70, subdivision 2a, is amended to read:

Subd. 2a. [PERMITTED USES.] A school board may approve a plan ~~for~~ *to accomplish* any of the following purposes:

(1) ~~for in-service education to increase the effectiveness of teachers in responding to children and young people at risk of not succeeding at school~~ *foster readiness for outcome-based education by increasing knowledge and understanding of and commitment to outcome-based education*;

(2) ~~to participate in the educational effectiveness program according to section 121.609~~ *facilitate organizational changes by enabling a site-based team composed of pupils, parents, school personnel, and community members to address pupils' needs through outcome-based education*;

(3) ~~to provide in-service education for elementary and secondary teachers to improve the use of technology in education~~ *develop programs to increase pupils' educational progress by developing appropriate outcomes and personal learning plans and by encouraging pupils and their parents to assume responsibility for their education*;

(4) ~~to provide subject area in-service education emphasizing the academic content of curricular areas determined by the district to be a priority area~~ *design and develop outcome-based education programs containing various instructional opportunities that recognize pupils' individual needs and utilize family and community resources*;

(5) ~~to use experienced teachers, as mentors, to assist in the continued development of new teachers;~~ *evaluate the effectiveness of outcome-based education policies, processes, and products through appropriate evaluation procedures that include multiple criteria and indicators; and*

(6) ~~to increase the involvement of parents, business, and the community in education, including training teachers to plan and implement parental involvement programs that will more fully involve parents in their children's learning development;~~

~~(7) for experimental delivery systems;~~

~~(8) for in-service education to increase the effectiveness of principals and administrators;~~

~~(9) for in-service education or curriculum development for programs for gifted and talented pupils;~~

~~(10) for in-service education or curriculum development for cooperative efforts to increase curriculum offerings;~~

~~(11) for improving curriculum, according to the needs identified under the planning, evaluation, and reporting process set forth in section 126.666;~~

~~(12) for in-service education and curriculum development designed to promote sex equity in all aspects of education, with emphasis on curricular areas such as mathematics, science, and technology programs;~~

~~(13) for in-service education or curriculum modification for handicapped pupils and low-achieving pupils;~~

~~(14) for short-term contracts as described in section 126.72; or~~

~~(15) to employ teachers for an extended year to perform duties directly related to improving curriculum or teaching skills~~ *provide staff time for peer review of probationary, continuing contract, and nonprobationary teachers.*

Sec. 33. Minnesota Statutes 1990, section 260.015, subdivision 19, is amended to read:

Subd. 19. [HABITUAL TRUANT.] "Habitual truant" means a child under the age of 16 years ~~through the 1999-2000 school year and under the age of 18 beginning with the 2000-2001 school year~~ who is absent from attendance at school without lawful excuse for seven school days if the child is in elementary school or for one or more class periods on seven school days if the child is in middle school, junior high school, or high school.

Sec. 34. [LEARNING READINESS PROGRAM REPORT.]

Each school district receiving learning readiness aid shall report to the commissioner of education by January 1 of 1992 and 1993 about the types of services provided through the program, progress made by participating children, the number of participating children receiving services without charge, the number of participating children paying reduced fees, the number of participating children paying the full fee, total expenditures for services, and the amount of money and in-kind services received from public or private organizations. A district shall report actual information to the extent the information is available, and other information as required in section 13, subdivision 1.

Sec. 35. [STATE BOARD RECOMMENDATIONS.]

By February 1, 1993, the state board of education shall present to the education committees of the legislature recommendations for integrating education funding and the achievement of state and local outcomes.

Sec. 36. [RULE REVIEW.]

Subdivision 1. [REPORT.] *The state board of education shall review each board rule to determine whether it is necessary, reasonable, and cost-effective and whether it is consistent with legislative policy adopted since the rule was enacted. The board shall report to the education committees of the legislature by January 1, 1993, on any amendment required to make a rule necessary, reasonable, or cost-effective or consistent with legislative policy and on any rule required to be repealed.*

Subd. 2. [STAFF.] *The commissioner of education shall provide staff*

assistance to the state board of education, at the request of the board, to complete the report required under subdivision 1.

Sec. 37. [OUTCOME-BASED EDUCATION PROGRAM CONTRACTS.]

Subdivision 1. [DEFINITION.] *For the purposes of this section, outcome-based education has the meaning given it in Minnesota Statutes, section 126.661, subdivision 7.*

Subd. 2. [ESTABLISHMENT.] *A process for contracting between a public school, school district, or group of districts and the department of education to develop outcome-based education programs is established. The purpose of the contract is to enable public schools, school districts, and groups of districts to develop outcome-based programs that improve pupils' educational achievement through instructional opportunities that recognize pupils' individual needs.*

Subd. 3. [ELIGIBILITY.] *A school, school district, or group of districts seeking to contract with the department to develop an outcome-based education program must agree to serve as a demonstration site during the term of the contract and for a mimimum of one school year after the expiration date of the contract.*

Subd. 4. [CONTRACTING PROCESS.] *The commissioner of education shall establish an outcome-based education contract committee of qualified department staff to determine the areas to be included in the outcome-based education program contracts and other contract terms and conditions. The committee, after consulting with the commissioner and the state board of education, shall determine the form and manner by which a school, a school district, or a group of districts may seek a contract. The committee shall disseminate information about the contracts and the contracting process.*

Subd. 5. [CONTRACT APPROVAL.] *By October 1 of the current school year, the committee shall award outcome-based education program contracts to qualified schools, school districts, or groups of districts. In awarding contracts, the committee shall consider the geographical location of the school, school district, or group of districts seeking the contract, whether the outcome-based education program would be available to elementary, middle, or secondary pupils and the areas to be included in the outcome-based education program. For programs addressing specific subject areas, the outcome-based education contract committee shall consult with curriculum experts in those subject areas to evaluate those program proposals.*

Subd. 6. [CONTRACT FUNDS.] *Any unexpended contract funds awarded to a school, school district, or group of districts in one fiscal year do not cancel but are available in the next fiscal year.*

Subd. 7. [EVALUATION.] *The commissioner shall provide for an evaluation of the demonstration site programs and shall disseminate throughout the state information on the components of successful outcome-based education programs.*

Sec. 38. [AID TRANSFER.]

A district that has established a designated account for early childhood programs in fiscal year 1991 for revenue from a referendum levy authorized in November 1990 under Minnesota Statutes, section 124A.03, may transfer learning readiness aid from the community service fund to the general fund.

Sec. 39. [BOARD OF TEACHING APPROPRIATION.]

Subdivision 1. [BOARD OF TEACHING.] *The sums indicated in this section are appropriated from the general fund to the board of teaching in the fiscal years indicated.*

Subd. 2. [TEACHER EDUCATION IMPROVEMENT.] *For board of teaching responsibilities specified in Minnesota Statutes, section 125.185, subdivisions 4 and 4a:*

$165,000 1992

Any balance in the first year does not cancel but is available in the second year. This appropriation is only available if teacher license fees are increased to raise an equivalent amount.

Sec. 40. [HECB APPROPRIATION.]

Subdivision 1. [HIGHER EDUCATION COORDINATING BOARD.] *The sums indicated in this section are appropriated from the general fund to the higher education coordinating board for the fiscal years designated.*

Subd. 2. [SUMMER PROGRAM SCHOLARSHIPS.] *To the higher education coordinating board, for scholarship awards for summer programs according to Minnesota Statutes, section 126.56:*

$214,000 1992
$214,000 1993

Of this appropriation, any amount required by the higher education coordinating board may be used for the board's costs of administering the program.

Sec. 41. [DEPARTMENT OF EDUCATION APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

Subd. 2. [AREA LEARNING CENTER GRANTS.] *For grants to area learning centers:*

$150,000 1992
$150,000 1993

Subd. 3. [ARTS PLANNING GRANTS.] *For grants for arts planning according to Minnesota Statutes, section 124C.08:*

$38,000 1992
$38,000 1993

Any balance in the first year does not cancel but is available in the second year.

Subd. 4. [OUTCOME-BASED EDUCATION PROGRAM CONTRACTS.] *For entering into contracts for outcome-based education programs according to section 37:*

$675,000 1992
$675,000 1993

$55,000 each year is for evaluation and administration of the program.

Sec. 42. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

Subd. 2. [LEARNING READINESS PROGRAM REVENUE.] *For revenue for learning readiness programs:*

$8,000,000 1992
$20,000,000 1993

Any excess appropriations from fiscal year 1992 shall be allocated among school districts providing learning readiness programs according to the proportion of aid determined under section 13, subdivision 2, for a school district to the amount of aid determined under section 13, subdivision 2, for all school districts providing learning readiness programs. The total amount of aid paid to a school district shall not exceed $2,000 per participating eligible child.

The 1992 appropriation includes $8,000,000 for 1992.

The 1993 appropriation includes $3,000,000 for 1992 and $17,000,000 for 1993.

Any unexpended balance in the first year does not cancel but is available in the second year.

Subd. 3. [MINNESOTA LOCAL PARTNERSHIP REVENUE.] *For revenue for the Minnesota local partnership act:*

$100,000 . . . . . *1992*

Up to $5,000 may be used for the expenses of a task force to advise the state board about the program and to make recommendations to the state board about revenue applications.

The amount appropriated is available until June 30, 1992.

Sec. 43. [REPEALER.]

(a) Minnesota Statutes 1990, sections 120.011 and 121.111 are repealed.

(b) Minnesota Statutes 1990, section 124C.41, subdivisions 6 and 7, are repealed effective July 1, 1991. In the next edition of Minnesota Statutes, the revisor of statutes shall change the first grade and section headnotes to read "Teacher Centers" to reflect the changes made by the repealer in this paragraph.

Sec. 44. [EFFECTIVE DATE.]

Section 8 is effective July 1, 1993. Section 20 is effective August 1, 1994.

ARTICLE 8

OTHER EDUCATION PROGRAMS

Section 1. [3.873] [LEGISLATIVE COMMISSION ON CHILDREN, YOUTH, AND THEIR FAMILIES.]

Subdivision 1. [ESTABLISHMENT.] *A legislative commission on children, youth, and their families is established to study state policy and legislation affecting children and youth and their families. The commission shall make recommendations about how to ensure and promote the present and future well-being of Minnesota children and youth and their families, including methods for helping state and local agencies to work together.*

Subd. 2. [MEMBERSHIP AND TERMS.] *The commission consists of 16 members that reflect a proportionate representation from each party. Eight members from the house shall be appointed by the speaker of the house and eight members from the senate shall be appointed by the subcommittee on committees of the committee on rules and administration. The membership must include members of the following committees in the house and the senate: health and human services, governmental operations, education, judiciary, and appropriations or finance. The commission must have representatives from both rural and metropolitan areas. The terms of the members are for two years beginning on January 1 of each odd-numbered year.*

Subd. 3. [OFFICERS.] *The commission shall elect a chair and vice-chair from among its members. The chair must alternate biennially between a member of the house and a member of the senate. When the chair is from one body, the vice-chair must be from the other body.*

Subd. 4. [STAFF.] *The commission may use existing legislative staff to provide legal counsel, research, fiscal, secretarial, and clerical assistance.*

Subd. 5. [INFORMATION COLLECTION; INTERGOVERNMENTAL COORDINATION.] *(a) The commission may conduct public hearings and otherwise collect data and information necessary to its purposes.*

(b) The commission may request information or assistance from any state agency or officer to assist the commission in performing its duties. The agency or officer shall promptly furnish any information or assistance requested.

(c) Before implementing new or substantially revised programs relating to the subjects being studied by the commission under subdivision 7, the commissioner responsible for the program shall prepare an implementation plan for the program and shall submit the plan to the commission for review and comment. The commission may advise and make recommendations to the commissioner on the implementation of the program and may request the changes or additions in the plan it deems appropriate.

(d) By July 1, 1991, the responsible state agency commissioners, including the commissioners of education, health, human services, jobs and training, and corrections, shall prepare data for presentation to the commission on the state programs to be examined by the commission under subdivision 7, paragraph (a).

(e) To facilitate coordination between executive and legislative authorities, the governor shall appoint a person to act as liaison between the commission and the governor.

Subd. 6. [LEGISLATIVE REPORTS AND RECOMMENDATIONS.] *The commission shall make recommendations to the legislature to implement combining education, and health and human services and related support services provided to children and their families by the departments of education, human services, health and other state agencies into a single state department of children and families to provide more effective and efficient services. The commission also shall make recommendations to the legislature or committees, as it deems appropriate to assist the legislature in formulating legislation. To facilitate coordination between executive and legislative authorities, the commission shall review and evaluate the plans and proposals of the governor and state agencies on matters within the commission's*

jurisdiction and shall provide the legislature with its analysis and recommendations. Any analysis and recommendations must integrate recommendations for the design of an education service delivery system under article 6, section 31. The commission shall report its final recommendations under this subdivision and subdivision 7, paragraph (a), by January 1, 1993. The commission shall submit a progress report by January 1, 1992.

Subd. 7. [PRIORITIES.] *The commission shall give priority to studying and reporting to the legislature on the matters described in this subdivision.*

(a) The commission must study and report on methods of improving legislative consideration of children and family issues and coordinating state agency programs relating to children and families, including the desirability, feasibility, and effects of creating a new state department of children's services, or children and family services, in which would be consolidated the responsibility for administering state programs relating to children and families.

(b) The commission must study and report on methods of consolidating or coordinating local health, correctional, educational, job, and human services, to improve the efficiency and effectiveness of services to children and families and to eliminate duplicative and overlapping services. The commission shall evaluate and make recommendations on programs and projects in this and other states that encourage or require local jurisdictions to consolidate the delivery of services in schools or other community centers to reduce the cost and improve the coverage and accessibility of services.

(c) The commission must study and report on methods of improving and coordinating educational, social, and health care services that assist children and families during the early childhood years. The commission's study must include an evaluation of the following: early childhood health and development screening services, headstart, child care, and early childhood family education.

(d) The commission must study and report on methods of improving and coordinating the practices of judicial, correctional, and social service agencies in placing juvenile offenders and children who are in need of protective services or treatment.

Subd. 8. [EXPENSES AND REIMBURSEMENTS.] *The per diem and mileage costs of the members of the commission must be reimbursed as provided in section 3.101. The health and human services, governmental operations, education, judiciary, and appropriations or finance committees in the house and the senate shall share equally the responsibility to pay commission members' per diem and mileage costs from their committee budgets.*

Subd. 9. [EXPIRATION.] *The commission expires on June 30, 1994.*

Sec. 2. Minnesota Statutes 1990, section 121.912, is amended by adding a subdivision to read:

Subd. 7. [UNEMPLOYMENT RESERVE BALANCE.] *The reserved fund balance for unemployment insurance as of June 30 of each year may not exceed $10 times the number of pupil units for that year. The department shall reduce the levy certified by the district, according to section 275.125, subdivision 4, the following year for obligations under section 268.06, subdivision 25, by the amount of the excess.*

Sec. 3. [123.709] [CHEMICAL ABUSE PREVENTION PROGRAM.]

Subdivision 1. [DEFINITION.] *"Targeted children and young people" means those individuals, whether or not enrolled in school, who are under 21 years of age and who are susceptible to abusing chemicals. Included among these individuals are those who:*

(1) are the children of drug or alcohol abusers;

(2) are at risk of becoming drug or alcohol abusers;

(3) are school dropouts;

(4) are failing in school;

(5) have become pregnant;

(6) are economically disadvantaged;

(7) are victims of physical, sexual, or psychological abuse;

(8) have committed a violent or delinquent act;

(9) have experienced mental health problems;

(10) have attempted suicide;

(11) have experienced long-term physical pain due to injury;

(12) have experienced homelessness;

(13) have been expelled or excluded from school under sections 127.26 to 127.39; or

(14) have been adjudicated children in need of protection or services.

Subd. 2. [PURPOSE.] *Schools, school districts, groups of school districts, community groups, or other regional public or nonprofit entities may contract with the commissioner of education to provide programs to prevent chemical abuse and meet the developmental needs of targeted children and young people, and to help these individuals overcome barriers to learning.*

Subd. 3. [OBJECTIVES.] *The commissioner of education may enter into contracts to:*

(1) train individuals to work with targeted children and young people;

(2) expand the ability of the community to meet the needs of targeted children and young people and their families by locating appropriated services and resources at or near a school site; and

(3) involve the parents and other family members of these targeted children and young people more fully in the education process.

Subd. 4. [CONTRACT TERMS.] *The commissioner may enter into contracts for programs that the commissioner determines are meritorious and appropriate and for which revenue is available. All contractors must offer vocational training or employment services, health screening referrals, and mental health or family counseling. A contractor receiving funds in one fiscal year may carry forward any unencumbered funds into the next fiscal year.*

Subd. 5. [COMMISSIONER'S ROLE.] *(a) The commissioner shall develop criteria, which the commissioner shall periodically evaluate, for entering into program contracts.*

(b) The criteria must include:

(1) targeted families confronting social or economic adversity;

(2) offering programs to targeted children and young people during and after school hours and during the summer;

(3) integrating the cultural and linguistic diversity of the community into the school environment;

(4) involving targeted children and young people and their families in planning and implementing programs;

(5) facilitating meaningful collaboration among the service providers located at or near a school site;

(6) locating programs throughout the state; and

(7) serving diverse populations of targeted children and young people, with a focus on children through grade 3.

Subd. 6. [EVALUATION.] *The commissioner shall evaluate contractors' programs and shall disseminate successful program components statewide.*

Sec. 4. [124.278] [MINORITY TEACHER INCENTIVES.]

Subdivision 1. [ELIGIBLE DISTRICT.] *A district is eligible for reimbursement under this section if the district has:*

(1) a minority enrollment of more than ten percent; or

(2) a desegregation plan approved by the state board of education.

Subd. 2. [ELIGIBLE EMPLOYEE.] *The following employees are eligible for reimbursement under this section:*

(1) a teacher who is a member of a minority group and who has not taught in a Minnesota school district during the school year before the year the teacher is employed according to this section; and

(2) an aide or an education assistant who is a member of a minority group and who has not been employed as an aide or an education assistant in a Minnesota school district during the school year before the year the aide or education assistant is employed according to this section.

Subd. 3. [REIMBURSEMENT.] *Reimbursement shall equal one-half of the salary and fringe benefits, but not more than $20,000. The district shall receive reimbursement for each year a minority teacher, aide, or education assistant is employed. The department of education shall establish application or other procedures for districts to obtain the reimbursement. The department shall not prorate the reimbursement.*

Subd. 4. [MINORITY GROUP.] *For the purposes of this section, a person is a member of a minority group if the person is African American, American Indian, Asian Pacific American, or an American of Mexican, Puerto Rican, or Spanish origin or ancestry.*

Sec. 5. Minnesota Statutes 1990, section 124.646, is amended to read:

Subdivision 1. [SCHOOL LUNCH AID COMPUTATION.] Each school year, school districts participating in the national school lunch program shall be paid by the state in the amount of ~~7.5~~ *6.5* cents for each full paid, *reduced, and free* student lunch served to students in the district.

Subd. 2. School districts shall not be paid by the state for free or reduced price type "A" lunches served by the district.

Subd. 3. School districts shall apply to the state department of education for this payment on forms provided by the department.

Subd. 4. [SCHOOL FOOD SERVICE FUND.] *(a) The expenses described in this subdivision must be recorded as provided in this subdivision.*

(b) In each school district, the expenses for a school food service program for pupils must be attributed to a school food service fund. Under a food service program, the school food service may prepare or serve milk, meals, or snacks in connection with school or community service activities.

(c) Revenues and expenditures for food service activities must be recorded in the food service fund. The costs of processing applications, accounting for meals, preparing and serving food, providing kitchen custodial services, and other expenses involving the preparing of meals or the kitchen section of the lunchroom may be charged to the food service fund or to the general fund of the district. The costs of lunchroom supervision, lunchroom custodial services, lunchroom utilities, and other administrative costs of the food service program, including the costs attributable to the superintendent and the financial manager must be charged to the general fund.

(d) Capital expenditures for the purchase of food service equipment must be made from the capital fund and not the food service fund, unless two conditions apply:

(1) the unreserved balance in the food service fund at the end of the last fiscal year is greater than the cost of the equipment to be purchased; and

(2) the department of education has approved the purchase of the equipment.

(e) If the two conditions set out in paragraph (d) apply, the equipment may be purchased from the food service fund.

(f) If a deficit in the food service fund exists at the end of a fiscal year, and the deficit is not eliminated by revenues from food service operations in the next fiscal year, then the deficit must be eliminated by a permanent fund transfer from the general fund at the end of that second fiscal year.

Sec. 6. Minnesota Statutes 1990, section 124.6472, subdivision 1, is amended to read:

Subdivision 1. [BREAKFAST REQUIRED.] A school district shall offer a school breakfast program in every school building in which:

~~(1)~~ at least 40 percent of the school lunches served during the ~~1989-1990~~ *second preceding* school year were served free or at a reduced price; ~~or~~

~~(2) at least 15 percent of the children in the school would take part in the program, as indicated by a survey of the parents in the school~~.

Sec. 7. Minnesota Statutes 1990, section 125.231, is amended to read:

125.231 [TEACHER ASSISTANCE THROUGH MENTORSHIP PROGRAM.]

Subdivision 1. [TEACHER MENTORING PROGRAM.] School districts are encouraged to participate in a competitive grant program that explores ~~the potential of various~~ teacher mentoring programs *for teachers new to the profession or district, or for teachers with special needs.*

Subd. 2. [TEACHER MENTORING TASK FORCE.] The commissioner

shall appoint *and work with* a teacher mentoring task force including representatives of the two teachers unions, the two principals organizations, school boards association, administrators association, board of teaching, parent teacher association, post-secondary institutions, foundations, and the private sector. Representation on the task force by ~~minority~~ populations *of color* shall reflect the proportion of ~~minorities~~ *people of color* in the public schools.

The task force shall:

(1) ~~make recommendations for a system of incentives at the state and local level to assure that highly capable individuals are attracted to and retained in the teaching profession;~~

~~(2) determine ways in which teachers can be empowered through expanding to new and more professional roles; and~~

~~(3)~~ develop the application forms, criteria, and procedures for the mentorship program*;*

(2) select sites to receive grant funding; and

(3) provide ongoing support and direction for program implementation.

Subd. 3. [APPLICATIONS.] The commissioner of education shall make application forms available ~~by October 1, 1987~~ *to sites interested in developing or expanding a mentorship program.* ~~By December 1, 1987,~~ A school district, a group of school districts, or a coalition of districts, teachers and teacher education institutions may apply for a teacher mentorship program grant. ~~By January 1, 1988,~~ The commissioner, in consultation with the teacher mentoring task force, shall approve or disapprove the applications. To the extent possible, the approved applications must reflect ~~a variety of mentorship program models~~ *effective mentoring components*, include a variety of coalitions and be geographically distributed throughout the state. The commissioner of education shall encourage the selected sites to consider the use of the assessment procedures developed by the board of teaching.

Subd. 4. [CRITERIA FOR SELECTION.] At a minimum, applicants must express commitment to:

(1) allow staff participation;

(2) assess skills of both beginning and mentor teachers;

(3) provide appropriate in-service to needs identified in the assessment;

(4) provide leadership to the effort;

(5) cooperate with higher education institutions;

(6) provide facilities and other resources; and

(7) share findings, materials, and techniques with other school districts.

Subd. 5. [ADDITIONAL FUNDING.] Applicants are required to seek additional funding and assistance from sources such as school districts, post-secondary institutions, foundations, and the private sector.

~~Subd. 6. [REPORT TO THE LEGISLATURE.] By January 1, 1991, the commissioner of education shall report to the legislature on how the teacher mentoring task force recommendations for a system of incentives are being implemented at the state and local level to assure that highly capable individuals are attracted to and retained in the teaching profession and shall recommend~~

~~ways to expand and enhance the responsibilities of teachers.~~

~~By January 1 of 1990 and 1991, the commissioner of education shall report to the legislature on the design, development, implementation, and evaluation of the mentorship program.~~

Subd. 7. [PROGRAM IMPLEMENTATION.] *New and expanding mentorship sites that are funded to design, develop, implement, and evaluate their program must participate in activities that support program development and implementation. The department of education must provide resources and assistance to support new sites in their program efforts. These activities and services may include, but are not limited to: planning, planning guides, media, training, conferences, institutes, and regional and statewide networking meetings. Nonfunded schools or districts interested in getting started may participate in some activities and services. Fees may be charged for meals, materials, and the like.*

Sec. 8. Minnesota Statutes 1990, section 126.113, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The Minnesota education in agriculture *leadership* council is established to promote education about agriculture.

Sec. 9. Minnesota Statutes 1990, section 126.113, subdivision 2, is amended to read:

Subd. 2. [GOVERNANCE.] The council must be appointed by the governor and has 12 members. One member must be appointed from each congressional district and the remaining members must be appointed at large. Council terms and removal of members are as provided in section 15.0575. ~~Council members may receive reimbursement for expenses only if sources other than a direct legislative appropriation are available to pay the costs of members' reimbursement.~~ The council is governed by an executive board of directors. The council may organize and appoint committees as it considers necessary.

Sec. 10. Minnesota Statutes 1990, section 141.25, subdivision 8, is amended to read:

Subd. 8. [FEES AND TERMS OF LICENSE.] (a) Applications for initial license under sections 141.21 to 141.36 shall be accompanied by ~~$510~~ *$560* a nonrefundable application fee.

(b) All licenses shall expire on December 31 of each year. Each renewal application shall be accompanied by a nonrefundable renewal fee of ~~$380~~ *$430*.

(c) Application for renewal of license shall be made on or before October 1 of each calendar year. Each renewal form shall be supplied by the commissioner. It shall not be necessary for an applicant to supply all information required in the initial application at the time of renewal unless requested by the commissioner.

Sec. 11. Minnesota Statutes 1990, section 141.26, subdivision 5, is amended to read:

Subd. 5. [FEE.] The initial and renewal application for each permit shall be accompanied by a nonrefundable fee of ~~$190~~ *$210*.

Sec. 12. Minnesota Statutes 1990, section 171.29, subdivision 2, is

amended to read:

Subd. 2. (a) A person whose drivers license has been revoked as provided in subdivision 1, except under section 169.121 or 169.123, shall pay a $30 fee before the person's drivers license is reinstated.

(b) A person whose drivers license has been revoked as provided in subdivision 1 under section 169.121 or 169.123 shall pay a $200 fee before the person's drivers license is reinstated to be credited as follows:

(1) 25 percent shall be credited to the trunk highway fund;

(2) 50 percent shall be credited to a separate account to be known as the county probation reimbursement account. Money in this account may be appropriated to the commissioner of corrections for the costs that counties assume under Laws 1959, chapter 698, of providing probation and parole services to wards of the commissioner of corrections. This money is provided in addition to any money which the counties currently receive under section 260.311, subdivision 5;

(3) ten percent shall be credited to a separate account to be known as the bureau of criminal apprehension account. Money in this account may be appropriated to the commissioner of public safety and shall be divided as follows: eight percent for laboratory costs; two percent for carrying out the provisions of section 299C.065;

(4) 15 percent shall be credited to a separate account to be known as the alcohol-impaired driver education account. Money in the account may be appropriated to the commissioner of education for grants to develop alcohol-impaired driver education *and chemical abuse prevention* programs in elementary *and*~~,~~ secondary~~, and post-secondary~~ schools. The state board of education shall establish guidelines for the distribution of the grants. ~~Each year the commissioner may use $100,000 to administer the grant program and other traffic safety education programs.~~

Sec. 13. Minnesota Statutes 1990, section 475.61, subdivision 3, is amended to read:

Subd. 3. [IRREVOCABILITY.] Tax levies so made and filed shall be irrevocable, except as provided in this subdivision.

In each year when there is on hand any excess amount in the debt redemption fund of a school district at the time the district makes its property tax levies, the amount of the excess shall be certified by the school board to the county auditor and the auditor shall reduce the tax levy otherwise to be included in the rolls next prepared by the amount certified~~, unless~~. *The commissioner shall prescribe the form and calculation to be used in computing the excess amount.* The school board ~~determines that~~ *may, with the approval of the commissioner, retain* the excess amount *if it* is necessary to ensure the prompt and full payment of the obligations and any call premium on the obligations, or will be used for redemption of the obligations in accordance with their terms. ~~An amount shall be presumed to be excess for a school district in the amount that it, together with the levy required by subdivision 1, will exceed 106 percent of the amount needed to meet when due the principal and interest payments on the obligations due before the second following July 1. This subdivision shall not limit a school board's authority to~~ *The school board may, with the approval of the commissioner,* specify a tax levy in a higher amount if necessary because of anticipated tax delinquency or for cash flow needs to meet the required payments from

the debt redemption fund.

If the governing body, including the governing body of a school district, in any year makes an irrevocable appropriation to the debt service fund of money actually on hand or if there is on hand any excess amount in the debt service fund, the recording officer may certify to the county auditory the fact and amount thereof and the auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

Sec. 14. [NONOPERATING FUND TRANSFERS.]

On June 30, 1992, a school district may permanently transfer money from the capital expenditure fund and from the debt redemption fund, to the extent the transferred money is not needed for principal and interest payments on bonds outstanding at the time of transfer, to the transportation fund, capital expenditure fund, or the debt redemption fund. No levies shall be reduced as a result of a transfer. Each district transferring money according to this section shall report to the commissioner of education a report of each transfer. The commissioner of education shall report to the chairs of the education funding divisions of the house of representatives and the senate the aggregate transfers, by fund, made by school districts.

Sec. 15. [FUND TRANSFER.]

Notwithstanding Minnesota Statutes, section 121.912, subdivision 1, in fiscal year 1992, the reserved fund balance for unemployment insurance that exceeds $10 times the number of pupil units in the district during the 1990-1991 school year as of June 30, 1991, remaining, after the levy for unemployment insurance is reduced by the department of education, shall be transferred to the capital expenditure fund or the transportation fund.

Sec. 16. [TASK FORCE ON EDUCATION AND EMPLOYMENT TRANSITIONS.]

Subdivision 1. [DEFINITION.] *For the purposes of this section, "education and employment transitions" means those processes and structures that provide an individual with awareness of employment opportunities, demonstrate the relationship between education and employment and the applicability of education to employment, identify an individual's employment interests, and assist the individual to make transitions between education and employment.*

Subd. 2. [TASK FORCE ON EDUCATION AND EMPLOYMENT TRANSITIONS.] *The state council on vocational technical education shall establish a task force on education and employment transitions.*

Subd. 3. [PLAN.] *The task force shall develop a statewide plan for implementing programs for education and employment transitions. The plan shall identify:*

(1) existing public and private efforts in Minnesota that assist students to make successful transitions between education and employment;

(2) programs in other states and countries that are successfully preparing individuals for employment;

(3) how to overcome barriers that may prevent public and private collaboration in planning and implementing programs for education and employment transitions;

(4) the role of public and private groups in education and employment transitions;

(5) new processes and structures to implement statewide programs for education and employment transitions;

(6) how to integrate programs for education and employment transitions and outcome-based education initiatives;

(7) how to implement programs for education and employment transitions in Minnesota; and

(8) models for administrative and legislative action.

Subd. 4. [MEMBERSHIP.] *The task force shall include:*

(1) the members of the higher education advisory council under Minnesota Statutes, section 136A.02, subdivision 6, or members' designees;

(2) the executive director of the higher education coordinating board or the executive director's designee;

(3) the commissioner of jobs and training or the commissioner's designee;

(4) the commissioner of trade and economic development or the commissioner's designee;

(5) the commissioner of human services or the commissioner's designee;

(6) the commissioner of labor and industry or the commissioner's designee;

(7) up to ten members who represent the interests of education, labor, business, agriculture, trade associations, local service units, private industry councils, and appropriate community groups selected by the state council on vocational technical education;

(8) two members from the house of representatives, appointed by the speaker of the house of representatives; and

(9) two members from the senate, appointed by the subcommittee on committees of the committee on rules and administration.

Subd. 5. [PLAN DESIGN.] *The state council on vocational technical education shall select up to nine members appointed to the task force who represent the interests of business, labor, community, and education to serve as a plan design group to develop the plan described in subdivision 3. The task force shall make recommendations to the plan design group on the merits of the plan design.*

Subd. 6. [ASSISTANCE OF AGENCIES.] *Task force members may request information and assistance from any state agency or office to enable the task force to perform its duties.*

Subd. 7. [REPORT AND RECOMMENDATION.] *The task force shall provide an interim report describing its progress to the legislature by February 15, 1992. The task force shall report its plan and recommendations to the legislature by January 15, 1993.*

Sec. 17. [BOARD OF TEACHING APPROPRIATION.]

Subdivision 1. [BOARD OF TEACHING.] *The sums indicated in this section are appropriated from the general fund to the board of teaching in the fiscal year indicated.*

Subd. 2. [FELLOWSHIP GRANTS.] *For fellowship grants to highly*

qualified minorities seeking alternative preparation for licensure:

$100,000 1993

A grant must not exceed $5,000 with one-half paid each year for two years. Grants must be awarded on a competitive basis by the board. Grant recipients must agree to remain as teachers in the district for two years if they satisfactorily complete the alternative preparation program and if their contracts as probationary teachers are renewed.

Sec. 18. [STATE BOARD OF TECHNICAL COLLEGES APPROPRIATION.]

Subdivision 1. [STATE BOARD OF TECHNICAL COLLEGES.] *The sum indicated in this section is appropriated from the general fund to the state board of technical colleges for the state council on vocational technical education for the fiscal year designated.*

Subd. 2. [TASK FORCE ON EDUCATION AND EMPLOYMENT TRANSITIONS.] *For the task force on education and employment transitions:*

$40,000 1992

The appropriation is available until June 30, 1993.

The commissioner of education and the chancellor of the technical college system shall provide additional resources, as necessary, through the use of money appropriated to the state under the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, Public Law Number 101-392, title II, part A, section 201.

Sec. 19. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] *The sums in this section are appropriated, unless otherwise indicated, from the general fund to the department of education for the fiscal years designated.*

Subd. 2. [ABATEMENT AID.] *For abatement aid according to Minnesota Statutes, section 124.214:*

$6,018,000 1992

$6,018,000 1993

The 1992 appropriation includes $902,000 for 1991 and $5,116,000 for 1992.

The 1993 appropriation includes $902,000 for 1992 and $5,116,000 for 1993.

Subd. 3. [INTEGRATION GRANTS.] *For grants to districts implementing desegregation plans mandated by the state board:*

$15,844,000 1992
$15,844,000 1993

$1,385,200 each year must be allocated to independent school district No. 709, Duluth; $7,782,300 each year must be allocated to special school district No. 1, Minneapolis; and $6,676,500 each year must be allocated to independent school district No. 625, St. Paul. As a condition of receiving a grant, each district must continue to report its costs according to the uniform financial accounting and reporting system. As a further condition of receiving a grant, each district must submit a report to the chairs of the

education committees of the legislature about the actual expenditures it made for integration using the grant money. These grants may be used to transport students attending a nonresident district under Minnesota Statutes, section 120.062, to the border of the resident district. A district may allocate a part of the grant to the transportation fund for this purpose.

Subd. 4. [GRANTS FOR COOPERATIVE DESEGREGATION.] *For grants to develop interdistrict school desegregation programs:*

$400,000 1992

$200,000 1993

The commissioner of education shall award grants to school districts to develop pilot interdistrict cooperative programs to reduce segregation, as defined in Minnesota Rules, part 3535.0200, subpart 4, in school buildings.

To obtain a grant, a district that is required to submit a plan under Minnesota Rules, part 3535.0600, with the assistance of at least one adjacent district that is not required to submit a plan, shall submit an application to the commissioner.

The application shall contain a plan for:

(1) activities such as staff development, curriculum development, student leadership, student services, teacher and student exchanges, interdistrict meetings, and orientation for school boards, parents, and the community;

(2) implementation of the activities in clause (1) before possible student transfers occur; and

(3) possible voluntary transfer of students between districts beginning with the 1991-1992 school year.

A grant recipient shall submit a report about its activities.

Subd. 5. [NONPUBLIC PUPIL AID.] *For nonpublic pupil education aid according to Minnesota Statutes, sections 123.931 to 123.947:*

$8,892,000 1992

$8,892,000 1993

The 1992 appropriation includes $1,333,000 for 1991 and $7,559,000 for 1992.

The 1993 appropriation includes $1,333,000 for 1992 and $7,559,000 for 1993.

Subd. 6. [SCHOOL LUNCH AND FOOD STORAGE AID.] *For school lunch aid according to Minnesota Statutes, section 124.646, and Code of Federal Regulations, title 7, section 210.17, and for food storage and transportation costs for United States Department of Agriculture donated commodities; and for a temporary transfer to the commodity processing revolving fund to provide cash flow to permit schools and other recipients of donated commodities to take advantage of volume processing rates and for school milk aid according to Minnesota Statutes, section 124.648:*

$5,925,000 1992

$5,925,000 1993

Any unexpended balance remaining from the appropriations in this subdivision shall be prorated among participating schools based on the number

of free, reduced, and fully paid federally reimbursable student lunches served during that school year.

If the appropriation amount attributable to either year is insufficient, the rate of payment for each fully paid student lunch shall be reduced and the aid for that year shall be prorated among participating schools so as not to exceed the total authorized appropriation for that year.

Any temporary transfer processed in accordance with this subdivision to the commodity processing fund will be returned by June 30 in each year so that school lunch aid and food storage costs can be fully paid as scheduled.

Not more than $800,000 of the amount appropriated each year may be used for school milk aid.

Subd. 7. [TOBACCO USE PREVENTION.] *For tobacco use prevention aid according to Minnesota Statutes, section 124.252:*

$100,000 1992

The 1992 appropriation includes $100,000 for 1991.

Subd. 8. [CAREER TEACHER AID.] *For career teacher aid according to Minnesota Statutes, section 124.276:*

$750,000 1992

Any unexpended balance remaining in the first year does not cancel but is available in the second year.

Notwithstanding Minnesota Statutes 1989 Supplement, section 124.276, subdivision 2, the aid may be used for the increased district contribution to the teachers' retirement association and to FICA resulting from the portion of the teaching contract that is in addition to the standard teaching contract of the district.

Subd. 9. [MINORITY TEACHER INCENTIVES.] *For minority teacher incentives:*

$1,000,000 1992

Any unexpended balance remaining in 1992 does not cancel but is available in 1993.

Subd. 10. [TEACHER MENTORSHIP.] *For grants to develop mentoring programs in school districts according to Minnesota Statutes, section 125.231:*

$350,000 1992
$350,000 1993

Any balance in the first year does not cancel and is available for the second year.

Subd. 11. [EDUCATION IN AGRICULTURE LEADERSHIP COUNCIL.] *For operating expenses of the Minnesota education in agriculture leadership council:*

$25,000 1992

Any balance in the first year does not cancel but is available in the second year.

Subd. 12. [MINNESOTA PRINCIPAL ASSESSMENT CENTER.] *For the Minnesota principal assessment center:*

$70,000 1992
$70,000 1993

Subd. 13. [COMPUTER ASSISTED INSTRUCTIONAL STRATEGY GRANTS.] *For grants to school districts of up to $10,000 for each site in a district to purchase, lease, or lease purchase computer assisted instructional strategy software and hardware:*

$250,000 1992

Software obtained with grant money shall include programmed teaching instructions that allow for individualized student learning. The commissioner shall give preference to districts with a high level of low-achieving or at-risk pupils. A grant is contingent upon a district providing money to match the grant money.

The appropriation is available until June 30, 1993.

Subd. 14. [APPROPRIATIONS FOR DISTRICTS.] *For grants to certain school districts:*

$115,000 1992
$ 20,000 1993

$25,000 in 1992 is for a grant to independent school district No. 518, Worthington, for planning the construction of new residential facilities for the Lakeview program for handicapped students. The grant must be matched with money from nonstate sources.

$40,000 in 1992 is for a grant to independent school district No. 707, Nett Lake, to pay insurance premiums under Minnesota Statutes, section 466.06.

$30,000 in 1992 is for the payment of the obligation of independent school district No. 707, Nett Lake, for transfer to the appropriate state agency for unemployment compensation.

$20,000 in 1992 and $20,000 in 1993 is for a grant to independent school district No. 695, Chisholm, for a leadership program.

Subd. 15. [ALCOHOL-IMPAIRED DRIVER.] *For grants with funds received under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), clause (4):*

$695,000 1992
$695,000 1993

These appropriations are from the alcohol-impaired driver account of the special revenue fund. Any funds credited for the department of education to the alcohol-impaired driver account of the special revenue fund in excess of the amounts appropriated in this subdivision are appropriated to the department of education and available in fiscal year 1992 and fiscal year 1993.

Up to $375,000 each year may be used by the department of education to contract for services to school districts stressing the dangers of driving after consuming alcohol. No more than five percent of this amount may be used for administrative costs by the contract recipients.

Up to $100,000 each year may be used for grants to support student-centered programs to discourage driving after consuming alcohol.

Up to $225,000 and any additional funds each year may be used for

chemical abuse prevention grants under section 3.

Subd. 16. [CHILDREN'S COMMISSION.] *For the legislative commission on children, youth, and their families:*

$20,000 1992

Any balance in the first year does not cancel but is available in the second year.

Sec. 20. [REPEALER.]

Minnesota Statutes 1990, sections 3.865; 3.866; 124.252; 124C.01, subdivision 2; and 124C.41, subdivision 7, are repealed.

ARTICLE 9

MISCELLANEOUS

Section 1. Minnesota Statutes 1990, section 120.062, subdivision 8a, is amended to read:

Subd. 8a. [~~WAIVER OF~~ *EXCEPTIONS TO* DEADLINES.] ~~(a)~~ Notwithstanding subdivision 4, *the following pupil application procedures apply:*

(a) Upon agreement of the resident and nonresident school districts, a pupil may submit an application to a nonresident district after January ~~1~~ *15* for enrollment beginning the following school year. ~~The pupil, the pupil's parent or guardian, the district of residence, and the district of attendance must observe, in a prompt and efficient manner, the application and notice procedures in subdivisions 4 and 6, except that the application and notice deadlines do not apply.~~

(b) ~~Notwithstanding subdivision 4,~~ If, as a result of *entering into, modifying, or terminating* an agreement under section 122.541 or 122.535 ~~entered into after January 1,~~ a pupil is assigned *after December 1* to a different school, the pupil, *the pupil's siblings, or any other pupil residing in the pupil's residence* may submit an application to a nonresident district ~~after January 1 but~~ *at any time* before ~~June~~ *July* 1 for enrollment beginning the following school year.

(c) A pupil who becomes a resident of a school district after December 1 may submit an application to a nonresident district on January 15 or any time after that date for enrollment beginning any time before the following December 1.

(d) If the commissioner of education and the commissioner of human rights determine that the policies, procedures, or practices of a school district are in violation of Title VI of the Civil Rights Act of 1964 (Public Law Number 88-352) or chapter 363, any pupil in the district may submit an application to a nonresident district at any time for enrollment beginning at any time.

For exceptions under this subdivision, the ~~pupil~~ *applicant*, the ~~pupil's~~ *applicant's* parent or guardian, the district of residence, and the district of attendance must observe, in a prompt and efficient manner, the application and notice procedures in subdivisions 4 and 6, except that the application and notice deadlines do not apply.

Sec. 2. [120.0621] [ENROLLMENT OPTIONS PROGRAMS IN BORDER STATES.]

Subdivision 1. [OPTIONS FOR ENROLLMENT IN ADJOINING

STATES.] *Minnesota pupils and pupils residing in adjoining states may enroll in school districts in the other state according to:*

(1) section 120.08, subdivision 2; or

(2) this section.

Subd. 2. [PUPILS IN MINNESOTA.] *A Minnesota resident pupil may enroll in a school district in an adjoining state if the district is located in a county that borders Minnesota.*

Subd. 3. [PUPILS IN BORDERING STATES.] *A non-Minnesota pupil who resides in an adjoining state in a county that borders Minnesota may enroll in a Minnesota school district if either the school board of the district in which the pupil resides or state in which the pupil resides pays tuition to the school district in which the pupil is enrolled. The tuition must be an amount that is at least comparable to the tuition specified in section 120.08, subdivision 1.*

Subd. 4. [PROCEDURAL REQUIREMENTS.] *Except as otherwise provided in this section, the rights and duties set forth in section 120.062 apply to pupils, parents, and school districts if a pupil enrolls in a nonresident district according to this section.*

Subd. 5. [AID ADJUSTMENTS.] *The state of Minnesota shall make adjustments to general education aid, capital expenditure facilities aid, and capital expenditure equipment aid according to sections 124A.036, subdivision 5, and 124.245, subdivision 6, respectively, for the resident district of a Minnesota pupil enrolled in another state according to this section. The state of Minnesota shall reimburse the nonresident district, according to section 120.08, subdivision 1, in which a Minnesota pupil is enrolled according to this section.*

Subd. 6. [EFFECTIVE IF RECIPROCAL.] *This section is effective with respect to South Dakota upon enactment of provisions by South Dakota that are essentially similar to the rights and duties of pupils residing in districts located in all South Dakota counties that border Minnesota. After July 1, 1993, this section is effective with respect to any other bordering state upon enactment of provisions by the bordering state that are essentially similar to the rights and duties of pupils residing in and districts located in all counties that border Minnesota.*

Sec. 3. [120.064] [OUTCOME-BASED SCHOOLS.]

Subdivision 1. [PURPOSES.] *The purpose of this section is to:*

(1) improve pupil learning;

(2) increase learning opportunities for pupils;

(3) encourage the use of different and innovative teaching methods;

(4) require the measurement of learning outcomes and create different and innovative forms of measuring outcomes;

(5) establish new forms of accountability for schools; or

(6) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

Subd. 2. [APPLICABILITY.] *This section applies only to outcome-based schools formed and operated under this section.*

Subd. 3. [SPONSOR.] *(a) A school board may sponsor an outcome-based school.*

(b) A school board may authorize a maximum of two outcome-based schools. No more than a total of eight outcome-based schools may be authorized. The state board of education shall advise potential sponsors when the maximum number of outcome-based schools has been authorized.

Subd. 4. [FORMATION OF SCHOOL.] *(a) A sponsor may authorize one or more licensed teachers under section 215.182, subdivision 2, to form and operate an outcome-based school subject to approval by the state board of education. The teachers shall organize and operate a school as a cooperative under chapter 308A or nonprofit corporation under chapter 317A.*

(b) Before a teacher may begin to form and operate a school, the sponsor must file an affidavit with the state board of education stating its intent to authorize an outcome-based school. The affidavit must state the terms and conditions under which the sponsor would authorize an outcome-based school. The state board must approve or disapprove the sponsor's proposed authorization within 30 days of receipt of the affidavit. Failure to obtain state board approval precludes a sponsor from authorizing the outcome-based school that was the subject of the affidavit.

(c) The teachers authorized to organize and operate a school shall hold an election for members of the school's board of directors. All staff members employed at the school and all parents of children enrolled in the school may participate in the election. Licensed teachers employed at the school must be a majority of the members of the board of directors.

(d) The sponsor's authorization for an outcome-based school shall be in the form of a written contract signed by the sponsor and the board of directors of the outcome-based school.

Subd. 5. [CONTRACT.] *The contract for an outcome-based school shall be in writing and contain at least the following:*

(1) a description of a program that carries out one or more of the purposes in subdivision 1;

(2) specific outcomes pupils are to achieve under subdivision 10;

(3) admission policies and procedures;

(4) management and administration of the school;

(5) requirements and procedures for program and financial audits;

(6) how the school will comply with subdivisions 8, 13, 15, and 21;

(7) assumption of liability by the outcome-based school;

(8) types and amounts of insurance coverage to be obtained by the outcome-based school; and

(9) the term of the contract which may be up to three years.

Subd. 6. [ADVISORY COMMITTEE.] *(a) The state board of education shall appoint an advisory committee comprised of ten members. At least two members shall be African American, two members shall be American Indian, two members shall be Asian Pacific American, and two members shall be Hispanic. One of each of the two members shall reside within the seven-county metropolitan area and one shall reside within Minnesota but outside of the seven-county metropolitan area. In addition, at least one of*

each of the two members shall be a parent of a child in any of the grades kindergarten through 12. As least five of the ten members shall have family incomes that would make them eligible for free or reduced school lunches.

(b) Each sponsor listed in subdivision 3 shall request the advisory committee to review and make recommendations about a proposal it receives from an individual or organization that is predominately Caucasian to establish an outcome-based school in which one-half or more of the pupils are expected to be non-Caucasian.

(c) Each sponsor listed in subdivision 3 may request the advisory committee to review and make recommendations about a proposal it receives from an individual or organization that is predominately non-Caucasian if requested to do so by the individual or organization.

Subd. 7. [EXEMPTION FROM STATUTES AND RULES.] *Except as provided in this section, an outcome-based school is exempt from all statutes and rules applicable to a school board or school district, although it may elect to comply with one or more provisions of statutes or rules.*

Subd. 8. [REQUIREMENTS.] *(a) An outcome-based school shall meet the same health and safety requirements required of a school district.*

(b) The school must be located in Minnesota. Its specific location may not be prescribed or limited by a sponsor or other authority except a zoning authority.

(c) The school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize an outcome-based school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(d) The primary focus of the school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(e) The school may not charge tuition.

(f) The school is subject to and shall comply with chapter 363 and section 126.21.

(g) The school is subject to and shall comply with the pupil fair dismissal act, sections 127.26 to 127.39, and the Minnesota public school fee law, sections 120.71 to 120.76.

(h) The school is subject to the same financial audits, audit procedures, and audit requirements as a school district. The audit must be consistent with the requirements of sections 121.901 to 121.917, except to the extent deviations are necessary because of the program at the school. The department of education, state auditor, or legislative auditor may conduct financial, program, or compliance audits.

(i) The school is a school district for the purposes of tort liability under chapter 466.

Subd. 9. [ADMISSION REQUIREMENTS.] *The school may limit admission to:*

(1) pupils within an age group or grade level;

(2) people who are eligible to participate in the high school graduation

incentives program under section 126.22;

(3) pupils who have a specific affinity for the school's teaching methods, the school's learning philosophy, or a subject such as mathematics, science, fine arts, performing arts, or a foreign language; or

(4) residents of a specific geographic area if the percentage of the population of non-Caucasian people in the geographic area is greater than the percentage of the non-Caucasian population in the congressional district in which the geographic area is located, as long as the school reflects the racial and ethnic diversity of that area.

The school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils shall be accepted by lot.

The school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability.

Subd. 10. [PUPIL PERFORMANCE.] *An outcome-based school must design its programs to at least meet the outcomes adopted by the state board of education. In the absence of state board requirements, the school must meet the outcomes contained in the contract with the sponsor. The achievement levels of the outcomes contained in the contract may exceed the achievement levels of any outcomes adopted by the state board.*

Subd. 11. [EMPLOYMENT AND OTHER OPERATING MATTERS.] *The school's board of directors shall employ and contract with necessary teachers, as defined by section 125.03, subdivision 1, who hold valid licenses to perform the particular service for which they are employed in the school. The board may employ necessary employees who are not required to hold teaching licenses to perform duties other than teaching and may contract for other services. The board may discharge teachers and nonlicensed employees.*

The board of directors also shall decide matters related to the operation of the school, including budgeting, curriculum and operating procedures.

Subd. 12. [HANDICAPPED PUPILS.] *The school must comply with sections 120.03 and 120.17 and rules relating to the education of handicapped pupils as though it were a school district.*

Subd. 13. [LENGTH OF SCHOOL YEAR.] *An outcome-based school shall provide instruction each year for at least the number of days required by section 120.101, subdivision 5. It may provide instruction throughout the year according to sections 120.59 to 120.67 or 121.585.*

Subd. 14. [REPORTS.] *An outcome-based school must report at least annually to its sponsor and the state board of education the information required by the sponsor or the state board. The reports are public data under chapter 13.*

Subd. 15. [TRANSPORTATION.] *Transportation for pupils enrolled at a school shall be provided by the district in which the school is located, according to sections 120.062, subdivision 9, and 123.39, subdivision 6, for a pupil residing in the same district in which the outcome-based school is located. Transportation may be provided by the district in which the school is located, according to sections 120.062, subdivision 9, and 123.39, subdivision 6, for a pupil residing in a different district.*

Subd. 16. [LEASED SPACE.] *The school may lease space from a board*

eligible to be a sponsor or other public or private nonprofit nonsectarian organization.

Subd. 17. [INITIAL COSTS.] *A sponsor may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. A sponsor may not authorize a school before the state board of education has approved the authorization.*

Subd. 18. [DISSEMINATE INFORMATION.] *The department of education must disseminate information to the public, directly and through sponsors, on how to form and operate an outcome-based school and how to utilize the offerings of an outcome-based school.*

Subd. 19. [LEAVE TO TEACH IN A SCHOOL.] *If a teacher employed by a school district makes a written request for an extended leave of absence to teach at an outcome-based school, the school district must grant the leave. The school district must grant a leave for any number of years requested by the teacher, and must extend the leave at the teacher's request. The school district may require that the request for a leave or extension of leave be made up to 90 days before the teacher would otherwise have to report for duty. Except as otherwise provided in this subdivision and except for section 125.60, subdivision 6a, the leave is governed by section 125.60, including, but not limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.*

During a leave, the teacher may continue to aggregate benefits and credits in the teachers' retirement association account by paying both the employer and employee contributions based upon the annual salary of the teacher for the last full pay period before the leave began. The retirement association may impose reasonable requirements to efficiently administer this subdivision.

Subd. 20. [COLLECTIVE BARGAINING.] *Employees of the board of directors of the school may, if otherwise eligible, organize under chapter 179A and comply with its provisions. The board of directors of the school is a public employer, for the purposes of chapter 179A, upon formation of one or more bargaining units at the school. Bargaining units at the school are separate from any other units.*

Subd. 21. [CAUSES FOR NONRENEWAL OR TERMINATION.] *(a) The duration of the contract with a sponsor shall be for the term contained in the contract according to subdivision 5. The sponsor, subject to state board of education approval, may or may not renew a contract at the end of the term for any ground listed in paragraph (b). A sponsor or the state board may unilaterally terminate a contract during the term of the contract for any ground listed in paragraph (b). At least 60 days before not renewing or terminating a contract, the sponsor, or the state board if the state board is acting to terminate a contract, shall notify the board of directors of the school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that the school's board of directors may request in writing an informal hearing before the sponsor or the state board within 14 days of receiving notice of nonrenewal or termination of the contract. Failure by the board of directors to make a written request for a hearing within the 14 day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor or the state board shall give reasonable notice to the school's board of directors of the hearing date. The sponsor or the state*

board shall conduct an informal hearing before taking final action. The sponsor shall take final action to renew or not renew a contract by the last day of classes in the school year.

(b) A contract may be terminated or not renewed upon any of the following grounds:

(1) failure to meet the requirements for pupil performance contained in the contract;

(2) failure to meet generally accepted standards of fiscal management;

(3) for violations of law; or

(4) other good cause shown.

If a contract is terminated or not renewed, the school shall be dissolved according to the applicable provisions of chapter 308A or 317A.

Subd. 22. [PUPIL ENROLLMENT.] *If a contract is not renewed or is terminated according to subdivision 21, a pupil who attended the school, siblings of the pupil, or another pupil who resides in the same place as the pupil may enroll in the resident district or may submit an application to a nonresident district according to section 120.062 at any time. Applications and notices required by section 120.062 shall be processed and provided in a prompt manner. The application and notice deadlines in section 120.062 do not apply under these circumstances.*

Subd. 23. [GENERAL AUTHORITY.] *The board of directors of an outcome-based school may sue and be sued. The board may not levy taxes or issue bonds.*

Subd. 24. [IMMUNITY.] *The state board of education, members of the state board, a sponsor, members of the board of a sponsor in their official capacity, and employees of a sponsor are immune from civil or criminal liability with respect to all activities related to an outcome-based school they approve or sponsor. The board of directors shall obtain at least the amount of and types of insurance required by the contract, according to subdivision 5.*

Sec. 4. Minnesota Statutes 1990, section 120.59, is amended to read:

120.59 [~~FLEXIBLE SCHOOL~~ *PURPOSE OF FLEXIBLE LEARNING* YEAR PROGRAMS~~; PURPOSE~~.]

The purpose of sections 120.59 to 120.67 is to authorize ~~school~~ districts to evaluate, plan and employ the use of flexible ~~school~~ *learning* year programs. It is anticipated that the open selection of the type of flexible ~~school~~ *learning* year operation from a variety of alternatives will allow each district which seeks to utilize this concept to suitably fulfill the educational needs of its pupils. These alternatives shall include, but not be limited to, various 45-15 plans, four-quarter plans, quinmester plans, extended ~~school~~ *learning* year plans, flexible all-year plans, and four-day week plans.

Sec. 5. Minnesota Statutes 1990, section 120.60, is amended to read:

120.60 [DEFINITION *OF FLEXIBLE LEARNING YEAR.*]

"Flexible ~~school~~ *learning* year program" means any ~~school~~ district plan approved by the state board of education which utilizes ~~school~~ buildings and facilities during the entire year and/or which provides forms of optional scheduling of pupils and ~~school~~ personnel during the ~~school~~ *learning* year

in elementary and secondary schools or residential facilities for handicapped children.

Sec. 6. Minnesota Statutes 1990, section 120.61, is amended to read:

120.61 [ESTABLISHMENT OF *FLEXIBLE LEARNING YEAR* PROGRAM.]

The ~~school~~ board of any district, with the approval of the state board of education, may establish and operate a flexible ~~school~~ *learning* year program in one or more of the ~~schools~~ *day* or residential facilities for handicapped children within the district.

Sec. 7. Minnesota Statutes 1990, section 120.62, is amended to read:

120.62 [DIVISION OF CHILDREN INTO GROUPS.]

The ~~school~~ board of any district operating a flexible ~~school~~ *learning* year program in one or more of the ~~schools~~ *facilities* within the district shall divide the students of each selected ~~school~~ *facility* into as many groups as necessary to accommodate this program. Students of the same family shall be placed in the same group unless one or more of these students is enrolled in a special education class or unless the parent or guardian of these students requests that the students be placed in different groups. No ~~school~~ board shall discriminate on the basis of race, color, creed, religion, marital status, status with regard to public assistance, sex, or national origin when assigning pupils to attendance groups pursuant to this section.

Sec. 8. Minnesota Statutes 1990, section 120.63, is amended to read:

120.63 [*PUBLIC* HEARING *BEFORE IMPLEMENTATION.*]

Prior to implementing a flexible ~~school~~ *learning* year program in any ~~school~~ *facility* of the district, the ~~school~~ board shall negotiate with the teachers, principals, assistant principals, supervisory personnel and employees ~~of the school~~ to the extent required by the public employment labor relations act, and shall consult with the parents of pupils who would be affected by the change, and with the community at large. These procedures shall include at least three informational meetings for which the board has given published notice to the teachers and employees and to the parents of pupils affected.

Sec. 9. Minnesota Statutes 1990, section 120.64, is amended to read:

120.64 [ASSIGNMENT OF TEACHERS.]

Subdivision 1. In ~~school~~ districts where a flexible ~~school~~ *learning* year program is implemented in fewer than all of the ~~schools~~ *facilities* maintained by the ~~school~~ district, the board of the ~~school~~ district shall make every reasonable effort to assign qualified teachers who prefer ~~the regular school~~ *a traditional* schedule to ~~schools~~ *facilities* of the same level retaining ~~the regular school~~ *a traditional* schedule.

Subd. 2. A full-time ~~classroom~~ teacher currently employed by a ~~school~~ district which converts to a flexible ~~school~~ *learning* year program shall not, without the teacher's written consent, be required to teach under this program (1) more or less than the number of scheduled days or their equivalent the ~~schools~~ *facilities* of the district were maintained during the year preceding implementation of the flexible ~~school~~ *learning* year program; (2) in a period of the calendar year substantially different from the period in which the teacher taught during the year preceding implementation of the flexible

learning year program.

Subd. 3. In no event shall a teacher's continuing contract rights to a position held the year preceding implementation of a flexible ~~school~~ *learning* year program or teaching experience earned during a probationary period the year preceding implementation be lost or impaired upon adoption of a flexible ~~school~~ *learning* year program. If the year of teaching preceding implementation was the end of a probationary period, the continuing contract right to a full year's contract which normally would be acquired for the next succeeding ~~school~~ *learning* year shall be acquired in the year of adoption of the flexible program.

Subd. 4. Any ~~school~~ district operating a flexible ~~school~~ *learning* year program shall enter into one contract governing the entire ~~school~~ *learning* year with each teacher employed in a flexible program. If individual teachers contract to teach less than a period of 175 days during a ~~school~~ *learning* year, each 175 days of employment accrued during any five-year period after the adoption of a flexible *learning* year program shall be deemed consecutive and shall constitute a full year's employment for purposes of establishing and retaining continuing contract rights to a full ~~school~~ *learning* year position pursuant to sections 125.12, subdivisions 3 and 4, and 125.17, subdivisions 2 and 3. A teacher who has not been discharged or advised of a refusal to renew the teacher's contract by the applicable date, as specified in section 125.12 or 125.17, in the year in which the teacher will complete the requisite number of days for securing a continuing contract shall have a continuing full ~~school~~ *learning* year contract with the district.

Subd. 5. Continuing contract rights established pursuant to this section shall not be impaired or lost by the termination of a flexible ~~school~~ *learning* year program.

Sec. 10. Minnesota Statutes 1990, section 120.65, is amended to read:

120.65 [ESTABLISHMENT AND APPROVAL.]

The state board of education shall:

(1) establish standards and requirements for the qualification of ~~school~~ districts which may operate on a flexible ~~school~~ *learning* year basis;

(2) establish standards and evaluation criteria for flexible ~~school~~ *learning* year programs;

(3) prepare and distribute all necessary forms for application by any ~~school~~ district for state authorization for a flexible ~~school~~ *learning* year program;

(4) review the proposed flexible ~~school~~ *learning* year program of any qualified ~~school~~ district as to conformity to standards and the evaluation of appropriateness of priorities, workability of procedure and overall value;

(5) approve or disapprove proposed flexible ~~school~~ *learning* year programs.

Sec. 11. Minnesota Statutes 1990, section 120.66, is amended to read:

120.66 [POWERS AND DUTIES OF THE STATE BOARD.]

Subdivision 1. The state board of education shall:

(1) Promulgate rules necessary to the operation of sections 120.59 to 120.67;

(2) Cooperate with and provide supervision of flexible ~~school~~ *learning* year programs to determine compliance with the provisions of sections 120.59 to 120.67, the state board standards and qualifications, and the proposed program as submitted and approved;

(3) Provide any necessary adjustments of (a) attendance and membership computations and (b) the dates and percentages of apportionment of state aids;

(4) Consistent with the definition of "average daily membership" in section 124.17, subdivision 2, furnish the board of a district implementing a flexible ~~school~~ *learning* year program with a formula for computing average daily membership. This formula shall be computed so that tax levies to be made by the district, state aids to be received by the district, and any and all other formulas based upon average daily membership are not affected solely as a result of adopting this plan of instruction.

Subd. 2. Sections 120.59 to 120.67 shall not be construed to authorize the state board to require the establishment of a flexible ~~school~~ *learning* year program in any district in which the ~~school~~ board has not voted to establish, maintain, and operate such a program.

Sec. 12. Minnesota Statutes 1990, section 120.67, is amended to read:

120.67 [TERMINATION OF PROGRAM.]

The ~~school~~ board of any district, with the approval of the state board of education, may terminate a flexible ~~school~~ *learning* year program in one or more of the ~~schools~~ *day* or residential facilities for handicapped children within the district. This section shall not be construed to permit an exception to section 120.101 or 124.19.

Sec. 13. Minnesota Statutes 1990, section 121.11, subdivision 12, is amended to read:

Subd. 12. [ADMINISTRATIVE RULES.] The state board may adopt *new* rules only upon specific authority other than under this subdivision. *The state board may amend or repeal any of its existing rules.* Notwithstanding the provisions of section 14.05, subdivision 4, the state board may grant a variance to its rules upon application by a school district for purposes of implementing experimental programs in learning or school management ~~that attempt to make better use of community resources or available technology~~. *Notwithstanding any law to the contrary, and only upon receiving the agreement of the state board of teaching, the state board of education may grant a variance to its rules governing licensure of teachers for those teachers licensed by the board of teaching. The state board may grant a variance, without the agreement of the board of teaching, to its rules governing licensure of teachers for those teachers it licenses.*

Sec. 14. [121.162] [RECEIPTS; FUNDS.]

Subdivision 1. [CONFERENCE AND WORKSHOP FEES.] *The commissioner may establish procedures to set and collect fees to defray costs of conferences and workshops conducted by the department. The commissioner may keep accounts as necessary within the state's accounting system for the deposit of the conference and workshop fee receipts.*

Subd. 2. [APPROPRIATION.] *The receipts collected under subdivision 1 are appropriated for payment of expenses relating to the workshops and conferences.*

Subd. 3. [CARRY-OVER AUTHORITY.] *Unobligated balances under subdivision 1 may be carried over as follows:*

(1) when expenditures for which the receipts have been designated occur in the following fiscal year; or

(2) to allow retention of minor balances in accounts for conferences that are scheduled annually.

Subd. 4. [RECEIPTS AND REIMBURSEMENTS.] *The commissioner may accept receipts and payments from public and nonprofit private agencies for related costs for partnership or cooperative endeavors involving education activities that are for the mutual benefit of the state, the department, and the other agency. The commissioner may keep accounts as necessary within the state's accounting system. The receipts must be deposited in the special revenue fund.*

Sec. 15. Minnesota Statutes 1990, section 121.931, subdivision 6a, is amended to read:

Subd. 6a. [DATA STANDARD COMPLIANCE.] The department shall monitor and enforce compliance with the data standards. For financial accounting data and property accounting data, the department shall develop statistically based tests to determine data quality. The department shall annually test the data submitted by districts or regional centers and determine which districts submit inaccurate data. The department shall require these districts to review the data in question and, if found in error, to submit corrected data. *The department shall develop standard editing checks for data submitted and shall provide these to districts and regional centers.*

Sec. 16. Minnesota Statutes 1990, section 121.931, subdivision 7, is amended to read:

Subd. 7. [APPROVAL POWERS.] The state board, with the advice and assistance of the ESV computer council and the information policy office of the department of administration, shall approve or disapprove the following, according to the criteria in section 121.937 and rules adopted pursuant to subdivision 8:

(a) the creation of regional management information centers pursuant to section 121.935; *and*

~~(b) the transfer by a district of its affiliation from one regional management information center to another;~~

~~(c) the use by a district of a management information system other than the ESV-IS subsystem through the regional management information center or a state board approved~~ alternative ~~system~~ *management information systems* pursuant to section 121.936, subdivisions 2 to ~~4; and~~ 4

~~(d) annual and biennial plans and budgets submitted by regional management information centers pursuant to section 121.935, subdivisions 3 and 4~~.

Sec. 17. Minnesota Statutes 1990, section 121.931, subdivision 8, is amended to read:

Subd. 8. [RULES.] The state board shall adopt rules prescribing criteria for its decisions pursuant to subdivision 7. These rules shall include at least the criteria specified in section 121.937. The state board shall also adopt rules specifying the criteria and the process for determining which data and data elements are included in ~~the data element dictionary and~~ the annual data

acquisition calendar developed pursuant to section 121.932, ~~subdivisions 1 and~~ *subdivision* 2. The state board shall adopt rules requiring regional management information centers to use cost accounting procedures which will account by district for resources consumed at the center for support of each ESV-IS subsystem and of any approved alternative financial management information systems. The adoption of the systems architecture plan and the long range plan pursuant to subdivisions 3 and 4 shall be exempt from the administrative procedure act but, to the extent authorized by law to adopt rules, the board may use the provisions of section 14.38, subdivisions 5 to 9.

Sec. 18. Minnesota Statutes 1990, section 121.932, subdivision 2, is amended to read:

Subd. 2. [DATA ACQUISITION CALENDAR.] The department of education shall maintain a current annual data acquisition calendar specifying the reports which ~~districts are required to provide to the department, the reports which regional management information centers are required to provide~~ *must be provided* to the department ~~for their affiliated districts,~~ and the dates ~~when~~ these reports are due.

Sec. 19. Minnesota Statutes 1990, section 121.932, subdivision 3, is amended to read:

Subd. 3. [EXEMPTION FROM CHAPTER 14.] Except as provided in section 121.931, subdivision 8, the ~~data element dictionary,~~ annual data acquisition calendar~~,~~ and *the* essential data elements are exempt from the administrative procedure act but, to the extent authorized by law to adopt rules, the board may use the provisions of section 14.38, subdivisions 5 to 9.

Sec. 20. Minnesota Statutes 1990, section 121.932, subdivision 5, is amended to read:

Subd. 5. [ESSENTIAL DATA.] The department shall maintain a list of essential data elements which must be recorded and stored about each pupil, licensed and nonlicensed staff member, and educational program. Each school district shall send the essential data to the ESV regional computer center to which it belongs, ~~where it shall be assembled and transmitted~~ *or* to the department in the form and format prescribed by the department.

Sec. 21. Minnesota Statutes 1990, section 121.933, subdivision 1, is amended to read:

Subdivision 1. [PERMITTED DELEGATIONS.] The state board of technical colleges, the state board of education, and the department may provide, by the delegation of powers and duties or by contract, for the implementation and technical support of ESV-IS and SDE-IS, including the development of applications software pursuant to section 121.931, subdivision 5, ~~by the Minnesota educational computing consortium,~~ by a regional management information center or by any other appropriate provider.

Sec. 22. Minnesota Statutes 1990, section 121.934, subdivision 7, is amended to read:

Subd. 7. [ADVISORY DUTIES.] (a) Pursuant to section 121.931, the ESV computer council shall advise and assist the state board in:

(1) the development of the long-range plan and the systems architecture plan;

(2) the development of applications software for ESV-IS and SDE-IS;

(3) the approval of the creation ~~and alteration~~ of regional management information centers;

(4) the approval ~~of the use by districts~~ of alternative management information systems; *and*

(5) the statewide applicability of alternative management information systems proposed by districts~~; and~~

~~(6) the approval of annual and biennial plans and budgets of regional management information centers; and~~

~~(7) the monitoring and enforcement of compliance with data standards~~.

(b) The council shall also review the data standards recommended by the council on uniform financial accounting and reporting standards and the advisory task forces on uniform standards for student reporting and personnel/payroll reporting and make recommendations to the state board concerning:

(1) the consistency of the standards for finance, property, student and personnel/payroll data with one another;

(2) the implications of the standards for implementation of ESV-IS and SDE-IS; and

(3) the consistency of the standards with the systems architecture plan and the long-range plan.

(c) Pursuant to section 121.932, the council shall advise the department in the development and operation of SDE-IS.

Sec. 23. Minnesota Statutes 1990, section 121.935, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] Any group of two or more independent, special or common school districts may with the approval of the state board pursuant to sections 121.931 and 121.937 create a regional management information center pursuant to section 123.58 or 471.59 to provide computer services to school districts. A regional management information center ~~which is not in existence on July 1, 1979~~ shall not come into existence until the first July 1 ~~of an odd-numbered year~~ after its creation is approved by the state board or until it can be accommodated by state appropriations, whichever occurs first. *Each member of the center board shall be a current member of a member school board.*

Sec. 24. Minnesota Statutes 1990, section 121.935, subdivision 4, is amended to read:

Subd. 4. [~~BIENNIAL~~ *ANNUAL* BUDGET ESTIMATES.] Every regional management information center shall submit to the department by July 1 ~~of each even-numbered year a biennial~~ *an annual* budget estimate for its administrative and management computer activities. The ~~biennial~~ budget estimates shall be in a program budget format and shall include all estimated and actual revenues, expenditures, and fund balances of the center ~~for the appropriate fiscal years~~. Budget forms developed pursuant to section 16A.10 may be used for these estimates. The department of education shall assemble this budget information into a supplemental ~~biennial~~ budget summary for the statewide elementary, secondary, and vocational management information system. Copies of ~~this supplemental biennial~~ *the* budget summary

shall be provided to the ESV computer council ~~and the department of finance,~~ and shall be available to the legislature upon request.

Sec. 25. Minnesota Statutes 1990, section 121.935, subdivision 6, is amended to read:

Subd. 6. [FEES.] Regional management information centers may charge fees to affiliated districts for the cost of services provided to the district and the district's proportionate share of outstanding regional ~~debt~~ *obligations, as defined in section 475.51, for computer hardware*. If a district uses a state approved alternative finance system for processing its detailed transactions or transfers to another region, the district is liable for its contracted proportionate share of the outstanding regional ~~debt~~ *obligation*. The district is not liable for any additional outstanding regional ~~debt~~ *obligations* that ~~occurs~~ *occur* after written notice is given to transfer or use an alternative finance system. A regional management information center must not charge a district for transferring the district's summary financial data and essential data elements to the state. The regional management information center may charge the district for any service it provides to, or performs on behalf of, a district to render the data in the proper format for reporting to the state. *If a district transfers to another regional center, the center shall transfer to the district within 90 days after the end of the fiscal year the district's per actual pupil share of the center's unreserved fund balance in each fund. The fund balance shall be determined as of June 30 preceding the year the district transfers.*

Sec. 26. Minnesota Statutes 1990, section 121.935, is amended by adding a subdivision to read:

Subd. 8. [COMPUTER HARDWARE PURCHASE.] *A regional management information center may not purchase or enter into a lease-purchase agreement for computer hardware in excess of $100,000 without unanimous consent of the center board.*

Sec. 27. Minnesota Statutes 1990, section 121.936, subdivision 1, is amended to read:

Subdivision 1. [MANDATORY PARTICIPATION.] (a) Every district shall perform financial accounting and reporting operations on a financial management accounting and reporting system utilizing multidimensional accounts and records defined in accordance with the uniform financial accounting and reporting standards adopted by the state board pursuant to sections 121.90 to 121.917.

(b) Every school district shall be affiliated with one and only one regional management information center. This affiliation shall include at least the following components:

(1) the center shall provide *financial management accounting* reports to the department of education for the district to the extent required by the data acquisition calendar;

(2) the district shall process every detailed financial transaction using, at the district's option, either the ESV-IS finance subsystem through the center or an alternative system approved by the state board.

Notwithstanding the foregoing, a district may process and submit its financial data to a region or the state in summary form if it operates an approved alternative system or participates in a state approved pilot test of an alternative system and is reporting directly to the state as of January 1,

1987.

(c) The provisions of this subdivision shall not be construed to prohibit a district from purchasing services other than those described in clause (b) from a center other than the center with which it is affiliated pursuant to clause (b).

Districts operating an approved alternative system may transfer their affiliation from one regional management information center to another. At least one year prior to July 1 of the year in which the transfer is to occur, the district shall give written notice to its current region of affiliation of its intent to transfer to another region. The one year notice requirement may be waived if the two regions mutually agree to the transfer.

Sec. 28. Minnesota Statutes 1990, section 121.936, subdivision 2, is amended to read:

Subd. 2. [ALTERNATIVE MANAGEMENT INFORMATION SYSTEMS.] A district may be exempted from the requirement in subdivision 1, clause (b)(2), if it ~~receives the approval of the state board to use~~ *uses* another financial management information system *approved by the state board*. A district permitted before July 1, 1980, to submit its financial transactions in summary form to a regional management information center pursuant to subdivision 1 may continue to submit transactions in the approved form without obtaining the approval of the state board pursuant to this subdivision. ~~A district may be exempted from the requirement in subdivision 1a, clause (b), if it receives the approval of the state board to use an alternative fixed assets property management information system.~~ Any district desiring to use another management information system *not previously approved by the state board* shall submit a detailed proposal to the state board and the ESV computer council. The detailed proposal shall include a statement of all costs to the district, regional management information center or state for software development or operational services needed to provide data to the regional management information center pursuant to the data acquisition calendar.

Sec. 29. Minnesota Statutes 1990, section 121.936, subdivision 4, is amended to read:

Subd. 4. [ALTERNATIVE SYSTEMS; STATE BOARD.] Upon approval of the proposal by the state board the district may proceed in accordance with its approved proposal. Except as provided in section 121.931, subdivision 5, an alternative system approved pursuant to this subdivision shall be developed and purchased at the expense of the district. *Notwithstanding any law to the contrary, when an alternative system has been approved by the state board, another district may use the system without state board approval.* A district which has submitted a proposal for an alternative system which has been disapproved may not submit another proposal for that fiscal year, but it may submit a proposal for the subsequent fiscal year.

Sec. 30. Minnesota Statutes 1990, section 121.937, subdivision 1, is amended to read:

Subdivision 1. [APPROVAL CRITERIA.] The criteria adopted by the state board for approval of the creation of a regional management information center~~, the transfer of a school district's affiliation from one regional management information center to another,~~ and the approval of an alternative management information system shall include:

(a) The provisions of the plans adopted by the state board pursuant to section 121.931, subdivisions 3 and 4;

(b) The cost effectiveness of the proposed center~~, transfer~~ or alternative;

(c) The effect of the proposed center~~, transfer~~ or alternative on existing regional management information centers; and

(d) Whichever of the following is applicable:

(i) The ability of a proposed center to comply with section 121.935, ~~or the effect of a transfer on a center's ability to comply with section 121.935,~~ or

(ii) The ability of a proposed alternative financial management information system to comply with section 121.936, subdivision 1, clauses (a) and (b) (1), or

(iii) The ability of a proposed alternative fixed assets property management information system to comply with ~~sections~~ *section* 121.936, subdivision 1, clause (b)(1)~~, and 121.936, subdivision 1a, clause (a)~~.

Sec. 31. Minnesota Statutes 1990, section 122.41, is amended to read:

122.41 [~~POLICY~~ *DUTY TO MAINTAIN ELEMENTARY AND SECONDARY SCHOOLS.*]

~~The policy of the state is to encourage organization of school districts into units of administration to afford better educational opportunities for all pupils, make possible more economical and efficient operation of the schools, and insure more equitable distribution of public school revenue. To this end all area of the state shall be included in an independent or special school district maintaining~~ *Each school district shall maintain* classified elementary and secondary schools, grades 1 through 12, unless ~~a~~ *the* district *is exempt according to section 122.34 or 122.355,* has made an agreement with another district or districts as provided in sections 122.535, 122.541, or sections 122.241 to 122.248, or 122.93, subdivision 8, or has received a grant under sections 124.492 to 124.495. *A district that has an agreement according to sections 122.241 to 122.248 or 122.541 shall operate a school with the number of grades required by those sections. A district that has an agreement according to section 122.535 or 122.93, subdivision 8, or has received a grant under sections 124.492 to 124.495 shall operate a school for the grades not included in the agreement, but not fewer than three grades.*

Sec. 32. Minnesota Statutes 1990, section 122.541, subdivision 7, is amended to read:

Subd. 7. [MEETING LOCATION.] Notwithstanding any law to the contrary, school boards that have an agreement may hold a valid joint meeting at any location that would be permissible for one of the school boards participating in the meeting. *A school board that has an agreement may hold a meeting in any district that is a party to the agreement. The school board shall comply with section 471.705 and any other law applicable to a meeting of a school board.*

Sec. 33. [122.895] [EMPLOYEES OF COOPERATIVE DISTRICTS UPON DISSOLUTION OR WITHDRAWAL.]

Subdivision 1. [DEFINITIONS.] *For purposes of this section, "teacher" means a teacher as defined in section 125.12, subdivision 1, who is employed*

by a district or center listed in subdivision 2, except that it does not include a superintendent. "Cooperative" means any district or center to which this section applies.

Subd. 2. [APPLICABILITY.] *This section applies to:*

(1) an education district organized according to sections 122.91 to 122.95;

(2) a cooperative vocational center organized according to section 123.351;

(3) a joint powers district or board organized according to section 471.59 which employs teachers to provide instruction;

(4) a joint vocational technical district organized according to sections 136C.60 to 136C.69;

(5) an intermediate district organized according to chapter 136D; and

(6) an educational cooperative service unit which employs teachers to provide instruction.

Subd. 3. [NOTIFICATION OF TEACHERS.] *In any year in which a cooperative dissolves or a member withdraws from a cooperative, the governing board of a cooperative shall provide all teachers employed by the cooperative written notification by March 10 of:*

(1) the dissolution of the cooperative and the effective date of dissolution; or

(2) the withdrawal of a member of the cooperative and the effective date of withdrawal.

Subd. 4. [RIGHTS OF A TEACHER WITH A CONTINUING CONTRACT IN A MEMBER DISTRICT UPON DISSOLUTION.] *(a) This subdivision applies to a teacher previously employed in a member district who:*

(1) had a continuing contract with that member district;

(2) has been continuously employed immediately after leaving that member district by one or more cooperatives that provided instruction to pupils enrolled in that member district; and

(3) is either a probationary teacher or has a continuing contract with the cooperative that is dissolving.

(b) A teacher may elect to resume the teacher's continuing contract with the member district by which the teacher was previously employed by filing a written notice of the election with the member school board on or before March 20. Failure by a teacher to file a written notice by March 20 of the year the teacher receives a notice according to subdivision 3 constitutes a waiver of the teacher's rights under this subdivision.

The member district shall make reasonable realignments of positions to accommodate the seniority rights of a teacher electing to resume continuing contract rights in the member district according to this subdivision.

Upon returning the teacher shall receive credit for:

(1) all years of continuous service under contract with the cooperative and the member district for all purposes relating to seniority, compensation, and employment benefits; and

(2) the teacher's current educational attainment on the member district's salary schedule.

(c) A teacher who does not elect to return to the member district according to this subdivision may exercise rights under subdivision 5.

Subd. 5. [RIGHTS OF OTHER TEACHERS UPON DISSOLUTION.] *(a) This subdivision applies to a teacher who:*

(1) has a continuing contract with the cooperative; and

(2) either did not have a continuing contract with any member district or does not return to a member district according to the procedures set forth in subdivision 4, paragraph (b).

(b) By May 10 of the school year in which the cooperative provides the notice required by subdivision 3, clause (1), the cooperative shall provide to each teacher described in subdivision 4 and this subdivision a written notice of available teaching positions in any member district to which the cooperative was providing services at the time of dissolution. Available teaching positions are all teaching positions that, during the school year following dissolution:

(1) are positions for which the teacher is licensed; and

(2) are not assigned to a continuing contract teacher employed by a member school district after any reasonable realignments which may be necessary under the applicable provisions of section 125.12, subdivision 6a or 6b, to accommodate the seniority rights of teachers employed by the member district.

(c) On or before June 1 of the school year in which the cooperative provides the notice required by subdivision 3, clause (1), any teacher wishing to do so must file with the school board a written notice of the teacher's intention to exercise the teacher's rights to an available teaching position. Available teaching positions shall be offered to teachers in order of their seniority within the dissolved cooperative.

(d) Paragraph (e) applies to:

(1) a district that was a member of a dissolved cooperative; or

(2) any other district that, except as a result of open enrollment according to section 120.062, provides essentially the same instruction provided by the dissolved cooperative to pupils enrolled in a former member district.

(e) For five years following dissolution of a cooperative, a district to which this subdivision applies may not appoint a new teacher or assign a probationary or provisionally licensed teacher to any position requiring licensure in a field in which the dissolved cooperative provided instruction until the following conditions are met:

(1) a district to which this subdivision applies has provided each teacher formerly employed by the dissolved cooperative, who holds the requisite license, written notice of the position; and

(2) no teacher holding the requisite license has filed a written request to be appointed to the position with the school board within 30 days of receiving the notice.

If no teacher files a request according to clause (2), the district may fill the position as it sees fit. During any part of the school year in which

dissolution occurs and the first school year following dissolution, a teacher may file a request for an appointment according to this paragraph regardless of prior contractual commitments with other member districts. Available teaching positions shall be offered to teachers in order of their seniority on a combined seniority list of the teachers employed by the cooperative and the appointing district.

(f) A teacher appointed according to this subdivision is not required to serve a probationary period. The teacher shall receive credit on the appointing district's salary schedule for the teacher's years of continuous service under contract with the cooperative and the member district and the teacher's educational attainment at the time of appointment or shall receive a comparable salary, whichever is less. The teacher shall receive credit for accumulations of sick leave and rights to severance benefits as if the teacher had been employed by the member district during the teacher's years of employment by the cooperative.

Subd. 6. [RIGHTS OF A TEACHER WITH A CONTINUING CONTRACT IN A MEMBER DISTRICT UPON WITHDRAWAL OF THE DISTRICT.] *(a) This subdivision applies to a teacher previously employed by a member district who:*

(1) had a continuing contract with the member district which withdraws from a cooperative;

(2) has been continuously employed immediately after leaving that member district by one or more cooperatives that provided instruction to pupils enrolled in that member district; and

(3) is either a probationary teacher or has a continuing contract with the cooperative from which the member district is withdrawing.

(b) A teacher may elect to resume the teacher's continuing contract with the withdrawing district by which the teacher was previously employed by filing a written notice of the election with the withdrawing school board on or before March 20. Failure by a teacher to file written notice by March 20 of the year the teacher receives a notice according to subdivision 3 constitutes a waiver of a teacher's rights under this subdivision.

The member district shall make reasonable realignments of positions to accommodate the seniority rights of a teacher electing to resume continuing contract rights in the member district according to this subdivision.

Upon returning, the teacher shall receive credit for:

(1) all years of continuous service under contract with the cooperative and the member district for all purposes relating to seniority, compensation, and employment benefits; and

(2) the teacher's current educational attainment on the member district's salary schedule.

Subd. 7. [RIGHTS OF A TEACHER PLACED ON UNREQUESTED LEAVE UPON WITHDRAWAL.] *(a) This subdivision applies to a teacher who is placed on unrequested leave of absence, according to section 125.12, subdivision 6a or 6b, in the year in which the cooperative provides the notice required by subdivision 3, clause (2), by a cooperative from which a member district is withdrawing.*

This subdivision applies to a district that, except as a result of open enrollment according to section 120.062, provides essentially the same

instruction provided by the cooperative to pupils enrolled in the withdrawing district.

(b) A teacher shall be appointed by a district to which this subdivision applies to an available teaching position which:

(1) is in a field of licensure in which pupils enrolled in the withdrawing district received instruction from the cooperative; and

(2) is within the teacher's field of licensure.

For the purpose of this paragraph, an available teaching position means any position that is vacant or would otherwise be occupied by a probationary or provisionally licensed teacher.

(c) A board may not appoint a new teacher to an available teaching position unless no teacher holding the requisite license on unrequested leave from the cooperative has filed a written request for appointment. The request shall be filed with the board of the appointing district within 30 days of receiving written notice from the appointing board that it has an available teaching position. If no teacher holding the requisite license files a request according to this paragraph, the district may fill the position as it sees fit. Available teaching positions shall be offered to teachers in order of their seniority on a combined seniority list of the teachers employed by the cooperative and the withdrawing member district.

(d) A teacher appointed according to this subdivision is not required to serve a probationary period. The teacher shall receive credit on the appointing district's salary schedule for the teacher's years of continuous service under contract with the cooperative and the member district and the teacher's educational attainment at the time of appointment or shall receive a comparable salary, whichever is less. The teacher shall receive credit for accumulations of sick leave and rights to severance benefits as if the teacher had been employed by the member district during the teacher's years of employment by the cooperative.

Subd. 8. [NONLICENSED EMPLOYEES UPON DISSOLUTION.] *A nonlicensed employee who is terminated by a cooperative that dissolves shall be appointed by a district that is a member of the dissolved cooperative to a position that is created within 12 months of the dissolution of the cooperative and is created as a result of the dissolution of the cooperative. A position shall be offered to a nonlicensed employee, who fulfills the qualifications for that position, in order of the employee's seniority within the dissolved cooperative.*

Subd. 9. [NONLICENSED EMPLOYEES UPON WITHDRAWAL.] *A nonlicensed employee of a cooperative whose position is discontinued as a result of the withdrawal of a member district from the cooperative shall be appointed by the withdrawing member district to a position that is created within 12 months of the withdrawal and is created as a result of the withdrawal of the member district. A position shall be offered to a nonlicensed employee, who fulfills the qualifications for that position, in order of the employee's seniority within the cooperative from which a member district withdraws.*

Sec. 34. Minnesota Statutes 1990, section 123.34, subdivision 9, is amended to read:

Subd. 9. [SUPERINTENDENT.] All districts maintaining a classified secondary school shall employ a superintendent who shall be an ex officio

nonvoting member of the school board. The authority for selection and employment of a superintendent shall be vested in the school board in all cases. An individual employed by a school board as a superintendent shall have an initial employment contract for a period of time no longer than ~~four~~ *three* years from the date of employment. ~~The initial employment contract must terminate on June 30 of an odd-numbered year. Any subsequent employment contract between a school board and the same individual to serve as a superintendent may not extend beyond June 30 of the next odd-numbered year.~~ *Any subsequent employment contract must not exceed a period of three years.* A school board, *at its discretion,* may or may not renew~~, at its discretion,~~ an ~~initial employment contract or a subsequent~~ employment contract. A school board may terminate a superintendent during the term of an employment contract for any of the grounds specified in section 125.12, subdivision 6 or 8. A superintendent shall not rely upon an employment contract with a school board to assert any other continuing contract rights in the position of superintendent under section 125.12. Notwithstanding the provisions of sections 122.532, 122.541, 125.12, subdivision 6a or 6b, or any other law to the contrary, no individual shall have a right to employment as a superintendent based on ~~seniority or~~ order of employment in any district. If two or more school districts enter into an agreement for the purchase or sharing of the services of a superintendent, the contracting districts have the absolute right to select one of the individuals employed to serve as superintendent in one of the contracting districts and no individual has a right to employment as the superintendent to provide all or part of the services based on ~~seniority or~~ order of employment in a contracting district. ~~An individual who holds a position as superintendent in one of the contracting districts, but is not selected to perform the services, may be placed on unrequested leave of absence or may be reassigned to another available position in the district for which the individual is licensed.~~ The superintendent of a district shall perform the following:

(1) visit and supervise the schools in the district, report and make recommendations about their condition when advisable or on request by the board;

(2) recommend to the board employment and dismissal of teachers;

(3) superintend school grading practices and examinations for promotions;

(4) make reports required by the commissioner of education; and

(5) perform other duties prescribed by the board.

Sec. 35. Minnesota Statutes 1990, section 123.34, subdivision 10, is amended to read:

Subd. 10. [PRINCIPALS.] Each public school building , as defined by section 120.05, subdivision 2, clauses (1), (2) and (3), in an independent school district shall be under the supervision of a principal who is assigned to that responsibility by the board of education in that school district upon the recommendation of the superintendent of schools of that school district. *If pupils in kindergarten through grade 12 attend school in one building, one principal may supervise the building.*

Each principal assigned the responsibility for the supervision of a school building shall hold *a* valid ~~certification~~ *license* in the assigned position of supervision and administration as established by the rules of the state board of education.

The principal shall provide administrative, supervisory, and instructional leadership services, under the supervision of the superintendent of schools of the school district and in accordance with the policies, rules, and regulations of the board of education, for the planning, management, operation, and evaluation of the education program of the building or buildings to which the principal is assigned.

Sec. 36. Minnesota Statutes 1990, section 123.35, is amended by adding a subdivision to read:

Subd. 20. [LEGAL COUNSEL; REIMBURSEMENT.] *If reimbursement is requested by a school district employee, the board may, after consulting with its legal counsel, reimburse the employee for any costs and reasonable attorney fees incurred by the person to defend criminal charges brought against the person arising out of the performance of duties for the school district. A board member who is a witness or an alleged victim in the case may not vote on the reimbursement. If a quorum of the board is disqualified from voting on the reimbursement, the reimbursement shall be approved by a judge of the district court.*

Sec. 37. Minnesota Statutes 1990, section 123.3514, subdivision 4, is amended to read:

Subd. 4. [AUTHORIZATION; NOTIFICATION.] Notwithstanding any other law to the contrary, an 11th or 12th grade pupil, *except a foreign exchange pupil enrolled in a district under a cultural exchange program,* may apply to an eligible institution, as defined in subdivision 3, to enroll in nonsectarian courses offered at that post-secondary institution. If an institution accepts a secondary pupil for enrollment under this section, the institution shall send written notice to the pupil, the pupil's school district, and the commissioner of education within ten days of acceptance. The notice shall indicate the course and hours of enrollment of that pupil. If the pupil enrolls in a course for post-secondary credit, the institution shall notify the pupil about payment in the customary manner used by the institution.

Sec. 38. Minnesota Statutes 1990, section 123.3514, subdivision 6, is amended to read:

Subd. 6. [FINANCIAL ARRANGEMENTS.] At the end of each school year, the department of education shall pay the tuition reimbursement amount within 30 days to the post-secondary institutions for courses that were taken for secondary credit. The amount of tuition reimbursement shall equal the lesser of:

(1) the actual costs of tuition, textbooks, materials, and fees directly related to the course taken by the secondary pupil; or

(2) an amount equal to the difference between the basic revenue of the district for that pupil and an amount computed by multiplying the basic revenue of the district for that pupil by a ratio. The ratio to be used is the total number of hours that the pupil is enrolled in courses in the secondary school during the regular school year over the total number of secondary instructional hours per pupil in that pupil's resident district.

~~The amount paid for each pupil shall be subtracted from the general education aid paid to the pupil's district of attendance. If the amount to be subtracted is greater than the amount of general education aid due the district, the excess reduction shall be made from other state aids due to the district.~~ *For fiscal year 1992, for a pupil attending a post-secondary institution*

under this section, whether the pupil is enrolled in the post-secondary institution for secondary credit, post-secondary credit, or a combination of both, a school district shall receive aid equal to the sum of:

(1) 12 percent of the formula allowance, according to section 124.22, subdivision 2, times 1.3; plus

(2) for a pupil who attends a secondary school part time, the formula allowance, according to section 124.22, subdivision 2, times 1.3, times the ratio of the total number of hours the pupil is in membership for courses taken by the pupil for credit, to 1020 hours.

If a pupil is enrolled in a course for post-secondary credit, the school district shall include the pupil in the average daily membership only for the portion of time during which the pupil is enrolled in courses at the secondary school and enrolled in courses at a post-secondary institution for secondary credit.

The department shall not pay any tuition reimbursement or other costs of a course taken for post-secondary credit only.

For fiscal year 1993 and thereafter, a post-secondary institution shall be reimbursed according to the following:

(1) for an institution granting quarter credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the formula allowance, multiplied by 1.3, and divided by 45; or

(2) for an institution granting semester credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the general revenue formula allowance, multiplied by 1.3, and divided by 30.

For fiscal year 1993 and thereafter, a school district shall receive:

(1) for a pupil who is not enrolled in classes at a secondary school, 12 percent of the formula allowance, according to section 124.22, subdivision 2, times 1.3; or

(2) for a pupil who attends a secondary school part time, 88 percent of the product of the formula allowance, according to section 124.22, subdivision 2, times 1.3, times the ratio of the total number of hours the pupil is in membership for courses taken by the pupil for credit, to 1020 hours.

Sec. 39. Minnesota Statutes 1990, section 123.3514, subdivision 6b, is amended to read:

Subd. 6b. [FINANCIAL ARRANGEMENTS, PUPILS AGE 21 OR OVER.] At the end of each school year, the department of education shall pay the tuition reimbursement amount to the post-secondary institutions for courses taken to fulfill high school graduation requirements by pupils eligible for adult high school graduation aid. The amount of the tuition reimbursement equals the lesser of:

(1) the actual costs of tuition, textbooks, materials, and fees directly related to the course or program taken by the pupil; or

(2) an amount equal to the difference between the adult high school graduation aid attributable to that pupil and an amount computed by multiplying the adult high school graduation aid by the ratio of the total number of hours that the pupil is enrolled in courses in the secondary school during the regular school year over the total number of secondary instructional hours per pupil in that pupil's resident district.

~~The amount of tuition reimbursement paid for each pupil shall be subtracted from the adult high school graduation aid paid to the pupil's district of attendance.~~ *For fiscal year 1992, for a pupil attending a post-secondary institution under this section, whether the pupil is enrolled in the post-secondary institution for secondary credit, post-secondary credit, or a combination of both, a school district shall receive aid equal to the sum of:*

(1) 12 percent of the formula allowance, according to section 124.22, subdivision 2, times 1.3; plus

(2) for a pupil who attends a secondary school part time, the adult high school graduation aid times 1.3, times the ratio of the total number of hours the pupil is in membership for courses taken by the pupil for credit, to 1020 hours.

If a pupil is enrolled in a course for post-secondary credit, the school district shall include the pupil in average daily membership as computed under section 120.17, subdivision 1, only for the portion of time during which the pupil is enrolled in courses at the secondary school and enrolled in courses at the post-secondary institution for secondary credit.

The department must not pay any tuition reimbursement or other costs of a course taken for post-secondary credit only.

For fiscal year 1993 and thereafter, a post-secondary institution shall be reimbursed according to the following:

(1) for an institution granting quarter credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the formula allowance, multiplied by 1.3, and divided by 45; or

(2) for an institution granting semester credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the general revenue formula allowance multiplied by 1.3, and divided by 30.

For fiscal year 1993 and thereafter, a school district shall receive:

(1) for a pupil who is not enrolled in classes at a secondary program, 12 percent of the adult high school graduation aid, times 1.3; or

(2) for a pupil who attends classes at a secondary program part time, 88 percent of the product of the adult high school graduation aid, times 1.3, times the ratio of the total number of hours the pupil is in membership for courses taken by the pupil for credit to 1020 hours.

Sec. 40. Minnesota Statutes 1990, section 123.38, subdivision 2b, is amended to read:

Subd. 2b. *(a)* The board may take charge of and control all extracurricular activities of the teachers and children of the public schools in the district. Extracurricular activities shall mean all direct and personal services for public school pupils for their enjoyment that are managed and operated under the guidance of an adult or staff member.

(b) Extracurricular activities have all of the following characteristics:

~~(a)~~ *(1)* they are not offered for school credit nor required for graduation;

~~(b)~~ *(2)* they are generally conducted outside school hours, or if partly during school hours, at times agreed by the participants, and approved by school authorities;

~~(c)~~ *(3)* the content of the activities is determined primarily by the pupil participants under the guidance of a staff member or other adult.

(c) If the board does not take charge of and control extracurricular activities, these activities shall be self-sustaining with all expenses, except direct salary costs and indirect costs of the use of school facilities, met by dues, admissions, or other student fundraising events. *The general fund or the technical colleges fund, if applicable, shall reflect only those salaries directly related to and readily identified with the activity and paid by public funds. Other revenues and expenditures for extra curricular activities must be recorded according to the "Manual of Instruction for Uniform Student Activities Accounting for Minnesota School Districts and Area Vocational-Technical Colleges." Extracurricular activities not under board control must have an annual financial audit and must also be audited annually for compliance with this section.*

(d) If the board takes charge of and controls extracurricular activities, any or all costs of these activities may be provided from school revenues~~.~~ *and* all revenues and expenditures for these activities shall be recorded in the same manner as other revenues and expenditures of the district.

(e) If the board takes charge of and controls extracurricular activities, no such activity shall be participated in by the teachers or pupils in the district, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

Sec. 41. Minnesota Statutes 1990, section 123.744, is amended to read:

123.744 [SCHOOL BOARDS; STUDENT MEMBERS.]

The board of directors of any school district ~~may~~ *shall* appoint a student to serve as an advisory member to the school board *or shall establish a youth advisory council to make formal and informal recommendations to the school board. If a student advisory member is appointed to the board,* the student shall serve as an advisory member to the board only while attending school in the district, and shall not receive any compensation or be reimbursed for any expenses incurred while serving in this capacity.

A student advisory member ~~may~~ *shall* be permitted to attend school board meetings, to be furnished with agenda materials, to introduce items for inclusion in the agenda, and to participate in discussion but shall not be entitled to vote.

If a youth advisory council is established, the board shall meet with council members at least three times per year to discuss education matters and board actions affecting the district student population.

Neither the student member nor youth advisory council members may participate in any closed discussion concerning the negotiation or implementation of a collective bargaining agreement and must not be present at a closed meeting permitted under section 471.705, subdivision 1a or 1d.

Sec. 42. Minnesota Statutes 1990, section 124.17, is amended by adding a subdivision to read:

Subd. 1c. [FOREIGN EXCHANGE PUPILS.] *Notwithstanding section 123.35, subdivision 8c, or any other law to the contrary, a foreign exchange pupil enrolled in a district under a cultural exchange program may be counted as a resident pupil for the purposes of chapters 124 and 124A and section 275.125 even if the pupil has graduated from high school or the*

equivalent.

Sec. 43. [124.248] [REVENUE FOR AN OUTCOME-BASED SCHOOL.]

Subdivision 1. [GENERAL EDUCATION REVENUE.] *General education revenue shall be paid to an outcome-based school as though it were a school district. The general education revenue for each pupil unit is the state average general education revenue per pupil unit, calculated without compensatory revenue, plus compensatory revenue as though the school were a school district.*

Subd. 2. [CAPITAL EXPENDITURE EQUIPMENT REVENUE.] *Capital expenditure equipment aid shall be paid to an outcome-based school according to section 124.245, subdivision 6, as though it were a school district. Capital expenditure equipment aid shall equal capital expenditure equipment revenue. Notwithstanding section 124.244, subdivision 4, an outcome-based school may use the revenue for any purpose related to the school.*

Subd. 3. [SPECIAL EDUCATION AID.] *Special education aid shall be paid to an outcome-based school according to section 124.32 as though it were a school district. The school may charge tuition to the district of residence as provided in section 120.17, subdivision 4. The district of residence shall levy as provided in section 275.125, subdivision 8c, as though it were participating in a cooperative.*

Subd. 4. [OTHER AID, GRANTS, REVENUE.] *An outcome-based school is eligible to receive other aids, grants, and revenue according to chapters 120 to 129, as though it were a school district. However, it may not receive aid, a grant, or revenue if a levy is required to obtain the money, except as otherwise provided in this section. Federal aid received by the state must be paid to the school, if it qualifies for the aid as though it were a school district.*

Subd. 5. [USE OF STATE MONEY.] *Money received from the state may not be used to purchase land or buildings. The school may own land and buildings if obtained through nonstate sources.*

Sec. 44. Minnesota Statutes 1990, section 125.09, subdivision 4, is amended to read:

Subd. 4. [MANDATORY REPORTING.] A school board shall report to the board of teaching, the state board of education, or the state board of technical colleges, whichever has jurisdiction over the teacher's license, when its teacher is discharged or resigns from employment after a charge is filed with the school board under section 125.17, subdivisions 4, clauses (1), (2), and (3), and 5, or after charges are filed that are ground for discharge under section 125.12, subdivision 8, clauses (a), (b), (c), (d), and (e), or when a teacher is suspended or resigns while an investigation is pending under section 125.12, subdivision 8, clauses (a), (b), (c), (d), and (e); 125.17, subdivisions 4, clauses (1), (2), and (3), and 5; or 626.556. The report must be made to the board within ten days after the discharge, suspension, or resignation has occurred. The board to which the report is made shall investigate the report for violation of subdivision 1 and the reporting school board shall cooperate in the investigation. *Notwithstanding any provision in chapter 13 or any law to the contrary, upon written request from the licensing board having jurisdiction over the teacher's license, a school board or school superintendent shall provide the licensing board*

with information about the teacher from the school district's files, any termination or disciplinary proceeding, any settlement or compromise, or any investigative file. Upon written request from the appropriate licensing board, a school board or school superintendent may, at the discretion of the school board or school superintendent, solicit the written consent of a student and the student's parent to provide the licensing board with information that may aid the licensing board in its investigation and license proceedings. The licensing board's request need not identify a student or parent by name. The consent of the student and the student's parent must meet the requirements of chapter 13 and Code of Federal Regulations, title 34, section 99.30. The licensing board may provide a consent form to the school district. Any data transmitted to any board under this section shall be private data under section 13.02, subdivision 12, notwithstanding any other classification of the data when it was in the possession of any other agency.

The board to which a report is made shall transmit to the attorney general's office any record or data it receives under this subdivision for the sole purpose of having the attorney general's office assist that board in its investigation. When the attorney general's office has informed an employee of the appropriate licensing board in writing that grounds exist to suspend or revoke a teacher's license to teach, that licensing board must consider suspending or revoking or decline to suspend or revoke the teacher's license within 45 days of receiving a stipulation executed by the teacher under investigation or a recommendation from an administrative law judge that disciplinary action be taken.

Sec. 45. Minnesota Statutes 1990, section 125.12, subdivision 3, is amended to read:

Subd. 3. [PROBATIONARY PERIOD.] The first three consecutive years of a teacher's first teaching experience in Minnesota in a single school district shall be deemed to be a probationary period of employment, and after completion thereof, the probationary period in each school district in which the teacher is thereafter employed shall be one year. The school *site management team, or the school* board *if there is no school site management team*, shall adopt a plan for written evaluation of teachers during the probationary period *according to subdivision 3a or 3b*. ~~Effective July 1, 1988,~~ Evaluation *by the peer review committee charged with evaluating probationary teachers under subdivision 3a* shall occur at least three times each year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school shall not be included in determining the number of school days on which a teacher performs services. During the probationary period any annual contract with any teacher may or may not be renewed as the school board, *after consulting with the peer review committee charged with evaluating probationary teachers under subdivision 3a*, shall see fit; provided, however, that the school board shall give any such teacher whose contract it declines to renew for the following school year written notice to that effect before June 1. If the teacher requests reasons for any nonrenewal of a teaching contract, the school board shall give the teacher its reason in writing, including a statement that appropriate supervision was furnished describing the nature and the extent of such supervision furnished the teacher during the employment by the board,

within ten days after receiving such request. The school board may, after a hearing held upon due notice, discharge a teacher during the probationary period for cause, effective immediately, under section 123.35, subdivision 5.

Sec. 46. Minnesota Statutes 1990, section 125.12, is amended by adding a subdivision to read:

Subd. 3a. [PEER REVIEW FOR PROBATIONARY TEACHERS.] *A school must have a peer review committee charged with evaluating each probationary teacher at least three times each year for a period of three years as required under subdivision 3. The purpose of the evaluation procedure is to improve the probationary teacher's instructional effectiveness. The school site management team, or the school board if there is no school site management team, after consulting with a representative of the peer review committee and the school principal or other person having general control and supervision of the school, shall adopt a procedure for written evaluations of probationary teachers. The evaluation procedure must be structured as a continuing and cooperative process between the probationary teacher, the peer review committee, and the school principal or other person having general control and supervision of the school. The school site management team, or the school board if there is no school site management team, shall make available a written description of the evaluation procedure, including evaluation policies and criteria, to each newly hired teacher and to each probationary teacher. As part of the evaluation procedure, the school and the school district shall provide the necessary resources to assist a probationary teacher to improve those areas of instruction identified by the teacher, the peer review committee, or the principal or other person having general control and supervision of the school as in need of improvement. The school and the school district also shall provide to each probationary teacher opportunities for professional growth experiences, including in-service training.*

Sec. 47. Minnesota Statutes 1990, section 125.12, is amended by adding a subdivision to read:

Subd. 3b. [APPLICABILITY.] *Subdivision 3a does not apply to a school district that has formally adopted a probationary teacher review process that has been mutually agreed upon by the exclusive representative of the teachers in the district and the school board.*

Sec. 48. Minnesota Statutes 1990, section 125.12, is amended by adding a subdivision to read:

Subd. 4a. [PEER REVIEW FOR CONTINUING CONTRACT TEACHERS.] *A school must have a peer review committee for continuing contract teachers to provide the teachers with the opportunity for positive interaction and professional growth to help students learn more effectively. The peer review committee must not judge teacher competency nor determine whether to suspend or terminate a teacher. Members of the peer review committee must be selected by the school site management team, or by the exclusive bargaining representative if there is no school site management team. The selecting body shall establish an equitable process for selecting members of the peer review committee and an orderly cycle for rotating members. Only teachers with continuing contracts shall serve as members of the peer review committee. The peer review committee shall review once each school year each teacher with a continuing contract performing services on 120 or more school days. The review process must allow experienced teachers*

to improve instructional effectiveness through professional learning and development opportunities that include exchanging and internalizing ideas about the components of competent teaching. An in-service training session must be held at the beginning of each school year to train members of the peer review committee to facilitate teachers' reflections about the assumptions, beliefs, and practices underlying teaching. The selecting body shall design the training sessions and give the members of the peer review committee the necessary time off from their classroom responsibilities to perform the duties listed in this subdivision.

Sec. 49. [125.135] [STAFF EXCHANGE PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] *A staff exchange program is established to allow local school districts to arrange temporary and voluntary exchanges among members of their kindergarten through grade 12 instructional and administrative staffs. The purpose of the program is to provide participants with an understanding of the educational concerns of other local school districts, including concerns of class organization, curriculum development, instructional practices, and characteristics of the student population.*

The educational needs and interests of the host school district and the training, experience, and interests of the participants must determine the assignments of the participants in the host district. Participants may teach courses, provide counseling and tutorial services, work with teachers to better prepare students for future educational experiences, serve an underserved population in the district, or assist with administrative functions. The assignments participants perform for the host district must be comparable to the assignments the participants perform for the district employing the participants. Participation in the exchange program need not be limited to one school or one school district and may involve other education organizations including education districts and ECSUs.

Subd. 2. [PROGRAM REQUIREMENTS.] *All staff exchanges made under this section are subject to the requirements in this subdivision.*

(a) A school district employing a participating staff member must not adversely affect the staff member's salary, seniority, or other employment benefits, or otherwise penalize the staff member for participating in the program.

(b) Upon completion or termination of an exchange, a school district employing a participating staff member must permit the staff member to return to the same assignment the staff member performed in the district before the exchange, if available, or, if not, a similar assignment.

(c) A school district employing a participating staff member must continue to provide the staff member's salary and other employment benefits during the period of the exchange.

(d) A participant must be licensed and tenured.

(e) Participation in the program must be voluntary.

(f) The length of participation in the program must be no less than one-half of a school year and no more than one school year, and any premature termination of participation must be upon the mutual agreement of the participant and the participating school district.

(g) A participant is responsible for transportation to and from the host

school district.

(h) This subdivision does not abrogate or change rights of staff members participating in the staff exchange program or the terms of an agreement between the exclusive representative of the school district employees and the school district.

(i) Participating school districts may enter into supplementary agreements with the exclusive representative of the school district employees to accomplish the purpose of this section.

Subd. 3. [APPLICATION PROCEDURES.] *The school board of a school district must decide by resolution to participate in the staff exchange program. A staff member wishing to participate in the exchange program must submit an application to the school district employing the staff member. The district must, in a timely and appropriate manner, provide to the exclusive bargaining representatives of teachers in the state the number and names of prospective participants within the district, the assignments available within the district, and the length of time for each exchange. The exclusive bargaining representatives are requested to cooperatively participate in the coordination of exchanges to facilitate exchanges across all geographical regions of the state. Prospective participants must contact teachers and districts with whom they are interested in making an exchange. The prospective participants must make all arrangements to accomplish their exchange and the superintendents of the participating districts must approve the arrangements for the exchange in writing.*

Sec. 50. [125.138] [FACULTY EXCHANGE PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] *A program of faculty exchange is established to allow school districts and post-secondary institutions to arrange temporary exchanges between members of their instructional staffs. These arrangements must be made on a voluntary cooperative basis between a school district and post-secondary institution, or between post-secondary institutions. Exchanges between post-secondary institutions may occur among campuses in the same system or in different systems.*

Subd. 2. [USES OF PROGRAM.] *Each participating school district and post-secondary institution may determine the way in which the instructional staff member's time is to be used, but it must be in a way that promotes understanding of the needs of each educational system or institution. For example, a public school teacher may teach courses, provide counseling and tutorial services, assist with the preparation of future teachers, or take professional development courses. A post-secondary teacher might teach advanced placement courses or other classes to aid an underserved population at the school district, counsel students about future educational plans, or work with teachers to better prepare students for post-secondary education. Participation need not be limited to one school or institution and may involve other groups including educational cooperative service units.*

Subd. 3. [SALARIES; BENEFITS; CERTIFICATION.] *Exchanges made under the program must not have a negative effect on participants' salaries, seniority, or other benefits. Notwithstanding sections 123.35, subdivision 6, and 125.04, a member of the instructional staff of a post-secondary institution may teach in an elementary or secondary school or perform a service, agreed upon according to this section, for which a license would otherwise be required without holding the applicable license. In addition, a licensed teacher employed by a school district may teach or perform a*

service, agreed upon according to this section, at a post-secondary institution without meeting the applicable qualifications of the post-secondary institution. A school district is not subject to section 124.19, subdivision 3, as a result of entering into an agreement according to this section that enables a post-secondary instructional staff member to teach or provide services in the district. All arrangements and details regarding the exchange must be mutually agreed to by each participating school district and post-secondary institution before implementation.

Sec. 51. [125.1385] [EXCHANGES BETWEEN EDUCATION FACULTY.]

Subdivision 1. [AUTHORITY; LIMITS.] *The state university board and the board of regents of the University of Minnesota may develop programs to exchange faculty between colleges or schools of education and school districts, subject to section 125.138.*

The programs must be used to assist in improving teacher education by involving current teachers in education courses and placing post-secondary faculty in elementary and secondary classrooms. Programs must include exchanges that extend beyond the immediate service area of the institution to address the needs of different types of schools, students, and teachers.

Subd. 2. [COMPENSATION.] *State money for faculty exchange programs is to compensate for expenses that are unavoidable and beyond the normal living expenses exchange participants would incur if they were not involved in this exchange. The state university board, the board of regents, or the University of Minnesota, and their respective campuses, in conjunction with the participating school districts, must control costs for all participants as much as possible, through means such as arranging housing exchanges, providing campus housing, and providing university, state, or school district cars for transportation. The boards and campuses may seek other sources of funding to supplement these appropriations, if necessary.*

Sec. 52. Minnesota Statutes 1990, section 125.17, subdivision 2, is amended to read:

Subd. 2. [PROBATIONARY PERIOD; DISCHARGE OR DEMOTION.] All teachers in the public schools in cities of the first class during the first three years of consecutive employment shall be deemed to be in a probationary period of employment during which period any annual contract with any teacher may, or may not, be renewed as the school board, *after consulting with the peer review committee charged with evaluating the probationary teachers under subdivision 2a or 2b,* shall see fit. The school *site management team or the school* board *if there is no school site management team,* shall adopt a plan for a written evaluation of teachers during the probationary period *according to subdivision 2a.* ~~Effective July 1, 1988,~~ Evaluation *by the peer review committee charged with evaluating probationary teachers under subdivision 2a* shall occur at least three times each year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school shall not be included in determining the number of school days on which a teacher performs services. The school board may, during such probationary period, discharge or demote a teacher for any of the causes as specified in this code. A written statement of the

cause of such discharge or demotion shall be given to the teacher by the school board at least 30 days before such removal or demotion shall become effective, and the teacher so notified shall have no right of appeal therefrom.

Sec. 53. Minnesota Statutes 1990, section 125.17, is amended by adding a subdivision to read:

Subd. 2a. [PEER REVIEW FOR PROBATIONARY TEACHERS.] *A school must have a peer review committee charged with evaluating each probationary teacher at least three times each year for a period of three years as required under subdivision 3. The purpose of the evaluation procedure is to improve the probationary teacher's instructional effectiveness. The school site management team, or the school board if there is no school site management team, after consulting with a representative of the peer review committee and the school principal or other person having general control and supervision of the school, shall adopt a procedure for written evaluations of probationary teachers. The evaluation procedure must be structured as a continuing and cooperative process between the probationary teacher, the peer review committee, and the school principal or other person having general control and supervision of the school. The school site management team, or the school board if there is no school site management team, shall make available a written description of the evaluation procedure, including evaluation policies and criteria, to each newly hired teacher and to each probationary teacher. As part of the evaluation procedure, the school and the school district shall provide the necessary resources to assist a probationary teacher to improve those areas of instruction identified by the teacher, the peer review committee, or the principal or other person having general control and supervision of the school as in need of improvement. The school and the school district also shall provide to each probationary teacher opportunities for professional growth experiences, including in-service training.*

Sec. 54. Minnesota Statutes 1990, section 125.17, is amended by adding a subdivision to read:

Subd. 2b. [APPLICABILITY.] *Subdivision 2a does not apply to a school district that has formally adopted a probationary teacher review process that has been mutually agreed upon by the exclusive representative of the teachers in the district and the school board.*

Sec. 55. Minnesota Statutes 1990, section 125.17, is amended by adding a subdivision to read:

Subd. 3a. [PEER REVIEW FOR NONPROBATIONARY TEACHERS.] *A peer review committee for nonprobationary teachers shall exist in each school to provide nonprobationary teachers with the opportunity for positive interaction and professional growth to help students learn more effectively. The peer review committee must not judge teacher competency nor determine whether to discharge or demote a teacher. Members of the peer review committee must be selected by the school site management team, or by the exclusive bargaining representative if there is no school site management team. The selecting body shall establish an equitable process for selecting members of the peer review committee and an orderly cycle for rotating members. Only nonprobationary teachers shall serve as members of the peer review committee. The peer review committee shall review once each school year each nonprobationary teacher performing services on 120 or more school days. The review process must allow experienced teachers to*

improve instructional effectiveness through professional learning and development opportunities that include exchanging and internalizing ideas about the components of competent teaching. An in-service training session must be held at the beginning of each school year to train members of the peer review committee to facilitate teachers' reflections about the assumptions, beliefs, and practices underlying teaching. The selecting body shall design the training session and give the members of the peer review committee the necessary time off from the classroom responsibilities to perform the duties listed in this subdivision.

Sec. 56. [125.191] [LICENSE AND DEGREE EXEMPTION FOR HEAD COACH.]

Notwithstanding section 125.03, subdivision 1, a school district may employ as a head varsity coach of an interscholastic sport at its secondary school a person who does not have a license as head varsity coach of interscholastic sports and who does not have a bachelor's degree if:

(1) in the judgment of the school board, the person has the knowledge and experience necessary to coach the sport;

(2) the position has been posted as a vacancy within the present teaching staff for a period of 30 days and no licensed coaches have applied for the position;

(3) the person can verify completion of six quarter credits, or the equivalent, or 60 clock hours of instruction in first aid and the care and prevention of athletic injuries; and

(4) the person can verify completion of a coaching methods or theory course.

Notwithstanding section 125.121, a person employed as a head varsity coach under this section has an annual contract as a coach that the school board may or may not renew as the board sees fit, after annually posting the position as required in clause (2) and no licensed coach has applied for the position.

Sec. 57. Minnesota Statutes, section 126.12, subdivision 1, is amended to read:

Subdivision 1. Except for learning programs during summer ~~and for~~, flexible ~~school~~ *learning* year programs authorized ~~pursuant to~~ *under* sections 120.59 to 120.67, *and learning year programs under section 121.585,* a school district shall not commence an elementary or secondary school year prior to Labor Day. Days which are devoted to teachers' workshops may be held before Labor Day. Districts that enter into cooperative agreements are encouraged to adopt similar school calendars.

Sec. 58. Minnesota Statutes 1990, section 126.266, subdivision 2, is amended to read:

Subd. 2. A teacher serving under an exemption as provided in subdivision 1 shall be granted a license as soon as that teacher qualifies for it. Not more than one year of service by a teacher under an exemption shall be credited to the teacher for the purposes of section 125.12~~, and not more than two years shall be credited to the teacher for purposes of section 125.17; and the one or two years shall be deemed to precede immediately and be consecutive with the year in which the teacher becomes licensed~~. *For purposes of section 125.17, a teacher shall receive credit equal to the number of years the*

teacher served under an exemption.

Sec. 59. Minnesota Statutes 1990, section 128C.01, is amended by adding a subdivision to read:

Subd. 5. [CERTAIN COMMERCIAL RELATIONSHIPS PROHIBITED.] *The board may not enter into corporate partnerships or similar agreements with any business or commercial organization that sells products or services used by student or adult participants in league activities while they participate in activities regulated by the league. The board may sell advertising to any such business or organization if the advertising is clearly identified as advertising paid for by the business or commercial organization.*

Sec. 60. [171.3215] [CANCELING A SCHOOL BUS DRIVER'S ENDORSEMENT FOR CRIMES AGAINST MINORS.]

Subdivision 1. [DEFINITIONS.] *As used in this section, the following terms have the meanings given them.*

(1) "School bus driver" means a person possessing a school bus driver's endorsement on a valid Minnesota driver's license or a person possessing a valid Minnesota driver's license who drives a vehicle with a seating capacity of ten or less persons used as a school bus.

(2) "Crime against a minor" means an act committed against a minor victim that constitutes a violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, subdivision 1, 609.221, 609.222, 609.223, 609.342, 609.343, 609.344, 609.345, 609.352, or a felony violation of section 609.322, 609.323, 609.324, or 609.377.

Subd. 2. [CANCELLATION.] *The commissioner within 10 days of receiving notice under section 631.40, subdivision 1a, that a school bus driver has committed a crime against a minor shall permanently cancel the school bus driver's endorsement on the offender's driver's license. Upon canceling the offender's school bus driver's endorsement, the department shall immediately notify the licensed offender of the cancellation in writing, by depositing in the United States post office a notice addressed to the licensed offender at the licensed offender's last known address, with postage prepaid thereon.*

Subd. 3. [BACKGROUND CHECK.] *Before issuing or renewing a driver's license with a school bus driver's endorsement, the department shall conduct an investigation to determine whether the applicant has been convicted of committing a crime against a minor. The department shall not issue a new bus driver's endorsement and shall not renew an existing bus driver's endorsement if the applicant has been convicted of committing a crime against a minor.*

Sec. 61. Minnesota Statutes 1990, section 203B.085, is amended to read:

203B.085 [COUNTY AUDITOR'S OFFICE TO REMAIN OPEN DURING CERTAIN HOURS PRECEDING ELECTION.]

The county auditor's office in each county must be open for acceptance of absentee ballot applications and casting of absentee ballots between the hours of 1:00 to 3:00 p.m. on Saturday and 5:00 to 7:00 p.m. on Monday immediately preceding a primary or general election. *The school district clerk, when performing the county auditor's election duties, need not comply with this section.*

Sec. 62. Minnesota Statutes 1990, section 214.10, is amended by adding

a subdivision to read:

Subd. 9. [ACTS AGAINST MINORS.] *(a) As used in this subdivision, the following terms have the meanings given them.*

(1) "Licensed person" means a person who is licensed under this chapter by the board of nursing, the board of psychology, the social work licensing board, the board of marriage and family therapy, the board of unlicensed mental health service providers, or the board of teaching.

(2) "Crime against a minor" means conduct that constitutes a violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, 609.215, 609.221, 609.222, 609.223, 609.342, 609.343, 609.345, or a felony violation of section 609.377.

(b) In any license revocation proceeding, there is a rebuttable presumption that a licensed person who is convicted in a court of competent jurisdiction of committing a crime against a minor is unfit to practice the profession or occupation for which that person is licensed.

Sec. 63. Minnesota Statutes 1990, section 245A.03, subdivision 2, is amended to read:

Subd. 2. [EXCLUSION FROM LICENSURE.] Sections 245A.01 to 245A.16 do not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, mental retardation or a related condition, a functional impairment, or a physical handicap;

(4) sheltered workshops or work activity programs that are certified by the commissioner of jobs and training;

(5) programs for children enrolled in kindergarten to the 12th grade and prekindergarten *regular and* special education programs that are operated by the commissioner of education or a school as defined in section 120.101, subdivision 4;

(6) nonresidential programs for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building or present on property that is contiguous with the physical facility where the nonresidential program is provided;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness who have refused an appropriate residential program offered by a county agency. This exclusion expires on July 1, 1990;

(9) homes providing programs for persons placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that operate for fewer than 40 calendar days in a calendar year;

(12) programs whose primary purpose is to provide ~~social or recreational activities~~, for adults or school-age children, *including children who will be eligible to enter kindergarten within not more than four months, social and recreational activities*, such as scouting, boys clubs, girls clubs, sports, or the arts; except that a program operating in a school building is not excluded unless it is approved by the district's school board;

(13) head start nonresidential programs which operate for less than 31 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or mental retardation;

(15) nonresidential programs for nonhandicapped children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals, until the commissioner adopts appropriate rules;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) mental health outpatient services for adults with mental illness or children with emotional disturbance; or

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules.

For purposes of clause (5), the department of education, after consulting with the department of human services, shall adopt standards applicable to preschool programs administered by public schools that are similar to Minnesota rules, parts 9503.005 to 9503.0175. These standards are exempt from rulemaking under chapter 14.

Sec. 64. Minnesota Statutes 1990, section 275.065, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF PROPOSED PROPERTY TAXES.] (a) The county auditor shall prepare and the county treasurer shall deliver on or before November 10 each year, by first class mail to each taxpayer at the address listed on the county's current year's assessment roll, a notice of proposed property taxes and, in the case of a town, final property taxes.

(b) The commissioner of revenue shall prescribe the form of the notice.

(c) The notice must inform taxpayers that it contains the amount of property taxes each taxing authority other than a town proposes to collect for taxes payable the following year as required in paragraph (d) or (e) and, for a town, the amount of its final levy. It must clearly state that each taxing authority, other than a town or special taxing district, will hold a public meeting to receive public testimony on the proposed budget and proposed or final property tax levy, or, in case of a school district, on the *current*

budget and proposed property tax levy. It must clearly state the time and place of each taxing authority's meeting and an address where comments will be received by mail. It must state the time and place for the continuation of the hearing if the hearing is not completed on the original date.

(d) Except as provided in paragraph (e), for taxes levied in 1990 and 1991, the notice must state by county, city or town, and school district:

(1) the total proposed or, for a town, final property tax levy for taxes payable the following year after reduction for state aid;

(2) the percentage increase or decrease from the actual property tax levy for taxes payable in the current year; and

(3) for counties, cities, and towns, the increase or decrease in population from the second previous calendar year to the immediately prior calendar year, and for school districts, the increase or decrease in the number of pupils in average daily membership from the second previous school year to the immediately prior school year as determined by the commissioner of education. The data used to determine the increase or decrease in population under this clause must be the data used for purposes of the population adjustment to the levy limit base of the county, city, or town under section 275.51, subdivision 6.

For purposes of this paragraph, "proposed property taxes after reduction for state aid" means the taxing authority's levy certified under section 275.07, subdivision 1.

(e) In the case of a county containing a city of the first class, or taxing authority lying wholly within a county or counties containing a city of the first class, for taxes levied in 1991, and thereafter, and for all counties for taxes levied in 1992 and thereafter, the notice must state for each parcel:

(1) the market value of the property as defined under section 272.03, subdivision 8, for property taxes payable in the following year and for taxes payable the current year;

(2) by county, city or town, school district, the sum of the special taxing districts, and as a total of the taxing authorities, including special taxing districts, the proposed or, for a town, final net tax on the property for taxes payable the following year and the actual tax for taxes payable the current year; and

(3) the increase or decrease in the amounts in clause (2) from taxes payable in the current year to proposed or, for a town, final taxes payable the following year, expressed as a dollar amount and as a percentage.

(f) The notice must clearly state that the proposed or final taxes do not include the following:

(1) special assessments;

(2) levies approved by the voters after the date the proposed taxes are certified, including bond referenda, school district levy referenda, and levy limit increase referenda;

(3) amounts necessary to pay cleanup or other costs due to a natural disaster occurring after the date the proposed taxes are certified; and

(4) amounts necessary to pay tort judgments against the taxing authority that become final after the date the proposed taxes are certified.

Sec. 65. Minnesota Statutes 1990, section 275.065, subdivision 5a, is amended to read:

Subd. 5a. [PUBLIC ADVERTISEMENT.] (a) A city, county, or school district shall advertise in a newspaper a notice of its intent to adopt a budget and property tax levy or, in the case of a school district, ~~a property tax levy,~~ *to review its current budget and proposed property taxes payable the following year* at a public hearing. The notice must be published not less than two days nor more than six days before the hearing.

The advertisement must be at least one-eighth page in size of a standard-size or a tabloid-size newspaper, and the headlines in the advertisement stating the notice of proposed property taxes and the notice of public hearing must be in a type no smaller than 24-point. The text of the advertisement must be no smaller than 18-point, except that the property tax amounts and percentages may be in 14-point type. The advertisement must not be placed in the part of the newspaper where legal notices and classified advertisements appear. The advertisement must be published in an official newspaper of general circulation in the taxing authority. The newspaper selected must be one of general interest and readership in the community, and not one of limited subject matter. The advertisement must appear in a newspaper that is published at least once per week.

(b) The advertisement must be in the following form, except that the notice for a school district ~~must not~~ *may* include references to *the current* budget ~~hearings or to adoption of a budget.~~ *in regard to proposed property taxes.*

"NOTICE OF

PROPOSED PROPERTY TAXES

(City/County/School District) of . . . . . .

The governing body of . . . . . will soon hold budget hearings and vote on the property taxes for (city/county services that will be provided in 199_/school district services that will be provided in 199_ and 199_).

The property tax amounts below compare current (city/county/school district) property taxes and the property taxes that would be collected in 199_ if the budget now being considered is approved.

199_ Property Taxes	Proposed 199_ Property Taxes	199_ Increase or Decrease
$	$	. . . . . %

NOTICE OF PUBLIC HEARING:

All concerned citizens are invited to attend a public hearing and express their opinions on the proposed (city/county/school district) budget and property taxes, *or in the case of a school district, its current budget and proposed property taxes, payable the following year.* The hearing will be held on (Month/Day/Year) at (Time) at (Location, Address).

A continuation of the hearing, if necessary, will be held on (Month/Day/Year) at (Time) at (Location, Address).

Written comments may be directed to (Address)."

Sec. 66. Minnesota Statutes 1990, section 275.065, subdivision 6, is amended to read:

Subd. 6. [PUBLIC HEARING; ADOPTION OF BUDGET AND LEVY.] Between November 15 and December 20, the governing bodies of the city and county shall each hold a public hearing to adopt its final budget and property tax levy for taxes payable in the following year, and the governing body of the school district shall hold a public hearing to *review its current budget and* adopt its property tax levy for taxes payable in the following year.

At the hearing, the taxing authority, other than a school district, may amend the proposed budget and property tax levy and must adopt a final budget and property tax levy, and the school district may amend the proposed property tax levy and must adopt a final property tax levy.

The property tax levy certified under section 275.07 by a city, county, or school district must not exceed the proposed levy determined under subdivision 1, except by an amount up to the sum of the following amounts:

(1) the amount of a school district levy whose voters approved a referendum to increase taxes under section 124A.03, subdivision 2, or 124.82, subdivision 3, after the proposed levy was certified;

(2) the amount of a city or county levy approved by the voters under section 275.58 after the proposed levy was certified;

(3) the amount of a levy to pay principal and interest on bonds issued or approved by the voters under section 475.58 after the proposed levy was certified;

(4) the amount of a levy to pay costs due to a natural disaster occurring after the proposed levy was certified, if that amount is approved by the commissioner of revenue under subdivision 6a;

(5) the amount of a levy to pay tort judgments against a taxing authority that become final after the proposed levy was certified, if the amount is approved by the commissioner of revenue under subdivision 6a; and

(6) the amount of an increase in levy limits certified to the taxing authority by the commissioner of revenue or the commissioner of education after the proposed levy was certified.

At the hearing the percentage increase in property taxes proposed by the taxing authority, if any, and the specific purposes for which property tax revenues are being increased must be discussed. During the discussion, the governing body shall hear comments regarding a proposed increase and explain the reasons for the proposed increase. The public shall be allowed to speak and to ask questions prior to adoption of any measures by the governing body. The governing body, other than the governing body school districts, shall adopt its final property tax levy prior to adopting its final budget.

The hearing must be held after 5:00 p.m. if scheduled on a day other than Saturday. No hearing may be held on a Sunday. The county auditor

shall provide for the coordination of hearing dates for all taxing authorities within the county.

By August 1, the county auditor shall notify the clerk of each school district within the county of the dates that the county board has designated for its hearing and any continuation under subdivision 3. By August 15, each school board shall certify to the county auditors of the counties in which the school district is located the dates on which it elects to hold its hearings and any continuations under subdivision 3. If a school board does not certify the dates by August 15, the auditor will assign the hearing date. The dates elected or assigned must not conflict with the county hearing dates. By August 20, the county auditor shall notify the clerks of the cities within the county of the dates on which the county and school districts have elected to hold their hearings. At the time a city certifies its proposed levy under subdivision 1 it shall certify the dates on which it elects to hold its hearings and any continuations under subdivision 3. The city must not select dates that conflict with those elected by or assigned to the counties and school districts in which the city is located.

The hearing dates so elected or assigned must be designated on the notices required under subdivision 3.

This subdivision does not apply to towns and special taxing districts.

Sec. 67. Minnesota Statutes 1990, section 279.03, subdivision 1a, is amended to read:

Subd. 1a. [RATE AFTER DECEMBER 31, 1990.] *(a) Except as provided in paragraph (b),* interest on delinquent property taxes, penalties, and costs unpaid on or after January 1, 1991, shall be payable at the per annum rate determined in section 270.75, subdivision 5. If the rate so determined is less than ten percent, the rate of interest shall be ten percent. The maximum per annum rate shall be 14 percent if the rate specified under section 270.75, subdivision 5, exceeds 14 percent. The rate shall be subject to change on January 1 of each year.

(b) If a person is the owner of one or more parcels of property on which taxes are delinquent, and the aggregate tax capacity of that property exceeds 5 percent of the total tax capacity of the school district in which the property is located, interest on the delinquent property taxes, penalties, and costs unpaid after January 1, 1992, shall be payable at twice the rate determined under paragraph (a) for the year.

Sec. 68. Minnesota Statutes 1990, section 281.17, is amended to read:

281.17 [PERIOD FOR REDEMPTION.]

The period of redemption for all lands sold to the state at a tax judgment sale shall be three years from the date of sale to the state of Minnesota if the land is within an incorporated area unless it is: (a) nonagricultural homesteaded land as defined in section 273.13, subdivision 22~~,~~; (b) homesteaded agricultural land as defined in section 273.13, subdivision 23, paragraph (a)~~,~~; or (c) seasonal recreational land as defined in section 273.13, *subdivision 23, paragraph (c), or* subdivision 25, paragraph ~~(d)(1) or~~ (c)~~(4)~~, *clause (5),* ~~in~~ *for* which ~~event~~ the period of redemption is five years from the date of sale to the state of Minnesota.

The period of redemption for homesteaded lands as defined in section 273.13, subdivision 22, located in a targeted neighborhood as defined in Laws 1987, chapter 386, article 6, section 4, and sold to the state at a tax

judgment sale is three years from the date of sale. The period of redemption for all lands located in a targeted neighborhood as defined in Laws 1987, chapter 386, article 6, section 4, except homesteaded lands as defined in section 273.13, subdivision 22, and sold to the state at a tax judgment sale is one year from the date of sale.

The period of redemption for all other lands sold to the state at a tax judgment sale shall be five years from the date of sale, *except that the period of redemption for nonhomesteaded agricultural land as defined in section 273.13, subdivision 23, paragraph (b), shall be two years from the date of sale if at that time that property is owned by a person who owns one or more parcels of property on which taxes are delinquent, and the aggregate tax capacity of that property exceeds 5 percent of the total tax capacity of the school district in which the property is located.*

Sec. 69. Minnesota Statutes 1990, section 364.09, is amended to read:

364.09 [EXCEPTIONS.]

(a) This chapter shall not apply to the practice of law enforcement, to fire protection agencies, to eligibility for a private detective or protective agent license, to eligibility for a family day care license, a family foster care license, a home care provider license, *to eligibility for a license issued or renewed by the board of teaching or state board of education*, to eligibility for school bus driver endorsements, or to eligibility for juvenile corrections employment where the offense involved child physical or sexual abuse or criminal sexual conduct.

(b) This chapter does not apply to a school district.

(c) Nothing in this section shall be construed to preclude the Minnesota police and peace officers training board or the state fire marshal from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement or fire protection agencies.

Sec. 70. Minnesota Statutes 1990, section 631.40, is amended to read:

631.40 [JUDGMENT ON CONVICTION; JUDGMENT ROLL DEFINED.]

Subdivision 1. When judgment upon a conviction is rendered, the court administrator shall enter the judgment upon the minutes, stating briefly the offense for which the conviction was had. The court administrator shall then immediately attach together and file the papers specified in clauses (1) to (5). The judgment roll consists of the papers specified in clauses (1) to (5):

(1) a copy of the minutes of challenge made by the defendant to the panel of the grand jury, or to an individual grand juror, and the proceedings and decisions on the challenges;

(2) the indictment or complaint and a copy of the minutes of the plea or motion to dismiss or to grant appropriate relief;

(3) a copy of the minutes of a challenge made to the panel of the trial jury or to an individual juror, and the proceedings and decision on the challenge;

(4) a copy of the minutes of the trial; and

(5) a copy of the minutes of the judgment.

Subd. 1a. When a person is convicted of committing a crime against a minor as defined in section 171.3215, subdivision 1, the court shall order that the presentence investigation include information about whether the offender is a school bus driver as defined in section 171.3215, subdivision 1, whether the offender possesses a school bus driver's endorsement on the offender's driver's license and in what school districts the offender drives a school bus. If the offender is a school bus driver or possesses a school bus driver's endorsement, the court administrator shall send a certified copy of the conviction to the department of public safety and to the school districts in which the offender drives a school bus.

Subd. 2. [CRIMES AGAINST MINORS.] *When a person is convicted of committing a crime against a minor as defined in section 214.10, subdivision 9, the court shall order that the presentence investigation include information about any professional or occupational license held by the offender. If the offender is a licensed person under section 214.10, subdivision 9, the court administrator shall send a certified copy of the conviction to the board having jurisdiction over the offender's license. Within 30 days of receiving notice of the conviction, the appropriate licensing board must initiate proceedings to consider revoking the offender's license.*

Sec. 71. [RULEMAKING; TEACHER PREPARATION TIME.]

By May 1, 1992, the state board of education shall adopt a rule under Minnesota Statutes, chapter 14, establishing preparation time requirements for elementary school staff that are comparable to the preparation time requirements for secondary school staff established in Minnesota Rules, part 3500.3700, subpart 3. In adopting the rule, the state board shall consider the length and structure of the elementary day and, if appropriate, permit preparation time to be scheduled at more than one time during the school day. The rule must be effective for the 1992-1993 school year. The state board shall establish a process and criteria for granting one-year variances from the rule for districts that are unable to comply for the 1992-1993 school year.

Sec. 72. [SPECIAL EFFECTIVE DATE AND APPLICABILITY TO MID-RANGE SPECIAL EDUCATION COOPERATIVE NO. 932.]

Section 122.895, subdivisions 4 and 5, are applicable to the dissolution of the Mid-Range special education cooperative No. 932 on the day following final enactment. The member districts, independent school district No. 695, Chisholm, independent school district No. 698, Floodwood, and independent school district No. 701, Hibbing, shall be treated as if they were equal partners in the dissolution. The deadline specified in section 122.895, subdivision 4, paragraph (b), for notice of a teacher's exercise of rights under that subdivision is 11 days following the day following final enactment. The deadline specified in section 122.895, subdivision 5, paragraph (b), for notice to teachers of available positions is 21 days following the day following final enactment. Teachers employed by the Mid-Range special education cooperative No. 932 shall be notified under section 122.895, subdivision 5, paragraph (b), of available teaching positions as follows: teachers shall be given written notice of available teaching positions only in the member district or districts to which the teacher was providing services through the cooperative at the time of dissolution. The deadline specified in section 122.895, subdivision 5, paragraph (c), for notice of a teacher's exercise of rights under that subdivision is 37 days following the day following final enactment.

Sec. 73. [REGIONAL CENTER EXPENDITURE LIMIT.]

For fiscal year 1993, a regional management information center may not spend more money than the amount approved by the state board in June 1992.

Sec. 74. [REGIONAL SUBSIDY DISTRIBUTION.]

Notwithstanding any law to the contrary, a regional management information center may distribute regional subsidies to the member districts.

Sec. 75. [REPEALER.]

Minnesota Statutes 1990, sections 120.105; 121.932, subdivision 1; 121.933, subdivision 2; 121.935, subdivision 3; 121.937, subdivision 2; 122.43, subdivision 1; 123.3514, subdivisions 6 and 6b; and 123.73, are repealed. Minnesota Rules, parts 3560.0030, subparts 2(A), 4, and 5; 3560.0040, subparts 2 and 4; and 3560.0060, are repealed.

Minnesota Statutes 1990, section 123.744, is repealed. Laws 1988, chapter 703, article 1, section 23, as amended by Laws 1989, chapter 293, section 81; and Laws 1989, chapters 293, section 82, and 329, article 9, section 30, are repealed.

Sec. 76. [EFFECTIVE DATE.]

Section 123.38, subdivision 2b, is effective the day following final enactment and applies to the 1990-1991 school year and thereafter. Sections 123.33, subdivision 1; and 123.3514, subdivision 4 are effective the day following final enactment and apply to 1991-1992 and later school years.

Sections 122.895; 123.35, subdivision 20; 125.09, subdivision 4; 128C.01, subdivision 5; 214.10, subdivision 9 are effective the day following final enactment. Section 122.41 is effective July 1, 1992. Section 120.062, subdivision 8a, paragraphs (b) and (c), are effective retroactively to December 1, 1990. Sections 123.3514, subdivision 4; and 124.17, subdivision 1c are effective retroactively to July 1, 1990. Section 281.17 is effective for taxes deemed delinquent after December 31, 1991. Sections 125.12, subdivisions 3a and 4a; and 125.17, subdivisions 2a and 3a are effective July 1, 1993. Sections 121.931, subdivisions 6a, 7, and 8; 121.932, subdivisions 2, 3, and 5; 121.933, subdivision 1; 121.934, subdivision 7; 121.935, subdivisions 1, 4, 6, and 8; 121.936, subdivisions 1, 2, and 4; and 121.937, subdivision 1, are effective July 1, 1993.

Under Minnesota Statutes, section 123.34, subdivision 9, a contract executed before July 1, 1991, between a superintendent and a school board that continues in effect beyond June 30, 1991, shall continue until terminated under those terms that were lawful at the time the contract was executed.

Sections 15 to 30 are effective July 1, 1993. Section 74 is effective the day following final enactment.

ARTICLE 10

LIBRARIES

Section 1. Minnesota Statutes 1990, section 134.001, subdivision 2, is amended to read:

Subd. 2. "Public library" means any library that provides free access to all residents of a city or county without discrimination, receives at least half of its financial support from public funds and is organized under the

provisions of chapter 134. *Except as provided in section 3,* it does not include libraries such as law, medical, school and academic libraries organized to serve a special group of persons, or libraries organized as a combination of a public library and another type of library.

Sec. 2. Minnesota Statutes 1990, section 134.001, subdivision 3, is amended to read:

Subd. 3. "Public library services" means services provided by or on behalf of a public library ~~and~~. *Except as provided in section 3, it* does not include services for elementary schools, secondary schools or post-secondary educational institutions.

Sec. 3. [134.195] [LIBRARY OPERATED BY CITY AND SCHOOL DISTRICT.]

Subdivision 1. [ESTABLISHMENT.] *A school district and a city that has established a public library under sections 134.07 and 134.08, by ordinance or resolution, may jointly finance and operate a public library for use by school students and the public. If the city is already taxed for public library service by a county, approval of the board of county commissioners is required. If the city is served by a regional public library system, approval of the regional public library system board is required. Public library service established under this section may be discontinued by action of the city council or the school board upon one year's notice to the other party.*

Subd. 2. [APPOINTMENT OF JOINT LIBRARY BOARD.] *The ordinance or resolution shall establish a library board of five, seven, or nine members and shall state the number of members to be appointed by the mayor, with the approval of the city council, and the number of members to be appointed by the school board. One member of the city council and one member of the school board shall be appointed to the library board. The remaining members of the library board may not be members of either the city council or the school board. Board members shall be residents of the city or the school district.*

Subd. 3. [BOARD TERMS OF OFFICE.] *The terms of office for board members shall be established according to section 134.09, subdivision 2.*

Subd. 4. [REMOVAL OF BOARD MEMBERS.] *The mayor, with the approval of the council, or the school board may remove for misconduct or neglect any member it has appointed to the library board.*

Subd. 5. [ABOLISHMENT OF BOARD.] *Upon recommendation of a majority of the library board established under subdivision 2, the city council and the school board may abolish the library board provided that the city council and the school district shall immediately establish, by ordinance or resolution, a successor library board of five, seven, or nine members. The appointment of successor board members shall be as provided in subdivision 2 and the terms shall be as provided in subdivision 3.*

Subd. 6. [BOARD VACANCIES AND COMPENSATION.] *The library board president shall report a vacancy on the board to the appointing authority who shall fill the vacancy by appointment for the unexpired term. Library board members shall receive no compensation for their services but may be reimbursed for actual and necessary travel expenses incurred in the discharge of library board duties and activities.*

Subd. 7. [POWERS AND DUTIES OF BOARD.] *Except as provided in subdivision 9, the library board has the powers and duties set forth in*

section 134.11, subdivision 2.

Subd. 8. [FUNDING.] *The ordinance or resolution establishing the library shall provide for joint financing of the library by the school district and the city. The city shall provide at least the minimum dollar amount established in section 134.34, subdivision 1. The school district shall provide money for staff and materials for the library at least in proportion to the use related to curriculum, as determined by the circulation statistics of the library. Neither the city nor the school district shall reduce the financial support provided for operation of library or media services below the level of support provided in the preceding year.*

Subd. 9. [CONTRACTS.] *The library board may contract with the school board, the regional library board, or the city in which the library is situated to provide personnel, fiscal, or administrative services. The contract shall state the personnel, fiscal, and administrative services and payments to be provided by each party.*

Subd. 10. [CRITERIA.] *Public library services established according to this section, including materials, programs, equipment, and other public library services, whether located in an elementary or secondary school building or elsewhere, shall be available for simultaneous use by students and residents of the area. If public library services are located in an elementary or secondary school building, a separate entrance, accessible from the outside of the school building, shall be provided for use by the residents. The library shall meet all requirements in statutes and rules applicable to public libraries and school media centers. A media supervisor licensed by the board of teaching may be the director of the library. The library shall be centrally located in the community and available for use by residents during all hours the school is in session, at least 15 additional hours each week during evenings, and on Saturdays. The library shall continue to maintain approximately the same hours of operation when the school is not in session. The library shall have telephone service that is separate from the telephone service for the school. Public parking, restrooms, drinking water, and other necessities shall be easily accessible to residents.*

Sec. 4. Minnesota Statutes 1990, section 134.35, is amended to read:

134.35 [REGIONAL LIBRARY BASIC SYSTEM SUPPORT GRANTS; DISTRIBUTION FORMULA.]

Subdivision 1. [GRANT APPLICATION.] Any regional public library system which qualifies according to the provisions of section 134.34 may apply for an annual grant for regional library basic system support. The amount of each grant for each fiscal year shall be calculated as provided in this section.

Subd. 2. ~~Sixty~~ *Fifty-seven and one-half* percent of the available grant funds shall be distributed to provide all qualifying systems an equal amount per capita. Each system's allocation pursuant to this subdivision shall be based on the population it serves.

Subd. 3. ~~Fifteen~~ *Twelve and one-half* percent of the available grant funds shall be distributed to provide all qualifying systems an equal amount per square mile. Each system's allocation pursuant to this subdivision shall be based on the area it serves.

Subd. 4. ~~Seven and one-half~~ *Five* percent of the available grant funds

shall be paid to each system as a base grant for basic system services.

Subd. 5. ~~Seventeen and one-half~~ *Twenty-five* percent of the available grant funds shall be distributed to regional public library systems ~~which contain counties whose~~ *based upon the* adjusted net tax capacity per capita ~~were below the state average adjusted net tax capacity per capita~~ *for each member county or participating portion of a county as calculated* for the second year preceding the fiscal year for which the grant is made. Each system's entitlement shall be calculated as follows:

~~(a) subtract the adjusted net tax capacity per capita for each eligible county or participating portion of a county from the statewide average adjusted net tax capacity per capita;~~

~~(b) multiply the difference obtained in clause (a) for each eligible county or participating portion of a county by the population of that eligible county or participating portion of a county;~~

~~(c) for each regional public library system, determine the sum of the results of the computation in clause (b) for all eligible counties or portions thereof in that system;~~

~~(d) determine the sum of the result of the computation in clause (b) for all eligible counties or portions thereof in all regional public library systems in the state;~~

~~(e) for each system, divide the result of the computation in clause (c) by the result of the computation in clause (d) to obtain the allocation factor for that system;~~

~~(f) multiply the allocation factor for each system as determined in clause (e) times the amount of the remaining grant funds to determine each system's dollar allocation pursuant to this subdivision.~~

(a) Multiply the adjusted net tax capacity per capita for each county or participating portion of a county by .0082.

(b) Add sufficient grant funds that are available under this subdivision to raise the amount of the county or participating portion of a county with the lowest value calculated according to paragraph (a) to the amount of the county or participating portion of a county with the next highest value calculated according to paragraph (a). Multiply the amount of the additional grant funds by the population of the county or participating portion of a county.

(c) Continue the process described in paragraph (b) by adding sufficient grant funds that are available under this subdivision to the amount of a county or participating portion of a county with the next highest value calculated in paragraph (a) to raise it and the amount of counties and participating portions of counties with lower values calculated in paragraph (a) up to the amount of the county or participating portion of a county with the next highest value, until reaching an amount where funds available under this subdivision are no longer sufficient to raise the amount of a county or participating portion of a county and the amount of counties and participating portions of counties with lower values up to the amount of the next highest county or participating portion of a county.

(d) If the point is reached using the process in paragraphs (b) and (c) at which the remaining grant funds under this subdivision are not adequate for raising the amount of a county or participating portion of a county and

all counties and participating portions of counties with amounts of lower value to the amount of the county or participating portion of a county with the next highest value, those funds are to be divided on a per capita basis for all counties or participating portions of counties that received grant funds under the calculation in paragraphs (b) and (c).

Subd. 6. [POPULATION DETERMINATION.] *Population shall be determined according to section 477A.011, subdivision 3.*

Sec. 5. [FISCAL YEAR 1992 BASIC SUPPORT SYSTEM GRANTS POPULATION.]

For fiscal year 1992, the portions of the regional library basic support system grants determined under Minnesota Statutes, section 134.35, subdivisions 2 and 5, shall be based upon the population established by the 1980 federal census.

Sec. 6. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

Subd. 2. [BASIC SUPPORT GRANTS.] *For basic support grants according to Minnesota Statutes, sections 134.32 to 134.35:*

$6,118,000 1992

$7,563,000 1993

The 1992 appropriation includes $917,000 for 1991 and $5,201,000 for 1992.

The 1993 appropriation includes $917,000 for 1992 and $6,646,000 for 1993.

Subd. 3. [MULTICOUNTY, MULTITYPE LIBRARY SYSTEMS.] *For grants according to Minnesota Statutes, sections 134.353 and 134.354, to multicounty, multitype library systems:*

$486,000 1992

$527,000 1993

The 1992 appropriation includes $38,000 for 1991 and $448,000 for 1992.

The 1993 appropriation includes $79,000 for 1992 and $448,000 for 1993.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following final enactment. Section 4 is effective July 1, 1992.

ARTICLE 11

STATE EDUCATION AGENCIES

Section 1. Minnesota Statutes 1990, section 120.17, subdivision 11a, is amended to read:

Subd. 11a. [STATE INTERAGENCY COORDINATING COUNCIL.] An interagency coordinating council of 15 members is established. The members and the chair shall be appointed by the governor. The council shall be

composed of at least three parents of children under age seven with handicaps, three representatives of public or private providers of services for children under age five with handicaps, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education, at least one representative of advocacy organizations for children with handicaps, at least one representative of a school district or a school district cooperative, and other members knowledgeable about children under age five with handicaps. Section 15.059, subdivisions 2 to 5, apply to the council. The council shall meet at least quarterly. A representative of each of the commissioners of education, health, and human services shall attend council meetings as a nonvoting member of the council.

The council shall address methods of implementing the state policy of developing and implementing comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for children with handicaps and their families.

The duties of the council include recommending policies to ensure a comprehensive and coordinated system of all state and local agency services for children under age five with handicaps and their families. The policies must address how to incorporate each agency's services into a unified state and local system of multidisciplinary assessment practices, individual intervention plans, comprehensive systems to find children in need of services, methods to improve public awareness, and assistance in determining the role of interagency early intervention committees.

It is the joint responsibility of county boards and school districts to coordinate, provide, and pay for appropriate services, and to facilitate payment for services from public and private sources. Appropriate services must be determined in consultation with parents, physicians, and other educational, medical, health, and human services providers. Appropriate services include family education and counseling, home visits, occupational and physical therapy, speech pathology, audiology, psychological services, case management, medical services for diagnostic and evaluation purposes, early identification, and screening, assessment, and health services necessary to enable children with handicaps to benefit from early intervention services. School districts must be the primary agency in this cooperative effort.

Each year by January 15 the council shall submit its recommendations to ~~the education committees of the legislature,~~ the governor~~,~~ and the commissioners of education, health, and human services.

Sec. 2. Minnesota Statutes 1990, section 121.14, is amended to read:

121.14 [RECOMMENDATIONS; BUDGET.]

The state board *and the commissioner of education* shall recommend to the governor and legislature such modification and unification of laws relating to the state system of education as shall make those laws more readily understood and more effective in execution. The state board *and the commissioner of education* shall prepare a biennial education budget which shall be submitted to the governor and legislature, such budget to contain a complete statement of finances pertaining to the maintenance of the state department and to the distribution of state aid ~~to public schools~~.

Sec. 3. Minnesota Statutes 1990, section 121.165, is amended to read:

121.165 [REPORTS BY THE COMMISSIONER.]

Prior to January 15 of each year, the commissioner of education shall gather ~~and report to the committees on education of the senate and house of representatives~~ from presently available reports or from new reports it may require of school districts, the following types of information: the number of classroom teachers in every district at each training, experience and salary level; the ratio of pupils to full time equivalent certified classroom teachers in every district; and any other district staffing characteristics of fiscal import. This information shall be gathered in such a manner as to render it capable of district by district, regional and statewide comparison and analysis.

Sec. 4. Minnesota Statutes 1990, section 121.49, subdivision 1, is amended to read:

Subdivision 1. The department of education shall itemize for each school district in the state the total amount of money and the amount of money per pupil unit which accrues to the district for each fiscal year from each type of state and federal aid, refund, payment, credit, disbursement or monetary obligation of any kind, including but not limited to each special state aid, emergency aid, payments in lieu of taxes, and pension and retirement obligations for the benefit of personnel of the district. State agencies ~~which~~ *that* have information necessary for the itemization required by this section shall provide the information to the department of education. ~~The completed itemizations shall be reported to the appropriate standing committees of the legislature in convenient reference form not later than December 1 following the year for which they are made.~~

Sec. 5. Minnesota Statutes 1990, section 121.609, subdivision 3, is amended to read:

Subd. 3. [EVALUATION AND REPORT.] The commissioner shall provide for independent evaluation of the effectiveness of this section. ~~The evaluation results shall be reported to the education committees of the legislature by January 15 of each year.~~

The commissioner, with the assistance of the advisory task force, shall develop a long-term evaluation instrument for use at the research and development sites and other districts utilizing the educational effectiveness program. The long-term evaluation instrument shall include a method for measuring student achievement.

Sec. 6. Minnesota Statutes 1990, section 121.612, subdivision 9, is amended to read:

Subd. 9. [REPORT.] The board of directors of the foundation shall submit an annual report to the ~~education committees of the legislature~~ *state board of education* on the progress of its activities. The annual report shall contain a financial report for the preceding year, including all receipts and expenditures of the foundation.

Sec. 7. Minnesota Statutes 1990, section 121.917, subdivision 3, is amended to read:

Subd. 3. If a school district does not limit its expenditures in accordance with this section, the commissioner ~~shall~~ *may* so notify the appropriate committees of the legislature by no later than January 1 of the year following the end of that fiscal year.

Sec. 8. Minnesota Statutes 1990, section 124.14, subdivision 7, is amended to read:

Subd. 7. [APPROPRIATION TRANSFERS.] If a direct appropriation from the general fund to the department of education for any education aid or grant authorized in this chapter and chapters 121, 123, 124A, 124C, 125, 126, and 134 exceeds the amount required, the commissioner of education may transfer the excess to any education aid or grant appropriation that is insufficient. However, section 124A.032 applies to a deficiency in the direct appropriation for general education aid. Excess appropriations shall be allocated proportionately among aids or grants that have insufficient appropriations. The commissioner of finance shall make the necessary transfers among appropriations according to the determinations of the commissioner of education. ~~The commissioner of education shall report appropriation transfers to the education committees of the legislature each year by January 15.~~ If the amount of the direct appropriation for the aid or grant plus the amount transferred according to this subdivision is insufficient, the commissioner shall prorate the available amount among eligible districts. The state is not obligated for any additional amounts.

Sec. 9. Minnesota Statutes 1990, section 124C.03, subdivision 16, is amended to read:

Subd. 16. [REPORTING AND EVALUATION.] The commissioner of the state planning agency shall evaluate the performance of the grantees ~~and report to the legislature by November 15 of~~ each year~~, except that a preliminary report may be submitted by February 15, 1991~~.

Sec. 10. Minnesota Statutes 1990, section 126.665, is amended to read:

126.665 [STATE CURRICULUM ADVISORY COMMITTEE.]

The commissioner shall appoint a state curriculum advisory committee of 11 members to advise the state board and the department on the PER process. Nine members shall be from each of the educational cooperative service units and two members shall be at-large. The committee shall include representatives from the state board of education, parents, teachers, administrators, and school board members. Each member shall be a present or past member of a district curriculum advisory committee. The state committee shall provide information and recommendations about at least the following:

(1) department procedures for reviewing and approving reports and disseminating information;

(2) exemplary PER processes;

(3) recommendations for improving the PER process and reports; and

(4) developing a continuous process for identifying and attaining essential learner outcomes.

~~By February 1 of each year, the commissioner, in cooperation with the state curriculum advisory committee, shall prepare a report for the education committees of the legislature. The report shall include the recommendations of the state curriculum advisory committee.~~ The committee expires as provided in section 15.059, subdivision 5.

Sec. 11. Minnesota Statutes 1990, section 128A.02, subdivision 4, is amended to read:

Subd. 4. [PLAN.] (a) The state board must have a two-year plan for the academies and must update it annually.

(b) The plan must deal with:

(1) interagency cooperation;

(2) financial accounting;

(3) cost efficiencies;

(4) staff development;

(5) program and curriculum development;

(6) use of technical assistance from the department;

(7) criteria for program and staff evaluation;

(8) pupil performance evaluation;

(9) follow-up study of graduates;

(10) implementing this chapter;

(11) how to communicate with pupils' districts of residence; and

(12) coordinating instructional and residential programs.

(c) The plan may deal with other matters.

~~(d) The state board must submit the plan and recommendations for improvement of the academies to the education committees of the legislature by January 15 of each odd-numbered year.~~

Sec. 12. Minnesota Statutes 1990, section 128A.05, subdivision 3, is amended to read:

Subd. 3. [OUT-OF-STATE ADMISSIONS.] An applicant from another state who can benefit from attending either academy may be admitted to the academy if the admission does not prevent an eligible Minnesota resident from being admitted. The ~~commissioner~~ *state board* of education must ~~get reimbursed~~ *obtain reimbursement* from the other state for the costs of the out-of-state admission. The ~~commissioner~~ *state board* may ~~make~~ *enter into* an agreement with the appropriate authority in the other state ~~to get reimbursed~~ *for the reimbursement*. Money received from another state must be ~~paid to the state treasurer and~~ deposited ~~by the treasurer~~ in the general fund *and credited to the general operating account of the academies. The money is appropriated to the academies*.

Sec. 13. Minnesota Statutes 1990, section 128C.12, subdivision 3, is amended to read:

Subd. 3. [COPIES.] The state auditor must file copies of the *financial and compliance* audit report with the commissioner of education~~, the chairs of the house and senate education committees~~ and the director of the legislative reference library.

Sec. 14. Minnesota Statutes 1990, section 128C.20, is amended to read:

128C.20 [COMMISSIONER ~~TO REPORT ON~~ *REVIEW OF* LEAGUE ~~TO LEGISLATURE~~.]

Subdivision 1. [ANNUALLY.] *Each year* the commissioner of education ~~must report to the legislature before each regular session on the activities of the league. The report must contain at least~~ *shall obtain and review the*

following information about the league:

(1) an accurate and concise summary of the annual financial and compliance audit prepared by the state auditor that includes information about the compensation of and the expenditures by the executive director of the league and league staff;

(2) a list of all complaints filed with the league and all lawsuits filed against the league and the disposition of those complaints and lawsuits;

(3) an explanation of the executive director's performance review;

(4) information about the extent to which the league has implemented its affirmative action policy, its comparable worth plan, and its sexual harassment and violence policy and rules; and

(5) an evaluation of any proposed changes in league policy.

Subd. 2. [RECOMMEND LAWS.] The commissioner ~~must~~ *may* recommend to the legislature whether any legislation is made necessary by league activities.

Sec. 15. Minnesota Statutes 1990, section 129C.10, subdivision 3, is amended to read:

Subd. 3. [POWERS AND DUTIES OF BOARD.] (a) The board has the powers necessary for the care, management, and control of the Minnesota center for arts education and all its real and personal property. The powers shall include, but are not limited to, those listed in this subdivision.

(b) The board may employ and discharge necessary employees, and contract for other services to ensure the efficient operation of the center for arts education.

(c) The board may receive and award grants. The board may establish a charitable foundation and accept, in trust or otherwise, any gift, grant, bequest, or devise for educational purposes and hold, manage, invest, and dispose of them and the proceeds and income of them according to the terms and conditions of the gift, grant, bequest, or devise and its acceptance. *The board shall adopt internal procedures to administer and monitor aids and grants.*

(d) The board may establish or coordinate evening, continuing education, extension, and summer programs for teachers and pupils.

(e) The board may identify pupils ~~in grades 9 to 12~~ who have artistic talent, either demonstrated or potential, in dance, literary arts, media arts, music, theater, and visual arts, or in more than one art form.

(f) The board shall educate pupils with artistic talent by providing:

(1) ~~a pilot~~ *an* interdisciplinary academic and arts program for pupils in the 11th and 12th grades~~, beginning with 135 pupils in the 11th grade in September 1989, and 135 pupils in the 11th grade and 135 pupils in the 12th grade in September 1990~~. *The total number of pupils accepted under this clause and clause (2) shall not exceed 300*;

(2) *additional instruction to pupils for a thirteenth grade. Pupils eligible for this instruction are those enrolled in 12th grade who need extra instruction and who apply to the board, or pupils enrolled in the 12th grade who do not meet learner outcomes established by the board. Criteria for admission into the thirteenth grade shall not be subject to chapter 14;*

(3) intensive arts seminars for one or two weeks for pupils in grades 9 to 12;

~~(3)~~ *(4)* summer arts institutes for pupils in grades 9 to 12;

~~(4)~~ *(5)* artist mentor and extension programs in regional sites; and

~~(5)~~ *(6)* teacher education programs for indirect curriculum delivery.

(g) The board may determine the location for the Minnesota center for arts education and any additional facilities related to the center, including the authority to lease a temporary facility.

(h) The board must plan for the enrollment of pupils on an equal basis from each congressional district.

(i) The board may establish task forces as needed to advise the board on policies and issues. The task forces expire as provided in section 15.059, subdivision 6.

(j) The board may request the commissioner of education for assistance and services.

(k) The board may enter into contracts with other public and private agencies and institutions for residential and building maintenance services if it determines that these services could be provided more efficiently and less expensively by a contractor than by the board itself. The board may also enter into contracts with public or private agencies and institutions, school districts or combinations of school districts, or educational cooperative service units to provide supplemental educational instruction and services.

(l) The board may provide or contract for services and programs by and for the center for arts education, including a store, operating in connection with the center; theatrical events; and other programs and services that, in the determination of the board, serve the purposes of the center.

(m) The board may provide for transportation of pupils to and from the center for arts education for all or part of the school year, as the board considers advisable and subject to its rules. Notwithstanding any other law to the contrary, the board may charge a reasonable fee for transportation of pupils. Every driver providing transportation of pupils under this paragraph must possess all qualifications required by the state board of education. The board may contract for furnishing authorized transportation under rules established by the commissioner of education and may purchase and furnish gasoline to a contract carrier for use in the performance of a contract with the board for transportation of pupils to and from the center for arts education. When transportation is provided, scheduling of routes, establishment of the location of bus stops, the manner and method of transportation, the control and discipline of pupils, and any other related matter is within the sole discretion, control, and management of the board.

(n) The board may provide room and board for its pupils. *If the board provides room and board, it shall charge a reasonable fee for the room and board. The fee is not subject to chapter 14 and is not a prohibited fee according to sections 120.71 to 120.76.*

(o) The board may establish and set fees for services and programs without regard to chapter 14. If the board sets fees not authorized or prohibited by the Minnesota public school fee law, it may do so without complying with the requirements of section 120.75, subdivision 1.

Sec. 16. Minnesota Statutes 1990, section 129C.10, subdivision 3a, is amended to read:

Subd. 3a. [CENTER ~~FUND APPROPRIATION~~ *ACCOUNT.*] There is established in the state treasury a center for arts education ~~fund~~ *account in the special revenue fund.* All money collected by the board, *including rental income,* shall be deposited in the ~~fund~~ *account.* Money in the ~~fund~~ *account,* including interest earned, is ~~annually~~ appropriated to the board for the operation of its services and programs.

Sec. 17. Minnesota Statutes 1990, section 129C.10, subdivision 4a, is amended to read:

Subd. 4a. [ADMISSION AND CURRICULUM REQUIREMENTS GENERALLY.] (a) The board may adopt rules for admission to and discharge from the full-time programs for talented pupils, *rules regarding discharge from the dormitory,* and rules regarding the operation of the center, including transportation of its pupils. Rules covering admission are governed by chapter 14. Rules covering discharge from the full-time program for talented pupils must be consistent with sections 127.26 to 127.39, the pupil fair dismissal act. *Rules covering discharge from the dormitory are not governed by the pupil fair dismissal act as set forth in sections 127.26 to 127.39.* Rules regarding discharge and the operation of the center are not governed by chapter 14.

(b) Proceedings concerning the full-time program for talented pupils, including admission, discharge, a pupil's program, and a pupil's progress, are governed by the rules adopted by the board and are not contested cases governed by chapter 14.

Sec. 18. Minnesota Statutes 1990, section 129C.10, subdivision 6, is amended to read:

Subd. 6. [PUBLIC POST-SECONDARY INSTITUTIONS; PROVIDING SPACE.] Public post-secondary institutions shall provide space for programs offered by the Minnesota center for arts education at no cost *or reasonable cost* to the center to the extent that space is available at the public post-secondary institutions.

Sec. 19. [129C.15] [RESOURCE, MAGNET, AND OUTREACH PROGRAMS.]

Subdivision 1. [RESOURCE AND OUTREACH.] *The center shall offer resource and outreach programs and services statewide aimed at the enhancement of arts education opportunities for pupils in elementary and secondary school. The programs and services shall include:*

(1) developing and demonstrating exemplary curriculum, instructional practices, and assessment;

(2) disseminating information; and

(3) providing programs for pupils and teachers that develop technical and creative skills in art forms that are underrepresented and in geographic regions that are underserved.

Subd. 2. [MAGNET PROGRAMS.] *The center shall identify at least one school district in each congressional district with interest and the potential to offer magnet arts programs using the curriculum developed by the Minnesota center for arts education.*

Sec. 20. Minnesota Statutes 1990, section 134.31, subdivision 4, is amended to read:

Subd. 4. The department shall collect statistics on the receipts, expenditures, services, and use of the regional public library systems and the public libraries of the state. It shall also collect statistics on all activities undertaken pursuant to sections 134.31 to 134.35. ~~The department shall report its findings to the legislature prior to November 15 of each even-numbered year, together with a statement of its expenditures relating to these activities and any other matters as it deems appropriate.~~

Sec. 21. Minnesota Statutes 1990, section 134.351, subdivision 7, is amended to read:

Subd. 7. [REPORTS.] Each multicounty, multitype system receiving a grant pursuant to section 134.353 or 134.354 shall provide an annual progress report to the department of education. ~~The department shall report before November 15 of each even-numbered year to the legislature on all projects funded under sections 134.353 and 134.354.~~

Sec. 22. Minnesota Statutes 1990, section 268.08, subdivision 6, is amended to read:

Subd. 6. [SERVICES PERFORMED FOR STATE, MUNICIPALITIES OR CHARITABLE CORPORATION.] Benefits based on service in employment defined in section 268.04, subdivision 12, clauses (7), (8) and (9), are payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter; except that

(a) Benefits based upon service performed in an instructional, research, or principal administrative capacity for an institution of higher education or a public school, or a nonpublic school, or the Minnesota state academy for the deaf or Minnesota state academy for the blind, *or the Minnesota center for arts education,* or in a public or nonpublic school for an educational cooperative service unit established under section 123.58, or any other educational service agency as defined in section 3304(a)(6)(A)(IV) of the Federal Unemployment Tax Act, shall not be paid for any week of unemployment commencing during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if the individual performs the services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services in any such capacity for any institution of higher education, public school, nonpublic school, Minnesota state academies for the deaf and blind, *the Minnesota center for arts education,* an educational cooperative service unit, or other educational service agency, in the second of the academic years or terms, and

(b) With respect to service performed in any capacity other than those capacities described in clause (a) of this subdivision, for an institution of higher education, or a public school or nonpublic school, or the Minnesota state academy for the deaf or Minnesota state academy for the blind, *or the Minnesota center for arts education,* or in a public or nonpublic school or for an educational cooperative service unit established under section 123.58, or any other educational service agency as defined in section 3304(a)(6)(A)(IV) of the Federal Unemployment Tax Act, benefits shall not

be paid on the basis of these services to any individual for any week which commences during a period between two successive academic years or terms if the individual performs the services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the services in the second of the academic years or terms. If benefits are denied to any individual under this clause and the individual was not offered an opportunity to perform the services in the second of the academic years or term, the individual shall be entitled to a retroactive payment of benefits for each week in which the individual filed a timely claim for benefits, but the claim was denied solely because of this clause; and

(c) With respect to services described in clauses (a) or (b), benefits payable on the basis of the services shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

Sec. 23. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] *(a) The sums indicated in this section are appropriated from the general fund, unless otherwise indicated, to the department of education for the fiscal years designated.*

(b) The amounts that may be spent for each program are specified in the following subdivisions.

(c) The approved complement is:

	1992	*1993*
General Fund	*258.5*	*258.5*
Federal	*135.6*	*135.6*
Other	*28.9*	*28.9*
Total	*423.0*	*423.0*

(d) The commissioner of education, with the approval of the commissioner of finance, may transfer unencumbered balances among the programs during the biennium. Transfers must be reported immediately to the education finance division of the education committee of the house of representatives and the education funding division of the education committee of the senate. During the biennium, the commissioner may transfer money among the various objects of expenditure categories and activities within each program, unless restricted by executive order.

(e) The commissioner of education may transfer complement among funds if necessary and must provide a listing of the transfers to the commissioner of finance at the end of each fiscal year. Material changes must be approved by the commissioner of finance and reported to the house education finance division and the senate education funding division.

(f) The expenditures of federal grants and aids as shown in the biennial budget document are approved and shall be spent as indicated.

(g) The commissioner shall continue to enforce Minnesota Statutes, section 126.21, and other civil rights laws as they apply to programs supervised by the commissioner. This function must not be performed by the same person who, with funding under a federal grant, is providing technical assistance to school districts in implementing nondiscrimination laws.

(h) It is the policy of the legislature to maximize the delivery of educational services to students. If a reduction in the number of employees of the department of education is necessary, the commissioner must make the reduction to personnel based on the following:

(1) Compute a ratio for each category of management, supervisory, line, and support personnel equal to:

(i) the salaries paid to personnel in each category, for the fiscal year ending June 30, 1991, divided by

(ii) the total salaries paid to employees in the department for the fiscal year ending June 30, 1991.

(2) Reduce the personnel budget in each category of personnel by an amount equal to the total budget reduction determined by the department for personnel reduction, times the ratio computed in clause (1).

(3) The total budget reduction is the difference between the general fund appropriation for the department and the amount recommended by the governor.

Subd. 2. [EDUCATIONAL SERVICES.]

$7,701,000 1992
$7,698,000 1993

$21,000 each year is from the trunk highway fund.

$75,000 each year is from the alcohol-impaired driver education account in the special revenue fund.

$104,000 each year is for the academic excellence foundation.

Subd. 3. [ADMINISTRATION AND FINANCIAL SERVICES.]

$7,023,000 1992
$7,033,000 1993

$1,308,000 in 1992 and $1,304,000 in 1993 are for the education data systems section, of which $12,000 each year is for the expenses of the ESV computer council. Any balance in the first year does not cancel and is available for the second year.

$1,298,000 in 1992 and $1,294,000 in 1993 are for the education finance and analysis section.

$219,000 each year is for the state board of education.

$200,000 each year is for contracting with the state fire marshal to provide the services required according to Minnesota Statutes, section 121.1502.

The board of teaching budget is not exempt from internal reallocations and reductions required to balance the budget of the combined agencies.

The commissioner shall maintain no more than five total complement in the categories of commissioner, deputy commissioner, assistant commissioner, assistant to the commissioner, and executive assistant.

Subd. 4. [EDUCATIONAL EFFECTIVENESS.] *For educational effectiveness programs according to Minnesota Statutes, sections 121.608 and 121.609:*

$900,000 1992

$900,000 1993

Subd. 5. [ACADEMIC EXCELLENCE FOUNDATION.] *For the academic excellence foundation according to Minnesota Statutes, section 121.612:*

$260,000 1992

$260,000 1993

Up to $50,000 each year is contingent upon the match of $1 in the previous year from private sources consisting of either direct monetary contributions or in-kind contributions of related goods or services, for each $1 of the appropriation. The commissioner of education must certify receipt of the money or documentation for the private matching funds or in-kind contributions. The unencumbered balance from the amount actually appropriated from the contingent amount in 1992 does not cancel but is available in 1993. The amount carried forward must not be used to establish a larger annual base appropriation for later fiscal years.

Subd. 6. [STATE PER ASSISTANCE.] *For state assistance for planning, evaluating, and reporting:*

$601,000 1992
$601,000 1993

At least $45,000 each year must be used to assist districts with the assurance of mastery program.

Sec. 24. [FARIBAULT ACADEMIES APPROPRIATION.]

The sums indicated in this section are appropriated from the general fund to the department of education for the Faribault Academies:

$7,801,000 1992
$7,773,000 1993

Any balance in the first year does not cancel and is available for the second year.

The approved complement is:

	1992	*1993*
General fund	*185.6*	*185.6*
Federal	*8.0*	*8.0*
Total	*193.6*	*193.6*

The state board of education may transfer complement among funds if necessary and must provide a listing of the transfers to the commissioner of finance at the end of each fiscal year. Material changes must be approved by the commissioner of finance and reported to the house education finance division and the senate education funding division.

The state board of education, with the approval of the commissioner of finance, may increase the complement above the approved levels if funds are available for the academies in addition to the amounts appropriated in this section.

Sec. 25. [MINNESOTA CENTER FOR ARTS EDUCATION APPROPRIATION.]

The sums indicated in this section are appropriated from the general fund to the Minnesota center for arts education for the fiscal years indicated:

$5,064,000 1992
$5,057,000 1993

Any balance in the first year does not cancel but is available in the second year.

The approved complement is:

	1992	*1993*
General Fund	*53*	*53*
Total	*53*	*53*

The complement may be increased by the number of staff currently on interchange agreements or contracts if adding these staff to the center complement will result in cost savings. The complement may also be increased if the board determines that additional complement is necessary to protect the health and safety of students.

Sec. 26. [REPEALER.]

Minnesota Statutes 1990, sections 120.104; 121.15, subdivision 10; 121.936, subdivision 5; 124.48, subdivision 2; 125.231, subdivision 6; 128B.10, subdivision 3; 128C.12, subdivision 2; 129C.10, subdivision 5; 135A.10, subdivision 2; and 136A.044, are repealed.

Laws 1989, chapter 329, article 12, section 8, is repealed.

ARTICLE 12

MAXIMUM EFFORT SCHOOL LOAN BONDS

Section 1. [124.479] [BOND ISSUE; MAXIMUM EFFORT SCHOOL LOANS, 1991.]

To provide money to be loaned to school districts as agencies and political subdivisions of the state to acquire and to better public land and buildings and other public improvements of a capital nature, in the manner provided by the maximum effort school aid law, the commissioner of finance shall issue and sell school loan bonds of the state of Minnesota in the maximum amount of $45,065,000, in addition to the bonds already authorized for this purpose. The same amount is appropriated to the maximum effort school loan fund and must be spent under the direction of the commissioner of education to make debt service loans and capital loans to school districts as provided in sections 124.36 to 124.47. The bonds must be issued and sold and provision for their payment must be made according to section 124.46. Expenses incidental to the sale, printing, execution, and delivery of the bonds, including, but without limitation, actual and necessary travel and subsistence expenses of state officers and employees for those purposes, must be paid from the maximum effort school loan fund, and the money necessary for the expenses is appropriated from that fund.

No bonds may be sold or issued under this section until all bonds authorized by Laws 1990, chapter 610, sections 2 to 7, are sold and issued and the authorized project contracts have been initiated or abandoned.

Sec. 2. [1991 MAXIMUM EFFORT LOANS.]

The commissioner of education shall make capital loans to independent school district No. 115, Cass Lake; independent school district No. 192, Farmington; independent school district No. 682, Roseau; independent school district No. 748, Sartell; independent school district No. 345, New

London-Spicer; independent school district No. 533, Dover-Eyota; independent school district No. 95, Cromwell; and independent school district No. 255, Pine Island. Capital loans to these districts are approved.

Districts approved in a law for a maximum effort loan shall have their project plans and budgets reviewed by the commissioner to determine optimum cost efficiency. The commissioner may reduce the amount of the loans in accord with this review. Costs incurred by the commissioner for professional services associated with the review may be recovered from the districts.

Notwithstanding any law to the contrary, if the available funding is inadequate to meet the loan requests of all the approved districts, the commissioner may reduce the amount of the loan. The reduction to each district's loan must be proportionate to the approved loan amount. Capital loans must be made to all approved districts.

Except for reductions in the loans made according to this section, the amount, terms, and forgiveness of the loans are governed by Minnesota Statutes 1990, section 124.431.

Sec. 3. [BONDING AUTHORITY.]

Notwithstanding the election requirements of Minnesota Statutes, chapter 475, or any other law to the contrary, any school district with a capital loan approved in section 2 may issue general obligation bonds without an election in an amount not to exceed the difference between the state board approved capital loan project cost and the sum of the amount of the capital loan actually granted and the voter approved local bonding authority. If a project has been previously approved by the voters, changes in that project that do not change the total project cost do not require further voter approval. To pay the principal of and interest on bonds issued under this section, the school district shall levy a tax in an amount sufficient under Minnesota Statutes, section 475.61, subdivisions 1 and 3. The tax authorized under this section is in addition to any other taxes levied under Minnesota Statutes, chapter 124, 124A, or 275, or any other law.

Sec. 4. [APPROPRIATION; MAXIMUM EFFORT SCHOOL LOAN FUND.]

$3,795,000 is appropriated from the general fund to the department of education for fiscal year 1993 for the maximum effort school loan fund. This appropriation is added to the appropriation in article 5 for this purpose. All the conditions that apply to the maximum effort school loan fund appropriation in article 5 apply to this appropriation.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to education; providing for general education revenue, transportation, special programs, community services, facilities and equipment, education organization and cooperation, other aids and levies, other education programs, miscellaneous education matters, libraries, state education agencies, maximum effort school loan bonds; authorizing the issuance of bonds; appropriating money; amending Minnesota Statutes 1990, sections 120.062, subdivisions 8a and 9; 120.08, subdivision 3; 120.101, by adding a subdivision; 120.17, subdivisions 3b, 7a, and 11a;

120.181; 120.59; 120.60; 120.61; 120.62; 120.63; 120.64; 120.65; 120.66; 120.67; 121.11, subdivision 12; 121.14; 121.148, subdivision 1; 121.15, subdivisions 7 and 9; 121.155; 121.165; 121.49, subdivision 1; 121.585, subdivision 3; 121.608; 121.609, subdivisions 2 and 3; 121.612, subdivision 9; 121.88, subdivisions 9 and 10; 121.882, subdivisions 2, 6, and by adding a subdivision; 121.904, subdivisions 4a and 4e; 121.912, by adding subdivisions; 121.917, subdivision 3; 121.931, subdivisions 6a, 7, and 8; 121.932, subdivisions 2, 3, and 5; 121.933, subdivision 1; 121.934, subdivision 7; 121.935, subdivisions 1, 4, 6, and by adding subdivisions; 121.936, subdivisions 1, 2, and 4; 121.937, subdivision 1; 122.22, subdivisions 7a and 9; 122.23, subdivisions 2 and 3; 122.241, subdivisions 1 and 2; 122.242, subdivision 9; 122.243, subdivision 2; 122.247, subdivision 3, and by adding a subdivision; 122.41; 122.531, by adding subdivisions; 122.535, subdivision 6; 122.541, subdivision 7; 122.91, subdivision 5; 122.94, subdivision 6, and by adding a subdivision; 123.34, subdivisions 9 and 10; 123.35, by adding subdivisions; 123.351, subdivision 8; 123.3514, subdivisions 3, 4, 6, 6b, 8, and by adding a subdivision; 123.38, subdivision 2b; 123.58, by adding subdivisions; 123.702; 123.744; 123.951; 124.14, subdivision 7; 124.17, subdivisions 1, 1b, and by adding subdivisions; 124.19, subdivisions 1, 7, and by adding a subdivision; 124.195, subdivisions 9 and 11; 124.223, subdivisions 1 and 8; 124.225, subdivisions 1, 3a, 7a, 7b, 7d, 8a, 8k, 10, and by adding a subdivision; 124.26, subdivisions 1c and 2; 124.261; 124.2711; 124.2713, subdivisions 1, 3, 5, 6, and 9; 124.2721, subdivisions 2, 3, and by adding subdivisions; 124.2725, subdivisions 4, 5, 6, 8, and 10; 124.273, subdivision 1b; 124.311, subdivision 4; 124.32, subdivisions 1b and 10; 124.332, subdivisions 1 and 2; 124.493, by adding a subdivision; 124.573, subdivisions 2b and 3a; 124.574, subdivision 2b; 124.575, by adding subdivisions; 124.646; 124.6472, subdivision 1; 124.83, subdivision 4; 124.86; 124A.02, subdivisions 16 and 23; 124A.03; 124A.04; 124A.22, subdivisions 2, 3, 4, 5, 8, 9, and by adding subdivisions; 124A.23, subdivisions 1, 4, and 5; 124A.24; 124A.26, subdivision 1; 124A.29, subdivision 1; 124A.30; 124B.03, subdivision 2; 124C.03, subdivisions 2 and 16; 125.09, subdivision 4; 125.12, subdivision 3, and by adding subdivisions; 125.17, subdivision 2, and by adding subdivisions; 125.185, subdivisions 4 and 4a; 125.231; 126.113, subdivisions 1 and 2; 126.12, subdivision 1; 126.22, subdivisions 2, 3, 4, 8, and by adding subdivisions; 126.23; 126.266, subdivision 2; 126.51, subdivision 1a; 126.661, subdivision 5, and by adding a subdivision; 126.663, subdivisions 2 and 3; 126.665; 126.666, subdivision 2, and by adding subdivisions; 126.67, subdivision 2b; 126.70, subdivisions 1, 2, and 2a; 128A.02, subdivision 4; 128A.05, subdivision 3; 128B.03, subdivisions 4, 5, 7, and by adding a subdivision; 128B.04; 128B.05, subdivisions 2 and 3; 128B.06, subdivision 1; 128B.08; 128B.09; 128B.10, subdivisions 1 and 2; 128C.01, by adding a subdivision; 128C.12, subdivision 3; 128C.20; 129C.10, subdivisions 3, 3a, 4a, and 6; 134.001, subdivisions 2 and 3; 134.31, subdivision 4; 134.35; 134.351, subdivision 7; 136D.22, by adding a subdivision; 136D.29; 136D.71; 136D.72, subdivision 1; 136D.76, subdivision 2; 136D.82, by adding a subdivision; 136D.90; 141.25, subdivision 8; 141.26, subdivision 5; 145.926; 171.29, subdivision 2; 203B.085; 214.10, by adding a subdivision; 245A.03, subdivision 2; 260.015, subdivision 19; 268.08, subdivision 6; 272.02, subdivision 8; 275.065, subdivisions 3, 5a, and 6; 275.125, subdivisions 4, 5, 5b, 5c, 11d, and by adding a subdivision; 279.03, subdivision 1a; 281.17; 298.28, subdivision 4; 364.09; 475.61, subdivision 3; and 631.40; Laws 1989, chapter 329, article 4, section 20; and article 6, section 53, subdivision

6, as amended; proposing coding for new law in Minnesota Statutes, chapters 3; 120; 121; 122; 123; 124; 124C; 125; 127; 128B; 129C; 134; 136D; 171; 373; and 473; repealing Minnesota Statutes 1990, sections 3.865; 3.866; 120.011; 120.104; 120.105; 121.111; 121.15, subdivision 10; 121.91, subdivision 7; 121.932, subdivision 1; 121.933, subdivision 2; 121.935, subdivisions 3 and 5; 121.936, subdivision 5; 121.937, subdivision 2; 122.43, subdivision 1; 122.531, subdivision 5; 122.945, subdivision 4; 123.3514, subdivisions 6 and 6b; 123.706; 123.707; 123.73; 123.744; 124.225, subdivisions 3, 4b, 7c, 8b, 8i, and 8j; 124.252; 124.26, subdivisions 7 and 8; 124.2713, subdivision 4; 124.2721, subdivision 3a; 124.48, subdivision 2; 124.493, subdivision 2; 124.535, subdivision 3a; 124A.02, subdivision 19; 124C.01, subdivision 2; 124C.02; 124C.41, subdivisions 6 and 7; 125.231, subdivision 6; 128B.01; 128B.03, subdivisions 3 and 8; 128B.07; 128B.10, subdivision 3; 128C.12, subdivision 2; 129C.10, subdivision 5; 135A.10, subdivision 2; 136A.044; 136D.27, subdivision 1; 136D.28; 136D.30; 136D.74, subdivision 2; 136D.87, subdivision 1; 136D.89; 136D.91; and 275.125, subdivisions 8b, 8c, and 8d; Laws 1989, chapter 329, article 12, section 8."

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

House Conferees: (Signed) Ken Nelson, Jerry J. Bauerly, Becky Kelso, Gary Schafer

Senate Conferees: (Signed) Ronald R. Dicklich, Gregory L. Dahl, Gary M. DeCramer, Sandra L. Pappas

Mr. Dicklich moved that the foregoing recommendations and Conference Committee Report on H.F. No. 700 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. 700 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 56 and nays 11, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.J.	Mondale	Samuelson
Beckman	Day	Johnson, J.B.	Morse	Solon
Benson, D.D.	DeCramer	Johnston	Neuville	Spear
Benson, J.E.	Dicklich	Kroening	Novak	Storm
Berg	Finn	Laidig	Pappas	Stumpf
Berglin	Flynn	Langseth	Pariseau	Traub
Bernhagen	Frederickson, D.J.	Larson	Piper	Vickerman
Bertram	Frederickson, D.R.	Luther	Pogemiller	Waldorf
Brataas	Gustafson	McGowan	Ranum	
Chmielewski	Halberg	Mehrkens	Reichgott	
Cohen	Hottinger	Merriam	Renneke	
Dahl	Johnson, D.E.	Moe, R.D.	Sams	

Those who voted in the negative were:

Belanger	Kelly	Lessard	Metzen	Price
Frank	Knaak	Marty	Olson	Riveness
Hughes				

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Morse moved that the following members be excused for a Conference Committee on H.F. No. 783 at 10:00 a.m.:

Messrs. Morse, Price and Ms. Johnson, J.B. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1295 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1295

A bill for an act relating to Ramsey county; creating a Ramsey county local services study commission; setting its duties.

May 18, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1295, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1295 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [RAMSEY COUNTY LOCAL GOVERNMENT SERVICES STUDY.]

A Ramsey county local government services study commission is established to study cooperation between local governments, including school districts, and the possible sharing and consolidation of services, structures, and functions. The commission shall explore cooperative ventures which would be mutually beneficial to the communities involved, review and recommend ways to eliminate overlap and duplication, design programs that would improve services and reduce costs, and develop a systematic process for cooperating, restructuring, sharing, or consolidating. The commission shall report on the advantages and disadvantages of sharing, cooperating, restructuring, or consolidating, with attention to:

(a) citizen participation in government;

(b) efficiency and effectiveness of the provision of public service;

(c) taxation and other public finance matters;

(d) public employees;

(e) structure of government;

(f) possible public economies;

(g) the historic identity of the community;

(h) economic development;

(i) social development;

(j) environment; and

(k) other significant factors.

The commission shall report and make recommendations to the local government units in Ramsey county before November 15, 1991. The elected councils and boards of the local government units affected by any recommendation, and the Ramsey county league of local governments and the Ramsey county charter commission, shall indicate, by resolution, their response to the commission's recommendations before January 15, 1992. The commission's recommendations and any responses shall be presented to the members of the Ramsey county legislative delegation and to the legislature before February 1, 1992. The commission may not adopt any recommendation without a 60 percent affirmative vote of the commission members voting on the issue.

The commission may examine consolidation, cooperation, restructuring, or sharing of any services, groups of services, or local government structures as the commission determines except that specific examination and recommendation shall be made in regard to:

(1) the city and county health departments;

(2) city and county attorney's functions as they relate to criminal law;

(3) city and county libraries;

(4) public works; and

(5) police and sheriff communications, crime lab and investigative functions.

The commission shall be 25 residents of, or persons whose principal place of business is located in, Ramsey county selected as follows:

(1) two members of the county board or county employees who reside in the city of St. Paul, selected by the county board;

(2) two members of the county board or county employees who reside in the county but not in the city of St. Paul, selected by the county board;

(3) three members selected by the St. Paul city council from among the mayor and city council members or other city employees;

(4) three members selected jointly by the city councils and town boards of the cities and towns in the county, other than St. Paul, from among their mayors and members or their employees;

(5) one member of the school board of independent school district No. 625 or an employee, selected by the board;

(6) one member of the school boards of other school districts operating in Ramsey county or an employee of those districts, selected jointly by the board members of the several districts;

(7) six members of the public who are not public employees and do not hold public office, selected by the members of the legislature who represent the city of St. Paul and the members serving under clauses (1), (3), and (5);

(8) six members of the public who are not public employees and do not hold public office, selected by the members of the legislature who represent Ramsey county outside the city of St. Paul and the members serving under

clauses (2), (4), and (6); and

(9) a chair selected by the other members of the commission who is not an elected official or public employee and who is not one of the above members of the commission.

The commission shall be assisted by a staff committee whose members shall consist of the city managers and chief of staff from the communities within Ramsey county, the Ramsey county executive director, and professional staff of these governmental units. This committee shall provide technical assistance to the commission. The committee may request the assistance of any other public or private agency or entity.

Members of the commission and the committee shall serve without compensation other than expenses that would be reimbursed to them by the units of government which they represent. The commission may accept gifts, grants, or donations from public and private entities to assist with the costs of its work. A gift, grant, or donation is not subject to Minnesota Statutes, chapter 10A, or other law or rule regulating lobbying expenses.

Sec. 2. [COOPERATION.]

The commission must solicit recommendations from the Ramsey county league of local governments and the Ramsey county charter commission. By September 1, 1991, the commission must receive any recommendations from the league or charter commission. In its final report, the commission must state its conclusions with respect to the recommendations of the league and the charter commission.

Sec. 3. [EFFECTIVE DATE.]

This act takes effect the day after final enactment."

Delete the title and insert:

"A bill for an act relating to Ramsey county; creating a Ramsey county local government cooperation and consolidation study commission; setting its duties."

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

Senate Conferees: (Signed) Richard J. Cohen, Randy C. Kelly, Fritz Knaak

House Conferees: (Signed) Howard Orenstein, Mary Jo McGuire, Don Valento

Mr. Cohen moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1295 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. 1295 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:

Adkins	Dicklich	Johnston	Metzen	Riveness
Beckman	Finn	Kelly	Moe, R.D.	Sams
Belanger	Flynn	Knaak	Mondale	Solon
Benson, D.D.	Frank	Kroening	Neuville	Spear
Benson, J.E.	Frederickson, D.J.	Laidig	Novak	Storm
Berglin	Frederickson, D.R.	Langseth	Pappas	Stumpf
Bernhagen	Gustafson	Larson	Pariseau	Traub
Bertram	Halberg	Lessard	Piper	Vickerman
Brataas	Hottinger	Luther	Pogemiller	Waldorf
Chmielewski	Hughes	Marty	Price	
Cohen	Johnson, D.E.	McGowan	Ranum	
Day	Johnson, D.J.	Mehrkens	Reichgott	
DeCramer	Johnson, J.B.	Merriam	Renneke	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 520 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 520

A bill for an act relating to legal services; requesting the supreme court to study the feasibility of adopting rules governing the delivery of legal services by specialized legal assistants; amending Minnesota Statutes 1990, section 481.02, subdivision 3.

May 18, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 520, 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. 520 be further amended as follows:

Page 4, line 3, before the period insert "*before July 1, 1995*"

Page 4, line 8, delete "*February 1, 1992*" and insert "*December 1, 1993*"

Page 4, delete section 3

Amend the title as follows:

Page 1, lines 3 and 4, delete "adopting rules governing"

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

Senate Conferees: (Signed) Randy C. Kelly, Patrick D. McGowan, John Marty

House Conferees: (Signed) Andy Dawkins, Thomas W. Pugh, Doug Swenson

Mr. Kelly moved that the foregoing recommendations and Conference Committee Report on S.F. No. 520 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. 520 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 2, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, D.E.	McGowan	Reichgott
Beckman	DeCramer	Johnson, D.J.	Mehrkens	Renneke
Belanger	Dicklich	Johnson, J.B.	Merriam	Riveness
Benson, D.D.	Finn	Johnston	Metzen	Sams
Benson, J.E.	Flynn	Kelly	Mondale	Solon
Berg	Frank	Kroening	Novak	Spear
Berglin	Frederickson, D.J.	Laidig	Pappas	Storm
Bernhagen	Frederickson, D.R.	Langseth	Pariseau	Stumpf
Bertram	Gustafson	Larson	Piper	Traub
Brataas	Halberg	Lessard	Pogemiller	Vickerman
Chmielewski	Hottinger	Luther	Price	Waldorf
Cohen	Hughes	Marty	Ranum	

Messrs. Knaak and Neuville 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

S.F. No. 765 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 765

A bill for an act relating to transportation; clarifying parking provisions for physically disabled persons; authorizing special license plates for motorcycles; authorizing tinted windshields for medical reasons; abolishing requirement to impound vehicle registration certificates; making technical changes; amending Minnesota Statutes 1990, sections 168.021, subdivision 1; 168.041; 169.123, subdivision 5b; 169.345, subdivision 1; 169.346, subdivisions 1 and 2; 169.71, subdivision 4; 169.795; and 171.29, subdivision 3.

May 18, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 765, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 765 be further amended as follows:

Page 7, delete lines 30 to 36

Page 8, delete lines 1 to 16 and insert:

"Subd. 2. [SIGNS; PARKING SPACES TO BE FREE OF OBSTRUCTIONS.] (a) Parking spaces *reserved* for physically disabled persons must be designated and identified by the posting of signs incorporating the international symbol of access in white on blue *and* indicating that ~~the parking space is reserved for disabled persons with vehicles displaying the required certificate, license plates, or insignia, and indicating that~~ violators are subject to a fine of up to $200. *These parking spaces are reserved for disabled persons with vehicles displaying the required certificate, license plates, or insignia. Signs sold after August 1, 1991, must conform to the design requirements in this paragraph. For purposes of this subdivision, a parking space that is clearly identified as reserved for physically disabled persons by a permanently posted sign that does not meet all design standards, is considered designated and reserved for physically disabled persons.* A sign posted for the purpose of this section must be visible from inside a vehicle parked in the space, be kept clear of snow or other obstructions which block its visibility, and be nonmovable or only movable by authorized persons.

(b) The owner or manager of the property on which the designated parking space is located shall ensure that the space is kept free of obstruction. If the owner or manager allows the space to be blocked by snow, merchandise, or similar obstructions for 24 hours after receiving a warning from a peace officer, the owner or manager is guilty of a misdemeanor and subject to a fine of up to $500."

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

Senate Conferees: (Signed) John Marty, Carol Flynn, Joanne E. Benson

House Conferees: (Signed) Teresa Lynch, Harold Lasley, Henry J. Kalis

Mr. Marty moved that the foregoing recommendations and Conference Committee Report on S.F. No. 765 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. 765 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:

Adkins	DeCramer	Johnson, J.B.	Metzen	Renneke
Beckman	Dicklich	Johnston	Moe, R.D.	Riveness
Belanger	Finn	Kelly	Mondale	Sams
Benson, D.D.	Flynn	Knaak	Neuville	Samuelson
Benson, J.E.	Frank	Kroening	Novak	Spear
Berg	Frederickson, D.J.	Laidig	Olson	Storm
Berglin	Frederickson, D.R.	Langseth	Pappas	Stumpf
Bernhagen	Gustafson	Lessard	Pariseau	Traub
Bertram	Halberg	Luther	Piper	Vickerman
Brataas	Hottinger	Marty	Pogemiller	
Chmielewski	Hughes	McGowan	Price	
Cohen	Johnson, D.E.	Mehrkens	Ranum	
Day	Johnson, D.J.	Merriam	Reichgott	

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

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

House File No. 317 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 317

A bill for an act relating to marriage dissolution; clarifying procedure for modification of certain custody orders; providing for additional child support payments; providing an alternative form of satisfaction of child support obligation; imposing a fiduciary duty and providing for compensation in cases of breach of that duty; clarifying certain mediation procedures; providing for attorneys' fees in certain cases; clarifying language concerning certain motions; imposing penalties; amending Minnesota Statutes 1990, sections 518.18; 518.551, subdivision 5; 518.57, by adding a subdivision; 518.58, subdivision 1, and by adding a subdivision; 518.619, subdivision 6; 518.64, subdivision 2; and 518.641, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 518.

May 18, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 317, 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. 317 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 518.18, is amended to read:

518.18 [MODIFICATION OF ORDER.]

(a) Unless agreed to in writing by the parties, no motion to modify a custody order may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with paragraph (c).

(c) The time limitations prescribed in paragraphs (a) and (b) shall not prohibit a motion to modify a custody order if the court finds that there is persistent and willful denial or interference with visitation, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order unless it finds, upon the basis of facts that have arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or the ~~custodian~~ *parties* and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the ~~custodian~~ *custody arrangement* established by the prior order unless:

(i) ~~the custodian agrees~~ *both parties agree* to the modification;

(ii) the child has been integrated into the family of the petitioner with the consent of the ~~custodian~~ *other party*; or

(iii) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

In addition, a court may modify a custody order under section 631.52.

(e) In deciding whether to modify a prior joint custody order, the court shall apply the standards set forth in paragraph (d) unless: (1) the parties agree in writing to the application of a different standard, or (2) the party seeking the modification is asking the court for permission to move the residence of the child to another state.

Sec. 2. Minnesota Statutes 1990, section 518.551, subdivision 5, is amended to read:

Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children or applies for it subsequent to the commencement of the proceeding. After receipt of the notice, the court shall set child support as provided in this subdivision. The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support agreement of the parties if each party is represented by independent counsel, unless the agreement is not in the interest of justice. In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in paragraph (b) and any departure therefrom. *The court may also order the obligor to pay child support in the form of a percentage share of the obligor's net bonuses, commissions, or other forms of compensation, in addition to, or if the obligor receives no base pay, in lieu of, an order for a specific dollar amount.*

The court shall derive a specific dollar amount by multiplying the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children

	1	2	3	4	5	6	7 or more
$400 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
$401 - 500	14%	17%	20%	22%	24%	26%	28%
$501 - 550	15%	18%	21%	24%	26%	28%	30%
$551 - 600	16%	19%	22%	25%	28%	30%	32%
$601 - 650	17%	21%	24%	27%	29%	32%	34%
$651 - 700	18%	22%	25%	28%	31%	34%	36%
$701 - 750	19%	23%	27%	30%	33%	36%	38%
$751 - 800	20%	24%	28%	31%	35%	38%	40%
$801 - 850	21%	25%	29%	33%	36%	40%	42%
$851 - 900	22%	27%	31%	34%	38%	41%	44%
$901 - 950	23%	28%	32%	36%	40%	43%	46%
$951 - 1000	24%	29%	34%	38%	41%	45%	48%
$1001- 4000	25%	30%	35%	39%	43%	47%	50%

Guidelines for support for an obligor with a monthly income of $4,001 or more shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income of $4,000.

Net Income defined as:

Total monthly income less

*(i) Federal Income Tax
*(ii) State Income Tax
(iii) Social Security Deductions
(iv) Reasonable Pension Deductions
(v) Union Dues
(vi) Cost of Dependent Health Insurance Coverage
(vii) Cost of Individual or Group Health/Hospitalization Coverage or an Amount for Actual Medical Expenses
(viii) A Child Support or Maintenance Order that is Currently Being Paid.

*Standard Deductions apply- use of tax tables recommended

"Net income" does not include:

(1) the income of the obligor's spouse, but does include in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses; or

(2) compensation received by a party for employment in excess of a 40-hour work week, provided that:

(a) support is nonetheless ordered in an amount at least equal to the guidelines amount based on income not excluded under this clause; and

(b) the party demonstrates, and the court finds, that:

(i) the excess employment began after the filing of the petition for dissolution;

(ii) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

(iii) the excess employment is voluntary and not a condition of employment;

(iv) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

(v) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

(b) In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support:

(1) all earnings, income, and resources of the parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of paragraph (a), clause (2)(b);

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children to be supported;

(3) the standards of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

(4) the amount of the aid to families with dependent children grant for the child or children;

(5) which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it; and

(6) the parents' debts as provided in paragraph (c).

(c) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.74;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

Any schedule prepared under paragraph (c), clause (3), shall contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the court. Nothing in this section shall be construed to prohibit one or more

step increases in support to reflect debt retirement during the 18-month period.

Where payment of debt is ordered pursuant to this section, the payment shall be ordered to be in the nature of child support.

(d) Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.

(e) The above guidelines are binding in each case unless the court makes express findings of fact as to the reason for departure below or above the guidelines.

Sec. 3. Minnesota Statutes 1990, section 518.57, is amended by adding a subdivision to read:

Subd. 3. [SATISFACTION OF CHILD SUPPORT OBLIGATION.] *The court may conclude that an obligor has satisfied a child support obligation by providing a home, care, and support for the child while the child is living with the obligor, if the court finds that the child was integrated into the family of the obligor with the consent of the obligee and child support payments were not assigned to the public agency under section 256.74.*

Sec. 4. Minnesota Statutes 1990, section 518.58, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] Upon a dissolution of a marriage, an annulment, or in a proceeding for disposition of property following a dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property and which has since acquired jurisdiction, the court shall make a just and equitable division of the marital property of the parties without regard to marital misconduct, after making findings regarding the division of the property. The court shall base its findings on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party. The court shall also consider the contribution of each in the acquisition, preservation, depreciation or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker. It shall be conclusively presumed that each spouse made a substantial contribution to the acquisition of income and property while they were living together as husband and wife. The court may also award to either spouse the household goods and furniture of the parties, whether or not acquired during the marriage. The court shall value marital assets for purposes of division between the parties as of the day of the initially scheduled prehearing settlement conference, unless a different date is agreed upon by the parties, or unless the court makes specific findings that another date of valuation is fair and equitable. If there is a substantial change in value of an asset between the date of valuation and the final distribution, the court may adjust the valuation of that asset as necessary to effect an equitable distribution. ~~During the pendency of a marriage dissolution or annulment proceeding, each party owes a fiduciary duty to the other for any profit or loss derived by the party, without consent of the other, from a transaction or from any use by the party of the marital assets.~~

Sec. 5. Minnesota Statutes 1990, section 518.58, is amended by adding a subdivision to read:

Subd. 1a. [TRANSFER, ENCUMBRANCE, CONCEALMENT, OR DISPOSITION OF MARITAL ASSETS.] *During the pendency of a marriage dissolution, separation, or annulment proceeding, or in contemplation of commencing a marriage dissolution, separation, or annulment proceeding, each party owes a fiduciary duty to the other for any profit or loss derived by the party, without the consent of the other, from a transaction or from any use by the party of the marital assets. If the court finds that a party to a marriage, without consent of the other party, has in contemplation of commencing, or during the pendency of, the current dissolution, separation, or annulment proceeding, transferred, encumbered, concealed, or disposed of marital assets except in the usual course of business or for the necessities of life, the court shall compensate the other party by placing both parties in the same position that they would have been in had the transfer, encumbrance, concealment, or disposal not occurred. The burden of proof under this subdivision is on the party claiming that the other party transferred, encumbered, concealed, or disposed of marital assets in contemplation of commencing or during the pendency of the current dissolution, separation, or annulment proceeding, without consent of the claiming party, and that the transfer, encumbrance, concealment, or disposal was not in the usual course of business or for the necessities of life. In compensating a party under this section, the court, in dividing the marital property, may impute the entire value of an asset and a fair return on the asset to the party who transferred, encumbered, concealed, or disposed of it. The absence of a restraining order against the transfer, encumbrance, concealment, or disposal of marital property is not available as a defense under this subdivision.*

Sec. 6. Minnesota Statutes 1990, section 518.619, subdivision 6, is amended to read:

Subd. 6. [MEDIATOR RECOMMENDATIONS.] When the parties have not reached agreement as a result of the mediation proceeding, the mediator may recommend to the court that an investigation be conducted under section 518.167, or that other action be taken to assist the parties to resolve the controversy before hearing on the issues. The mediator may not conduct the investigation *or evaluation unless: (1) the parties agree in writing, executed after the termination of mediation, that the mediator may conduct the investigation or evaluation, or (2) there is no other person reasonably available to conduct the investigation or evaluation.* The mediator may recommend that mutual restraining orders be issued in appropriate cases, pending determination of the controversy, to protect the well-being of the children involved in the controversy.

Sec. 7. Minnesota Statutes 1990, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of a decree respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair.

(b) On a motion for modification of maintenance, *including a motion for the extension of the duration of a maintenance award,* the court shall apply,

in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall take into consideration the needs of the children and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(c) A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party. However, modification may be applied to an earlier period if the court makes express findings that the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability or a material misrepresentation of another party and that the party seeking modification, when no longer precluded, promptly served a motion.

(d) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

(e) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

(f) Section 518.14 shall govern the award of attorney fees for motions brought under this subdivision.

Sec. 8. Minnesota Statutes 1990, section 518.641, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] An order for maintenance or child support shall provide for a biennial adjustment in the amount to be paid

based on a change in the cost of living. An order that provides for a cost-of-living adjustment shall specify the cost-of-living index to be applied *and the date on which the cost-of-living adjustment shall become effective*. The court may use the consumer price index for all urban consumers, Minneapolis-St. Paul (CPI-U), the consumer price index for wage earners and clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the department of labor which it specifically finds is more appropriate. ~~The court may specify that the housing component be excluded from the cost-of-living adjustment.~~ Cost-of-living increases under this section shall be compounded. The court may also increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings. The adjustment becomes effective on the first of May of the year in which it is made, *for cases in which payment is made to the public authority. For cases in which payment is not made to the public authority, application for an adjustment may be made in any month but no application for an adjustment may be made sooner than two years after the date of the dissolution decree*. A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for maintenance or child support has a provision such as a step increase that has the effect of a cost-of-living clause. The court may waive a cost-of-living adjustment in a maintenance order if the parties so agree in writing. The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14.

Sec. 9. Minnesota Statutes 1990, section 518.641, subdivision 2, is amended to read:

Subd. 2. [CONDITIONS.] No adjustment under this section may be made unless the order provides for it and until the following conditions are met:

(a) the obligee or public authority serves notice of its application for adjustment by mail on the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment;

(b) the notice to the obligor ~~shall inform~~ *informs* the obligor ~~that an~~ *of the date on which the* adjustment in payments ~~shall~~ *will* become effective ~~on the first of May~~; and

(c) after receipt of notice and before the effective day of the adjustment, the obligor fails to request a hearing on the issue of whether the adjustment should take effect, and ex parte, to stay imposition of the adjustment pending outcome of the hearing.

Sec. 10. Minnesota Statutes 1990, section 549.09, subdivision 1, is amended to read:

Subdivision 1. [WHEN OWED; RATE.] (a) When the judgment is for the recovery of money, including a judgment for the recovery of taxes, interest from the time of the verdict or report until judgment is finally entered shall be computed by the court administrator as provided in clause (c) and added to the judgment.

(b) Except as otherwise provided by contract or allowed by law, preverdict or prereport interest on pecuniary damages shall be computed as provided in clause (c) from the time of the commencement of the action, or the time of a written settlement demand, whichever occurs first, except as provided herein. The action must be commenced within 60 days of a written settlement

demand for interest to begin to accrue from the time of the demand. If either party serves a written offer of settlement, the other party may serve a written acceptance or a written counteroffer within 60 days. After that time interest on the judgment shall be calculated by the judge in the following manner. The prevailing party shall receive interest on any judgment from the time the action was commenced or a written settlement demand was made, or as to special damages from the time when special damages were incurred, if later, until the time of verdict or report only if the amount of its offer is closer to the judgment than the amount of the opposing party's offer. If the amount of the losing party's offer was closer to the judgment than the prevailing party's offer, the prevailing party shall receive interest only on the amount of the settlement offer or the judgment, whichever is less, and only from the time the action was commenced or a written settlement demand was made, or as to special damages from when the special damages were incurred, if later, until the time the settlement offer was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers and counteroffers. For the purposes of clause (3), the amount of settlement offer must be allocated between past and future damages in the same proportion as determined by the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict or prereport interest shall not be awarded on the following:

(1) judgments, awards, or benefits in workers' compensation cases, but not including third-party actions;

(2) ~~judgments, decrees, or orders in dissolution, annulment, or legal separation actions;~~

~~(3)~~ judgments for future damages;

~~(4)~~ *(3)* punitive damages, fines, or other damages that are noncompensatory in nature;

~~(5)~~ *(4)* judgments not in excess of the amount specified in section 487.30; and

~~(6)~~ *(5)* that portion of any verdict or report which is founded upon interest, or costs, disbursements, attorney fees, or other similar items added by the court.

(c) The interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States treasury bills, calculated on a bank discount basis as provided in this section.

On or before the 20th day of December of each year the state court administrator shall determine the rate from the secondary market yield on one year United States treasury bills for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the federal reserve system. This yield, rounded to the nearest one percent, shall be the annual interest rate during the succeeding calendar year. The state court administrator shall communicate the interest rates to the court administrators and sheriffs for use in computing the interest on verdicts.

When a judgment creditor, or the judgment creditor's attorney or agent, has received a payment after entry of judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process other than execution levy where a proper return has been filed

with the court administrator, the judgment creditor, or the judgment creditor's attorney, before applying to the court administrator for an execution shall file with the court administrator an affidavit of partial satisfaction. The affidavit must state the dates and amounts of payments made upon the judgment after the most recent affidavit of partial satisfaction filed, if any; the part of each payment that is applied to taxable disbursements and to accrued interest and to the unpaid principal balance of the judgment; and the accrued, but the unpaid interest owing, if any, after application of each payment."

Delete the title and insert:

"A bill for an act relating to marriage dissolution; clarifying procedure for modification of certain custody orders; providing for additional child support payments; providing an alternative form of satisfaction of child support obligation; imposing a fiduciary duty and providing for compensation in cases of breach of that duty; clarifying certain mediation procedures; providing for attorneys' fees in certain cases; clarifying language concerning certain motions; imposing penalties; modifying provisions dealing with cost-of-living adjustments; providing for interest on family law orders; amending Minnesota Statutes 1990, sections 518.18; 518.551, subdivision 5; 518.57, by adding a subdivision; 518.58, subdivision 1, and by adding a subdivision; 518.619, subdivision 6; 518.64, subdivision 2; 518.641, subdivisions 1 and 2; and 549.09, subdivision 1."

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

House Conferees: (Signed) Jean Wagenius, Kathleen Vellenga, Art Seaberg

Senate Conferees: (Signed) Ember D. Reichgott, Allan H. Spear, Thomas M. Neuville

Ms. Reichgott moved that the foregoing recommendations and Conference Committee Report on H.F. No. 317 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. 317 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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, J.B.	Metzen	Renneke
Beckman	Dicklich	Johnston	Moe, R.D.	Riveness
Belanger	Finn	Kelly	Mondale	Sams
Benson, D.D.	Flynn	Knaak	Neuville	Samuelson
Benson, J.E.	Frank	Kroening	Novak	Solon
Berg	Frederickson, D.J.	Laidig	Olson	Spear
Berglin	Frederickson, D.R.	Langseth	Pappas	Storm
Bernhagen	Gustafson	Larson	Pariseau	Stumpf
Bertram	Halberg	Lessard	Piper	Traub
Brataas	Hottinger	Luther	Pogemiller	Vickerman
Chmielewski	Hughes	Marty	Price	Waldorf
Cohen	Johnson, D.E.	McGowan	Ranum	
Day	Johnson, D.J.	Merriam	Reichgott	

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

House File No. 551 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 551

A bill for an act relating to drivers' licenses; extending waiting period for person to receive limited driver's license who has been convicted of certain crimes; providing a penalty; amending Minnesota Statutes 1990, sections 171.17; and 171.30, subdivisions 2, 4, and by adding a subdivision.

May 17, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 551, 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. 551 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 169.121, subdivision 5a, is amended to read:

Subd. 5a. [CHEMICAL DEPENDENCY ASSESSMENT CHARGE.] When a court sentences a person convicted of an offense enumerated in section 169.126, subdivision 1, it shall impose a chemical dependency assessment charge of ~~$75~~ $76. *A person shall pay an additional surcharge of $5 if the person is convicted of (i) a violation of section 169.129, or (ii) a violation of this section within five years of a prior impaired driving conviction, as defined in subdivision 3, or a prior conviction for an offense arising out of an arrest for a violation of section 169.121 or 169.129.* This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the assessment charge *and surcharge* in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment charge *and surcharge* would create undue hardship for the convicted person or that person's immediate family.

The court shall collect and forward to the commissioner of finance the total amount of the chemical dependency assessment charge *and surcharge*

within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the general fund.

The chemical dependency assessment charge *and surcharge* required under this section ~~is~~ *are* in addition to the surcharge required by section 609.101.

Sec. 2. Minnesota Statutes 1990, section 171.17, is amended to read:

171.17 [REVOCATION.]

The department shall forthwith revoke the license of any driver upon receiving a record of such driver's conviction of any of the following offenses:

(1) manslaughter ~~or criminal vehicular operation~~ resulting from the operation of a motor vehicle *or criminal vehicular homicide or injury under section 609.21*;

(2) any violation of section 169.121 or 609.487;

(3) any felony in the commission of which a motor vehicle was used;

(4) failure to stop and disclose identity and render aid, as required under ~~the laws of this state~~ *section 169.09*, in the event of a motor vehicle accident resulting in the death or personal injury of another;

(5) perjury or the making of a false affidavit or statement to the department under any law relating to the ownership or operation of a motor vehicle;

(6) except as this section otherwise provides, conviction, plea of guilty, or forfeiture of bail not vacated, upon three charges of violating, within a period of 12 months any of the provisions of chapter 169, or of the rules or municipal ordinances enacted in conformance therewith for which the accused may be punished upon conviction by imprisonment;

(7) conviction of an offense in another state which, if committed in this state, would be grounds for the revocation of the driver's license.

When any judge of a juvenile court, or any of its duly authorized agents, determines under a proceeding under chapter 260 that any person under the age of 18 years has committed any offense defined in this section, such judge, or duly authorized agent, shall immediately report this determination to the department, and the commissioner shall immediately revoke the license of that person.

Upon revoking the license of any person, as hereinbefore in this chapter authorized, the department shall immediately notify the licensee, in writing, by depositing in the United States post office a notice addressed to the licensee at the licensee's last known address, with postage prepaid thereon.

Sec. 3. Minnesota Statutes 1990, section 171.30, subdivision 2, is amended to read:

Subd. 2. [60-DAY WAITING PERIOD.] A limited license shall not be issued for a period of 60 days to an individual whose license or privilege has been revoked or suspended for commission of the following offenses:

~~(a) Manslaughter or criminal negligence resulting from the operation of a motor vehicle.~~

~~(b)~~ *(1)* any felony in the commission of which a motor vehicle was used~~.~~*; or*

~~(c)~~ *(2)* failure to stop and disclose identity as required under ~~the laws of this state~~ *section 169.09*, in the event of a motor vehicle accident resulting in the death or personal injury of another.

Sec. 4. Minnesota Statutes 1990, section 171.30, is amended by adding a subdivision to read:

Subd. 2a. [180-DAY WAITING PERIOD.] *Notwithstanding subdivision 2, a limited license shall not be issued for a period of 180 days to an individual whose license or privilege has been revoked or suspended for commission of the offense of manslaughter resulting from the operation of a motor vehicle or criminal vehicular homicide or injury under section 609.21.*

Sec. 5. Minnesota Statutes 1990, section 171.30, subdivision 4, is amended to read:

Subd. 4. [PENALTY.] A person who violates a condition or limitation of a limited license issued under subdivision 1 *or fails to have the license in immediate possession at all times when operating a motor vehicle* is guilty of a misdemeanor. *In addition, a person who violates a condition or limitation of a limited license may not operate a motor vehicle for the remainder of the period of suspension or revocation, or 30 days, whichever is longer.*

Sec. 6. [171.305] [IGNITION INTERLOCK DEVICE; PILOT PROGRAM; LICENSE CONDITION.]

Subdivision 1. [DEFINITION.] *"Ignition interlock device" or "device" means breath alcohol ignition equipment designed to prevent a motor vehicle's ignition from being started by a person whose alcohol concentration exceeds the calibrated setting on the device.*

Subd. 2. [PILOT PROGRAM.] *The commissioner shall establish a one-year statewide pilot program for the use of an ignition interlock device by a person whose driver's license or driving privilege has been canceled and denied by the commissioner for an alcohol or controlled substance related incident. After one year the commissioner shall evaluate the program and shall report to the legislature by February 1, 1993, on whether changes in the program are necessary and whether the program should be permanent. No limited license shall be issued under this program after August 1, 1992.*

Subd. 3. [PERFORMANCE STANDARDS.] *The commissioner shall specify performance standards for ignition interlock devices, including standards relating to accuracy, safe operation of the vehicle, and degree of difficulty rendering the device inoperative.*

Subd. 4. [CERTIFICATION.] *The commissioner shall certify ignition interlock devices that meet the performance standards and may charge the manufacturer of the ignition interlock device a certification fee.*

Subd. 5. [ISSUANCE OF LIMITED LICENSE.] *The commissioner may issue a limited license to a person whose driver's license has been canceled and denied due to an alcohol or controlled substance related incident under section 171.04, subdivision 1, clause (8), under the following conditions:*

(1) at least one-half of the person's required abstinence period has expired;

(2) the person has completed all rehabilitation requirements; and

(3) the person agrees to drive only a motor vehicle equipped with a functioning and certified ignition interlock device.

Subd. 6. [MONITORING.] *The ignition interlock device must be monitored for proper use and accuracy by an entity approved by the commissioner.*

Subd. 7. [PAYMENT.] *The commissioner shall require that the person issued a limited license under subdivision 5 pay all costs associated with use of the device.*

Subd. 8. [PROOF OF INSTALLATION.] *A person approved for a limited license must provide proof of installation prior to issuance of the limited license.*

Subd. 9. [PENALTIES.] *(a) A person who knowingly lends, rents, or leases a motor vehicle that is not equipped with a functioning ignition interlock device to a person with a limited license issued under subdivision 5 is guilty of a misdemeanor.*

(b) A person who tampers with, circumvents, or bypasses the ignition interlock device, or assists another to tamper with, circumvent, or bypass the device, is guilty of a misdemeanor.

(c) The penalties of this subdivision do not apply if the action was taken for emergency purposes or for mechanical repair, and the person limited to the use of an ignition interlock device does not operate the motor vehicle while the device is disengaged.

Subd. 10. [CANCELLATION OF LIMITED LICENSE.] *The commissioner shall cancel a limited license issued under this section if the device registers a positive reading for use of alcohol or the person violates any conditions of the limited license.*

Sec. 7. [604.09] [BREATH ALCOHOL TESTING DEVICE IN LIQUOR ESTABLISHMENTS.]

Subdivision 1. [DEFINITIONS.] *(a) For purposes of this section, the following terms have the meanings given them.*

(b) "Breath alcohol testing device" means a device that tests for alcohol concentration by using a breath sample.

(c) "Licensed premises" has the meaning given in section 340A.101, subdivision 15.

(d) "Liquor licensee" means a person licensed under sections 340A.403 to 340A.407 or section 340A.414, and includes an agent or employee of a licensee.

Subd. 2. [IMMUNITY FROM LIABILITY.] *(a) Subject to subdivision 3, a liquor licensee who administers or makes available a breath alcohol testing device in the licensed premises is immune from any liability arising out of the result of the test.*

(b) Subject to subdivision 3, a designer, manufacturer, distributor, or seller of a breath alcohol testing device is immune from any products liability or other cause of action arising out of the result of a test by the breath alcohol testing device in a licensed premises.

Subd. 3. [IMMUNITY REQUIREMENTS.] *Subdivision 2 applies only if:*

(1) a conspicuous notice is posted in the licensed premises:

(i) informing patrons of the immunity provisions of subdivision 2 and

notifying them that the test is made available solely for their own informal use and information; and

(ii) informing patrons of the alcohol-related driving penalties under sections 169.121 to 169.123, 169.129, and 609.21;

(2) the type of breath alcohol testing device is certified by the commissioner of public safety under subdivision 7; and

(3) the breath alcohol testing device test results are indicated as follows:

(i) the breath alcohol testing device shows a white light and gives a reading of alcohol concentration if alcohol concentration is less than .05;

(ii) the breath alcohol testing device shows a yellow light and gives a reading of alcohol concentration if alcohol concentration is .05 or more but less than .08;

(iii) the breath alcohol testing device shows an orange light and gives a reading of alcohol concentration if alcohol concentration is .08 or more but less than .10, and displays a message that states "You are close to the legal limit and your driving may be impaired;" or

(iv) the breath alcohol testing device shows a red light if alcohol concentration is .10 or greater but does not give a reading of alcohol concentration, and displays a message that states that the person fails the test.

Subd. 4. [EVIDENCE.] *Evidence regarding the result of a test by a breath alcohol testing device in a licensed premises is not admissible in any civil or criminal proceeding.*

Subd. 5. [DRAMSHOP.] *This section does not affect liability under section 340A.801.*

Subd. 6. [PREPARATION OF NOTICE.] *The commissioner of public safety shall prepare and make available to liquor licensees the notices described in subdivision 3.*

Subd. 7. [RULES; CERTIFICATION.] *The commissioner of public safety shall adopt any rules reasonably required to implement this section, including performance and maintenance standards for breath alcohol testing devices. The commissioner shall certify breath alcohol testing devices that meet the performance standards. The costs of rulemaking and certification must be borne by the manufacturers of the breath alcohol testing devices.*

Sec. 8. [PILOT PROGRAMS OF INTENSIVE PROBATION FOR REPEAT DWI OFFENDERS.]

Subdivision 1. [APPLICATION.] *The commissioner of public safety shall administer a program to provide grants to counties to establish programs of intensive probation for repeat violators of the driving while intoxicated laws. The commissioner shall adopt an application form on which a county or a group of counties may apply for a grant to establish a DWI repeat offender program.*

Subd. 2. [GOALS.] *The goals of the DWI repeat offender program are to protect public safety and provide an appropriate sentencing alternative for persons convicted of a violation of Minnesota Statutes, section 169.129, or of repeat violations of Minnesota Statutes, section 169.121, who are considered to be of high risk to the community.*

Subd. 3. [PROGRAM ELEMENTS.] *To be considered for a grant under*

this section, a county program must contain the following elements:

(1) an initial assessment of the offender's chemical dependency, with recommended treatment and aftercare;

(2) several stages of probation supervision, including:

(i) a period of at least 30 days' incarceration in a local or regional detention facility;

(ii) a period during which an offender is, at all times, either working, on home detention, being supervised at a program facility, or traveling between two of these locations;

(iii) a period of home detention; and

(iv) a period of gradually decreasing involvement with the program;

(3) decreasing levels of intensity and contact with probation officials based on the offender's successful participation in the program and compliance with its rules;

(4) a provision for increasing the severity of the program's requirements when an offender offends again or violates the program's rules;

(5) a provision for offenders to continue or seek employment during their period of intensive probation;

(6) a requirement that offenders abstain from alcohol and controlled substances during the probation period; and

(7) a requirement that all or a substantial part of the costs of the program be paid by the offenders.

Subd. 4. [TRAINING.] *Counties participating in the program shall provide to affected officials relevant training in intensive probation programs.*

Sec. 9. [APPROPRIATION.]

(a) $164,000 is appropriated to the commissioner of public safety to fund start-up grants to counties or groups of counties for DWI repeat offender programs, to be available until June 30, 1993.

(b) $50,000 is appropriated to the University of Minnesota law school to fund an interdisciplinary criminal justice system DWI task force, to be available until June 30, 1993. The task force shall evaluate DWI laws, enforcement procedures, and court practices and shall advise the legislature, the courts, law enforcement agencies, and prosecutors regarding improvement of DWI laws and their implementation and enforcement.

Sec. 10. [EFFECTIVE DATE.]

Sections 2 to 5 and section 6, subdivision 9, are effective for violations that occur on or after August 1, 1991. Section 1 is effective July 1, 1991, and applies to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to public safety; increasing the chemical dependency assessment charge for repeat violators of the driving while intoxicated laws; extending waiting period for person to receive limited driver's license who has been convicted of certain crimes; establishing a pilot program for the use of ignition interlock devices; providing immunity from liability

arising out of the use of breath alcohol testing devices in liquor establishments; prohibiting the use of the breath alcohol test as evidence; authorizing counties to create pilot programs to provide intensive probation for repeat violators of the driving while intoxicated laws; imposing penalties; appropriating money; amending Minnesota Statutes 1990, sections 169.121, subdivision 5a; 171.17; and 171.30, subdivisions 2, 4, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 171 and 604."

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

House Conferees: (Signed) Jeff Hanson, Bill Macklin, Art Seaberg, Loren A. Solberg, Kathleen Vellenga

Senate Conferees: (Signed) Harold R. "Skip" Finn, Jane B. Ranum, John Marty, Thomas M. Neuville

Mr. Finn moved that the foregoing recommendations and Conference Committee Report on H.F. No. 551 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. 551 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, J.B.	Mehrkens	Ranum
Beckman	Dicklich	Johnston	Merriam	Reichgott
Belanger	Finn	Kelly	Metzen	Renneke
Benson, D.D.	Flynn	Knaak	Moe, R.D.	Riveness
Benson, J.E.	Frank	Kroening	Mondale	Sams
Berg	Frederickson, D.J.	Laidig	Neuville	Samuelson
Berglin	Frederickson, D.R.	Langseth	Novak	Spear
Bernhagen	Gustafson	Larson	Olson	Storm
Bertram	Halberg	Lessard	Pariseau	Stumpf
Chmielewski	Hottinger	Luther	Piper	Traub
Cohen	Johnson, D.E.	Marty	Pogemiller	Vickerman
Day	Johnson, D.J.	McGowan	Price	Waldorf

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

House File No. 244 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 244

A bill for an act relating to traffic regulations; regulating traffic safety concerning school buses and the safety of school children; providing penalties; amending Minnesota Statutes 1990, sections 169.01, subdivision 6; 169.45; 169.451; 171.07, by adding a subdivision; 171.17; and 171.18; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 1990, sections 169.44; and 169.64, subdivision 7.

May 17, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 244, 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. 244 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [PURPOSE.]

It is the purpose of this act to enhance the safety of Minnesota's school children by reducing the number of violations of school bus safety laws through:

(1) increased education for motorists, school bus drivers, and law enforcement officials in school bus safety laws;

(2) cooperative efforts by school personnel, law enforcement, and prosecuting attorneys;

(3) increased civil and criminal penalties for violations of school bus safety laws;

(4) strengthened enforcement of school bus safety laws; and

(5) a consistent and vigorous response by the judiciary to punish violators and thereby deter future violations.

Sec. 2. Minnesota Statutes 1990, section 169.01, subdivision 6, is amended to read:

Subd. 6. [SCHOOL BUS.] "School bus" means a motor vehicle used to transport pupils to or from a school defined in section 120.101, or to or from school-related activities, by the school or a school district, or by someone under an agreement with the school or a school district. A school bus does not include a motor vehicle transporting children to or from school for which parents or guardians receive direct compensation from a school district, a motor coach operating under charter carrier authority, or a transit bus providing services as defined in section 174.22, subdivision 7. *A school bus may be type I, type II, or type III as follows:*

(a) A "type I school bus" means a school bus of more than 10,000 pounds gross vehicle weight rating, designed for carrying more than ten persons. [MN Rules, part 3520.3701, subp 1]

(b) A "type II school bus" is a bus with a gross vehicle weight rating of 10,000 pounds or less, designed for carrying more than ten persons. It must

be outwardly equipped and identified as a school bus. [MN Rules, part 3520.3701, subp 2]

(c) Type III school buses are restricted to passenger cars, station wagons, vans, and buses having a maximum manufacturer's rated seating capacity of ten people, including the driver, and a gross vehicle weight rating of 10,000 pounds or less. In this subdivision, "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle. A "type III school bus" must not be outwardly equipped and identified as a school bus. [169.44, subd 15]

Sec. 3. [169.441] [SCHOOL BUS IDENTIFICATION.]

Subdivision 1. [IDENTIFICATION AND SIGNAL REQUIREMENTS, GENERALLY.] *For purposes of sections 169.441 to 169.448, school bus means a motor vehicle that is outwardly equipped and identified as a school bus. A motor vehicle that satisfies the identification requirements of this section and the signal equipment requirements of section 169.442 is considered outwardly equipped and identified as a school bus.* [169.44, subd 1a]

Subd. 2. [COLOR REQUIREMENTS.] *(a) A new school bus must be painted national school bus glossy yellow if it is to be used in Minnesota as a school bus, and can seat more than ten people, including the driver.*

(b) A school bus that is substantially repainted must be painted national school bus glossy yellow. [169.44, subd 1a]

(c) The roof of a school bus may be painted white.

Subd. 3. [SIGN ON BUS; APPLICATION OF OTHER LAW.] *Sections 169.442, subdivisions 2 and 3; 169.443, subdivision 2; and 169.444, subdivisions 1, 4, and 5, apply only if the school bus bears on its front and rear a plainly visible sign containing the words "school bus" in letters at least eight inches in height.*

The sign must be removed or covered when the vehicle is being used as other than a school bus. [169.44, subd 3]

Subd. 4. ["MN" DESIGNATION IN BUS BODY SERIAL NUMBER.] *School bus bodies manufactured after December 31, 1991, and used on streets and highways in Minnesota must bear the designation "MN" within the bus body identification number. The "MN" designation may be made only by the manufacturer and must not be located on either end of the bus body identification number. The manufacturer of the school bus body certifies by the "MN" designation that the bus body has been manufactured to meet the minimum standards required of school bus bodies by law. A school bus body manufactured before January 1, 1992, that does not bear a current inspection sticker on July 1, 1992, may not be used on streets and highways in Minnesota after July 1, 1992, unless its manufacturer recertifies that the school bus body meets minimum standards required of school bus bodies by law.* [169.44, subd 17]

Subd. 5. [OPTIONAL MARKINGS; RULES.] *A school district or technical college may elect to show on the front and rear of the school buses that it owns or contracts for, a plainly visible, summary message explaining section 169.444, subdivisions 1 and 2. If the school district or technical college elects to display the message, it must conform with the rules of the commissioner of education. The commissioner shall adopt rules governing the size, type, design, display, and content of the summary message that*

may be shown.

Sec. 4. [169.442] [SCHOOL BUS SIGNALS.]

Subdivision 1. [SIGNALS REQUIRED.] *A type I or type II school bus must be equipped with a stop signal arm, prewarning flashing amber signals, and flashing red signals.* [169.44, subd 1a]

Subd. 2. [FLASHING SIGNALS ON STOP ARM.] *A school bus stop signal arm may be equipped with alternately flashing red warning signals that are visible both to the front and to the rear of the bus. School buses manufactured after July 1, 1989, must be so equipped.* [169.44, subd 14; MN Rules, parts 3520.5200, subps 7 and 8, and 7425.2100, subp 1, item II]

Subd. 3. [APPROVAL OF SIGNALS.] *Flashing prewarning amber signals and flashing red signals must be of a type approved by the commissioner of public safety. The signals must be a complete system meeting minimum standards required by this section and state board of education rules.* [169.44, subd 10]

Subd. 4. [OPTIONAL WARNING SYSTEM.] *In addition to equipment required under subdivision 1, and notwithstanding section 169.64, a school bus may be equipped with a driver-activated, exterior student-control, warning system. The driver shall activate this system when the use of the stop signal arm and flashing red signals is required under section 169.443, subdivision 1.* [169.44, subd 1d]

Subd. 5. [WHITE STROBE LAMPS ON SCHOOL BUSES.] *Notwithstanding sections 169.55, subdivision 1; 169.57, subdivision 3, paragraph (b), or other law to the contrary, a school bus that is subject to and complies with the color and equipment requirements of sections 169.441, subdivision 1, and 169.442, subdivision 1, may be equipped with a 360-degree, flashing strobe lamp that emits a white light with a flash rate of 60 to 120 flashes a minute. The lamp may be used only as provided in this subdivision.*

The strobe lamp must be of a double flash type certified to the commissioner of public safety by the manufacturer as being weatherproof and having a minimum effective light output of 200 candelas as measured by the Blondel-Rey formula. The lamp must be permanently mounted on the longitudinal center line of the bus roof not less than two feet nor more than seven feet forward of the rear roof edge. It must operate from a separate switch containing an indicator lamp to show when the strobe lamp is in use.

The strobe lamp may be lighted only when atmospheric conditions or terrain restrict the visibility of school bus lamps and signals so as to require use of the bright strobe lamp to alert motorists to the presence of the school bus. A strobe lamp may not be lighted unless the school bus is actually being used as a school bus. [169.64, subd 7]

Sec. 5. [169.443] [SAFETY OF SCHOOL CHILDREN; BUS DRIVER'S DUTIES.]

Subdivision 1. [USING BUS SIGNALS.] *A driver of a school bus shall activate the prewarning flashing amber signals of the bus before stopping to load or unload school children. The driver shall activate and continuously operate the amber signals for a distance of at least 100 feet before stopping in a speed zone of 35 miles per hour or less and at least 300 feet before stopping in a speed zone of more than 35 miles per hour. On stopping for this purpose, the driver shall extend the stop signal arm and activate the*

flashing red signals. The driver shall not retract the stop signal arm nor extinguish the flashing red signals until loading or unloading is completed, students are seated, and children who must cross the roadway are safely across. [169.44, subd 2, para (a)]

Subd. 2. [USE OF STOP SIGNAL ARM.] *(a) The stop signal arm of a school bus must be used in conjunction with the flashing red signals only when the school bus is stopped on a street or highway to load or unload school children.* [169.44, subd 1]

(b) A local authority, including the governing body of an Indian tribe, may by ordinance require that a school bus activate the stop signal arm and flashing red signals while stopped to unload school children at a location other than a location on a street or highway. The ordinance must designate each location where the requirement is imposed. The requirement is effective only if the local authority has erected signs at or near the location to provide adequate notice that other vehicles are required to obey section 169.444, subdivision 1, when those signals are activated.

Subd. 3. [WHEN SIGNALS NOT USED.] *School bus drivers shall not activate the prewarning flashing amber signals or flashing red signals:*

(1) in special school bus loading areas where the bus is entirely off the traveled portion of the roadway and where no other motor vehicle traffic is moving or is likely to be moving within 20 feet of the bus;

(2) in residential or business districts of home rule or statutory cities when directed not to do so by the local school administrator;

(3) when a school bus is being used on a street or highway for purposes other than the actual transportation of school children to or from school or a school-approved activity;

(4) at railroad grade crossings; and

(5) when loading and unloading people while the bus is completely off the traveled portion of a separated, one-way roadway that has adequate shoulders. The driver shall drive the bus completely off the traveled portion of this roadway before loading or unloading people. [169.44, subd 2, para (b)]

Subd. 4. [STREET CROSSINGS.] *Where school children must cross a roadway before getting on or after getting off the school bus, the driver of the school bus or a school bus patrol may supervise the crossing, using the standard school patrol flag or signal as approved and prescribed by the commissioner of public safety. Before moving the school bus, the driver of the bus shall visually determine that all children have crossed the roadway and that those who are to do so have boarded the school bus.* [169.44, subd 2, para (c)]

Subd. 5. [MOVING BUS AFTER CHILDREN UNLOADED.] *When children are getting off a school bus, the driver shall visually determine that they are a safe distance from the bus before moving the bus.* [169.44, subd 2, para (c)]

Subd. 6. [OTHER BUSES.] *The driver of a type III school bus shall load or unload school children only from the right-hand side of the vehicle, provided that on a one-way street the driver shall load or unload school children only from the curb side of the vehicle. When loading or unloading school children, the driver shall activate the vehicle's four-way hazard lights*

described in section 169.59, subdivision 4. [169.44, subd 2, para (d)]

Subd. 7. [VIOLATION.] *A person who violates this section is guilty of a misdemeanor.*

Sec. 6. [169.444] [SAFETY OF SCHOOL CHILDREN; DUTIES OF OTHER DRIVERS.]

Subdivision 1. [CHILDREN GETTING ON OR OFF SCHOOL BUS.] *When a school bus is stopped on a street or highway, or other location where signs have been erected under section 169.443, subdivision 2, paragraph (b), and is displaying an extended stop signal arm and flashing red lights, the driver of a vehicle approaching the bus shall stop the vehicle at least 20 feet away from the bus. The vehicle driver shall not allow the vehicle to move until the school bus stop signal arm is retracted and the red lights are no longer flashing.* [169.44, subd 1]

Subd. 2. [VIOLATIONS BY DRIVERS; PENALTIES.] *(a) A person who fails to stop a vehicle or to keep it stopped, as required in subdivision 1, is guilty of a misdemeanor.* [169.44, subd 1]

(b) A person is guilty of a gross misdemeanor if the person fails to stop a motor vehicle or to keep it stopped, as required in subdivision 1, and commits either or both of the following acts:

(1) passes or attempts to pass the school bus in a motor vehicle on the right-hand, passenger-door side of the bus; or

(2) passes or attempts to pass the school bus in a motor vehicle when a school child is outside of and on the street or highway used by the school bus or on the adjacent sidewalk.

Subd. 3. [PROSECUTOR.] *The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.*

When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to prior convictions under this section from a court, the court must furnish the information without charge.

Subd. 4. [EXCEPTION FOR SEPARATED ROADWAY.] *A person driving a vehicle on a street or highway with separated roadways is not required to stop the vehicle when approaching or meeting a school bus that is on a different roadway.*

"Separated roadway" means a road that is separated from a parallel road by a safety isle or safety zone. [169.44, subd 4]

Subd. 5. [CAUSE FOR ARREST.] *A peace officer may arrest the driver of a motor vehicle if the peace officer has probable cause to believe that the driver has operated the vehicle in violation of subdivision 1 within the past four hours.* [169.44, subd 1c, para (1)]

Subd. 6. [VIOLATION; PENALTY FOR OWNERS AND LESSEES.] *(a) If a motor vehicle is operated in violation of subdivision 1, the owner of the vehicle, or for a leased motor vehicle the lessee of the vehicle, is guilty of a petty misdemeanor.*

(b) The owner or lessee may not be fined under paragraph (a) if (1) another person is convicted for that violation, or (2) the motor vehicle was

stolen at the time of the violation.

(c) Paragraph (a) does not apply to a lessor of a motor vehicle if the lessor keeps a record of the name and address of the lessee.

(d) Paragraph (a) does not prohibit or limit the prosecution of a motor vehicle operator for violating subdivision 1.

(e) A violation under paragraph (a) does not constitute grounds for revocation or suspension of the owner's or lessee's driver's license. [169.44, subd 1c, para (2)]

Subd. 7. [EVIDENTIARY PRESUMPTION.] *There is a rebuttable presumption that signals described in section 169.442 were in working order and operable when a violation of subdivision 1, 2, or 5 was allegedly committed, if the signals of the applicable school bus were inspected and visually found to be in working order and operable within 12 hours preceding the incident giving rise to the violation.*

Subd. 8. [SCHEDULING CASES.] *When necessary or desirable to ensure that a school bus driver who witnessed or otherwise can provide relevant information concerning a violation of this section is available to be present at a court proceeding held to determine an alleged violation of this section, the court administrator shall schedule the proceeding to be held between the hours of 10:00 a.m. and 2:00 p.m.*

Sec. 7. [169.445] [COOPERATION WITH LAW ENFORCEMENT; INFORMATION; RULES; REPORTS.]

Subdivision 1. [COOPERATION OF SCHOOL AUTHORITIES.] *The state board of education shall ensure that local authorities having jurisdiction over school buses shall cooperate with law enforcement and judicial authorities in reporting and prosecuting violators of sections 169.443 and 169.444.*

Subd. 2. [INFORMATION; RULES.] *The board shall compile information regarding violations, prosecutions, convictions or other disposition, and penalties imposed under sections 169.443 and 169.444. At the request of the board, local school authorities shall provide this information. The board may adopt rules governing the content and providing procedures for the school authorities to provide this information.*

Subd. 3. [LEGISLATIVE REPORT.] *The board shall submit a report to the legislature by March 1, 1992, summarizing the information compiled under subdivision 2 for the previous calendar year, listing its findings, and making recommendations it considers appropriate.*

Sec. 8. [169.446] [SAFETY OF SCHOOL CHILDREN; TRAINING AND EDUCATION RULES.]

Subdivision 1. [PEACE OFFICER TRAINING.] *The board of peace officer standards and training shall include sections 169.441 to 169.448 and the enforcement of sections 169.443, 169.444, 169.447, and 169.448 in the instruction for the professional peace officer education program. The board shall notify the chief law enforcement officer of each law enforcement agency in the state of these sections.*

Subd. 2. [DRIVER TRAINING PROGRAMS.] *The commissioner of public safety shall adopt rules requiring thorough instruction concerning section 169.444 for persons enrolled in driver training programs offered at private and parochial schools and commercial driver training schools. The*

instruction must encompass at least the responsibilities of drivers, the content and requirements of section 169.444, and the penalties for violating that section.

Subd. 3. [DRIVER EDUCATION PROGRAMS.] *The state board of education shall adopt rules requiring thorough instruction concerning section 169.444 for persons enrolled in driver education programs offered at public schools. The instruction must encompass at least the responsibilities of drivers, the content and requirements of section 169.444, and the penalties for violating that section.*

Sec. 9. [169.447] [SCHOOL BUS SAFETY.]

Subdivision 1. [PASSENGER SEATING.] *(a) The number of pupils or other authorized passengers transported in a school bus must not be more than the number of pupils or passengers that can be fully seated. Seating capacity must be adjusted according to each passenger's individual physical size, but not more than the manufacturers' rated seating capacity.*

(b) No person shall stand in the school bus when the bus is in motion. [169.44, subd 6]

Subd. 2. [DRIVER SEAT BELTS.] *New school buses must be equipped with driver seat belts and seat belt assemblies of the type described in section 169.685, subdivision 3. School bus drivers must use these seat belts.* [169.44, subd 9]

Subd. 3. [RECAPPED TIRES.] *Recapped tires must not be used on the front wheels of a school bus.* [169.44, subd 11]

Subd. 4. [AISLE AND EXIT.] *The driver of a school bus shall keep the aisle and emergency exit of a school bus unobstructed at all times when children are being transported.* [169.44, subd 12]

Subd. 5. [TRAILER BEHIND SCHOOL BUS.] *A school bus may pull a trailer, as defined by section 169.01, subdivision 10, only when traveling to or from cocurricular or extracurricular activities, as defined in section 123.38.* [169.44, subd 13]

Subd. 6. [OVERHEAD BOOK RACKS.] *Types I and II school buses may be equipped with padded, permanent overhead book racks that do not hang over the center aisle of the bus.* [169.44, subd 16]

Sec. 10. [169.448] [OTHER BUSES.]

Subdivision 1. [RESTRICTIONS ON APPEARANCE; PENALTY.] *A bus that is not used as a school bus may not be operated on a street or highway unless it is painted a color significantly different than national school bus glossy yellow or Minnesota school bus golden orange.*

A bus that is not used as a school bus may not be operated if it is equipped with school bus-related equipment and printing.

A violation of this subdivision is a misdemeanor. [169.44, subd 8]

This subdivision does not apply to a school bus owned by or under contract to a school district operated as a charter or leased bus.

Subd. 2. [SCHOOL MOTOR COACHES.] *(a) Neither a school district nor a technical college may acquire a motor coach for transportation purposes.*

(b) A motor coach acquired by a school district or technical college before

March 26, 1986, may be used by it only to transport students participating in school activities, their instructors, and supporting personnel to and from school activities. A motor coach may not be outwardly equipped and identified as a school bus. A motor coach operated under this subdivision is not a school bus for purposes of section 124.225. The state board of education shall implement rules governing the equipment, identification, operation, inspection, and certification of motor coaches operated under this subdivision.

(c) After January 1, 1998, neither a school district nor a technical college may own or operate a motor coach for any purpose. [169.44, subd 18]

Subd. 3. [HEAD START VEHICLES.] *Notwithstanding subdivision 1, a vehicle used to transport students under Public Law Number 99-425, the Head Start Act, may be equipped as a school bus.*

Sec. 11. Minnesota Statutes 1990, section 169.45, is amended to read:

169.45 [SCHOOL ~~BUSES~~ *BUS RULES, ENFORCEMENT.*]

Subdivision 1. [BOARD OF EDUCATION RULES, ENFORCEMENT.] *Except as provided in subdivision 2 and section 169.451,* the state board of education has sole and exclusive authority to adopt and enforce rules not inconsistent with this chapter to govern the design, color, and operation of school buses used for the transportation of school children, when owned and operated by a school or privately owned and operated under a contract with a school, and these rules must be made a part of that contract by reference. Each school, its officers and employees, and each person employed under the contract is subject to these rules.

Subd. 2. [PENALTY; ENFORCEMENT.] *The operation of a school bus on the public streets or highways in violation of rules concerning the operation of school buses adopted by the board under subdivision 1 is a misdemeanor. The state patrol shall enforce rules adopted under subdivision 1 when a school bus is operated on a public street or highway.*

Sec. 12. Minnesota Statutes 1990, section 169.451, is amended to read:

169.451 [SCHOOL BUS INSPECTION*; RULES; PENALTY.*]

Subdivision 1. [ANNUAL REQUIREMENT.] The Minnesota state patrol shall inspect every school bus annually to ascertain whether its construction, design, equipment, and color comply with all provisions of law.

Subd. 2. [INSPECTION CERTIFICATE.] No person shall drive, or no owner shall knowingly permit or cause to be driven, any school bus unless there is displayed thereon a certificate issued by the commissioner of public safety stating that on a certain date, which shall be within 13 months of the date of operation, a member of the Minnesota state patrol inspected the bus and found that on the date of inspection the bus complied with the applicable provisions of state law relating to construction, design, equipment, and color. ~~The commissioner of public safety shall provide by rule for the issuance and display of distinctive inspection certificates.~~

Subd. 3. [RULES OF COMMISSIONER.] *(a) The commissioner of public safety shall provide by rule for the issuance and display of distinctive inspection certificates.*

(b) The commissioner of public safety shall provide by rule a point system for evaluating the effect on safety operation of any variance from law detected during school bus inspections conducted pursuant to subdivision

1.

Subd. 4. [VIOLATIONS; PENALTY.] *The state patrol shall enforce subdivision 2. A violation of subdivision 2 is a misdemeanor.*

Sec. 13. Minnesota Statutes 1990, section 171.07, is amended by adding a subdivision to read:

Subd. 8. [CERTIFICATION; SCHOOL BUS SAFETY LAWS.] *Before a driver's license may be issued or renewed, an applicant for a driver's license or renewal shall certify by signature that the applicant is aware of the duties and responsibilities required of drivers under section 169.444 to guard against jeopardizing the safety of school children around school buses and the penalties for violating that section. A failure to make this certification does not bar a prosecution for violation of section 169.444.*

Sec. 14. Minnesota Statutes 1990, section 171.17, is amended to read:

171.17 [REVOCATION.]

Subdivision 1. [OFFENSES.] The department shall ~~forthwith~~ *immediately* revoke the license of ~~any~~ *a* driver upon receiving a record of ~~such~~ *the* driver's conviction of ~~any of the following offenses~~:

(1) manslaughter or criminal vehicular operation resulting from the operation of a motor vehicle;

(2) ~~any~~ *a* violation of section 169.121 or 609.487;

(3) ~~any~~ *a* felony in the commission of which a motor vehicle was used;

(4) failure to stop and disclose identity and render aid, as required under the laws of this state, in the event of a motor vehicle accident, resulting in the death or personal injury of another;

(5) perjury or the making of a false affidavit or statement to the department under any law relating to the ownership or operation of a motor vehicle;

(6) except as this section otherwise provides, conviction, plea of guilty, or forfeiture of bail not vacated, upon three charges of violating, within a period of 12 months, any of the provisions of chapter 169~~,~~ or of the rules or municipal ordinances enacted in conformance ~~therewith~~ *with chapter 169*, for which the accused may be punished upon conviction by imprisonment;

(7) *conviction of two or more violations, within five years, of the misdemeanor offense described in section 169.444, subdivision 2, paragraph (a);*

(8) conviction of the misdemeanor offense described in section 169.443, subdivision 7, or the gross misdemeanor offense described in section 169.444, subdivision 2, paragraph (b);

(9) conviction of an offense in another state ~~which~~ *that*, if committed in this state, would be grounds for ~~the revocation of~~ *revoking* the driver's license.

Subd. 2. [OFFENSES BY JUVENILES.] When ~~any judge of~~ a juvenile court~~,~~ *judge* or ~~any of its~~ duly authorized ~~agents,~~ *agent* determines under a proceeding *held* under chapter 260 that ~~any~~ *a* person under the age of 18 years has committed ~~any~~ *an* offense defined in this section, ~~such~~ *the* judge~~,~~ or ~~duly~~ authorized agent~~,~~ shall immediately report this determination to the department, and the commissioner shall immediately revoke the *person's driver's* license ~~of that person~~.

Subd. 3. [NOTICE.] Upon revoking ~~the license of any person, as hereinbefore in~~ *a driver's license under* this chapter ~~authorized~~, the department shall immediately notify the licensee, in writing, by depositing in the United States post office a notice addressed to the licensee at the licensee's last known address, with postage prepaid ~~thereon~~.

Sec. 15. Minnesota Statutes 1990, section 171.18, is amended to read:

171.18 [SUSPENSION.]

Subdivision 1. [OFFENSES.] The commissioner ~~shall have authority to and~~ may suspend the license of ~~any~~ *a* driver without preliminary hearing upon a showing by department records or other sufficient evidence that the licensee:

(1) has committed an offense for which mandatory revocation of license is required upon conviction; ~~or~~

(2) has been convicted by a court ~~of competent jurisdiction~~ for ~~violation of~~ *violating* a provision of ~~the highway traffic regulation act~~ *chapter 169* or an ordinance regulating traffic and ~~where it appears from~~ department records *show* that the violation ~~for which the licensee was convicted~~ contributed in causing an accident resulting in the death or personal injury of another, or serious property damage; ~~or~~

(3) is an habitually reckless or negligent driver of a motor vehicle; ~~or~~

(4) is an habitual violator of the traffic laws; ~~or~~

(5) is incompetent to drive a motor vehicle as determined ~~and adjudged~~ in a judicial proceeding; ~~or~~

(6) has permitted an unlawful or fraudulent use of ~~such~~ *the* license; ~~or~~

(7) has committed an offense in another state ~~which~~ *that*, if committed in this state, would be grounds for suspension; ~~or~~

(8) *has committed a violation of section 169.444, subdivision 2, paragraph (a);*

(9) has committed a violation of section 171.22; ~~or~~

~~(9)~~ *(10)* has failed to appear in court as provided in section 169.92, subdivision 4; or

~~(10)~~ *(11)* has failed to report a medical condition that, if reported, would have resulted in cancellation of driving privileges.

~~Provided,~~ However, ~~that any~~ *an* action taken by the commissioner under ~~clauses~~ *clause* (2) ~~and~~ *or* (5) ~~shall~~ *must* conform to the recommendation of the court when made in connection with the prosecution of the licensee.

Subd. 2. [NOTICE.] Upon suspending ~~the~~ *a driver's* license ~~of any person, as hereinbefore in~~ *under* this section ~~authorized~~, the department shall immediately notify the licensee, in writing, by depositing in the United States post office a notice addressed to the licensee at the licensee's last known address, with postage prepaid ~~thereon, and~~.

Subd. 3. [HEARING.] *(a)* The ~~licensee's written~~ *licensee may* request, *in writing, a hearing. The department* shall afford the *requesting* licensee an opportunity for a hearing within ~~not to exceed~~ 20 days after receipt of ~~such~~ *the* request in the county ~~wherein~~ *where* the licensee resides, unless the department and the licensee agree that ~~such~~ *the* hearing may be held in

some other county.

(b) ~~Upon such~~ *For the* hearing, the commissioner ~~or duly authorized agent~~ may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee.

(c) ~~Upon such~~ *Following the* hearing, the department shall either rescind its order of suspension or, *for* good cause ~~appearing therefor~~ *shown*, may extend the suspension of ~~such~~ *the* license or revoke ~~such~~ *the* license.

(d) The department shall not suspend a license for a period of more than one year.

Sec. 16. [STUDY.]

The commissioner of public safety, in consultation with the commissioners of jobs and training and education and other affected parties, shall study the application of school bus requirements to head start vehicles and drivers and shall report on the results of the study to the chairs of the transportation committees of the house and senate by February 1, 1992.

Sec. 17. [REVISOR'S INSTRUCTION.]

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

Column A	*Column B*	*Column C*
124.225, subd. 1	*169.44, subd. 15*	*169.01, subd. 6, para. (c)*
169.01, subd. 75	*169.44, subd. 15*	*169.01, subd. 6, para. (c)*
169.32	*169.44*	*169.441 and 169.442, subd. 1*
171.01, subd. 22	*169.44, subd. 15*	*169.01, subd. 6, para. (c)*

Sec. 18. [REPEALER.]

Minnesota Statutes 1990, sections 169.44; and 169.64, subdivision 7, are repealed.

Sec. 19. [EFFECTIVE DATE.]

Sections 5, 6, and 10, subdivision 1, are effective August 1, 1991, and apply to violations occurring on or after that date."

Delete the title and insert:

"A bill for an act relating to traffic regulations; regulating traffic safety concerning school buses and the safety of school children; providing penalties; requiring a study of the application of school bus requirements to head start transportation; amending Minnesota Statutes 1990, sections 169.01, subdivision 6; 169.45; 169.451; 171.07, by adding a subdivision; 171.17; and 171.18; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 1990, sections 169.44; and 169.64, subdivision 7."

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

House Conferees: (Signed) Mary Murphy, Bernard L. "Bernie" Lieder, Bob Waltman

Senate Conferees: (Signed) William P. Luther, Carol Flynn, Gen Olson

Mr. Luther moved that the foregoing recommendations and Conference Committee Report on H.F. No. 244 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. 244 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:

Adkins	Finn	Kelly	Moe, R.D.	Riveness
Beckman	Flynn	Knaak	Mondale	Sams
Belanger	Frank	Kroening	Neuville	Samuelson
Benson, D.D.	Frederickson, D.J.	Laidig	Novak	Solon
Benson, J.E.	Frederickson, D.R.	Langseth	Olson	Storm
Berg	Gustafson	Larson	Pappas	Stumpf
Berglin	Halberg	Lessard	Pariseau	Traub
Bernhagen	Hottinger	Luther	Piper	Vickerman
Bertram	Hughes	Marty	Pogemiller	Waldorf
Chmielewski	Johnson, D.E.	McGowan	Price	
Cohen	Johnson, D.J.	Mehrkens	Ranum	
Day	Johnson, J.B.	Merriam	Reichgott	
DeCramer	Johnston	Metzen	Renneke	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 931 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 931

A bill for an act relating to waste management; requiring counties to prepare and amend solid waste management plans; requiring counties and solid waste facilities to develop and implement problem materials management plans; prohibiting issuance and renewal of certain permit if plans are not developed and implemented; amending Minnesota Statutes 1990, sections 115A.03, subdivision 24a; 115A.46, subdivisions 1 and 2; 115A.956; 115A.96, subdivision 6; 116.07, subdivisions 4j and 4k; 473.149, subdivision 1; and 473.803, subdivision 1.

May 18, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 931, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 931 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115A.03, subdivision 24a, is amended to read:

Subd. 24a. [PROBLEM MATERIAL.] "Problem material" means a material that, when it is processed or disposed of with mixed municipal solid waste, contributes to one *or more* of the following results:

(1) the release of a hazardous substance, or pollutant or contaminant, as defined in section 115B.02, subdivisions 8, 13, and 15;

(2) pollution of water as defined in section 115.01, subdivision 5;

(3) air pollution as defined in section 116.06, subdivision 3; or

(4) a significant threat to the safe or efficient operation of a solid waste ~~processing~~ facility.

Sec. 2. Minnesota Statutes 1990, section 115A.956, is amended to read:

115A.956 [SOLID WASTE DISPOSAL PROBLEM MATERIALS.]

Subdivision 1. [PROBLEM MATERIAL PROCESSING AND DISPOSAL PLAN.] The office shall develop a plan that designates problem materials and available capacity for processing and disposal of problem materials including household hazardous waste that should not be in mixed municipal solid waste. *In developing the plan, the office shall consider relevant regional characteristics and the impact of problem materials on specific processing and disposal technologies.*

Subd. 2. [PROBLEM MATERIAL SEPARATION AND COLLECTION PLAN.] After the office certifies that sufficient processing and disposal capacity is available, *but no later than November 15, 1992,* the office shall develop a plan for separating problem materials from mixed municipal solid waste, collecting the problem materials, and transporting the problem materials to a processing or disposal facility and may by rule prohibit the ~~disposal~~ *placement* of the designated problem materials in mixed municipal solid waste.

Sec. 3. Minnesota Statutes 1990, section 115A.96, subdivision 6, is amended to read:

Subd. 6. [HOUSEHOLD HAZARDOUS WASTE MANAGEMENT PLANS.] (a) Each county shall include in its solid waste management plan required in section 115A.46, or its solid waste master plan required in section 473.803, a household hazardous waste management plan. The plan must at least:

(1) include a broad based public education component;

(2) include a strategy for reduction of household hazardous waste; and

(3) ~~address~~ *include a strategy for* separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and ~~disposal~~ *proper management* of that waste.

(b) Each county required to submit its plan to the office under section 115A.46 shall amend its plan to comply with this subdivision within one year after October 4, 1989.

(c) Each county in the state shall implement its household hazardous waste management plan by June 30, 1992.

Sec. 4. Minnesota Statutes 1990, section 116.07, subdivision 4j, is amended to read:

Subd. 4j. [PERMITS; SOLID WASTE FACILITIES.] (a) The agency may not issue a permit for new or additional capacity for a mixed municipal solid waste resource recovery or disposal facility as defined in section 115A.03 unless each county *using or* projected in the permit to use the facility has in place a solid waste management plan approved under section 115A.46 or 473.803 *and amended as required by section 115A.96, subdivision 6*. The agency shall issue the permit only if the capacity of the facility is consistent with the needs for resource recovery or disposal capacity identified in the approved plan or plans. Consistency must be determined by the metropolitan council for counties in the metropolitan area and by the agency for counties outside the metropolitan area. Plans approved before January 1, 1990, need not be revised if the capacity sought in the permit is consistent with the approved plan or plans.

(b) The agency shall require as part of the permit application for a waste incineration facility identification of preliminary plans for ash management and ash leachate treatment or ash utilization. The permit issued by the agency must include requirements for ash management and ash leachate treatment.

Sec. 5. Minnesota Statutes 1990, section 116.07, subdivision 4k, is amended to read:

Subd. 4k. [HOUSEHOLD HAZARDOUS WASTE *AND OTHER PROBLEM MATERIALS* MANAGEMENT.] (a) The agency shall adopt rules to require the owner or operator of a solid waste disposal facility or resource recovery facility to submit *to the agency and to each county using or projected to use the facility* a management plan for the separation of household hazardous waste *and other problem materials* from solid waste prior to disposal or processing and for the proper ~~disposal~~ *management* of the waste. *The rules must require that the plan be developed in coordination with each county using, or projected to use, the facility.* The plan must *not be inconsistent with the plan developed under section 115A.956, subdivision 2, and must* include:

(1) *identification of materials that are problem materials, as defined in section 115A.03, subdivision 24a, for the facility;*

(2) participation in public education activities on *management of* household hazardous waste ~~management~~ *and other problem materials* in the facility's service area;

~~(2)~~ *(3)* a strategy for reduction of household hazardous waste *and other problem materials* entering the facility; and

~~(3)~~ *(4)* a plan for the storage and ~~disposal~~ *proper management* of separated household hazardous waste *and other problem materials*.

(b) ~~After June~~ *By September* 30, 1992, *the owner or operator of a facility shall implement the elements of the plan required in paragraph (a) relating to household hazardous waste management. After that date,* the agency may not grant or renew a permit for a facility ~~that has not submitted a household hazardous waste management plan.~~ *until the agency has:*

(1) reviewed the elements of the facility's plan relating to household hazardous waste management;

(2) directed the applicant or permittee to make changes to these elements as necessary to comply with the plan requirements under paragraph (a); and

(3) included a requirement to implement the elements as a condition of the issued or renewed permit.

(c) By September 30, 1993, the owner or operator of a facility shall implement the elements of the plan required in paragraph (a) relating to problem materials management. After that date, the agency may not grant or renew a permit for a facility until the agency has:

(1) reviewed the elements of the facility's plan relating to problem materials management;

(2) directed the applicant or permittee to make changes to these elements as necessary to comply with the plan requirements under paragraph (a); and

(3) included a requirement to implement the elements as a condition of the issued or renewed permit.

Sec. 6. [116D.10] [ENERGY AND ENVIRONMENTAL STRATEGY REPORT.]

On or before January 1 of each even-numbered year, the governor shall transmit to the energy and environment and natural resources committees of the legislature a concise, comprehensive written report on the energy and environmental strategy of the state.

The report must be sufficiently comprehensive to assist the legislature in allocating funds to support all of the policies, plans, and programs of the state related to energy and the environment, and specifically must include:

(1) a concise, comprehensive discussion of state, and, as applicable, national and global energy and environmental problems, including but not limited to: indoor and outdoor air pollution, water pollution, atmospheric changes, stratospheric ozone depletion, damage to terrestrial systems, deforestation, regulation of pesticides and toxic substances, solid and hazardous waste management, ecosystem protection (wetlands, estuaries, groundwater, Lake Superior and the inland lakes and rivers), population growth, preservation of animal and plant species, soil erosion, and matters relating to the availability and conservation of crude oil and of refined petroleum product and other energy sources;

(2) a concise, comprehensive description and assessment of the policies and programs of all departments and agencies of the state responsible for issues listed in clause (1), including a concise discussion of the long-term objectives of such policies and programs; existing and proposed funding levels; the impact of each policy and program on pollution prevention, emergency preparedness and response, risk assessment, land management, technology transfer, and matters relating to the availability and conservation of crude oil and of refined petroleum product and other energy sources; and the impact of each on relations with the other states, the federal government, membership in national organizations, and funding of programs for state environmental protection and energy issues;

(3) a concise description and assessment of the integration and coordination of policies, plans, environmental programs, and energy programs of the state with the policies and programs of the federal government, the

environmental and energy policies and programs of the other states, and the environmental and energy policies and programs of major state and national nonprofit conservation organizations;

(4) a concise description and assessment of all efforts by the state to integrate effectively its energy and environmental strategy with:

(i) the science and technology strategy of the federal government, including objectives, priorities, timing, funding details, and expected results of all environmental and energy research and development supported by the federal government and of all efforts at regional, national, and international cooperation on environmental and energy research and development;

(ii) the national energy policies of the federal government, including objectives, priorities, timing, funding details, and expected results of all efforts supported by the federal government aimed at reducing energy demand, improving energy efficiency and conservation, fuel-switching, using safe nuclear power reactors, employing clean coal technology, promoting renewable energy sources, promoting research and possible use of alternative fuels, promoting biomass research, promoting energy research and development in general, and advancing regional, national, and international energy cooperation;

(iii) the national environmental education strategy of the federal government, including objectives, priorities, timing, funding details, and expected results of all domestic and international education efforts supported by the United States to improve both public participation and awareness of the need for environmental protection;

(iv) the technology transfer strategy of the federal government, including objectives, priorities, timing, funding details, and expected results of all domestic and international environmental and energy technology transfer efforts to foster collaboration and cooperation between federal agencies and state and local governments, universities, nonprofit conservation organizations, and private industry in order to improve the competitiveness of the state and the nation in the world marketplace and promote environmental and energy technology advancement; and

(v) the national security strategy of the federal government, including objectives, priorities, timing, funding, and expected results of the national security programs to be most compatible with requirements for environmental preservation and a national energy policy, while accomplishing missions essential to national security;

(5) a concise assessment of the overall effectiveness of the energy and environmental strategy of the state, including a concise description of the organizational processes used to provide a body of energy and environmental information and to evaluate the results of energy and environmental programs; the use of statistical methods; the degree to which the strategy is long-term, comprehensive, integrated, flexible, and oriented toward achieving broad concensus in the state, the nation, and abroad; and recommendations on the ways in which the legislature can assist the governor in making the strategy more effective;

(6) specific two-year, five-year and, as appropriate, longer term goals for the implementation of the energy and environmental strategy of the state; and

(7) such other pertinent information as may be necessary to provide

information to the legislature on matters relating to the overall energy and environmental strategy of the state and to develop state programs coordinated with those formulated on a national and international level.

Sec. 7. [116D.11] [REPORT PREPARATION.]

Subdivision 1. [AGENCY RESPONSIBILITY.] *Each department or agency of the state, as designated by the governor, shall assist in the preparation of the strategy report. Each designated department or agency shall prepare a preliminary strategy report relating to those programs or policies over which the department or agency has jurisdiction. Each preliminary strategy report shall:*

(1) describe concisely the existing policies and programs of the department or agency as they relate to the issues listed in section 116D.10, clause (1);

(2) describe concisely and evaluate the long-term objectives of the department or agency as they relate to the issues listed in section 116D.10, clause (1);

(3) identify and make proposals about the development of department or agency financial management budgets as they relate to the issues listed in section 116D.10, clause (1);

(4) describe concisely the strategy and procedure of the department or agency to recruit, select, and train personnel to carry out department or agency goals and functions as they relate to the issues listed in section 116D.10, clause (1);

(5) identify and make proposals to eliminate duplicative and unnecessary programs or systems, including encouraging departments and agencies to share systems or programs that have sufficient capacity to perform the functions needed as they relate to the issues listed in section 116D.10, clause (1); and

(6) establish two-year quantitative goals for policy implementation.

Subd. 2. [PRIMARY RESPONSIBILITY.] *The environmental quality board shall have the primary responsibility for preparing the energy and environmental strategy report of the state, as required by section 116D.10. The board shall assemble all preliminary reports prepared pursuant to subdivision 1 under a timetable established by the board and shall use the preliminary reports in the preparation of the draft energy and environmental strategy report of the state. Each department or agency designated by the governor to prepare a preliminary strategy report shall submit a copy of the preliminary strategy report to the governor and to the board at the same time.*

Subd. 3. [REPORT TO GOVERNOR.] *On or before October 1 of each odd-numbered year, the environmental quality board shall transmit to the governor a draft of the written report on the energy and environmental strategy of the state. The governor may change the report and may request additional information or data from any department or agency of the state responsible for issues listed in section 116D.10, clause (1). Any such requested additional information or data shall be prepared and submitted promptly to the governor.*

Subd. 4. [STRATEGY AND FINAL REPORTS.] *(a) Any department or agency of the state required to submit a biennial report to the legislature in an even-numbered year under section 15.063 may reference part or all*

of the discussion and information contained in a preliminary strategy report of that department or agency prepared in the prior odd-numbered year in fulfillment of providing any of the substantially equivalent material required to be in the biennial report to the legislature.

(b) It is the intent of the legislature that any preliminary strategy report by a department or agency, the draft energy and environmental strategy report of the state prepared by the environmental quality board, and the final report on the energy and environmental strategy of the state as transmitted by the governor should be written in as concise and easily understood a manner as possible while being sufficiently comprehensive to assist the legislature in allocating funds to support the policies, plans, and programs of the state related to energy and the environment. All preliminary, draft, and final reports shall contain minimal extraneous and irrelevant material.

(c) It is the intent of the legislature that the primary responsibility for preparing the preliminary strategy report relating to energy shall be the responsibility of the department of public service and that the primary responsibility for preparing the preliminary strategy report relating to the environment shall be the responsibility of the pollution control agency.

(d) To aid in effectuating the goal of the legislature that all preparatory and final reports be written in a concise and understandable manner, no preliminary strategy report of any department or agency shall exceed, without the prior approval of the environmental quality board, 30 double-spaced pages or the equivalent, 8-1/2 x 11 inches in size, including all appendices, addenda, and attachments, except those that contain primarily charts, graphs, tabulations, or contain other numerical or pictorial information. Notwithstanding the foregoing, preliminary strategy reports of the department of public service and the pollution control agency may not exceed 50 double-spaced pages or the equivalent, 8-1/2 x 11 inches in size, including all appendices, addenda, and attachments, except those that contain primarily charts, graphs, tabulations or contain other numerical or pictorial information.

Sec. 8. [116G.15] [MISSISSIPPI RIVER CRITICAL AREA.]

The federal Mississippi National River and Recreation Area established pursuant to United States Code, title 16, section 460zz-2(k), is designated an area of critical concern in accordance with this chapter. The governor shall review the existing Mississippi river critical area plan and specify any additional standards and guidelines to affected communities in accordance with section 116G.06, subdivision 2, paragraph (b), clauses (3) and (4), needed to insure preservation of the area pending the completion of the federal plan.

Sec. 9. [REPEALER.]

Minnesota Statutes 1990, section 116D.07, is repealed."

Delete the title and insert:

"A bill for an act relating to waste management; prohibiting issuance and renewal of certain permit if plans are not developed and implemented; requiring the governor to submit a biennial policy report to the legislature on energy and the environment; designating a river area of concern; amending Minnesota Statutes 1990, sections 115A.03, subdivision 24a; 115A.956; 115A.96, subdivision 6; and 116.07, subdivisions 4j and 4k; proposing

coding for new law in Minnesota Statutes, chapters 116D and 116G; repealing Minnesota Statutes 1990, section 116D.07."

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

Senate Conferees: (Signed) Ted A. Mondale, James P. Metzen, Gary W. Laidig

House Conferees: (Signed) Myron W. Orfield, Thomas W. Pugh, Dennis Ozment

Mr. Mondale moved that the foregoing recommendations and Conference Committee Report on S.F. No. 931 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. 931 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, D.J.	Metzen	Renneke
Beckman	Finn	Johnston	Moe, R.D.	Riveness
Belanger	Flynn	Kroening	Mondale	Sams
Benson, J.E.	Frank	Laidig	Neuville	Samuelson
Berg	Frederickson, D.J.	Larson	Novak	Solon
Berglin	Frederickson, D.R.	Lessard	Olson	Spear
Bernhagen	Gustafson	Luther	Pappas	Storm
Bertram	Halberg	Marty	Pariseau	Stumpf
Chmielewski	Hottinger	McGowan	Pogemiller	Traub
Cohen	Hughes	Mehrkens	Ranum	Vickerman
Day	Johnson, D.E.	Merriam	Reichgott	Waldorf

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

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 222:

H.F. No. 222: A bill for an act relating to international trade; establishing a regional international trade service center pilot project; appropriating money.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Krueger, Sparby and Hugoson have been appointed as such committee on the part of the House.

House File No. 222 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

Mr. Dahl moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 222, 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 appointed on the part of the House. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

CONFIRMATION

Mr. Chmielewski moved that the report from the Committee on Employment, reported February 28, 1991, pertaining to appointments, be taken from the table. The motion prevailed.

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

Mr. Chmielewski moved that in accordance with the report from the Committee on Employment, reported February 28, 1991, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF LABOR AND INDUSTRY
COMMISSIONER

John Burr Lennes, Jr., 16720 Norell Avenue North, Marine-on-St. Croix, Washington County, Minnesota, effective January 30, 1991, for a term expiring on the first Monday in January, 1995.

The motion prevailed. So the appointment was confirmed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 655: Messrs. DeCramer, Mehrkens and Langseth.

S.F. No. 720: Messrs. Metzen, Kelly and Bernhagen.

H.F. No. 222: Messrs. Dahl; Moe, R.D. and Luther.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 12:45 p.m. The motion prevailed.

The hour of 12:45 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

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 Files, herewith returned: S.F. Nos. 780, 1317, 109, 205, 1440 and 1474.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

S.F. No. 525: A bill for an act relating to crimes; expanding the definition of drug free zones to include public housing property; increasing the area affected from within 300 feet to within 1,000 feet of a school or park boundary for purposes of increasing penalties for sale or possession of controlled substances; increasing penalties for sale or possession of methamphetamine ("ice"), amphetamine, and sale of marijuana, within a school zone, park zone, or public housing zone; changing the name and duties of the drug abuse prevention resource council; requiring chemical use assessments of persons convicted of felonies; amending Minnesota Statutes 1990, sections 152.01, subdivisions 12a, 14a, and by adding a subdivision; 152.021, subdivision 1; 152.022, subdivision 1; 152.023, subdivision 2; 152.024, subdivision 1; 152.029; 299A.29, subdivisions 3, 5, and by adding subdivisions; 299A.30; 299A.31, subdivision 1; 299A.32; 299A.34, subdivision 2; 299A.35; 299A.36; and 609.115, by adding a subdivision; repealing Minnesota Statutes 1990, sections 244.095; and 299A.29, subdivisions 2 and 4.

Senate File No. 525 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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. 1152: A bill for an act relating to motor vehicles; authorizing the registrar of motor vehicles to prorate the original registration on groups of passenger motor vehicles presented to St. Paul by a lessor; amending Minnesota Statutes 1990, section 168.017, subdivision 3.

Senate File No. 1152 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Mr. DeCramer moved that the Senate concur in the amendments by the House to S.F. No. 1152 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1152 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 38 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, J.B.	Morse	Samuelson
Beckman	Flynn	Kelly	Novak	Spear
Berg	Frank	Kroening	Pappas	Stumpf
Berglin	Frederickson, D.J.	Lessard	Piper	Traub
Bertram	Halberg	Luther	Pogemiller	Vickerman
Chmielewski	Hottinger	Marty	Price	Waldorf
Cohen	Hughes	Metzen	Ranum	
Davis	Johnson, D.J.	Moe, R.D.	Sams	

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. 1179: A bill for an act relating to public finance; providing conditions and requirements for the issuance of debt and for the financial obligations of authorities; amending Minnesota Statutes 1990, sections 400.101; 429.061, subdivision 3; 447.49; 469.155, subdivision 12; 473.811, subdivision 2; 475.58, subdivision 2; 475.60, subdivision 2; 475.66, subdivision 3; and 475.67, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 462C and 469.

Senate File No. 1179 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

Mr. Pogemiller moved that the Senate do not concur in the amendments by the House to S.F. No. 1179, 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.

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. 371: A bill for an act relating to crimes; child abduction; requiring certain convicted sex and kidnapping offenders to report a current address to probation officer following release from prison; requiring the publication of missing children bulletins; requiring training concerning the investigation of missing children cases; providing law enforcement officers access to medical and dental records of missing children; amending restrictions on felony prosecutions for taking, detaining, or failing to return a child; appropriating money; amending Minnesota Statutes 1990, sections 299C.52, subdivisions 1, 3, and 6; 609.115, by adding a subdivision; and 609.26, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 243 and 299C.

Senate File No. 371 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Mr. Bertram moved that the Senate concur in the amendments by the House to S.F. No. 371 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 371 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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Metzen	Reichgott
Beckman	Day	Johnston	Moe, R.D.	Renneke
Belanger	Finn	Kelly	Mondale	Riveness
Benson, D.D.	Flynn	Knaak	Morse	Sams
Benson, J.E.	Frank	Kroening	Neuville	Samuelson
Berg	Frederickson, D.J.	Laidig	Novak	Solon
Berglin	Frederickson, D.R.	Langseth	Olson	Storm
Bernhagen	Gustafson	Larson	Pappas	Stumpf
Bertram	Halberg	Lessard	Pariseau	Traub
Brataas	Hottinger	Luther	Piper	Vickerman
Chmielewski	Hughes	Marty	Pogemiller	Waldorf
Cohen	Johnson, D.E.	McGowan	Price	
Dahl	Johnson, D.J.	Merriam	Ranum	

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. 774: A bill for an act relating to health; clarifying licensing requirements for certain residential programs for persons with chemical dependency; establishing procedures for contesting a transfer or discharge from a nursing home; setting a time limit for appeals of civil penalties under the nursing home licensing laws; providing procedures for contesting findings under the vulnerable adults act; amending Minnesota Statutes 1990, sections 144.50, subdivision 6; 144.653, subdivision 5; 144A.10, subdivisions 4 and 6d; 144A.135; 144A.45, subdivision 2; 144A.46, subdivision 2, and by adding a subdivision; 144A.53, subdivision 1; 144A.61, subdivisions 3, 3a, and 6a; 144A.611, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 144A.

Senate File No. 774 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Ms. Berglin moved that the Senate concur in the amendments by the House to S.F. No. 774 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 774 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 58 and nays 2, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kelly	Moe, R.D.	Renneke
Beckman	Finn	Knaak	Mondale	Riveness
Belanger	Flynn	Kroening	Morse	Sams
Benson, J.E.	Frank	Laidig	Neuville	Solon
Berg	Frederickson, D.J.	Langseth	Novak	Spear
Berglin	Frederickson, D.R.	Larson	Olson	Storm
Bernhagen	Halberg	Lessard	Pappas	Stumpf
Bertram	Hottinger	Luther	Pariseau	Traub
Brataas	Hughes	Marty	Piper	Vickerman
Dahl	Johnson, D.E.	McGowan	Pogemiller	Waldorf
Davis	Johnson, J.B.	Merriam	Price	
Day	Johnston	Metzen	Ranum	

Messrs. Chmielewski and Samuelson voted in the negative.

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. 652: A bill for an act relating to housing; providing for the payment of fees for certain publicly owned facilities; amending Minnesota Statutes 1990, section 327.23, subdivision 3.

Senate File No. 652 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Mr. Solon moved that the Senate concur in the amendments by the House to S.F. No. 652 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 652 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 56 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kelly	Moe, R.D.	Riveness
Beckman	Finn	Knaak	Mondale	Sams
Belanger	Flynn	Kroening	Morse	Solon
Benson, J.E.	Frank	Laidig	Neuville	Spear
Berg	Frederickson, D.J.	Langseth	Novak	Storm
Berglin	Frederickson, D.R.	Larson	Olson	Traub
Bernhagen	Halberg	Lessard	Pappas	Vickerman
Bertram	Hottinger	Luther	Pariseau	Waldorf
Chmielewski	Hughes	Marty	Pogemiller	
Dahl	Johnson, D.E.	McGowan	Price	
Davis	Johnson, J.B.	Merriam	Ranum	
Day	Johnston	Metzen	Renneke	

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Stumpf moved that the following members be excused for a Conference Committee on S.F. No. 1535 at 1:00 p.m.:

Messrs. Stumpf, Dicklich, Waldorf, Mrs. Brataas and Ms. Piper. The motion prevailed.

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. 1284: A bill for an act relating to agriculture; changing the livestock market agency and dealer licensing act; amending Minnesota Statutes 1990, sections 17A.01; 17A.03, subdivisions 1 and 7; 17A.04, subdivision 1; 17A.14; proposing coding for new law in Minnesota Statutes,

chapter 17A; repealing Minnesota Statutes 1990, section 17A.15.

Senate File No. 1284 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Mr. Renneke moved that the Senate concur in the amendments by the House to S.F. No. 1284 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1284: A bill for an act relating to agriculture; changing the livestock market agency and dealer licensing act; amending Minnesota Statutes 1990, sections 17A.01; 17A.03, subdivisions 1, 5, and 7; 17A.04, subdivision 1; 17A.14; proposing coding for new law in Minnesota Statutes, chapter 17A.

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 54 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, D.J.	McGowan	Price
Beckman	Dicklich	Johnson, J.B.	Metzen	Ranum
Belanger	Finn	Johnston	Moe, R.D.	Renneke
Benson, J.E.	Flynn	Knaak	Mondale	Riveness
Berg	Frank	Kroening	Morse	Sams
Berglin	Frederickson, D.J.	Laidig	Neuville	Solon
Bernhagen	Frederickson, D.R.	Langseth	Novak	Storm
Bertram	Halberg	Larson	Olson	Traub
Chmielewski	Hottinger	Lessard	Pappas	Vickerman
Dahl	Hughes	Luther	Pariseau	Waldorf
Davis	Johnson, D.E.	Marty	Pogemiller	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 598 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 598

A bill for an act relating to transportation; establishing state transportation goals and requiring periodic revisions of the state transportation plan; directing a study of rail-highway grade crossings; establishing penalties for violations of grade crossing safety laws; authorizing the commissioner of transportation to make grants and loans for the improvement of commercial navigation facilities; establishing special categories of roads and highways; authorizing local units of government to advance funds for the completion of highway projects; authorizing road authorities to enter into agreements for the construction, maintenance, and operation of toll facilities; creating a transportation services fund; specifying percentage of unrefunded motor fuel tax revenue that is attributable to use on forest roads; authorizing the

use of local bridge grant funds to construct drainage structures; requiring the commissioner of transportation to include light rail transit facilities in the design for reconstruction of interstate highways I-94 and I-35W; requiring a report on metropolitan transportation development and transit development consistent with the report; authorizing the commissioner of transportation to plan, acquire, construct, and equip light rail transit facilities; creating a light rail transit joint powers board; establishing a paratransit advisory council; authorizing transportation research; directing a study of highway corridors; extending the transportation study board and specifying duties; appropriating money; amending Minnesota Statutes 1990, sections 162.02, subdivision 3a; 162.09, subdivision 3a; 162.14, subdivision 6; 169.14, by adding a subdivision; 169.26; 171.13, subdivision 1, and by adding a subdivision; 173.13, subdivision 4; 174.01; 174.03, subdivision 2, and by adding a subdivision; 219.074, by adding a subdivision; 219.402; 296.16, subdivision 1a; 296.421, subdivision 8; 299D.03, subdivision 5; 473.373, subdivision 4a; 473.3993, subdivisions 2 and 3, and by adding a subdivision; 473.3994; and 473.3996; Laws 1990, chapter 610, article 1, section 13, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 3; 160; 161; 162; 174; 219; and 473; proposing coding for new law as Minnesota Statutes, chapters 161; 457A; and 473; repealing Laws 1989, chapter 339, section 21.

May 20, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 598, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 598 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

TRANSPORTATION PLANNING

Section 1. Minnesota Statutes 1990, section 174.01, is amended to read:

174.01 [CREATION; POLICY.]

Subdivision 1. [DEPARTMENT CREATED.] In order to provide a balanced transportation system, ~~which system includes~~ *including* aeronautics, highways, motor carriers, ports, public transit, railroads and pipelines, a department of transportation is created. The department ~~shall be~~ *is* the principal agency of the state for development, implementation, administration, consolidation, and coordination of state transportation policies, plans and programs.

Subd. 2. [TRANSPORTATION GOALS.] *The goals of the state transportation system are as follows:*

(1) to provide safe transportation for users throughout the state;

(2) to provide multimodal and intermodal transportation that enhances mobility and economic development and provides access to all persons and businesses in Minnesota while ensuring that there is no undue burden placed

on any community;

(3) to provide a reasonable travel time for commuters;

(4) to provide for the economical, efficient, and safe movement of goods to and from markets by rail, highway, and waterway;

(5) to encourage tourism by providing appropriate transportation to Minnesota facilities designed to attract tourists;

(6) to provide transit services throughout the state to meet the needs of transit users;

(7) to promote productivity through system management and the utilization of technological advancements;

(8) to maximize the benefits received for each state transportation investment;

(9) to provide funding for transportation that, at a minimum, preserves the transportation infrastructure;

(10) to ensure that the planning and implementation of all modes of transportation are consistent with the environmental and energy goals of the state;

(11) to increase high occupancy vehicle use;

(12) to provide an air transportation system sufficient to encourage economic growth and allow all regions of the state the ability to participate in the global economy;

(13) to increase transit use in the urban areas by giving highest priority to the transportation modes with the greatest people moving capacity; and

(14) to promote and increase bicycling as an energy-efficient, nonpolluting, and healthful transportation alternative.

Sec. 2. Minnesota Statutes 1990, section 174.03, is amended by adding a subdivision to read:

Subd. 1a. [REVISION OF STATE TRANSPORTATION PLAN.] *The commissioner shall revise the state transportation plan by July 1, 1993, and by July 1 of each odd-numbered year thereafter. Before final adoption of a revised plan, the commissioner shall hold a hearing to receive public comment on the plan. The revised state transportation plan must:*

(1) incorporate the goals of the state transportation system in section 174.01; and

(2) establish objectives, policies, and strategies for achieving those goals.

Sec. 3. Minnesota Statutes 1990, section 174.03, subdivision 2, is amended to read:

Subd. 2. [IMPLEMENTATION OF PLAN.] After the adoption *and each revision* of the statewide transportation plan, the commissioner and the transportation regulation board shall take no action inconsistent with ~~that~~ *the revised* plan.

ARTICLE 2

RAILROAD CROSSINGS

Section 1. [RAIL-HIGHWAY CROSSING IMPROVEMENT.]

Subdivision 1. [STATE RAIL CORRIDOR AND RAIL CROSSING SAFETY STUDY.] *The commissioner of transportation shall conduct a study of railroad-highway grade crossing safety and improvement in Minnesota.*

Subd. 2. [CONTENT OF STUDY.] *The study must include:*

(1) a method of determining the relative benefits of grade crossing warning and improvement to the railroad, to the road authority, and to the public, and cost-sharing guidelines;

(2) funding sources for grade crossing warning and improvement;

(3) grade crossing safety research needs;

(4) recommendations for statutory changes to improve grade crossing safety;

(5) the adequacy of existing and proposed methods of grade crossing safety, including:

(i) train visibility;

(ii) signal and warning device design;

(iii) a public reporting system for malfunctioning warning devices;

(iv) improved systems of crossing warnings; and

(v) recommendations for additional funds for rail crossing safety education; and

(6) methods for establishing statewide priorities for grade crossing safety and for implementing these priorities.

Subd. 3. [REPORT.] *The commissioner shall report to the governor and legislature no later than February 1, 1992, on the results of the study.*

Sec. 2. Minnesota Statutes 1990, section 169.26, is amended to read:

169.26 [SPECIAL STOPS AT RAILROADS.]

Subdivision 1. [REQUIREMENTS.] (a) When any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this paragraph, the driver shall stop the vehicle not less than ten feet from the nearest railroad track and shall not proceed until safe to do so. These requirements apply when:

(1) a clearly visible electric or mechanical signal device warns of the immediate approach of a railroad train;

(2) a crossing gate is lowered warning of the immediate approach or passage of a railroad train; or

(3) an approaching railroad train is plainly visible and is in hazardous proximity.

(b) *The fact that a moving train approaching a railroad grade crossing is visible from the crossing is prima facie evidence that it is not safe to proceed.*

(c) The driver of a vehicle shall stop and remain ~~standing~~ *stopped* and

not traverse the grade crossing when a human flagger signals the approach or passage of a train. No person may drive a vehicle past a flagger at a railroad crossing until the flagger signals that the way is clear to proceed.

Subd. 1a. [VIOLATION.] *A police officer may arrest the driver of a motor vehicle if the police officer has probable cause to believe that the driver has operated the vehicle in violation of subdivision 1 within the past four hours.*

Subd. 2. [PENALTY.] *(a)* A ~~person~~ *driver* who violates ~~this section~~ *subdivision 1* is guilty of a misdemeanor.

(b) The owner or, in the case of a leased vehicle, the lessee of a motor vehicle is guilty of a petty misdemeanor if a motor vehicle owned or leased by that person is operated in violation of subdivision 1. This paragraph does not apply to a lessor of a motor vehicle if the lessor keeps a record of the name and address of the lessee. This paragraph does not apply if the motor vehicle operator is prosecuted for violating subdivision 1. A violation of this paragraph does not constitute grounds for revocation or suspension of the owner's or lessee's driver's license.

Subd. 3. [DRIVER TRAINING.] *All driver education courses approved by the commissioner of education and the commissioner of public safety must include instruction on railroad-highway grade crossing safety. The commissioner of education and the commissioner of public safety shall by rule establish minimum standards of course content relating to operation of vehicles at railroad-highway grade crossings.*

Sec. 3. Minnesota Statutes 1990, section 171.13, subdivision 1, is amended to read:

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

Sec. 4. Minnesota Statutes 1990, section 171.13, is amended by adding a subdivision to read:

Subd. 1d. [RAILROAD CROSSING SAFETY.] *The commissioner shall include in each edition of the driver's manual published by the department a section relating to safe operation of vehicles at railroad grade crossings.*

Sec. 5. Minnesota Statutes 1990, section 219.074, is amended by adding a subdivision to read:

Subd. 3. [CROSSING INVENTORY.] *By December 31, 1993, the commissioner shall complete an inventory of all public and private grade crossings in the state and shall annually revise the inventory to reflect grade crossing changes made under this section.*

Sec. 6. [219.165] [SAFETY RULES AT PRIVATE RAILROAD GRADE CROSSINGS.]

By December 31, 1992, the commissioner shall adopt rules establishing minimum safety standards at all private railroad grade crossings in the state.

Sec. 7. [219.384] [REMOVAL OF DANGEROUS OBSTRUCTIONS.]

Subdivision 1. [REMOVAL ORDERED.] *If a railroad company, road authority, or abutting property owner fails to control the growth of trees or vegetation or the placement of structures or other obstructions on its right-of-way or property so as to interfere with the safety of the public traveling on a public or private grade crossing, the local governing body of the town or municipality where the grade crossing is located may, by notice, require the obstruction to be removed as necessary to provide an adequate view of oncoming trains at the crossings. The commissioner shall adopt rules establishing minimum standards for visibility at public and private grade crossings.*

Subd. 2. [PENALTY.] *A railroad company, road authority, or property owner that fails to comply with this section within 30 days after being notified in writing is subject to a fine of $50 for each day that the condition is uncorrected. This penalty may be recovered in the manner provided in section 219.97, subdivision 5.*

Sec. 8. Minnesota Statutes 1990, section 219.402, is amended to read:

219.402 [ADEQUATE CROSSING PROTECTION.]

Crossing ~~safety~~ *warning* devices or improvements installed or maintained under this chapter as approved by the board, *or the commissioner,* whether by order or otherwise, are adequate and appropriate ~~protection~~ *warning* for the crossing.

ARTICLE 3

PORT DEVELOPMENT ASSISTANCE

Section 1. [457A.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *For purposes of sections 1 to 6, the following terms have the meanings given them.*

Subd. 2. [COMMERCIAL NAVIGATION FACILITY.] *"Commercial navigation facility" means (1) terminals and docks used for the transfer of property or passengers between commercial vessels and land, and supporting equipment, structures, and transportation facilities, (2) disposal facilities for dredging material produced by port development projects, and (3) buildings and related structures and facilities used by commercial vessels under construction or repair. "Commercial navigation facility" does not include any commercial navigation facility that is (1) not on the commercial navigation system, or (2) the responsibility of the United States corps of army engineers or the United States coast guard.*

Subd. 3. [COMMERCIAL VESSEL.] *"Commercial vessel" means a vessel used for the transportation of passengers or property. "Commercial*

vessel" does not include a vessel used primarily for recreational or sporting purposes.

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

Subd. 5. [DREDGING.] *"Dredging" means excavating harbor sediment or bottom materials, including mobilizing or operating equipment for excavating and transporting dredged material to the placing dredged material in a disposal facility.*

Subd. 6. [NAVIGATION SYSTEM.] *"Navigation system" means (1) the commercially navigable waters of the Mississippi River, the Minnesota, and the St. Croix rivers, (2) the commercial harbors on Minnesota's Lake Superior shoreline, and (3) the commercial navigation facilities on those waterways.*

Subd. 7. [PERSON.] *"Person" means an individual, a partnership, a corporation, an association, or other organization or entity that applies for assistance under this chapter.*

Sec. 2. [457A.02] [PROGRAM ESTABLISHED.]

Subdivision 1. [PURPOSE OF PROGRAM.] *A port development assistance program is established for the purpose of:*

(1) expediting the movement of commodities and passengers on the commercial navigation system;

(2) enhancing the commercial vessel construction and repair industry in Minnesota; and

(3) promoting economic development in and around ports and harbors in the state.

Subd. 2. [COMMISSIONER TO ADMINISTER.] *The commissioner shall administer the port development assistance program to advance the purposes of subdivision 1. In administering the program, the commissioner may:*

(1) make grants and loans to persons eligible under section 3, subdivision 1, to apply for them; (2) make assistance agreements with recipients of grants and loans; and (3) adopt rules authorized by section 5.

Sec. 3. [457A.03] [PORT ASSISTANCE.]

Subdivision 1. [ELIGIBLE APPLICANTS.] *Any person, political subdivision, or port authority, that owns a commercial navigation facility, may apply to the commissioner for assistance under this chapter.*

Subd. 2. [TYPES OF ASSISTANCE.] *The commissioner may make loans to an eligible applicant if the commissioner determines that the project submitted by the applicant for assistance will serve either or both of the purposes stated in section 2, subdivision 1, clauses (1) and (2). The commissioner may make grants, or a combination of grants and loans, to an eligible applicant if the commissioner determines that the project submitted by the applicant for assistance will serve either or both of the purposes stated in section 2, subdivision 1, clauses (1) and (2), and will also enhance economic development in and around the commercial navigation facility being assisted.*

Subd. 3. [STATE PARTICIPATION; LIMITATIONS.] *The commissioner may not provide any assistance under this chapter for more than 50 percent of the nonfederal share of any project. Assistance provided under this chapter*

may not be used to match any other state funds. The commissioner shall not assume continuing funding responsibility for any commercial navigation facility project.

Sec. 4. [457A.04] [ASSISTANCE AGREEMENTS.]

Subdivision 1. [AGREEMENTS REQUIRED.] *The commissioner may not provide any assistance to a project under this chapter unless the commissioner has signed an assistance agreement with the recipient of the assistance.*

Subd. 2. [COSTS.] *An assistance agreement must specify those project costs which may be paid in whole or in part with assistance from the commissioner. Assistance agreements may provide that only the following costs may be so paid:*

(1) final engineering costs on a commercial navigation facility project;

(2) capital improvements to a commercial navigation facility; and

(3) costs of dredging necessary to open a new commercial navigation facility project, and for disposal of dredged material.

The following costs may not be paid with assistance from the commissioner:

(1) the applicant's administrative, insurance, and legal costs;

(2) costs of acquiring project permits;

(3) costs of preparing environmental documents, feasibility studies, or project designs;

(4) interest on money borrowed by the applicant or charged to the applicant for late payment of project costs;

(5) any costs related to the routine maintenance, repair, or operation of a commercial navigation facility;

(6) costs of dredging to maintain an existing channel; and

(7) costs for a project that involves only dredging.

Subd. 3. [INSURANCE; LIABILITY.] *An assistance agreement must require the applicant to:*

(1) provide a comprehensive general liability insurance policy, complying with minimum amount prescribed by the commissioner by rule, naming the commissioner and officers, employees, and agents of the department of transportation as additional insureds; and

(2) save and hold the commissioner harmless from and against all liability, damage, loss, claims, demands, and actions related to the project being assisted.

Subd. 4. [PERFORMANCE AND PAYMENT BONDS.] *An assistance agreement must require an assistance recipient to provide evidence of performance and payment bonds, satisfying all applicable legal requirements for the full amount of any and all construction contracts let by the applicant in connection with the project.*

Subd. 5. [REPAYMENT.] *An assistance agreement must require the recipient to repay all or part of any assistance received, in an amount determined by the commissioner, if the project for which the assistance is provided:*

(1) is not completed according to the terms of the assistance agreement, or

(2) is converted, during the period of time specified in the assistance agreement, to a use that is (1) inconsistent with the purposes of this chapter, or (2) inconsistent with the terms of the assistance agreement, or (3) not approved in writing by the commissioner.

Sec. 5. [457A.05] [RULES.]

The commissioner may adopt rules that provide for:

(1) application procedures for assistance under this chapter;

(2) procedures for establishing deadlines for applications, and for notifying potential recipients of those deadlines;

(3) eligibility criteria for projects to be assisted;

(4) information required to be submitted with applications;

(5) contents of assistance agreements;

(6) any other requirement of this chapter; and

(7) any other requirement the commissioner deems necessary for the administration of this chapter.

Sec. 6. [457A.06] [REVOLVING FUND.]

A port development revolving fund is established in the state treasury. The fund consists of all money appropriated to the commissioner for the purposes of this chapter and all money received by the commissioner from repayment of loans made under this chapter.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective July 1, 1991.

ARTICLE 4

LOCAL HIGHWAYS

Section 1. Minnesota Statutes 1990, section 103G.301, is amended by adding a subdivision to read:

Subd. 5a. [TOWN FEES LIMITED.] *Notwithstanding this section or any other law, no permit application or field inspection fee charged to a town in connection with the construction or alteration of a town road, bridge, or culvert shall exceed $100.*

Sec. 2. [160.82] [STREETS AND HIGHWAYS WITHIN PARKS.]

Subdivision 1. [DEFINITION.] *"Park road" means that portion of a street or highway located entirely within the park boundaries of a city, county, regional, or state park.*

Subd. 2. [RESTRICTIONS.] *A road authority may not make a change in the width, grade, or alignment of a park road that would affect the wildlife habitat or aesthetic characteristics of the park road or its adjacent vegetation or terrain, unless:*

(1) the change is required to permit the safe travel of vehicles at the speed lawfully designated for the park road; or

(2) if the road is a county state-aid highway or municipal state-aid street,

the change is required by the minimum state-aid standard applicable to the road.

Subd. 3. [LIABILITY.] *A road authority and its officers and employees, are exempt from liability for any tort claim for injury to persons or property arising from travel on a park road and related to the design of the park road, if:*

(1) the design is adopted to conform to subdivision 2;

(2) the design is not grossly negligent; and

(3) if the park road is a county state-aid highway or municipal state-aid street, the design complies with the minimum state-aid standard applicable to the road.

This subdivision does not preclude an action for damages arising from negligence in the construction, reconstruction, or maintenance of a park road.

Sec. 3. [160.83] [RUSTIC ROADS PROGRAM.]

Subdivision 1. [DEFINITION.] *A "rustic road" is a road that is not on the state-aid system that has the following characteristics: outstanding natural features or scenic beauty; an average daily traffic volume of less than 150 vehicles per day; year-round use as a local access road; and maximum allowable speed of 45 miles per hour.*

Subd. 2. [LOCAL AUTHORITY.] *A road authority other than the commissioner may, by resolution, designate a road or highway under its jurisdiction a rustic road and the road authority may designate the type and character of vehicles that may be operated on the rustic road; designate the road or a portion of the road as a pedestrian way or bicycle way, or both; and establish priority of right-of-way, paint lines, and construct dividers to physically separate vehicular, bicycle, or pedestrian traffic.*

Subd. 3. [JOINT DESIGNATION.] *Two or more road authorities may jointly designate a rustic road along a common boundary or into or through their jurisdictions. The road authorities may enter into agreements to divide the costs and responsibility for maintaining the rustic road.*

Subd. 4. [COSTS.] *A rustic road must be maintained by the road authority having jurisdiction over the road and is not eligible for state-aid funding. State money must not be spent to construct, reconstruct, maintain, or improve a rustic road.*

Sec. 4. [161.361] [ADVANCE FUNDING FOR TRUNK HIGHWAY PROJECTS.]

Subdivision 1. [ADVANCE FUNDING.] *A road authority other than the commissioner may by agreement with the commissioner make advances from any available funds to the commissioner to expedite construction of all or part of a trunk highway. Money may be advanced under this section only for projects already included in the commissioner's highway work program.*

Subd. 2. [REPAYMENT.] *Subject to the availability of state money, the commissioner shall repay without interest the amount advanced under subdivision 1, up to the state's share of project costs, at the time the project is scheduled for completion in the highway work program. The total amount of annual repayment to road authorities under this section must never exceed the amount stated in the department's debt management policy or $10 million.*

whichever is less.

Sec. 5. Minnesota Statutes 1990, section 162.02, subdivision 3a, is amended to read:

Subd. 3a. [VARIANCES, RULES AND ENGINEERING STANDARDS.] The commissioner may grant variances from the rules and from the engineering standards developed pursuant to section *162.021 or* 162.07, subdivision 2. A political subdivision in which a county state-aid highway is located or is proposed to be located may submit a written request to the commissioner for a variance for that highway. The commissioner shall publish notice of the request in the state register and give notice to all persons known to the commissioner to have an interest in the matter. The commissioner may grant or deny the variance within 30 days of providing notice of the request. If a written objection to the request is received within 20 days of providing notice, the variance shall be granted or denied only after a contested case hearing has been held on the request. If no timely objection is received and the variance is denied without hearing, the political subdivision may request, within 30 days of receiving notice of denial, and shall be granted a contested case hearing. *For purposes of this subdivision, "political subdivision" includes (1) an agency of a political subdivision which has jurisdiction over parks, and (2) a regional park authority.*

Sec. 6. [162.021] [NATURAL PRESERVATION ROUTES.]

Subdivision 1. [ESTABLISHMENT.] *(a) The commissioner shall establish a natural preservation routes category within the county state-aid highway system.*

(b) Natural preservation routes include those routes that possess particular scenic, environmental, or historical characteristics, such as routes along lakes or through forests, wetlands, or flood plains, that would be harmed by construction or reconstruction meeting the engineering standards under section 162.07 or the rules adopted under that section.

(c) The commissioner shall adopt rules establishing minimum construction and reconstruction standards that address public safety and reflect the function, lower traffic volume, and slower speed on natural preservation routes. The rules may not establish standards for natural preservation routes that are higher than the standards for national forest highways within national forests and state park access roads within state parks. Design standards specifying the width of vehicle recovery areas on forest highways, forest and park roads, and on natural preservation routes must minimize harmful environmental impact.

Subd. 2. [SIGNS.] *Signs must be posted at entry points to and at regular intervals along natural preservation routes. Signs posted must conform to the commissioner's manual of uniform traffic devices. Properly posted signs are prima facie evidence that adequate notice of a natural preservation route has been given to the motoring public.*

Subd. 3. [LIABILITY.] *Where a county state-aid highway has been designated a natural preservation route and signs have been posted under subdivision 2, the state and the county with jurisdiction over the road and their officers and employees are exempt from liability for any tort claim for injury to persons or property arising from travel on the highway and related to its design standards for construction or reconstruction, if the design standards comply with the standards established by the commissioner under subdivision 1. This subdivision does not preclude an action for damages*

arising from negligence in the construction, reconstruction, or maintenance of a natural preservation route.

Subd. 4. [PUBLIC INFORMATION.] *A county proposing a project on a county state-aid highway that is a natural preservation route that requires removal of the entire surface of the highway shall send to owners of property abutting the highway a written notice that describes the project. The county shall hold a public meeting to discuss design and construction alternatives.*

Subd. 5. [DESIGNATION.] *(a) The commissioner may designate a county state-aid highway as a natural preservation route only on petition of the county board of the county having jurisdiction over the road. Within 60 days after a county board receives a written request to designate a county state-aid highway as a natural preservation route, the county board shall act on the request.*

(b) The commissioner shall appoint an advisory committee for each construction district consisting of seven members: one member of the department of natural resources, one county commissioner, one county highway engineer, one representative of a recognized environmental organization, and three members of the public. The commissioner shall refer each petition received under this subdivision to the appropriate advisory committee. The advisory committee shall consider the petition for designation and make a recommendation to the commissioner. Following receipt of the committee's recommendation, the commissioner may designate the highway as a natural preservation route.

Sec. 7. Minnesota Statutes 1990, section 162.09, subdivision 3a, is amended to read:

Subd. 3a. [VARIANCES, RULES AND ENGINEERING STANDARDS.] The commissioner may grant variances from the rules and from the engineering standards developed pursuant to section 162.13, subdivision 2. A political subdivision in which a municipal state-aid street is located or is proposed to be located may submit a written request to the commissioner for a variance for that street. The commissioner shall publish notice of the request in the state register and give notice to all persons known to the commissioner to have an interest in the matter. The commissioner may grant or deny the variance within 30 days of providing notice of the request. If a written objection to the request is received within 20 days of providing notice, the variance shall be granted or denied only after a contested case hearing has been held on the request. If no timely objection is received and the variance is denied without hearing, the political subdivision may request, within 30 days of receiving notice of denial, and shall be granted a contested case hearing. *For purposes of this subdivision, "political subdivision" includes (1) an agency of a political subdivision which has jurisdiction over parks, and (2) a regional park authority.*

Sec. 8. Minnesota Statutes 1990, section 162.14, subdivision 6, is amended to read:

Subd. 6. [ADVANCES.] Any such city, except cities of the first class, may make advances from any funds available to it for the purpose of expediting the construction, reconstruction, improvement, or maintenance of its municipal state-aid street system; provided that such advances shall not exceed ~~40 percent of its last apportionment~~ *the city's total estimated apportionment for the three years following the year the advance is made*. Advances made by any such city shall be repaid out of subsequent apportionments

made to such city in accordance with the commissioner's rules.

Sec. 9. Minnesota Statutes 1990, section 169.14, is amended by adding a subdivision to read:

Subd. 5e. [SPEED LIMIT ON PARK ROADS.] *The political subdivision with authority over a park may establish a speed limit on a road located within the park. A speed limit established under this subdivision on a trunk highway is effective only with the commissioner's approval. A speed limit established under this subdivision must be based on an engineering and traffic investigation prescribed by the commissioner of transportation and must not be lower than 20 miles per hour, and no speed limit established under this subdivision may reduce existing speed limits by more than 15 miles per hour. A speed limit established under this subdivision is effective on the erection of appropriate signs designating the speed limit and indicating the beginning and end of the reduced speed zone. Any speed in excess of the posted speed is unlawful.*

Sec. 10. Minnesota Statutes 1990, section 221.033, is amended by adding a subdivision to read:

Subd. 4. [VARIANCE.] *The commissioner may adopt rules to provide a procedure to grant variances from regulations adopted under subdivision 1, and contained in Code of Federal Regulations, title 49, part 180. The variances must apply only to cargo tanks with a capacity of 3,000 gallons or less that transport gasoline in intrastate commerce in Minnesota and were first used in transportation before August 1, 1991. The commissioner shall establish inspection, testing, and registration requirements to ensure the safety of cargo tanks operated under a variance granted under this subdivision.*

Sec. 11. [BICYCLE FACILITIES.]

The commissioner of transportation shall seek federal funding under United States Code, title 23, section 217, subsection (b), for the establishment of facilities for bicycle transportation.

ARTICLE 5

TRANSPORTATION FUNDING

Section 1. [161.041] [TRANSPORTATION SERVICES FUND.]

Subdivision 1. [FUND CREATED.] *A transportation services fund is created in the state treasury. The fund consists of all money required or made available by law to be deposited in the fund.*

Subd. 2. [USES OF FUND.] *Money in the transportation services fund may only be expended by appropriation for:*

(1) activities of the commissioner of public safety relating to (i) driver licensing, (ii) motor vehicle registration and licensing, (iii) the accident reporting system; and (iv) the state patrol;

(2) activities of the commissioner of transportation relating to oversize and overweight permits, including the cost of necessary highway maintenance and preservation related to granting those permits;

(3) activities of the commissioner of transportation related to junkyard screening and control of outdoor advertising devices;

(4) activities of the transportation regulation board related to motor

carrier regulation;

(5) repayment of money borrowed for new buildings, and improvements to existing buildings, of the department of transportation;

(6) railroad grade crossing protection studies, grade crossing inventories, and grade crossing public education; and

(7) activities of the transportation study board.

Sec. 2. Minnesota Statutes 1990, section 173.13, subdivision 4, is amended to read:

Subd. 4. The annual fee for each such permit or renewal thereof shall be as follows:

(1) If the advertising area of the advertising device does not exceed 50 square feet, the fee shall be ~~$20~~ *$25 on July 1, 1991, and $30 on July 1, 1992, and thereafter.*

(2) If the advertising area exceeds 50 square feet but does not exceed 300 square feet, the fee shall be ~~$40~~ *$50 on July 1, 1991, and $60 on July 1, 1992, and thereafter.*

(3) If the advertising area exceeds 300 square feet, the fee shall be ~~$80~~ *$100 on July 1, 1991, and $120 on July 1, 1992, and thereafter.*

(4) No fee shall be charged for a permit for official signs and notices as they are defined in section 173.02, except that a fee may be charged for a star city sign erected under section 173.085.

Sec. 3. Minnesota Statutes 1990, section 296.16, subdivision 1a, is amended to read:

Subd. 1a. [INTENT; FOREST ROADS.] ~~$675,000~~ *Approximately 0.116 percent* of the total annual unrefunded revenue from the gasoline fuel tax on all gasoline and special fuel received in, produced, or brought into this state, except gasoline and special fuel used for aviation purposes, is derived from the operation of motor vehicles on state forest roads and county forest access roads~~, and~~. Of this ~~sum, $400,000~~ *amount, 0.0605 percent* is annually derived from motor vehicles operated on state forest roads and ~~$275,000~~ *0.0555 percent* is annually derived from motor vehicles operated on county forest access roads in this state.

Sec. 4. Minnesota Statutes 1990, section 296.421, subdivision 8, is amended to read:

Subd. 8. [COMPUTATION AND DISTRIBUTION OF UNREFUNDED TAXES FOR FOREST ROADS.] The amount of unrefunded tax paid on gasoline and special fuel used to operate motor vehicles on forest roads, except gasoline and special fuel used for aviation purposes, is ~~$675,000 annually~~ *0.116 percent of the total unrefunded revenue from the tax on all gasoline and special fuel received in, produced, or brought into the state,* and *this revenue* is appropriated from the highway user tax distribution fund and must be transferred and credited in equal installments on July 1 and January 1 to the state forest road account established in section 89.70. ~~$275,000 of this amount~~ *An amount equal to 0.0555 percent of the unrefunded revenue* must be annually transferred to counties for management and maintenance of county forest roads.

Sec. 5. Minnesota Statutes 1990, section 299D.03, subdivision 5, is amended to read:

Subd. 5. [FINES AND FORFEITED BAIL MONEY.] (a) All fines and forfeited bail money, from traffic and motor vehicle law violations, collected from persons apprehended or arrested by officers of the state patrol, shall be paid by the person or officer collecting the fines, forfeited bail money or installments thereof, on or before the tenth day after the last day of the month in which these moneys were collected, to the county treasurer of the county where the violation occurred. Three-eighths of these receipts shall be credited to the general revenue fund of the county. The other five-eighths of these receipts shall be transmitted by that officer to the state treasurer and shall be credited *as follows:*

(1) In the fiscal year ending June 30, 1991, the first $275,000 in money received by the state treasurer after the effective date of this section must be credited to the transportation services fund, and the remainder in the fiscal year credited to the trunk highway fund.

(2) In fiscal year 1992, the first $215,000 in money received by the state treasurer in the fiscal year must be credited to the transportation services fund, and the remainder credited to the trunk highway fund.

(3) In fiscal years 1993 and subsequent years, the entire amount received by the state treasurer must be credited to the trunk highway fund. If, however, the violation occurs within a municipality and the city attorney prosecutes the offense, and a plea of not guilty is entered, one-third of the receipts shall be credited to the general revenue fund of the county, one-third of the receipts shall be paid to the municipality prosecuting the offense, and one-third shall be transmitted to the state treasurer as provided in this subdivision. All costs of participation in a nationwide police communication system chargeable to the state of Minnesota shall be paid from appropriations for that purpose.

(b) Notwithstanding any other provisions of law, all fines and forfeited bail money from violations of statutes governing the maximum weight of motor vehicles, collected from persons apprehended or arrested by employees of the state of Minnesota, by means of stationary or portable scales operated by these employees, shall be paid by the person or officer collecting the fines or forfeited bail money, on or before the tenth day after the last day of the month in which the collections were made, to the county treasurer of the county where the violation occurred. Five-eighths of these receipts shall be transmitted by that officer to the state treasurer and shall be credited to the highway user tax distribution fund. Three-eighths of these receipts shall be credited to the general revenue fund of the county.

Sec. 6. Laws 1990, chapter 610, article 1, section 13, subdivision 5, is amended to read:

Subd. 5. Local Bridge Replacement and Rehabilitation	5,600,000
This appropriation is from the state transportation fund.	
(a) This appropriation shall be distributed by the commissioner of transportation as grants to political subdivisions for the construction and reconstruction of key bridges on highways and streets under their jurisdiction. The grants shall not exceed the following aggregate amounts:	

(1) To counties	$3,304,000
(2) To home rule charter and statutory cities	$ 784,000
(3) To towns	$1,512,000

(b) The grants may be used by a political subdivision to:

(1) Construct and reconstruct key bridges under their jurisdiction;

(2) Match federal-aid grants for construction and reconstruction of the bridges;

(3) Pay the costs of preliminary engineering and environmental studies for the bridges;

(4) Pay the costs of abandoning an existing bridge that is deficient and is in need of replacement, but where no replacement is made; ~~and~~

(5) Pay the cost of constructing a road or street that would facilitate the abandonment of an existing deficient bridge. The construction of the road or street must be judged by the commissioner to be more cost-efficient than the reconstruction or replacement of the existing bridge; *and*

(6) Pay the cost of constructing a water retention structure that replaces an existing deficient bridge and is included in a county comprehensive water plan approved by the board of water and soil resources and the department of natural resources. The participating cost is limited to the cost of drainage structures and roadway grading other than surfacing and is limited to an amount that does not exceed the cost of constructing a replacement bridge.

Sec. 7. [APPROPRIATION.]

Subdivision 1. [GENERAL APPROPRIATION.] *$490,000 is appropriated from the transportation services fund as provided in subdivisions 2 and 3.*

	1992	*1993*
Subd. 2. Department of Transportation		
(a) Conduct railroad crossing protection study	*$ 60,000*	*$ -0-*
(b) Inventory railroad grade crossings	*50,000*	*50,000*
(c) Develop public education program	*20,000*	*20,000*
Subd. 3. Transportation		

Study Board	*145,000*	*145,000*

Sec. 8. [EFFECTIVE DATE.]

Section 1, 5, and 6 are effective the day after final enactment. Sections 2, 3, 4, and 7 are effective July 1, 1991.

ARTICLE 7

METROPOLITAN TRANSPORTATION

Section 1. Minnesota Statutes 1990, section 171.01, is amended by adding a subdivision to read:

Subd. 24. [SPECIAL TRANSPORTATION SERVICE.] *"Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private entity or person that is designed primarily to serve individuals who are elderly, handicapped, or disabled and who are unable to use regular means of transportation but do not require ambulance service, as defined in section 144.801, subdivision 4. Special transportation service includes but is not limited to service provided by specially equipped buses, vans, and taxis. Special transportation service does not include a volunteer driver using a private passenger vehicle that belongs to the volunteer.*

Sec. 2. Minnesota Statutes 1990, section 171.02, subdivision 2, is amended to read:

Subd. 2. [DRIVER'S LICENSE CLASSIFICATIONS, ENDORSEMENTS, EXEMPTIONS.] Drivers' licenses shall be classified according to the types of vehicles which may be driven by the holder of each type or class of license. The commissioner may, as appropriate, subdivide the classes listed in this subdivision and issue licenses classified accordingly. No class of license shall be valid to operate a motorcycle, school bus, *special transportation service vehicle,* tank vehicle, double-trailer or triple-trailer combination, vehicle transporting hazardous materials, or bus, unless so endorsed. There shall be four general classes of licenses as follows:

(a) Class C; valid for:

(1) all farm trucks as defined in section 168.011, subdivision 17, operated by (i) the owner, (ii) an immediate family member of the owner, (iii) an employee of the owner not primarily employed to operate the farm truck, within 150 miles of the farm, or (iv) an employee of the owner employed during harvest to operate the farm truck for the first, continuous transportation of agricultural products from the production site or on-farm storage site to any other location within 50 miles of that site;

(2) fire trucks and emergency fire equipment, whether or not in excess of 26,000 pounds gross vehicle weight, operated by a firefighter while on duty, or a tiller operator employed by a fire department who drives the rear portion of a midmount aerial ladder truck;

(3) recreational equipment as defined in section 168.011, subdivision 25, that is operated for personal use; and

(4) all single unit vehicles except vehicles with a gross vehicle weight of 26,001 or more pounds, vehicles designed to carry more than 15 passengers including the driver, and vehicles that carry hazardous materials; *and*

(5) with a special transportation service vehicle endorsement, operating a motor vehicle providing special transportation service.

The holder of a class C license may also tow vehicles under 10,000 pounds gross vehicle weight.

(b) Class CC; valid for:

(1) operating class C vehicles;

(2) with a hazardous materials endorsement, transporting hazardous materials in class C vehicles; and

(3) with a school bus endorsement, operating school buses designed to transport 15 or fewer passengers, including the driver.

(c) Class B; valid for all vehicles in class C, class CC, and all other single unit vehicles including, with a passenger endorsement, buses.

(d) Class A; valid for any vehicle or combination thereof.

Sec. 3. Minnesota Statutes 1990, section 171.10, subdivision 2, is amended to read:

Subd. 2. [ENDORSEMENTS ADDED.] *(a)* Any person, after applying for or receiving a driver's license and prior to the expiration year of the license, who wishes to have a motorcycle, school bus, *special transportation service vehicle,* tank vehicle, passenger, double-trailer or triple-trailer, or hazardous materials vehicle endorsement added to the license, shall, after taking the necessary examination, apply for a duplicate license and make payment of the proper fee.

Sec. 4. Minnesota Statutes 1990, section 171.13, subdivision 5, is amended to read:

Subd. 5. [FEE FOR VEHICLE ENDORSEMENT.] Any person applying to secure a motorcycle, school bus, *special transportation service vehicle,* tank vehicle, passenger, double-trailer or triple-trailer, or hazardous materials vehicle endorsement on the person's driver's license shall pay a $2.50 examination fee at the place of application.

Sec. 5. [171.323] [SPECIAL TRANSPORTATION SERVICE DRIVERS.]

Subdivision 1. [DRIVER'S LICENSE WITH ENDORSEMENT REQUIRED.] *No person shall drive a motor vehicle providing special transportation service within the seven-county metropolitan area as defined in section 473.121, subdivision 2, without having a valid class A, class B, or class CC driver's license with a special transportation service vehicle endorsement.*

Subd. 2. [QUALIFICATIONS; RULES.] *The commissioner of public safety shall prescribe rules governing the procedures for issuance of a special transportation service vehicle permit and endorsement, which include the following provisions:*

(1) Procedures for issuance of a special transportation service permit valid for not more than ninety (90) days upon proof that the applicant is not disqualified based on prior criminal convictions as described in this section.

(2) Procedures to issue a special transportation service vehicle endorsement if, within the permit period, the applicant provides proof of the completion of the training required by the commissioner of transportation under section 174.30.

(3) Procedures for withdrawal of an endorsement after issuance.

(4) Procedures for applicants to challenge the withdrawal or denial of an endorsement; and

(5) Procedures for issuance of a certificate of endorsement for a nonresident driving special transportation service vehicles in Minnesota.

Subd. 3. [STUDY OF APPLICANT.] *Before issuing or renewing a special transportation service vehicle endorsement, the commissioner shall conduct a criminal records check of the applicant. The commissioner may also conduct a records check at any time while a person is so licensed. The check shall consist of a criminal records check of the state criminal records repository. If the applicant has resided in Minnesota for less than five years, the records check shall also include a criminal records check of information from the state law enforcement agencies in the states where the applicant resided during the five years before moving to Minnesota, and of the national criminal records repository including the criminal justice data communications network. The applicant's failure to cooperate with the commissioner in conducting a records check is reasonable cause to deny an application or cancel a special transportation vehicle endorsement. The commissioner may not release the results of a records check to any person except the applicant.*

Subd. 4. [DISQUALIFICATION FOR PRIOR CONVICTION.] *No endorsement shall be authorized for any person unless the applicant or licensee:*

(1) is not disqualified to receive a school bus endorsement due to criminal history;

(2) is not disqualified as a special transportation service driver under the rules of the commissioner of transportation promulgated under to section 174.30; and

(3) has a criminal record clear of conviction of offenses relating to vulnerable adult abuse under section 626.557.

Sec. 6. Minnesota Statutes 1990, section 473.373, subdivision 4a, is amended to read:

Subd. 4a. [MEMBERSHIP.] (a) The board consists of 11 members with governmental or management experience. Appointments are subject to the advice and consent of the senate. Terms of members are four years commencing on the first Monday in January of the first year of the term.

(b) The council shall appoint eight members, one from each of the following agency districts:

(1) district A, consisting of council districts 1 and 2;

(2) district B, consisting of council districts 3 and 7;

(3) district C, consisting of council districts 4 and 5;

(4) district D, consisting of council districts 6 and 11;

(5) district E, consisting of council districts 8 and 10;

(6) district F, consisting of council districts 9 and 13;

(7) district G, consisting of council districts 12 and 14; and

(8) district H, consisting of council districts 15 and 16.

~~At least~~ Six must be elected officials of statutory or home rule charter cities, towns, or counties. ~~Two of these officials must be county board members, each from a different county, and four must be elected officials of cities or towns. Service on the board of a person who is appointed as an elected official may continue only as long as the person holds the office. At least 30 days before the expiration of a term or upon the occurrence of a vacancy, the council shall request nominations for the position from relevant organizations of local elected officials, such as the association of metropolitan municipalities, the metropolitan intercounty association, the association of urban counties, and where applicable, the association of townships. Each relevant organization shall nominate at least two persons for each position. A local governmental unit that is not a member of an organization may submit nominations independently. The council shall make its appointments from the nominations submitted to it to the extent possible consistent with the other requirements of this paragraph and with the appointment of a board that fairly reflects the diverse areas and constituencies affected by transit.~~

(c) The governor shall appoint, in addition to the chair, two persons, one who is age 65 or older at the time of appointment, and one with a disability. These appointments must be made following the procedures of section 15.0597. In addition, at least 30 days before the expiration of a term or upon the occurrence of a vacancy in the office held by a senior citizen or a person with a disability, the governor shall request nominations from organizations of senior citizens and persons with disabilities. Each organization shall nominate at least two persons. The governor shall consider the nominations submitted.

(d) No more than three of the members appointed under paragraphs (b) and (c) may be residents of the same statutory or home rule city or town, and none may be a member of the joint light rail transit advisory committee established under section 473.3991.

Sec. 7. [473.3997] [FEDERAL FUNDING; LIGHT RAIL TRANSIT.]

By July 1, 1992, the regional transit board, the regional rail authorities, and the commissioner of transportation shall jointly prepare any application for federal assistance for light rail transit facilities in the metropolitan area. The application must be reviewed and approved by the metropolitan council before it is submitted. The board, the rail authorities, and the commissioner must consult with the council in preparing the application. The application may provide for metropolitan regional railroad authorities to design or construct light rail transit facilities under contract with the commissioner.

Sec. 8. [473.3998] [LIGHT RAIL TRANSIT JOINT POWERS BOARD.]

A light rail transit joint powers board shall be formed under section 471.59 to implement light rail transit final design and construction of the corridors funded solely with federal and county funds. The board shall consist of a voting member from the metropolitan transit commission, the department of transportation, the regional transit board, the metropolitan council, and the regional rail authorities of Hennepin, Ramsey, Anoka, Washington, Dakota, Scott, and Carver counties, plus an additional voting member from a county regional rail authority with a corridor in which final design has begun.

Sec. 9. [ADVISORY TASK FORCE ON PARATRANSIT.]

Subdivision 1. [CREATION; MEMBERSHIP.] *The regional transit board*

shall establish a paratransit advisory task force under section 15.059, subdivision 6, consisting of the following members:

(1) two members representing the regional transit board, appointed by the chair of the board;

(2) two members representing the department of human services, appointed by the commissioner of human services;

(3) one member representing the department of transportation, appointed by the commissioner of transportation;

(4) one member representing the metropolitan transit commission, appointed by the chair of the commission;

(5) one member representing the council on disability, appointed by the council;

(6) one member representing nonprofit providers, appointed by the commissioner of human services;

(7) one member representing for-profit providers, appointed by the commissioner of human services;

(8) one member representing the senior community, appointed by the commissioner of human services;

(9) one member representing the metropolitan area, appointed by the chair of the metropolitan council; and

(10) two members representing users of paratransit, appointed by the chair of the board.

The committee shall expire December 31, 1991.

Subd. 2. [ADMINISTRATION.] *The regional transit board and the department of human services shall provide staff and administrative services for the committee. The organizations whose representatives are listed in subdivision 1, clauses (4) to (8), shall provide information, staff, and technical assistance for the committee as needed.*

Subd. 3. [STUDIES.] *The committee shall study the feasibility of consolidating and coordinating existing metro mobility service trips with existing department of human services medical assistance service trips in the metropolitan area. The committee shall consult affected persons and organizations not represented by members appointed under subdivision 1, including day training and rehabilitation centers, nursing homes, and intermediate care facilities for the mentally retarded.*

Subd 4. [REPORT.] *The commissioner of human services and the chair of the regional transit board shall jointly submit the report and recommendations to the legislature and the governor no later than December 31, 1991.*

Subd. 5. [DEFINITION.] *For the purposes of this section, "metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2.*

Sec. 10. [APPLICATION.]

Sections 1 to 9 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 11. [EFFECTIVE DATE.]

Section 6 is effective the day following final enactment.

ARTICLE 8

TRANSPORTATION STUDIES

Section 1. [161.53] [RESEARCH ACTIVITIES.]

The commissioner may set aside for transportation research in each fiscal year up to one percent of the total amount of all funds appropriated to the commissioner other than county state-aid and municipal state-aid highway funds. The commissioner shall spend this money for (1) research to improve the design, construction, maintenance, management, and environmental compatibility of transportation systems; (2) research on transportation policies that enhance energy efficiency and economic development; (3) programs for implementing and monitoring research results; and (4) development of transportation education and outreach activities. Of all funds appropriated to the commissioner other than state-aid funds, the commissioner shall spend 0.1 percent, but not exceeding $800,000 in any fiscal year, for research and related activities performed by the center for transportation studies of the University of Minnesota. The center shall establish a technology transfer and training center for Minnesota transportation professionals.

Sec. 2. [DEPARTMENT OF TRANSPORTATION; CORRIDOR STUDIES.]

Subdivision 1. [FINDING.] *The legislature finds that a system of improved highways between regional centers in greater Minnesota and the Twin Cities metropolitan area is needed to promote economic development and to enhance commercial access, personal mobility, and traffic safety in Minnesota. It is therefore in the public interest to provide financing methods that accelerate construction of trunk highways linking regional centers in greater Minnesota with the Twin Cities metropolitan area.*

Subd. 2. [STUDY.] *The commissioner of transportation shall study and report to the governor and legislature on the feasibility of establishing a comprehensive system of multilane divided highways connecting regional centers with the Twin Cities metropolitan area. The study must include:*

(1) existing highways on corridors between regional centers and the metropolitan area;

(2) improvements needed to bring the highways to expressway standards and the cost of the improvements;

(3) the role of these improvements in the department of transportation's trunk highway programming priorities; and

(4) a schedule for completing the improvements.

The commissioner shall complete the study and submit the report not later than January 15, 1992.

Sec. 3. [TRANSPORTATION STUDY BOARD.]

Subdivision 1. [BOARD EXTENDED; MEMBERSHIP.] *A transportation study board is created. The board shall consist of the following members:*

(1) seven members of the senate, with not more than five of the same political party, appointed by the senate committee on committees; and

(2) seven members of the house of representatives, with not more than

five of the same political party, appointed by the speaker of the house. Appointments are for two-year terms beginning July 1 of each odd-numbered year. Vacancies must be filled in the same manner as the original appointments.

Subd. 2. [OFFICERS.] *The board shall elect a chair and vice-chair from among its members. The chair must alternate biennially between a member of the house and a member of the senate. The vice-chair must be a house member when the chair is a senate member, and a senate member when the chair is a house member.*

Subd. 3. [STAFF.] *The board may employ professional, technical, consulting, and clerical services. The board may use legislative staff to provide legal counsel, research, secretarial, and clerical assistance.*

Subd. 4. [EXPENSES AND REIMBURSEMENT.] *The members of the board may receive per diem when attending meetings and other commission business. Members, employees, and legislative staff must be reimbursed for expenses actually and necessarily incurred in the performance of their duties under the rules governing legislators and legislative employees.*

Subd. 5. [EXPIRATION.] *This section expires July 1, 1993.*

Sec. 4. [3.863] [DUTIES.]

The transportation study board shall perform the following duties:

(1) review and participate with the house of representatives and senate transportation committees in developing recommendations for state transportation policies;

(2) monitor state transportation programs, expenditures, and activities;

(3) review and participate in the coordination of legislative initiatives that affect state and local transportation agencies; and

(4) propose special studies to the legislature and conduct studies at the direction of the legislature.

Sec. 5. [3.864] [SPECIAL STUDIES.]

Subdivision 1. [STUDIES.] *The board shall conduct the studies in subdivisions 2 to 8 by January 1, 1993. The board may request the commissioner of transportation to conduct any of the studies and report to the board and the legislature.*

Subd. 2. [HIGHWAY PLANNING PROCESS.] *The board shall review the department of transportation's policies and procedures for identifying, evaluating, prioritizing, and implementing trunk highway development projects. The board shall not propose, identify, or otherwise select any specific project or category of projects. The board shall report to the legislature and the commissioner of transportation on the results of the study with recommendations to the commissioner of transportation on changes in the department's policies and procedures and to the legislature on changes in law governing those policies and procedures.*

Subd. 3. [HIGHWAY JURISDICTION.] *The board shall conduct a study of the functional classification of all streets and highways in Minnesota. The study shall include:*

(1) development of a state jurisdiction plan, including:

(i) criteria for determining the functional class of every street and highway

in the state;

(ii) identification of the appropriate jurisdiction of every street and highway, based on functional class; and

(iii) criteria for determining when jurisdiction should be based on factors other than functional class;

(2) recommendations for implementing the jurisdiction plan; and

(3) recommendations for changes in law to facilitate future jurisdiction transfers, including establishment of a highway jurisdiction board.

The board shall report to the legislature and the commissioner of transportation on the results of the study.

Subd. 4. [LIGHT RAIL TRANSIT.] *The board shall review and report to the legislature on preliminary engineering plans for light rail transit adopted by the commissioner of transportation under article 7.*

Subd. 5. [STATE-AID DISTRIBUTION.] *The board shall study unresolved issues relating to distribution of the county state-aid highway fund and the municipal state-aid street fund. These issues may include, but are not limited to:*

(1) formulas for distributing money;

(2) methods of measuring and quantifying the factors used in the formulas;

(3) the role of screening boards in the distribution of state-aid funds;

(4) methods to mitigate reductions in state aid resulting from changes in state-aid formulas and distribution procedures; and

(5) appropriate levels of state participation in the cost of constructing and maintaining county state-aid highways and municipal state-aid streets.

Subd. 6. [LOCAL PARTICIPATION IN TRUNK HIGHWAY PROJECTS.] *The board shall study the role of local units of government in funding trunk highway construction or reconstruction projects. The study must recommend guidelines for local participation and the types of projects for which participation is feasible and desirable.*

Subd. 7. [INCREASED USE OF HIGH-OCCUPANCY VEHICLES.] *The board shall study incentives for increasing the use of high-occupancy vehicles and shall evaluate:*

(1) tax incentives to employees;

(2) tax incentives and other incentives to employers;

(3) parking charges designed to discourage single-occupant vehicles and promote high-occupancy vehicles;

(4) road pricing on freeways and other commuting routes;

(5) staggered work hours;

(6) expanded availability and reduced cost of regular-route transit; and

(7) increased use of demand-responsive transit to meet the needs of persons otherwise automobile dependent.

Subd. 8. [LOCAL FINANCING STUDY.] *Before the 1992 legislative session, the board and the legislature shall study the use and effect of methods other than property tax revenues to finance local transportation*

improvements, including impact fees, transportation utility fees, and similar methods.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 are effective July 1, 1991."

Delete the title and insert:

"A bill for an act relating to transportation; establishing state transportation goals and requiring periodic revisions of the state transportation plan; directing a study of rail-highway grade crossings; establishing penalties for violations of grade crossing safety laws; authorizing the commissioner of transportation to make grants and loans for the improvement of commercial navigation facilities; establishing special categories of roads and highways; authorizing local units of government to advance funds for the completion of highway projects; creating a transportation services fund; specifying percentage of unrefunded motor fuel tax revenue that is attributable to use on forest roads; authorizing the use of local bridge grant funds to construct drainage structures; requiring a report on metropolitan transportation development and transit development consistent with the report; creating a light rail transit joint powers board; establishing a paratransit advisory council; authorizing transportation research; directing a study of highway corridors; creating a transportation study board and specifying duties; appropriating money; amending Minnesota Statutes 1990, sections 103G.301, by adding a subdivision; 162.02, subdivision 3a; 162.09, subdivision 3a; 162.14, subdivision 6, and by adding a subdivision; 169.26; 171.01, by adding a subdivision; 171.02, subdivision 2; 171.10, subdivision 2; 171.13, subdivisions 1, 5, and by adding a subdivision; 173.13, subdivision 4; 174.01; 174.03, subdivision 2, and by adding a subdivision; 219.074, by adding a subdivision; 219.402; 221.033, by adding a subdivision; 296.16, subdivision 1a; 296.421, subdivision 8; 299D.03, subdivision 5; 473.373, subdivision 4a; Laws 1990, chapter 610, article 1, section 13, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 3; 160; 161; 162; 171; 219; and 473; proposing coding for new law as Minnesota Statutes, chapter 457A."

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

Senate Conferees: (Signed) Keith Langseth, Gary M. DeCramer, Lyle G. Mehrkens, Carol Flynn, Sandra L. Pappas

House Conferees: (Signed) Henry J. Kalis, Bernard L. "Bernie" Lieder, Sidney Pauly, James I. Rice, Irv Anderson

Mr. Langseth moved that the foregoing recommendations and Conference Committee Report on S.F. No. 598 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. 598 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Adkins	Day	Johnson, J.B.	Metzen	Renneke
Beckman	Finn	Johnston	Moe, R.D.	Riveness
Belanger	Flynn	Kelly	Mondale	Sams
Benson, J.E.	Frank	Knaak	Morse	Samuelson
Berg	Frederickson, D.J.	Kroening	Neuville	Spear
Berglin	Frederickson, D.R.	Laidig	Novak	Storm
Bernhagen	Gustafson	Langseth	Olson	Traub
Bertram	Halberg	Larson	Pappas	Vickerman
Chmielewski	Hottinger	Lessard	Pariseau	Waldorf
Cohen	Hughes	Luther	Pogemiller	
Dahl	Johnson, D.E.	McGowan	Price	
Davis	Johnson, D.J.	Merriam	Ranum	

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. 871 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 871: A bill for an act relating to employment; board of electricity; clarifying definitions; providing for a complaint committee; clarifying and adding duties of the board; providing penalties; amending Minnesota Statutes 1990, sections 326.01, subdivisions 2, 3, 4, 5, 6, 6a, and by adding subdivisions; 326.241, subdivision 2; 326.242, subdivisions 1, 2, 3, 4, 5, 6, 9, 12, and by adding subdivisions; 326.244, subdivisions 4, 5, and by adding a subdivision; 326.245; and 326.246.

Mr. Waldorf moved that the amendment made to H.F. No. 871 by the Committee on Rules and Administration in the report adopted May 18, 1991, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 871 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 36 and nays 15, as follows:

Those who voted in the affirmative were:

Adkins	Frederickson, D.J.	Larson	Morse	Spear
Beckman	Hottinger	Lessard	Pappas	Storm
Berglin	Hughes	Luther	Pogemiller	Vickerman
Bernhagen	Johnson, D.E.	Marty	Ranum	Waldorf
Bertram	Johnson, D.J.	McGowan	Reichgott	
Finn	Johnson, J.B.	Merriam	Renneke	
Flynn	Kelly	Metzen	Sams	
Frank	Kroening	Moe, R.D.	Samuelson	

Those who voted in the negative were:

Belanger	Chmielewski	Frederickson, D.R.	Johnston	Neuville
Benson, J.E.	Davis	Gustafson	Knaak	Olson
Berg	Day	Halberg	Langseth	Pariseau

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1035 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 1035: A bill for an act relating to retirement; teachers retirement association; making various changes in laws governing the administration of the association; amending Minnesota Statutes 1990, sections 136.82, subdivision 1; 176.021, subdivision 7; 354.05, subdivisions 5, 13, 22, 35, 35a, and by adding a subdivision; 354.071, subdivision 2; 354.092; 354.093; 354.094, subdivision 1; 354.095; 354.10, subdivisions 1, 2, and 4; 354.33, subdivision 6; 354.35; 354.41, subdivision 7; 354.46, subdivision 2; 354.48, subdivisions 2, 4, 6, 7, and 8; 354.49, subdivision 3; 354.50, subdivision 1; 354.52, subdivision 2, and by adding a subdivision; 356.30, by adding a subdivision; and 356.87; repealing Minnesota Statutes 1990, sections 354.094, subdivisions 1a and 1b; and 354.48, subdivision 5.

Mr. Morse moved to amend H.F. No. 1035 as follows:

Page 20, after line 22, insert:

"Sec. 30. Minnesota Statutes 1990, section 354B.04, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER CONTRIBUTIONS.] The employer of persons in covered employment who participate in the plan shall make an employer contribution to the plan in an amount equal to the amount prescribed by section 354.42, subdivision 3~~, and shall continue to make an additional employer contribution to the teachers retirement association in an amount equal to the amount prescribed by section 354.42, subdivision 5~~."

Page 21, after line 10, insert:

"Sec. 33. [TRANSFER.]

Notwithstanding Minnesota Statutes, section 354B.03, subdivision 3, or any other provision of law to the contrary, a person who is an employee of the state university board on the effective date of this section who was employed by the state university board before 1964, and who elected to transfer retirement coverage from the teachers retirement association to the individual retirement account plan created in Minnesota Statutes, chapter 354B, may revoke that transfer prospectively and have future service credited by the teachers retirement association. A revocation must be made in a manner prescribed by the executive director of the teachers retirement association and must be made within 60 days of the effective date of this section. The election is effective only for future service and does not permit transfer to the teachers retirement association of any contributions made to the individual retirement account plan."

Page 21, after line 16, insert:

"*Section 30 is effective for the first payroll period beginning after July 1, 1991. Section 33 is effective the day following final enactment.*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1035 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, J.B.	Merriam	Renneke
Beckman	Finn	Johnston	Metzen	Sams
Belanger	Flynn	Kelly	Moe, R.D.	Samuelson
Benson, D.D.	Frank	Knaak	Morse	Spear
Benson, J.E.	Frederickson, D.J.	Kroening	Neuville	Storm
Berg	Frederickson, D.R.	Laidig	Novak	Traub
Berglin	Gustafson	Langseth	Olson	Vickerman
Bernhagen	Halberg	Larson	Pappas	Waldorf
Bertram	Hottinger	Lessard	Pariseau	
Chmielewski	Hughes	Luther	Pogemiller	
Dahl	Johnson, D.E.	Marty	Ranum	
Davis	Johnson, D.J.	McGowan	Reichgott	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 611 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 611: A bill for an act relating to retirement; local police and salaried firefighters relief associations; authorizing the payment of a refund to the designated beneficiary of certain decedents; proposing coding for new law in Minnesota Statutes, chapter 423A.

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 57 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnston	Metzen	Renneke
Beckman	Finn	Kelly	Moe, R.D.	Sams
Belanger	Flynn	Knaak	Morse	Samuelson
Benson, D.D.	Frank	Kroening	Neuville	Solon
Benson, J.E.	Frederickson, D.J.	Laidig	Novak	Spear
Berg	Frederickson, D.R.	Langseth	Olson	Storm
Berglin	Halberg	Larson	Pappas	Traub
Bernhagen	Hottinger	Lessard	Pariseau	Vickerman
Bertram	Hughes	Luther	Pogemiller	Waldorf
Chmielewski	Johnson, D.E.	Marty	Price	
Dahl	Johnson, D.J.	McGowan	Ranum	
Davis	Johnson, J.B.	Merriam	Reichgott	

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1584 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 1584: A bill for an act relating to retirement; the public employees retirement association; making various changes reflecting benefits, administration, and investment practices; amending Minnesota Statutes 1990, sections 353.01, subdivisions 2b, 6, 10, 15, 16, and 20; 353.03, subdivision 1; 353.27, subdivisions 4, 7, 12, 12a, and by adding subdivisions; 353.28, subdivision 6; 353.29, subdivision 4; 353.31, subdivision 1; 353.32, subdivision 1a; 353.33, subdivision 3a; 353.34, subdivision 1; 353.64, by

adding a subdivision; 353.656, subdivision 1a; 353.657; 353A.01, subdivision 1; 353A.02, subdivision 16, and by adding a subdivision; 353A.03; 353A.06; 353A.08, subdivision 1; 353C.06, subdivision 3; 353C.07, subdivision 1; 353C.08, subdivision 2; 353C.09; 353D.01, subdivision 2; 353D.02; 353D.04; 353D.05, subdivision 2; 353D.07, subdivisions 2 and 3; 353D.12, subdivision 1; 356.371, subdivision 3; 356.86, subdivisions 2 and 4; 356.87; Laws 1990, chapter 570, article 8, section 14, subdivision 1; and repealing Minnesota Statutes 1990, sections 353.33, subdivision 5a; and 353C.07, subdivision 2.

Mr. Morse moved to amend H.F. No. 1584, the unofficial engrossment, as follows:

Page 36, after line 20, insert:

"Sec. 42. Minnesota Statutes 1990, section 354B.04, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER CONTRIBUTIONS.] The employer of persons in covered employment who participate in the plan shall make an employer contribution to the plan in an amount equal to the amount prescribed by section 354.42, subdivision 3~~, and shall continue to make an additional employer contribution to the teachers retirement association in an amount equal to the amount prescribed by section 354.42, subdivision 5~~."

Page 40, after line 13, insert:

"Sec. 50. [TRANSFER.]

Notwithstanding Minnesota Statutes, section 354B.03, subdivision 3, or any other provision of law to the contrary, a person who is an employee of the state university board on the effective date of this section who was employed by the state university board before 1964, and who elected to transfer retirement coverage from the teachers retirement association to the individual retirement account plan created in Minnesota Statutes, chapter 354B, may revoke that transfer prospectively and have future service credited by the teachers retirement association. A revocation must be made in a manner prescribed by the executive director of the teachers retirement association and must be made within 60 days of the effective date of this section. The election is effective only for future service and does not permit transfer to the teachers retirement association of any contributions made to the individual retirement account plan."

Page 40, line 22, after the second period, insert "*Section 42 is effective for the first payroll period beginning after July 1, 1991. Section 50 is effective the day following final enactment.*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1584 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Johnston	Merriam	Ranum
Beckman	Flynn	Kelly	Metzen	Reichgott
Belanger	Frank	Knaak	Moe, R.D.	Renneke
Benson, D.D.	Frederickson, D.J.	Kroening	Morse	Sams
Benson, J.E.	Frederickson, D.R.	Laidig	Neuville	Samuelson
Berglin	Halberg	Langseth	Novak	Solon
Bernhagen	Hottinger	Larson	Olson	Spear
Bertram	Hughes	Lessard	Pappas	Storm
Chmielewski	Johnson, D.E.	Luther	Pariseau	Traub
Davis	Johnson, D.J.	Marty	Pogemiller	Vickerman
Day	Johnson, J.B.	McGowan	Price	Waldorf

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1698.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 1698: A bill for an act relating to the financing and operation of government in Minnesota; establishing a local government trust fund; allowing a local sales and use tax to be imposed; establishing an advisory commission on intergovernmental relations; modifying the administration, computation, collection, and enforcement of taxes; imposing taxes; changing tax rates, bases, credits, exemptions, withholding, and payments; modifying levy limits and aids to local governments; reducing the amount in the budget and cash flow reserve account; modifying certain local taxes and fees; updating references to the Internal Revenue Code; modifying provisions relating to political campaign contribution refunds; modifying tax increment financing laws; changing certain bonding provisions; changing provisions for light rail transit; changing certain eminent domain powers; changing provisions relating to certain ambulance and emergency services personnel plans; establishing programs to provide incentives for local government service sharing and mergers; changing definitions; making technical corrections and clarifications; enacting provisions relating to certain cities, counties, school districts and watershed districts; appropriating money; amending Minnesota Statutes 1990, sections 10A.322, subdivisions 1 and 4; 10A.43, subdivisions 3 and 4; 10A.44, subdivision 4; 13.51, subdivision 2, and by adding a subdivision; 13.54, by adding a subdivision; 14.03, subdivision 3; 16A.15, subdivision 6; 18.022, subdivision 2; 43A.316, subdivision 9; 47.58, subdivision 6; 60A.19, subdivision 8; 69.011, subdivisions 1 and 3; 69.021, subdivisions 2, 4, 5, 6, 7, 8, and 9; 69.54; 84.82, by adding a subdivision; 86B.401, by adding a subdivision; 115B.24,

subdivision 2; 116.07, subdivision 4h; 124A.03, subdivision 2, and by adding a subdivision; 138.17, subdivision 1a; 171.06, by adding a subdivision; 216B.36; 268.161, subdivision 1; 270.067, subdivisions 1 and 2; 270.11, subdivision 6; 270.12, subdivision 2, and by adding a subdivision; 270.274, subdivision 1; 270.60; 270.66, subdivision 3; 270.68, subdivision 1; 270.69, subdivisions 2, 8, 9, and by adding a subdivision; 270.70, subdivision 10; 270.703, subdivision 2; 270.75, subdivision 4; 270A.03, subdivision 7; 270B.09; 271.04; 271.21, subdivision 6; 272.02, subdivisions 1 and 4; 272.025, subdivision 1; 272.03, subdivision 1; 272.31; 272.479; 272.482; 272.483; 272.485; 272.486; 272.67, subdivision 6; 273.11, subdivision 1; 273.111, subdivision 6; 273.112, subdivision 7; 273.12; 273.124, subdivisions 1, 6, 9, 13, 14, and 15; 273.13, subdivisions 22, 23, 25, 31, 32, and by adding a subdivision; 273.1398, subdivisions 1, 3, 5, 6, and 7; 273.1399, subdivisions 1 and 3; 274.19, subdivision 3; 275.065, subdivisions 3, 5a, and 6; 275.08, subdivision 1b; 275.125, by adding a subdivision; 275.50, subdivisions 5 and 5a, as amended; 275.51, subdivisions 3f, 3h, 3j, and 7; 276.04, subdivision 2; 276.041; 277.01; 278.01, subdivision 1; 278.05, subdivision 4, and by adding a subdivision; 279.01, subdivisions 1 and 2; 279.03, subdivision 1a; 279.06; 281.17; 282.01, subdivision 1; 282.33, subdivision 1; 287.05; 287.22; 289A.01; 289A.02, by adding a subdivision; 289A.08, by adding a subdivision; 289A.11, subdivision 1; 289A.12, by adding a subdivision; 289A.18, subdivisions 1, 2, and 4; 289A.19, subdivisions 1 and 2; 289A.20, subdivisions 1, 2, 4, and by adding a subdivision; 289A.26, subdivisions 1, 6, and by adding a subdivision; 289A.30, subdivision 1; 289A.31, subdivision 1; 289A.35; 289A.37, subdivision 1; 289A.38, subdivisions 9, 10, and 12; 289A.39, subdivision 1, as amended; 289A.42, subdivisions 1 and 2; 289A.50, subdivision 1; 289A.56, subdivision 2; 289A.60, subdivisions 2, 4, 12, 15, and by adding a subdivision; 290.01, subdivisions 19, 19a, and 19d; 290.014, subdivisions 2, 3, 4, and 5; 290.05, subdivision 3; 290.06, subdivisions 2c, 2d, 21, 22, and 23; 290.067, subdivisions 1 and 2a; 290.068, subdivisions 1, 2, and 5; 290.0802, subdivision 1; 290.091, subdivisions 1 and 2; 290.0921, subdivision 8; 290.0922, subdivision 1, and by adding a subdivision; 290.17, subdivisions 1, 2, and 5; 290.191, subdivisions 6, 8, and 11; 290.35, subdivision 3; 290.611, subdivision 1; 290.92, subdivisions 1, 4b, 4c, 12, 26, 27, and by adding a subdivision; 290.9727, subdivisions 1, 3, and by adding subdivisions; 290A.03, subdivisions 3 and 7; 290A.04, subdivision 2h; 290A.05; 290A.091; 295.01, subdivision 10; 296.01, subdivision 25; 296.026, subdivisions 1, 2, 7, and by adding subdivisions; 296.14, subdivision 1; 297.01, subdivision 7; 297.02, subdivision 1; 297.03, subdivisions 1, 2, 4, 5, and 6; 297.07, subdivision 5; 297.08, subdivision 1; 297.11, subdivision 1, and by adding subdivisions; 297.35, subdivision 1; 297.43, by adding a subdivision; 297A.01, subdivisions 3, 4, 8, and by adding a subdivision; 297A.02, subdivision 2; 297A.14, by adding a subdivision; 297A.21, subdivisions 1 and 4; 297A.211, subdivisions 2 and 3; 297A.24; 297A.25, subdivisions 1, 9, 10, 12, and by adding a subdivision; 297A.255, subdivision 5; 297A.259; 297A.44, subdivision 1, and by adding a subdivision; 297A.45; 297B.09, by adding a subdivision; 297C.03, subdivisions 1 and 6; 297C.04; 297C.10, by adding a subdivision; 297D.01, subdivision 3; 297D.02; 297D.04; 297D.05; 297D.07; 297D.09, subdivisions 1 and 1a; 297D.11; 297D.12, subdivision 1; 297D.13, subdivisions 1 and 3; 297D.14; 298.01, subdivisions 3, 4, and by adding subdivisions; 298.015, subdivision 1; 298.16; 298.21; 298.27; 325D.32, subdivision 10; 336.9-411; 349.212, subdivision 4; 353D.01; 353D.02; 353D.03; 353D.05; 353D.06; 357.18,

subdivision 2; 375.192, subdivision 2; 386.46; 398A.04, subdivision 8; 414.031, subdivision 6; 414.0325, subdivision 4; 414.033, subdivision 7; 414.06, subdivision 4; 414.061, subdivision 3; 430.102, subdivisions 3 and 4; 462C.03, subdivision 10; 469.012, subdivision 8; 469.167, subdivision 2; 469.171, by adding a subdivision; 469.174, subdivisions 7 and 10; 469.176, subdivision 1; 469.1763, subdivisions 1, 2, 3, 4, and by adding a subdivision; 469.177, subdivisions 1 and 8; 469.1771, subdivisions 2 and 4; 469.179, by adding a subdivision; 469.1831, subdivision 4; 473.3994, by adding a subdivision; 473.843, subdivision 3; 473F.01; 473F.02, subdivisions 3, 8, 12, and 13; 473F.05; 473F.06; 473F.07; 473F.08, subdivisions 2, 5, and 6; 473F.09; 473F.13, subdivision 1; 477A.011, subdivisions 27, as amended, 28, as amended, and by adding a subdivision; 477A.012, subdivision 1, as amended, and by adding a subdivision; 477A.013, subdivisions 1, as amended, and 3, as amended; 477A.014, subdivisions 1, as amended, 4, and by adding subdivisions; 477A.03, subdivision 1; 508.25; 508A.25; 515A.1-105, subdivision 1; and 515A.4-102; Laws 1974, chapter 285, section 4, as amended; Laws 1980, chapter 511, section 1, subdivision 2; Laws 1983, chapter 342, article 19, section 1; Laws 1986, chapter 462, section 31; Laws 1988, chapter 719, article 16, section 1, subdivision 3; Laws 1989, First Special Session chapter 1, article 5, section 50; and article 14, section 16; and Laws 1990, chapter 604, article 2, section 22; article 3, sections 46, subdivision 1; 49, subdivision 3; 50, subdivision 3; 51, subdivision 3; 59, subdivision 2; and 61, subdivision 2; article 4, section 22; article 6, sections 9 and 11; article 7, sections 29, subdivision 1, and 30, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 3; 16A; 47; 117; 268; 270; 272; 273; 275; 277; 290; 295; 296; 297; 297A; 325D; 353D; 465; 469; and 477A; repealing Minnesota Statutes 1990, sections 272.487; 272.50; 272.51; 272.52; 272.53; 273.137; 277.02; 277.03; 277.05; 277.06; 277.07; 277.08; 277.09; 277.10; 277.11; 277.12; 277.13; 289A.19, subdivision 6; 290.068, subdivision 6; 290.069, subdivisions 2a, 4a, and 4b; 290.17, subdivision 7; 290.191, subdivision 7; 290.48, subdivisions 5 and 8; 296.028; 297A.257; 297A.39, subdivision 9; 298.05; 298.06; 298.07; 298.08; 298.09; 298.10; 298.11; 298.12; 298.13; 298.14; 298.15; 298.19; 298.20; 473F.02, subdivisions 9, 11, 16, 17, 18, 19, and 20; 473F.12; 473F.13, subdivisions 2 and 3; 477A.012; 477A.013; 477A.014; 477A.015; and 477A.03; Laws 1986, chapter 399, article 1, section 5; Laws 1990, chapter 604, article 4, section 19; and Laws 1991, chapter 2, article 8, sections 5, 8, and 9.

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Mr. Moe, R.D. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1698 and that the rules of the Senate be so far suspended as to give H.F. No. 1698 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 1698 was read the second time.

RECESS

Mr. Benson, D.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

Mr. Moe, R.D. imposed a call of the Senate for the balance of the proceedings on H.F. No. 1698. The Sergeant at Arms was instructed to bring in the absent members.

H.F. No. 1698 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 33, as follows:

Those who voted in the affirmative were:

Benson, D.D.	Finn	Laidig	Moe, R.D.	Solon
Berglin	Frederickson, D.J.	Langseth	Pappas	Spear
Bernhagen	Gustafson	Lessard	Piper	Storm
Brataas	Hottinger	Luther	Price	Stumpf
Cohen	Johnson, D.E.	McGowan	Ranum	Traub
Dahl	Johnson, D.J.	Merriam	Reichgott	Waldorf
Dicklich	Knaak	Metzen	Renneke	

Those who voted in the negative were:

Adkins	Davis	Hughes	Mehrkens	Pogemiller
Beckman	Day	Johnson, J.B.	Mondale	Riveness
Belanger	DeCramer	Johnston	Morse	Sams
Benson, J.E.	Flynn	Kelly	Neuville	Samuelson
Berg	Frank	Kroening	Novak	Vickerman
Bertram	Frederickson, D.R.	Larson	Olson	
Chmielewski	Halberg	Marty	Pariseau	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Johnson, D.J. moved that S.F. No. 1570, No. 15 on General Orders, be stricken and laid on the table. The motion prevailed.

S.F. No. 208 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 208

A bill for an act relating to motor vehicles; providing for seven-year, in transit license plates for motor vehicle dealers; amending Minnesota Statutes 1990, sections 168.12, subdivision 1; 168.27, subdivisions 16 and 17; and 297B.035, subdivision 2.

May 20, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 208, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and S.F. No. 208 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 168.10, subdivision 1a, is amended to read:

Subd. 1a. [COLLECTOR'S VEHICLES, PIONEER LICENSE.] Any motor vehicle manufactured prior to 1936 and owned and operated solely as a collector's item shall be listed for taxation and registration as follows: An affidavit shall be executed stating the name and address of the owner, the name and address of the person from whom purchased, the make of the motor vehicle, year and number of the model, the manufacturer's identification number and that the vehicle is owned and operated solely as a collector's item and not for general transportation purposes. If the registrar is satisfied that the affidavit is true and correct and the owner pays a $25 tax, the registrar shall list such vehicle for taxation and registration and shall issue number plates.

The number plates so issued shall bear the inscription "Pioneer," "Minnesota" and the registration number *or other combination of characters authorized under section 168.12, subdivision 2a,* but no date. The number plates are valid without renewal as long as the vehicle is in existence and shall be issued for the applicant's use only for such vehicle. The registrar has the power to revoke said plates for failure to comply with this subdivision.

Sec. 2. Minnesota Statutes 1990, section 168.10, subdivision 1b, is amended to read:

Subd. 1b. [COLLECTOR'S VEHICLE, CLASSIC CAR LICENSE.] Any motor vehicle manufactured between and including the years 1925 and 1948, and designated by the registrar of motor vehicles as a classic car because of its fine design, high engineering standards, and superior workmanship, and owned and operated solely as a collector's item shall be listed for taxation and registration as follows: An affidavit shall be executed stating the name and address of the owner, the name and address of the person from whom purchased, the make of the motor vehicle, year and number of the model, the manufacturer's identification number and that the vehicle is owned and operated solely as a collector's item and not for general transportation purposes. If the registrar is satisfied that the affidavit is true and correct and that the motor vehicle qualifies to be classified as a classic car, and the owner pays a $25 tax, the registrar shall list such vehicle for taxation and registration and shall issue number plates.

The number plates so issued shall bear the inscription "Classic Car," "Minnesota," and the registration number *or other combination of characters authorized under section 168.12, subdivision 2a,* but no date. The number plates are valid without renewal as long as the vehicle is in existence and shall be issued for the applicant's use only for such vehicle. The registrar has the power to revoke said plates for failure to comply with this subdivision.

The following cars built between and including 1925 and 1948 are classic:

A.C. Adler	
Alfa Romeo	
Alvis	Speed 20, 25, and 4.3 litre.
Amilcar	
Aston Martin	
Auburn	All 8-cylinder and 12-cylinder models.
Audi	
Austro-Daimler	

Avions Voisin 12	
Bentley	
Blackhawk	
B.M.W.	Models 327, 328, and 335 only.
Brewster (Heart-front Ford)	
Bugatti	
Buick	1931 through 1942: series 90 only.
Cadillac	All 1925 through 1935. 1936-1948: Series 67, 70, 72, 75, 80, 85 and 90 only. 1938-1941: 60 special only.
Chrysler	1926 through 1930: Imperial 80. 1931: Imperial 8 Series CG. 1932: Series CG, CH and CL. 1933: Series CL. 1934: Series CW. 1935: Series CW. All Newports and Thunderbolts.
Cord	
Cunningham	
Dagmar	Model 25-70 only.
Daimler	
Delage	
Delahaye	
Doble	
Dorris	
Duesenberg	
du Pont	
Franklin	All models except 1933-34 Olympic Sixes.
Frazer Nash	
Hispano Suiza	
Horch	
Hotchkiss	
Invicta	
Isotta Fraschini	
Jaguar	
Jordan	Speedway Series 'Z' only.
Kissel	(1925, 1926 and 1927: Model 8-75.) 1928: Model 8-90, and 8-90 White Eagle. 1929: Model 8-126, and 8-90 White Eagle. 1930: Model 8-126. 1931: Model 8-126.
Lagonda	
Lancia	
La Salle	1927 through 1933 only.
Lincoln	All models K, L, KA, and KB. 1941: Model 168H. 1942: Model 268H.
Lincoln Continental	1939 through 1948.
Locomobile	All models 48 and 90.

	1927: Model 8-80.
	1928: Model 8-80.
	1929: Models 8-80 and 8-88.
Marmon	All 16-cylinder models.
	1925: Model 74.
	1926: Model 74.
	1927: Model 75.
	1928: Model E75.
	1930: Big 8 model.
	1931: Model 88, and Big 8.
Maybach	
McFarlan	
Mercedes Benz	All models 2.2 litres and up.
Mercer	
M.G.	6-cylinder models only.
Minerva	
Packard	1925 through 1934: All models.
	1935 through 1942: Models 1200, 1201, 1202, 1203, 1204, 1205, 1207, 1208, 1400, 1401, 1402, 1403, 1404, 1405, 1407, 1408, 1500, 1501, 1502, 1506, 1507, 1508, 1603, 1604, 1605, 1607, 1608, 1705, 1707, 1708, 1806, 1807, 1808, 1906, 1907, 1908, 2006, 2007, and 2008 only.
	1946 and 1947: Models 2106 and 2126 only.
Peerless	1926 through 1928: Series 69.
	1930-1931: Custom 8.
	1932: Deluxe Custom 8.
Pierce Arrow	
Railton	
Renault	Grand Sport model only.
Reo	1930-1931: Royale Custom 8, and Series 8-35 and 8-52 Elite 8.
	1933: Royale Custom 8.
Revere	
Roamer	1925: Series 8-88, 6-54e, and 4-75.
	1926: Series 4-75e, and 8-88.
	1927-1928: Series 8-88.
	(1929: Series 8-88, and 8-125.)
	1930: Series 8-125.
Rohr	
Rolls Royce	
Ruxton	
Salmson	
Squire	
Stearns Knight	
Stevens Duryea	
Steyr	
Stutz	
Sunbeam	
Talbot	
Vauxhall	Series 30-98 only.

Wills Saint Claire

No commercial vehicles such as hearses, ambulances, or trucks are considered to be classic cars.

Sec. 3. Minnesota Statutes 1990, section 168.10, subdivision 1c, is amended to read:

Subd. 1c. [COLLECTOR'S VEHICLE, COLLECTOR LICENSE.] Any motor vehicle, including any truck, that is at least 20 model years old and manufactured after 1935, or any motor vehicle of a defunct make defined as any car or truck originally licensed as a separate identifiable make as designated by the division of motor vehicles, and owned and operated solely as a collector's vehicle, shall be listed for taxation and registration as follows: An affidavit shall be executed stating the name and address of the person from whom purchased and of the new owner, the make of the motor vehicle, year and number of the model, the manufacturer's identification number and that the vehicle is owned and operated solely as a collector's item and not for general transportation purposes. The owner must also prove that the owner also has one or more vehicles with regular license plates. If the registrar is satisfied that the affidavit is true and correct and the owner pays a $25 tax, the registrar shall list the vehicle for taxation and registration and shall issue number plates.

The number plates issued shall bear the inscription "Collector," "Minnesota" and the registration number *or other combination of characters authorized under section 168.12, subdivision 2a*, but no date. The number plates are valid without renewal as long as the vehicle is in existence and shall be issued for the applicant's use only for the vehicle. The registrar has the power to revoke the plates for failure to comply with this subdivision.

Sec. 4. Minnesota Statutes 1990, section 168.10, subdivision 1d, is amended to read:

Subd. 1d. [COLLECTORS VEHICLES, STREET ROD LICENSE.] Any modernized motor vehicle manufactured prior to the year 1949 or designed and manufactured to resemble such vehicle shall be listed for taxation and registration as follows:

An affidavit shall be executed stating the name and address of the person from whom purchased and of the new owner, the make of the motor vehicle, year number of model, and the manufacturer's identification number. The affidavit shall further state that the vehicle is owned and operated solely as a street rod and not for general transportation purposes. The owner must also prove that the owner has one or more vehicles with regular license plates. If the registrar is satisfied that the affidavit is true and correct and the owner pays a $25 tax, the registrar shall list such vehicle for taxation and registration and shall issue number plates.

The number plates issued shall bear the inscription "Street Rod", "Minnesota" and the registration number *or other combination of characters authorized under section 168.12, subdivision 2a*, but no date. The number plates are valid without renewal as long as the vehicle is in existence and shall be issued for the applicant's use only for such vehicle. The registrar has the power to revoke such plates for failure to comply with this subdivision.

Sec. 5. Minnesota Statutes 1990, section 168.105, subdivision 3, is amended to read:

Subd. 3. [LICENSE PLATES.] The registrar shall issue number plates of the same size as standard motorcycle license plates and inscribed "collector" and "Minnesota" with the registration number *or other combination of characters authorized under section 168.12, subdivision 2a,* but without a date. The plates are valid without renewal as long as the classic motorcycle exists and may be issued for the applicant's use only for the classic motorcycle. The registrar may revoke the plates for noncompliance with this subdivision.

Sec. 6. Minnesota Statutes 1990, section 168.12, subdivision 1, is amended to read:

Subdivision 1. [NUMBER PLATES; VISIBILITY, PERIODS OF ISSUANCE.] The registrar, upon the approval and payment, shall issue to the applicant the number plates required by law, bearing the state name and the number assigned. The number assigned may be a combination of a letter or sign with figures. The color of the plates and the color of the abbreviation of the state name and the number assigned shall be in marked contrast. The plates shall be lettered, spaced, or distinguished to suitably indicate the registration of the vehicle according to the rules of the registrar, and when a vehicle is registered on the basis of total gross weight, the plates issued shall clearly indicate by letters or other suitable insignia the maximum gross weight for which the tax has been paid. These number plates shall be so treated as to be at least 100 times brighter than the conventional painted number plates. When properly mounted on an unlighted vehicle, these number plates, when viewed from a vehicle equipped with standard headlights, shall be visible for a distance of not less than 1,500 feet and readable for a distance of not less than 110 feet. The registrar shall issue these number plates for the following periods:

~~(1) Number plates issued pursuant to sections 168.27, subdivisions 16 and 17, and 168.053 shall be for a one-year period.~~

~~(2)~~ New number plates issued pursuant to section 168.012, subdivision 1, shall be issued to a vehicle for as long as it is owned by the exempt agency and shall not be transferable from one vehicle to another but may be transferred with the vehicle from one tax exempt agency to another.

~~(3)~~ *(2)* Plates issued for passenger automobiles as defined in section 168.011, subdivision 7, shall be issued for a seven-year period. All plates issued under this paragraph must be replaced if they are seven years old or older at the time of annual registration or will become so during the registration period.

~~(4)~~ *(3) Number plates issued under sections 168.053 and 168.27, subdivisions 16 and 17, shall be for a seven-year period.*

(4) Plates for any vehicle not specified in clauses (1)~~,~~ ~~(2) and (3)~~ *to (3)*, except for trailers as hereafter provided, shall be issued for the life of the vehicle. Beginning with number plates issued for the year 1981, plates issued for trailers with a total gross weight of 3,000 pounds or less shall be issued for the life of the trailer and shall be not more than seven inches in length and four inches in width.

In a year in which plates are not issued, the registrar shall issue for each registration a tab or sticker to designate the year of registration. This tab or sticker shall show the calendar year or years for which issued, and is valid only for that period. The number plates, number tabs, or stickers issued for a motor vehicle may not be transferred to another motor vehicle

during the period for which it is issued.

Notwithstanding any other provision of this subdivision, number plates issued to a vehicle which is used for behind-the-wheel instruction in a driver education course in a public school may be transferred to another vehicle used for the same purpose without payment of any additional fee. The registrar shall be notified of each transfer of number plates under this paragraph and may prescribe a form for notification.

Sec. 7. Minnesota Statutes 1990, section 168.12, subdivision 2a, is amended to read:

Subd. 2a. [PERSONALIZED LICENSE PLATES.] Personalized license plates must be issued to an applicant for registration of a passenger automobile~~,~~ *including a passenger automobile registered as a classic car, pioneer car, collector car, or street rod;* van~~,~~*;* pickup truck~~,~~*;* motorcycle~~,~~ *including a classic motorcycle;* or self-propelled recreational vehicle, upon compliance with the laws of this state relating to registration of the vehicle and upon payment of a one-time fee of $100 in addition to the registration tax required by law for the vehicle. The registrar shall designate a replacement fee for personalized license plates that is calculated to cover the cost of replacement. This fee must be paid by the applicant whenever the personalized license plates are required to be replaced by law. In lieu of the numbers assigned as provided in subdivision 1, personalized license plates must have imprinted on them a series of not more than seven numbers and letters in any combination. When an applicant has once obtained personalized plates, the applicant shall have a prior claim for similar personalized plates in the next succeeding year that plates are issued if application is made for them at least 30 days before the first date that registration can be renewed. The commissioner of public safety shall adopt rules in the manner provided by chapter 14, regulating the issuance and transfer of personalized license plates. No words or combination of letters placed on personalized license plates may be used for commercial advertising, be of an obscene, indecent, or immoral nature, or be of a nature that would offend public morals or decency. The call signals or letters of a radio or television station are not commercial advertising for the purposes of this subdivision.

Notwithstanding the provisions of subdivision 1, personalized license plates issued under this subdivision may be transferred to another motor vehicle owned or jointly owned by the applicant, upon the payment of a fee of $5, which must be paid into the state treasury and credited to the highway user tax distribution fund. The registrar may by rule provide a form for notification. *A personalized license plate issued for a classic car, pioneer car, collector car, street rod, or classic motorcycle may not be transferred to a vehicle not eligible for such a license plate.*

Notwithstanding any law to the contrary, if the personalized license plates are lost, stolen, or destroyed, the applicant may apply and shall receive duplicate license plates bearing the same combination of letters and numbers as the former personalized plates upon the payment of the fee required by section 168.29.

Fees from the sale of permanent and duplicate personalized license plates must be paid into the state treasury and credited to the highway user tax distribution fund.

Sec. 8. Minnesota Statutes 1990, section 168.27, subdivision 16, is amended to read:

Subd. 16. [PLATES, DISTINGUISHING NUMBERS.] (a) The registrar shall issue to every motor vehicle dealer, upon a request from the motor vehicle dealer licensed as provided in subdivision 2 or 3, one or more plates displaying a general distinguishing number. This subdivision does not apply to a scrap metal processor, a used vehicle parts dealer, or a vehicle salvage pool. The fee for each of the first four plates is $75 *per calendar year*, of which $60 must be paid to the registrar and the remaining $15 is payable as motor vehicle excise tax under section 297B.035. For each additional plate, the dealer shall pay the registrar a fee of $25 and a motor vehicle excise tax of $15 ~~annually~~ *per calendar year*. The registrar shall deposit the tax in the state treasury and it shall be credited as provided in section 297B.09. Motor vehicles, new or used, owned by the motor vehicle dealer and bearing the number plate, except vehicles leased to the user who is not an employee of the dealer during the term of the lease, held for hire, or customarily used by the dealer as a tow truck, service truck, or parts pickup truck, may be driven upon the streets and highways of this state:

(1) by the motor vehicle dealer or dealer's spouse, or any full-time employee of the motor vehicle dealer for either private or business purposes;

(2) by a part-time employee when the use is directly related to a particular business transaction of the dealer;

(3) for demonstration purposes by any prospective buyer thereof for a period of 48 hours or in the case of a truck, truck-tractor, or semitrailer, for a period of seven days; or

(4) in a promotional event that lasts no longer than four days in which at least three motor vehicles are involved.

(b) A new or used motor vehicle sold by the motor vehicle dealer and bearing the motor vehicle dealer's number plate may be driven upon the public streets and highways for a period of 72 hours by the buyer for either of the following purposes: (1) Removing the vehicle from this state for registration in another state, or (2) permitting the buyer to use the motor vehicle before the buyer receives number plates pursuant to registration. Use of a motor vehicle by the buyer under the provisions of clause (2) of the preceding sentence before the buyer receives number plates pursuant to registration constitutes a use of the public streets or highways for the purpose of the time requirements for registration of motor vehicles.

Sec. 9. Minnesota Statutes 1990, section 168.27, subdivision 17, is amended to read:

Subd. 17. [APPLICATION *FOR IN TRANSIT PLATES.*] Every licensed dealer in motor vehicles may make application upon a blank provided by the registrar for that purpose for a general distinguishing number for use upon all new or used motor vehicles being transported from the dealer's source of supply, or other place of storage, to the dealer's place of business, or to another place of storage, or from one dealer to another. A general distinguishing number shall be assigned by the registrar to the dealer for that purpose, and the registrar shall then issue to the dealer the number of plates as the dealer may request, upon the payment by the dealer to the registrar of the sum of $5 per plate *per calendar year*. The plates shall be known as "in transit" plates. The registrar may issue "in transit" plates, upon the payment of the sum of $5 to the registrar, to dealers duly licensed in other states or provinces upon information furnished in the manner as the registrar may prescribe, and which satisfies the registrar that persons

or companies applying therefor are duly licensed dealers under the laws of the states or provinces.

Sec. 10. Minnesota Statutes 1990, section 169.01, subdivision 75, is amended to read:

Subd. 75. [COMMERCIAL MOTOR VEHICLE.] (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:

(1) has a gross vehicle weight of ~~26,001 or~~ more *than 26,000* pounds;

(2) has a towed unit with a gross vehicle weight of more than 10,000 pounds *and the combination of vehicles has a combined gross vehicle weight of more than 26,000 pounds*;

(3) is a bus;

(4) is of any size and is used in the transportation of hazardous materials ~~defined in section 221.033~~, *except for those vehicles having a gross vehicle weight of 26,000 pounds or less while carrying in bulk tanks a total of not more than 200 gallons of petroleum products and liquid fertilizer*; or

(5) is outwardly equipped and identified as a school bus, except for school buses defined in section 169.44, subdivision 15.

(b) For purposes of sections 169.1211, 169.1215, and 169.123, subdivisions 2 and 4, a commercial motor vehicle does not include a farm truck, firefighting equipment, or recreational equipment being operated by a person within the scope of section 171.02, subdivision 2, paragraph (a).

Sec. 11. Minnesota Statutes 1990, section 169.01, is amended by adding a subdivision to read:

Subd. 76. [HAZARDOUS MATERIALS.] *"Hazardous materials" means those materials found to be hazardous for the purposes of the federal Hazardous Materials Transportation Act and that require the motor vehicle to be placarded under Code of Federal Regulations, title 49, part 172, subpart F.*

Sec. 12. Minnesota Statutes 1990, section 169.121, subdivision 8, is amended to read:

Subd. 8. [~~ALCOHOL~~ *CHEMICAL USE* ASSESSMENT.] When the evidentiary test shows an alcohol concentration of 0.07 or more, that result shall be reported to the commissioner of public safety. The commissioner shall record that fact on the driver's record. When the driver's record shows a second or subsequent report of an alcohol concentration of 0.07 or more within two years of a recorded report, the commissioner may require that the driver have ~~an alcohol problem~~ *a chemical use* assessment meeting the commissioner's requirements. The assessment shall be at the driver's expense. In no event shall the commissioner deny the license of a person who refuses to take the assessment or to undertake treatment, if treatment is indicated by the assessment, for longer than 90 days. If an assessment is made pursuant to this section, the commissioner may waive the assessment required by section 169.126.

Sec. 13. Minnesota Statutes 1990, section 169.123, subdivision 5c, is amended to read:

Subd. 5c. [PETITION FOR JUDICIAL REVIEW.] Within 30 days following receipt of a notice and order of revocation or disqualification pursuant

to this section, a person may petition the court for review~~, unless the person is entitled to review under section 171.166~~. The petition shall be filed with the district court administrator in the county where the alleged offense occurred, together with proof of service of a copy on the commissioner of public safety, and accompanied by the standard filing fee for civil actions. No responsive pleading shall be required of the commissioner of public safety, and no court fees shall be charged for the appearance of the commissioner of public safety in the matter.

The petition shall be captioned in the full name of the person making the petition as petitioner and the commissioner of public safety as respondent. The petition must include the petitioner's date of birth, driver's license number, and date of the offense. The petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial and state the facts underlying each claim asserted.

The filing of the petition shall not stay the revocation, disqualification, or denial. The reviewing court may order a stay of the balance of the revocation or disqualification if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper. Judicial reviews shall be conducted according to the rules of civil procedure.

Sec. 14. Minnesota Statutes 1990, section 169.123, subdivision 8, is amended to read:

Subd. 8. [NOTICE OF ACTION TO OTHER STATES.] When ~~it has been finally determined that~~ a nonresident's privilege to operate a motor vehicle in this state has been revoked or denied, the commissioner of public safety shall give information in writing of the action taken to the official in charge of traffic control or public safety of the state of the person's residence and of any state in which the person has a license.

Sec. 15. Minnesota Statutes 1990, section 169.73, subdivision 4a, is amended to read:

Subd. 4a. [REAR-END PROTECTION FOR OTHER VEHICLES.] *(a)* Vehicles other than private passenger vehicles, collector vehicles, collector military vehicles, and other vehicles specifically exempted by law from such requirements must meet the rear-end protection requirements of federal motor carrier regulations, Code of Federal Regulations, title 49, section 393.86.

(b) Notwithstanding contrary regulations cited in paragraph (a), a truck tractor and semitrailer combination with a semitrailer length longer than 50 feet whose frame or body extends more than 36 inches beyond the rear of its rearmost axle must not be operated on the highways of this state unless equipped with a bumper or underride guard on the extreme rear of the frame or body. The bumper or underride guard must:

(1) provide a continuous horizontal beam having a maximum ground clearance of 22 inches, as measured with the vehicle empty and on level ground; and

(2) extend to within four inches of the lateral extremities of the semitrailer on both left and right sides.

Sec. 16. Minnesota Statutes 1990, section 169.81, subdivision 2, is amended to read:

Subd. 2. [LENGTH OF VEHICLES.] (a) No single unit motor vehicle, except mobile cranes which may not exceed 48 feet, unladen or with load may exceed a length of 40 feet extreme overall dimensions inclusive of front and rear bumpers, except that the governing body of a city is authorized by permit to provide for the maximum length of a motor vehicle, or combination of motor vehicles, or the number of vehicles that may be fastened together, and which may be operated upon the streets or highways of a city; provided, that the permit may not prescribe a length less than that permitted by state law. A motor vehicle operated in compliance with the permit on the streets or highways of the city is not in violation of this chapter.

(b) No single semitrailer may have an overall length, exclusive of non-cargo-carrying accessory equipment, including refrigeration units or air compressors, necessary for safe and efficient operation mounted or located on the end of the semitrailer adjacent to the truck or truck-tractor, in excess of 48 feet, except that a single semitrailer may have an overall length in excess of 48 feet but not greater than 53 feet if the distance from the kingpin to the centerline of the rear axle group of the semitrailer does not exceed 41 feet. No single trailer may have an overall length inclusive of tow bar assembly and exclusive of rear protective bumpers which do not increase the overall length by more than six inches, in excess of 45 feet. For determining compliance with the provisions of this subdivision, the length of the semitrailer or trailer must be determined separately from the overall length of the combination of vehicles.

(c) No semitrailer or trailer used in a three-vehicle combination may have an overall length *in excess of 28-1/2 feet*, exclusive of:

(1) non-cargo-carrying accessory equipment, including refrigeration units or air compressors *and upper coupler plates*, necessary for safe and efficient operation, mounted or located on the end of the semitrailer or trailer adjacent to the truck or truck-tractor~~, and further exclusive of~~;

(2) the tow bar assembly~~, in excess of 28-1/2 feet~~; *and*

(3) lower coupler equipment that is a fixed part of the rear end of the first trailer.

The commissioner may not grant a permit authorizing the movement, in a three-vehicle combination, of a semitrailer or trailer that exceeds 28-1/2 feet, except that the commissioner may renew a permit that was granted before April 16, 1984, for the movement of a semitrailer or trailer that exceeds the length limitation in this paragraph.

Sec. 17. Minnesota Statutes 1990, section 169.81, subdivision 3, is amended to read:

Subd. 3. [LENGTH OF VEHICLE COMBINATIONS.] (a) Statewide, except as provided in paragraph (b), no combination of vehicles coupled together, including truck-tractor and semitrailer, may consist of more than two units and no combination of vehicles, unladen or with load, may exceed a total length of 65 feet. The length limitation does not apply to the transportation of telegraph poles, telephone poles, electric light and power poles, piling, or pole length pulpwood, and is subject to the following further exceptions: the length limitations do not apply to vehicles transporting pipe or other objects by a public utility when required for emergency or repair of public service facilities or when operated under special permits as provided in this subdivision, but with respect to night transportation, a vehicle and the load must be equipped with a sufficient number of clearance lamps

and marker lamps on both sides and upon the extreme ends of a projecting load to clearly mark the dimensions of the load. Mount combinations may be drawn but the combinations may not exceed 65 feet in length. The limitation on the number of units does not apply to vehicles used for transporting milk from point of production to point of first processing, in which case no combination of vehicles coupled together unladen or with load, including truck-tractor and semitrailers, may consist of more than three units and no combination of those vehicles may exceed a total length of 65 feet. Notwithstanding other provisions of this section, and except as provided in paragraph (b), no combination of vehicles consisting of a truck-tractor and semitrailer designed and used exclusively for the transportation of motor vehicles or boats may exceed 65 feet in length. The load may extend a total of seven feet, but may not extend more than three feet beyond the front or four feet beyond the rear, and in no case may the overall length of the combination of vehicles, unladen or with load, exceed 65 feet. For the purpose of registration, trailers coupled with a truck-tractor, semitrailer combination are semitrailers. The state as to state trunk highways, and a city or town as to roads or streets located within the city or town, may issue permits authorizing the transportation of combinations of vehicles exceeding the limitations in this subdivision over highways, roads, or streets within their boundaries. Combinations of vehicles authorized by this subdivision may be restricted as to the use of highways by the commissioner as to state trunk highways, and a road authority as to highways or streets subject to its jurisdiction. Nothing in this subdivision alters or changes the authority vested in local authorities under the provisions of section 169.04.

(b) The following combination of vehicles regularly engaged in the transportation of commodities may operate only on divided highways having four or more lanes of travel, and on other highways as may be designated by the commissioner of transportation subject to section 169.87, subdivision 1, and subject to the approval of the authority having jurisdiction over the highway, for the purpose of providing reasonable access between the divided highways of four or more lanes of travel and terminals, facilities for food, fuel, repair, and rest, and points of loading and unloading for household goods carriers, livestock carriers, or for the purpose of providing continuity of route:

(1) a truck-tractor and semitrailer exceeding 65 feet in length;

(2) a combination of vehicles with an overall length exceeding 55 feet and including a truck-tractor and semitrailer drawing one additional semitrailer which may be equipped with an auxiliary dolly;

(3) a combination of vehicles with an overall length exceeding 55 feet and including a truck-tractor and semitrailer drawing one full trailer; ~~and~~

(4) a truck-tractor and semitrailer designed and used exclusively for the transportation of motor vehicles or boats and exceeding an overall length of 65 feet including the load except as restricted by applicable federal law~~.~~; *and*

(5) a truck or truck-tractor transporting similar vehicles by having the front axle of the transported vehicle mounted onto the center or rear part of the preceding vehicle, defined in Code of Federal Regulations, title 49, sections 390.5 and 393.5 as drive-away saddlemount combinations or drive-away saddlemount vehicle transporter combinations, when the overall length exceeds 65 feet.

Vehicles operated under the provisions of this section must conform to the standards for those vehicles prescribed by the United States Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, as amended.

Sec. 18. Minnesota Statutes 1990, section 169.825, subdivision 8, is amended to read:

Subd. 8. [PNEUMATIC-TIRED VEHICLES.] No vehicle or combination of vehicles equipped with pneumatic tires shall be operated upon the highways of this state:

(a) Where the gross weight on any wheel exceeds 9,000 pounds, except that on designated local routes and state trunk highways the gross weight on any single wheel shall not exceed 10,000 pounds;

(b) Where the gross weight on any single axle exceeds 18,000 pounds, except that on designated local routes and state trunk highways the gross weight on any single axle shall not exceed 20,000 pounds;

(c) Where the maximum wheel load:

(1) on the foremost and rearmost steering axles, exceeds 600 pounds per inch of tire width or the manufacturer's recommended load, whichever is less; *or*

(2) on other axles, exceeds 500 pounds per inch of tire width or the manufacturer's recommended load, whichever is less;

Clause (2) applies to new vehicles manufactured after August 1, 1991, and after August 1, 1996, to all vehicles.

(d) Where the gross weight on any axle of a tridem exceeds 15,000 pounds, except that for vehicles to which an additional axle has been added prior to June 1, 1981, the maximum gross weight on any axle of a tridem may be up to 16,000 pounds provided the gross weight of the tridem combination does not exceed ~~37,000 pounds where the first and third axles of the tridem are spaced seven feet apart; 38,500 pounds where the first and third axles of the tridem are spaced eight feet apart; and~~ 39,900 pounds where the first and third axles of the tridem are spaced nine feet apart.

(e) Where the gross weight on any group of axles exceeds the weights permitted under this section with any or all of the interior axles disregarded and their gross weights subtracted from the gross weight of all axles of the group under consideration.

Sec. 19. Minnesota Statutes 1990, section 169.825, subdivision 10, is amended to read:

Subd. 10. [GROSS WEIGHT SCHEDULE.] (a) No vehicle or combination of vehicles equipped with pneumatic tires shall be operated upon the highways of this state where the total gross weight on any group of two or more consecutive axles of any vehicle or combination of vehicles exceeds that given in the following table for the distance between the centers of the first and last axles of any group of two or more consecutive axles under consideration; *unless otherwise noted,* the distance between axles being measured longitudinally to the nearest even foot, and when the measurement is a fraction of exactly one-half foot the next largest whole number in feet shall be used, except that when the distance between axles is more than three feet four inches and less than three feet six inches the distance of four feet shall be used:

Distances in feet between centers of foremost and rearmost axles of a group	Maximum gross weight in pounds on a group of 2 consecutive axles of a 2-axle vehicle or of any vehicle or combination of vehicles having a total of 2 or more axles	3 consecutive axles of a 3-axle vehicle or of any vehicle or combination of vehicles having a total of 3 or more axles	4 consecutive axles of a 4-axle vehicle or any combination of vehicles having a total of 4 or more axles
4	34,000		
5	34,000		
6	34,000		
7	34,000	~~41,500~~ *39,000*	
8	34,000	~~42,000~~ *39,000*	
8 plus	*34,000*	*42,000*	
9	35,000 (39,000)	43,000	
10	36,000 (40,000)	43,500	49,000
11	36,000	44,500	49,500
12		45,000	50,000
13		46,000	51,000
14		46,500	51,500
15		47,500	52,000
16		48,000	53,000
17		49,000	53,500
18		49,500	54,000
19		50,500	55,000
20		51,000	55,500
21		52,000	56,000
22		52,500	57,000
23		53,500	57,500
24		54,000	58,000
25		(55,000)	59,000
26		(55,500)	59,500
27		(56,500)	60,000
28		(57,000)	61,000
29		(58,000)	61,500
30		(58,500)	62,000
31		(59,500)	63,000

32	(60,000)	63,500
33		64,000
34		65,000
35		65,500
36		66,000
37		67,000
38		67,500
39		68,000
40		69,000
41		69,500
42		70,000
43		71,000
44		71,500
45		72,000
46		72,500
47		(73,500)
48		(74,000)
49		(74,500)
50		(75,500)
51		(76,000)

The maximum gross weight on a group of three consecutive axles where the distance between centers of foremost and rearmost axles is listed as seven feet or eight feet applies only to vehicles manufactured before August 1, 1991.

"8 plus" refers to any distance greater than eight feet but less than nine feet.

	Maximum gross weight in pounds on a group of		
	5	6	7
Distances in feet between centers of fore-most and rearmost axles of a group	consecutive axles of a 5-axle vehicle or any com-bination of vehicles having a total of 5 or more axles	consecutive axles of a combination of vehicles having a total of 6 or more axles	consecutive axles of a combination of vehicles having a total of 7 or more axles
14	57,000		
15	57,500		
16	58,000		
17	59,000		
18	59,500		
19	60,000		

20	60,500	66,000	72,000
21	61,500	67,000	72,500
22	62,000	67,500	73,000
23	62,500	68,000	73,500
24	63,000	68,500	74,000
25	64,000	69,000	75,000
26	64,500	70,000	75,500
27	65,000	70,500	76,000
28	65,500	71,000	76,500
29	66,500	71,500	77,000
30	67,000	72,000	77,500
31	67,500	73,000	78,500
32	68,000	73,500	79,000
33	69,000	74,000	79,500
34	69,500	74,500	80,000
35	70,000	75,000	
36	70,500	76,000	
37	71,500	76,500	
38	72,000	77,000	
39	72,500	77,500	
40	73,000	78,000	
41	(74,000)	79,000	
42	(74,500)	79,500	
43	(75,000)	80,000	
44	(75,500)		
45	(76,500)		
46	(77,000)		
47	(77,500)		
48	(78,000)		
49	(79,000)		
50	(79,500)		
51	(80,000)		

The gross weights shown in parentheses in this clause are permitted only on state trunk highways and routes designated under section 169.832, subdivision 11.

(b) Notwithstanding any lesser weight in pounds shown in this table but subject to the restrictions on gross vehicle weights in clause (c), two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each and a combined gross load of 68,000 pounds provided the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.

(c) Notwithstanding the provisions of section 169.85, the gross vehicle weight of all axles of a vehicle or combination of vehicles shall not exceed:

(1) 80,000 pounds for any vehicle or combination of vehicles on all state trunk highways as defined in section 160.02, subdivision 2, and for all routes designated under section 169.832, subdivision 11; and

(2) 73,280 pounds for any vehicle or combination of vehicles with five axles or less on all routes, other than state trunk highways and routes that are designated under section 169.832, subdivision 11; and

(3) 80,000 pounds for any vehicle or combination of vehicles with six or more axles on all routes, other than state trunk highways and routes that are designated under section 169.832, subdivision 11.

(d) The maximum weights specified in this subdivision for five consecutive axles shall not apply to a combination of vehicles that includes a three axle semitrailer first registered before August 1, 1981. All other weight limitations in this section are applicable.

(e) The maximum weights specified in this subdivision for five consecutive axles shall not apply to a four axle ready mix concrete truck which was equipped with a fifth axle prior to June 1, 1981. The maximum gross weight on four or fewer consecutive axles of vehicles excepted by this clause shall not exceed any maximum weight specified for four or fewer consecutive axles in this subdivision.

Sec. 20. Minnesota Statutes 1990, section 169.86, subdivision 5, is amended to read:

Subd. 5. [FEES.] The commissioner, with respect to highways under the commissioner's jurisdiction, may charge a fee for each permit issued. All such fees for permits issued by the commissioner of transportation shall be deposited in the state treasury and credited to the trunk highway fund. Except for those annual permits for which the permit fees are specified elsewhere in this chapter, the fees shall be:

(a) $15 for each single trip permit.

(b) $36 for each job permit. A job permit may be issued for like loads carried on a specific route for a period not to exceed two months. "Like loads" means loads of the same product, weight, and dimension.

(c) $60 for an annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) refuse compactor vehicles that carry a gross weight up to but not in excess of 22,000 pounds on a single rear axle and not in excess of 38,000 pounds on a tandem rear axle;

(2) motor vehicles used to alleviate a temporary crisis adversely affecting the safety or well-being of the public;

(3) motor vehicles which travel on interstate highways and carry loads authorized under subdivision 1a;

(4) motor vehicles operating with gross weights authorized under section 169.825, subdivision 11, paragraph (a), clause (3); and

(5) special pulpwood vehicles described in section 169.863.

(d) $120 for an oversize annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) mobile cranes;

(2) construction equipment, machinery, and supplies;

(3) manufactured homes;

(4) farm equipment when the movement is not made according to the provisions of section 169.80, subdivision 1, paragraphs (a) to (f);

(5) double-deck buses;

(6) commercial boat hauling.

(e) For vehicles which have axle weights exceeding the weight limitations of section 169.825, an additional cost added to the fees listed above. The additional cost is equal to the product of the distance traveled times the sum of the overweight axle group cost factors shown in the following chart:

Overweight Axle Group Cost Factors

Weight (pounds) exceeding weight limitations on axles	Cost Per Mile For Each Group Of: Two consecutive axles spaced within 8 feet or less	Three consecutive axles spaced within 9 feet or less	Four consecutive axles spaced within 14 feet or less
0-2,000	.100	.040	.036
2,001-4,000	.124	.050	.044
4,001-6,000	.150	.062	.050
6,001-8,000	Not permitted	.078	.056
8,001-10,000	Not permitted	.094	.070
10,001-12,000	Not permitted	.116	.078
12,001-14,000	Not permitted	.140	.094
14,001-16,000	Not permitted	.168	.106
16,001-18,000	Not permitted	.200	.128
18,001-20,000	Not permitted	Not permitted	.140
20,001-22,000	Not permitted	Not permitted	.168

The amounts added are rounded to the nearest cent for each axle or axle group. The additional cost does not apply to paragraph (c), clauses (1) and (3).

For a vehicle found to exceed the appropriate maximum permitted weight, a cost-per-mile fee of 22 cents per ton, or fraction of a ton, over the permitted maximum weight is imposed in addition to the normal permit fee. Miles must be calculated based on the distance already traveled in the state plus the distance from the point of detection to a transportation loading site or unloading site within the state or to the point of exit from the state.

(f) As an alternative to paragraph (e), an annual permit may be issued for overweight, or oversize and overweight, construction equipment, machinery, and supplies. The fees for the permit are as follows:

Gross Weight (pounds) of vehicle	Annual Permit Fee
90,000 or less	$200
90,001 - 100,000	$300
100,001 - 110,000	$400
110,001 - 120,000	$500

120,001 - 130,000	$600
130,001 - 140,000	$700
140,001 - 145,000	$800

If the gross weight of the vehicle is more than 145,000 pounds the permit fee is determined under paragraph (e).

(g) For vehicles which exceed the width limitations set forth in section 169.80 by more than 72 inches, an additional cost equal to $120 added to the amount in paragraph (a) when the permit is issued while seasonal load restrictions pursuant to section 169.87 are in effect.

Sec. 21. Minnesota Statutes 1990, section 171.01, subdivision 22, is amended to read:

Subd. 22. [COMMERCIAL MOTOR VEHICLE.] "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:

(1) has a gross vehicle weight of ~~26,001 or~~ more *than 26,000* pounds;

(2) has a towed unit with a gross vehicle weight of more than 10,000 pounds *and the combination of vehicles has a combined gross vehicle weight of more than 26,000 pounds*;

(3) is a bus;

(4) is of any size and is used in the transportation of hazardous materials ~~defined in section 221.033~~, *except for those vehicles having a gross vehicle weight of 26,000 pounds or less and carrying in bulk tanks a total of not more than 200 gallons of liquid fertilizer and petroleum products*; or

(5) is outwardly equipped and identified as a school bus, except for school buses defined in section 169.44, subdivision 15.

Sec. 22. Minnesota Statutes 1990, section 171.01, is amended by adding a subdivision to read:

Subd. 24. [FARM TRUCK.] *For purposes of this chapter only, "farm truck" means a single-unit truck, including a pickup truck as defined in section 168.011; truck-tractor; tractor; semitrailer; or trailer, used by its owner:*

(1) to transport from the farm to the market agricultural, horticultural, dairy, or other farm products, including livestock, produced or finished by the owner of the farm truck;

(2) to transport the owner's other personal property from the farm to market; or

(3) to transport property and supplies to the farm of the owner.

Sec. 23. Minnesota Statutes 1990, section 171.01, is amended by adding a subdivision to read:

Subd. 25. [HAZARDOUS MATERIALS.] *"Hazardous materials" means those materials found to be hazardous for the purposes of the federal Hazardous Materials Transportation Act and that require the motor vehicle to be placarded under Code of Federal Regulations, title 49, part 172, subpart F.*

Sec. 24. Minnesota Statutes 1990, section 171.02, subdivision 1, is amended to read:

Subdivision 1. No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon any street or highway in this state unless such person has a license valid under the provisions of this chapter for the type or class of vehicle being driven. No person shall receive a driver's license unless and until the person surrenders to the department all valid driver's licenses in possession issued to the person by any other jurisdiction. All surrendered licenses shall be returned by the department to the issuing department together with information that licensee is now licensed in new jurisdiction. No person shall be permitted to have more than one valid driver's license at any time. No person may receive a driver's license, other than an instruction permit *or a limited license*, unless the person surrenders to the department any Minnesota identification card issued to the person under section 171.07, subdivision 3.

Sec. 25. Minnesota Statutes 1990, section 171.02, subdivision 2, is amended to read:

Subd. 2. [DRIVER'S LICENSE CLASSIFICATIONS, ENDORSEMENTS, EXEMPTIONS.] Drivers' licenses shall be classified according to the types of vehicles which may be driven by the holder of each type or class of license. The commissioner may, as appropriate, subdivide the classes listed in this subdivision and issue licenses classified accordingly. No class of license shall be valid to operate a motorcycle, school bus, tank vehicle, double-trailer or triple-trailer combination, vehicle transporting hazardous materials, or bus, unless so endorsed. There shall be four general classes of licenses as follows:

(a) Class C; valid for:

(1) all farm trucks ~~as defined in section 168.011, subdivision 17,~~ operated by (i) the owner, (ii) an immediate family member of the owner, (iii) an employee of the owner not primarily employed to operate the farm truck, within 150 miles of the farm, or (iv) an employee of the owner employed during harvest to operate the farm truck for the first, continuous transportation of agricultural products from the production site or on-farm storage site to any other location within 50 miles of that site;

(2) fire trucks and emergency fire equipment, whether or not in excess of 26,000 pounds gross vehicle weight, operated by a firefighter while on duty, or a tiller operator employed by a fire department who drives the rear portion of a midmount aerial ladder truck;

(3) recreational equipment as defined in section 168.011, subdivision 25, that is operated for personal use; and

(4) all single unit vehicles except vehicles with a gross vehicle weight of ~~26,001 or~~ more *than 26,000* pounds, vehicles designed to carry more than 15 passengers including the driver, and vehicles that carry hazardous materials.

The holder of a class C license may also tow vehicles ~~under 10,000 pounds~~ *if the combination of vehicles has a* gross vehicle weight *of 26,000 pounds or less*.

(b) Class CC; valid for:

(1) operating class C vehicles;

(2) with a hazardous materials endorsement, transporting hazardous materials in class C vehicles; and

(3) with a school bus endorsement, operating school buses designed to transport 15 or fewer passengers, including the driver.

(c) Class B; valid for all vehicles in class C, class CC, and all other single unit vehicles including, with a passenger endorsement, buses.

(d) Class A; valid for any vehicle or combination thereof.

Sec. 26. Minnesota Statutes 1990, section 171.02, is amended by adding a subdivision to read:

Subd. 2a. [EXCEPTION.] *Notwithstanding subdivision 2, a hazardous materials endorsement is not required to operate a vehicle having a gross vehicle weight of 26,000 pounds or less while carrying in bulk tanks a total of not more than 200 gallons of petroleum products and liquid fertilizer.*

Sec. 27. Minnesota Statutes 1990, section 171.03, is amended to read:

171.03 [PERSONS EXEMPT.]

The following persons are exempt from license hereunder:

(1) ~~any~~ *a* person in the employ or service of the United States federal government while driving or operating a motor vehicle owned by or leased to the United States federal government, *except that only a noncivilian operator of a commercial motor vehicle owned or leased by the United States Department of Defense or the Minnesota national guard is exempt from the requirement to possess a valid commercial motor vehicle driver's license*;

(2) any person while driving or operating any farm tractor, or implement of husbandry temporarily operated or moved on a highway, and for purposes of this section an all-terrain vehicle, as defined in section 84.92, subdivision 8, is not an implement of husbandry;

(3) a nonresident who is at least 15 years of age and who has in immediate possession a valid driver's license issued to the nonresident in the home state or country may operate a motor vehicle in this state only as a driver;

(4) a nonresident who has in immediate possession a valid commercial driver's license issued by a state in compliance with the Commercial Motor Vehicle Safety Act of 1986, United States Code, title 49, sections 521, 2304, and 2701 to 2716, and who is operating in Minnesota the class of commercial motor vehicle authorized by the issuing state;

(5) any nonresident who is at least 18 years of age, whose home state or country does not require the licensing of drivers may operate a motor vehicle as a driver, only for a period of not more than 90 days in any calendar year if the motor vehicle so operated is duly registered for the current calendar year in the home state or country of such nonresident;

(6) any person who becomes a resident of the state of Minnesota and who has in possession a valid driver's license issued to the person under and pursuant to the laws of some other state or province or by military authorities of the United States may operate a motor vehicle as a driver, only for a period of not more than 60 days after becoming a resident of this state without being required to have a Minnesota driver's license as provided in this chapter;

(7) any person who becomes a resident of the state of Minnesota and who has in possession a valid commercial driver's license issued by another state in compliance with the Commercial Motor Vehicle Safety Act of 1986, United States Code, title 49, sections 521, 2304, and 2701 to 2716, for not

more than 30 days after becoming a resident of this state; and

(8) any person operating a snowmobile, as defined in section 84.81.

Sec. 28. Minnesota Statutes 1990, section 171.07, subdivision 3, is amended to read:

Subd. 3. Upon payment of the required fee, the department shall issue to every applicant therefor a Minnesota identification card. The department may not issue a Minnesota identification card to a person who has a driver's license, other than an instruction permit *or a limited license*. The card must bear a distinguishing number assigned to the applicant, a colored photograph or an electronically produced image, the full name, date of birth, residence address, a description of the applicant in the manner as the commissioner deems necessary, and a space upon which the applicant shall write the usual signature and the date of birth of the applicant with pen and ink.

Each Minnesota identification card must be plainly marked "Minnesota identification card - not a driver's license." The fee for a Minnesota identification card issued to a person who is mentally retarded, as defined in section 252A.02, subdivision 2, is 50 cents.

Sec. 29. Minnesota Statutes 1990, section 171.165, subdivision 3, is amended to read:

Subd. 3. [GRAVE OR MULTIPLE OFFENSES.] Subject to section 171.166, the commissioner shall disqualify a person from operating commercial motor vehicles for:

(1) not less than three years, for a conviction or revocation set forth in subdivision 1 or 2 committed during the transportation of hazardous materials;

(2) not less than ten years, if the person is convicted a second or subsequent time of an offense set forth in subdivision 1 or ~~if the person's license is revoked more than once under section 169.123 or~~ 2, a statute *of another state* or ordinance in conformity with it, or any combination of ~~them~~ *those offenses*; or

(3) life, if the person is convicted under chapter 152 of a felony involving the manufacture, sale, or distribution of a controlled substance, or involving the possession of a controlled substance with intent to manufacture, sell, or distribute it, and the person is found to have used a commercial motor vehicle in the commission of the felony.

Sec. 30. Minnesota Statutes 1990, section 171.29, subdivision 1, is amended to read:

Subdivision 1. No person whose ~~drivers~~ *driver's* license has been revoked by reason of conviction, plea of guilty, or forfeiture of bail not vacated, under section 171.17 or 65B.67, or revoked under section 169.123 *or 169.792* shall be issued another license unless and until that person shall have successfully passed an examination as required for an initial license.

Sec. 31. Minnesota Statutes 1990, section 171.30, subdivision 1, is amended to read:

Subdivision 1. [ISSUANCE.] In any case where a person's license has been suspended under section 171.18 or revoked under section *65B.67*, 169.121, 169.123, 169.792, or 171.17, the commissioner may issue a

limited license to the driver including under the following conditions:

(1) if the driver's livelihood or attendance at a chemical dependency treatment or counseling program depends upon the use of the driver's license;

(2) if the use of a driver's license by a homemaker is necessary to prevent the substantial disruption of the education, medical, or nutritional needs of the family of the homemaker; or

(3) if attendance at a post-secondary institution of education by an enrolled student of that institution depends upon the use of the driver's license.

The commissioner in issuing a limited license may impose such conditions and limitations as in the commissioner's judgment are necessary to the interests of the public safety and welfare including reexamination as to the driver's qualifications. The license may be limited to the operation of particular vehicles, to particular classes and times of operation and to particular conditions of traffic. The commissioner may require that an applicant for a limited license affirmatively demonstrate that use of public transportation or carpooling as an alternative to a limited license would be a significant hardship.

For purposes of this subdivision, "homemaker" refers to the person primarily performing the domestic tasks in a household of residents consisting of at least the person and the person's dependent child or other dependents.

The limited license issued by the commissioner shall clearly indicate the limitations imposed and the driver operating under the limited license shall have the license in possession at all times when operating as a driver.

In determining whether to issue a limited license, the commissioner shall consider the number and the seriousness of prior convictions and the entire driving record of the driver and shall consider the number of miles driven by the driver annually.

If the person's driver's license or permit to drive, or nonresident operating privileges, have been revoked *under section 65B.67 or 169.792*, the commissioner may only issue a limited license to the person after the person has presented an insurance identification card, policy, or written statement indicating that the driver or owner has insurance coverage satisfactory to the commissioner of public safety. The commissioner of public safety may require the insurance identification card provided to satisfy this subdivision be certified by the insurance company to be noncancelable for a period not to exceed 12 months.

Sec. 32. Minnesota Statutes 1990, section 221.025, is amended to read:

221.025 [EXEMPTIONS.]

Except as provided in sections 221.031 and 221.033, the provisions of this chapter do not apply to the intrastate transportation described below:

(a) the transportation of students to or from school or school activities in a school bus inspected and certified under section 169.451;

(b) the transportation of rubbish as defined in section 443.27;

(c) a commuter van as defined in section 221.011, subdivision 27;

(d) authorized emergency vehicles as defined in section 169.01, subdivision 5, including ambulances, and tow trucks when picking up and transporting disabled or wrecked motor vehicles and when carrying proper and legal warning devices;

(e) the transportation of grain samples under conditions prescribed by the board;

(f) the delivery of agricultural lime;

(g) the transportation of dirt and sod within an area having a 50-mile radius from the home post office of the person performing the transportation;

(h) a person while exclusively engaged in the transportation of sand, gravel, bituminous asphalt mix, concrete ready mix, concrete blocks or tile *and the mortar mix to be used with the concrete blocks or tile*, or crushed rock to or from the point of loading or a place of gathering within an area having a 50-mile radius from that person's home post office or a 50-mile radius from the site of construction or maintenance of public roads and streets;

(i) the transportation of pulpwood, cordwood, mining timber, poles, posts, decorator evergreens, wood chips, sawdust, shavings, and bark from the place where the products are produced to the point where they are to be used or shipped;

(j) a person while engaged exclusively in transporting fresh vegetables from farms to canneries or viner stations, from viner stations to canneries, or from canneries to canneries during the harvesting, canning, or packing season, or transporting potatoes, sugar beets, wild rice, or rutabagas from the field of production to the first place of delivery or unloading, including a processing plant, warehouse, or railroad siding;

(k) a person engaged in transporting property or freight, other than household goods and petroleum products in bulk, entirely within the corporate limits of a city or between contiguous cities except as provided in section 221.296;

(l) the transportation of unprocessed dairy products in bulk within an area having a 100-mile radius from the home post office of the person providing the transportation;

(m) a person engaged in transporting agricultural, horticultural, dairy, livestock, or other farm products within an area having a 25-mile radius from the person's home post office and the carrier may transport other commodities within the 25-mile radius if the destination of each haul is a farm;

(n) a person providing limousine service that is not regular route service in a passenger automobile that is not a van, and that has a seating capacity, excluding the driver, of not more than 12 persons;

(o) passenger transportation service that is not charter service and that is under contract to and with operating assistance from the department or the regional transit board.

Sec. 33. Minnesota Statutes 1990, section 221.031, is amended by adding a subdivision to read:

Subd. 9. [OUT-OF-SERVICE CRITERIA ADOPTED BY REFERENCE.] *The North American Uniform Driver, Vehicle, and Hazardous Materials Out-Of-Service Criteria developed and adopted by the federal highway administration and the commercial vehicle safety alliance are adopted in Minnesota.*

Sec. 34. Minnesota Statutes 1990, section 221.033, is amended by adding a subdivision to read:

Subd. 4. [VARIANCE.] *The commissioner may adopt rules to provide a procedure to grant variances from regulations adopted under subdivision 1, and contained in Code of Federal Regulations, title 49, part 180. The variances must apply only to cargo tanks with a capacity of 3,000 gallons or less that transport gasoline in intrastate commerce in Minnesota and were first used in transportation before August 1, 1991. The commissioner shall establish inspection, testing, and registration requirements to ensure the safety of cargo tanks operated under a variance granted under this subdivision.*

Sec. 35. [221.124] [INITIAL MOTOR CARRIER CONTACT PROGRAM.]

Subdivision 1. [INITIAL MOTOR CARRIER CONTACT.] *The initial motor carrier contact program consists of an initial contact, for educational purposes, between a motor carrier required to participate and representatives of the department of transportation. The initial contact may be through an educational seminar or at the discretion of the department through a personal meeting with a representative of the department. The initial contact must consist of a discussion of the statutes, rules, and regulations that apply to motor carriers. Topics discussed must include: carrier authority; the leasing of drivers and vehicles; insurance requirements; tariffs; annual reports; accident reporting; identification of vehicles; driver qualifications; maximum hours of service of drivers; the safe operation of vehicles; equipment, parts, and accessories; and inspection, repair, and maintenance. The department shall provide written documentation of proof of compliance with the requirements of subdivision 2 and shall give a copy of the document to the motor carrier.*

Subd. 2. [PARTICIPATION REQUIRED.] *A motor carrier that receives a certificate or permit from the board for new authority on or after September 1, 1991, shall participate in the initial motor carrier contact program. A motor carrier required to participate in the program must have in attendance at least one motor carrier official having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the certificate or permit.*

Subd. 3. [TIME FOR COMPLIANCE.] *A motor carrier required by subdivision 2 to participate in the program must do so within 90 days of the service date of the order granting the certificate or permit. Failure to comply with the requirement of subdivision 2 makes the order granting the certificate or permit void upon expiration of the time for compliance.*

Sec. 36. Minnesota Statutes 1990, section 221.605, is amended by adding a subdivision to read:

Subd. 3. [OUT-OF-SERVICE CRITERIA ADOPTED BY REFERENCE.] *The North American Uniform Driver, Vehicle, and Hazardous Materials Out-Of-Service Criteria developed and adopted by the federal highway administration and the commercial vehicle safety alliance are adopted in*

Minnesota.

Sec. 37. Minnesota Statutes 1990, section 297B.035, subdivision 2, is amended to read:

Subd. 2. [ANNUAL TAX FOR DEALER PLATE.] Motor vehicles which satisfy the definitions of subdivision 1, shall be taxed at a yearly rate of $15 per dealer plate. This tax shall be paid when dealer plates, *tabs, or stickers* are purchased and shall be deposited in the state treasury and credited as provided in section 297B.09. This tax shall be in lieu of any other state sales, excise, or use tax.

Sec. 38. [TEMPORARY AUTHORITY; CHARTER CARRIERS OF PASSENGERS.]

(a) The transportation regulation board may issue a temporary permit to a motor carrier to operate as a charter carrier of passengers if the board finds that:

(1) the service to be provided under the temporary certificate will be provided during the month of January 1992 in connection with or related to the 1992 National Football League championship game or during the last week in March through the second week in April 1992 in connection with or related to the 1992 NCAA Men's Basketball Final Four Tournament;

(2) the petitioner for the temporary permit is fit and able to conduct the proposed operations; and

(3) the petitioner's vehicles meet the applicable safety standards of the commissioner of transportation.

(b) Notwithstanding Minnesota Statutes, section 221.121, subdivision 2, a holder of a temporary permit under this section is not required to seek a permanent permit from the board. The board may charge a registration fee of not more than $10 for each vehicle that will be operated under authority of the permit. All permits issued by the board under this section expire on a date specified in the permit, but not later than January 31, 1992.

(c) All provisions of Minnesota Statutes, chapter 221, not inconsistent with this section, apply to permits issued under this section.

(d) In granting temporary permits under this section, the board shall, to the maximum feasible extent, give priority to Minnesota-based carriers.

Sec. 39. [REPEALER.]

Section 38 is repealed, effective April 15, 1992. Minnesota Statutes 1990, section 169.825, subdivision 10, paragraph (d), is repealed, effective July 1, 1992.

Sec. 40. [EFFECTIVE DATE.]

Sections 24 and 28 are effective the day following final enactment. Sections 6, 8, 9, and 37 are effective July 1, 1991, for dealer plates, tabs, and stickers bought on and after that date. Section 15 is effective July 1, 1992."

Delete the title and insert:

"A bill for an act relating to transportation; allowing personalized license plates for classic, pioneer, collector, and street rod vehicles; providing for seven-year, in transit license plates for motor vehicle dealers; making technical changes in driver's license law; clarifying procedure for review of driver's license revocation or disqualification under implied consent law;

establishing maximum height for rear bumpers of certain semitrailers; allowing certain equipment to be excluded from computing the maximum allowable length of a semitrailer or trailer used in a three-vehicle combination; providing an exception to the length limitation on certain vehicle combinations; limiting maximum weight allowed on certain vehicle tires; conforming state highway weight limitations to federal requirements; imposing a cost-per-mile fee on certain overweight vehicles; defining hazardous materials, commercial motor vehicle, and farm truck; allowing class C driver's license holder to tow when the gross weight of the vehicles is 26,000 pounds or less; restricting exemption for drivers of certain federal vehicles from requirement to possess commercial driver's license; clarifying offenses for which driver may be disqualified from holding commercial driver's license; requiring person whose driver's license has been revoked to pass examination under certain circumstances; permitting qualified driver to obtain limited license following revocation for failure to have vehicle insurance; adding an exemption to the motor carrier act; authorizing a variance for small cargo tanks; establishing the initial motor carrier contact program; adopting federal out-of-service criteria for motor vehicles; authorizing temporary charter carrier permit; amending Minnesota Statutes 1990, sections 168.10, subdivisions 1a, 1b, 1c, and 1d; 168.105, subdivision 3; 168.12, subdivisions 1 and 2a; 168.27, subdivisions 16 and 17; 169.01, subdivision 75, and by adding a subdivision; 169.121, subdivision 8; 169.123, subdivisions 5c and 8; 169.73, subdivision 4a; 169.81, subdivisions 2 and 3; 169.825, subdivisions 8 and 10; 169.86, subdivision 5; 171.01, subdivision 22, and by adding subdivisions; 171.02, subdivisions 1, 2, and by adding a subdivision; 171.03; 171.07, subdivision 3; 171.165, subdivision 3; 171.29, subdivision 1; 171.30, subdivision 1; 221.025; 221.031, by adding a subdivision; 221.033, by adding a subdivision; 221.605, by adding a subdivision; and 297B.035, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 221; repealing Minnesota Statutes 1990, section 169.825, subdivision 10, paragraph (d)."

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

Senate Conferees: (Signed) Gary DeCramer, Keith Langseth, Lyle G. Mehrkens

House Conferees: (Signed) Harold Lasley, Jeff Hanson, Linda Runbeck

Mr. Mehrkens moved that the foregoing recommendations and Conference Committee Report on S.F. No. 208 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. 208 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Halberg	McGowan	Piper
Beckman	Dahl	Hughes	Mehrkens	Pogemiller
Belanger	Davis	Johnson, D.E.	Metzen	Price
Benson, D.D.	Day	Johnston	Moe, R.D.	Ranum
Benson, J.E.	DeCramer	Kelly	Mondale	Renneke
Berg	Dicklich	Knaak	Morse	Sams
Berglin	Finn	Laidig	Neuville	Spear
Bernhagen	Frank	Langseth	Novak	Storm
Bertram	Frederickson, D.J.	Larson	Olson	Traub
Brataas	Frederickson, D.R.	Luther	Pappas	Vickerman
Chmielewski	Gustafson	Marty	Pariseau	Waldorf

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Mehrkens moved that the following members be excused for a Conference Committee on H.F. No. 655 from 12:45 to 3:00 p.m.:

Messrs. DeCramer, Mehrkens and Langseth. The motion prevailed.

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 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. 720: A bill for an act relating to housing and economic development; modifying procedures relating to rent escrow actions; modifying procedures relating to the tenant's loss of essential services; modifying provisions relating to tenant remedy actions, retaliatory eviction proceedings, and receivership proceedings; modifying provisions relating to Minnesota housing finance agency low- and moderate-income housing programs; requiring counseling for reverse mortgage loans; modifying certain receivership, assignment of rents and profits, and landlord and tenant provisions; modifying provisions relating to housing and redevelopment authorities; providing for the issuance of general obligation bonds for housing by the cities of Minneapolis and St. Paul; authorizing the city of Minneapolis to make small business loans; authorizing certain economic development activities within the city of St. Paul; excluding housing districts from the calculation of local government aid reductions; modifying the interest rate reduction program; appropriating money; amending Minnesota Statutes 1990, sections 47.58, by adding a subdivision; 268.39; 273.1399, subdivision 1; 462A.03, subdivisions 10, 13, and 16; 462A.05, subdivision 20, and by adding a subdivision; 462A.08, subdivision 2; 462A.21, subdivisions 4k, 12a, and 14; 462A.22, subdivision 9; 462A.222, subdivision 3; 462C.03, subdivision 10; 469.002, subdivision 24; 469.011, subdivision 4; 469.012, subdivisions 1 and 3; 469.015, subdivisions 3, 4, and by adding a subdivision; 469.176, subdivision 4f; 474A.048, subdivision 2; 481.02, subdivision 3; 504.02; 504.18, subdivision 1; 504.185, subdivision 2; 504.20, subdivisions 3, 4, 5, and 7; 504.27; 559.17, subdivision 2; 566.03,

subdivision 1; 566.17, by adding a subdivision; 566.175, subdivision 6; 566.18, subdivision 9; 566.29, subdivisions 2 and 4; and 576.01, subdivision 2; Laws 1974, chapter 285, section 4, as amended; Laws 1987, chapter 404, section 28, subdivision 1; Laws 1988, chapter 594, section 6; Laws 1989, chapter 335, article 1, section 27, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 1990, section 462A.05, subdivisions 28 and 29.

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

Clark, Jefferson and Morrison.

Senate File No. 720 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

House File No. 719 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 719

A bill for an act relating to the organization and operation of state government; appropriating money for human services, jobs and training, corrections, health, human rights, housing finance, and other purposes with certain conditions; amending Minnesota Statutes 1990, sections 3.922, subdivisions 3 and 8; 3.9223, subdivision 1; 3.9225, subdivision 1; 3.9226, subdivision 1; 15.46; 43A.191, subdivision 2; 103I.235; 120.183; 144.335, subdivision 1; 144A.071, by adding a subdivision; 144A.31; 144A.46, subdivision 4; 144A.51, subdivision 5; 144A.53, subdivision 1; 145.925, by adding a subdivision; 148B.01, subdivision 7; 148B.03; 148B.04, subdivision 4; 148B.05, subdivision 1; 148B.06, subdivisions 1 and 3; 148B.07, subdivisions 1, 4, 7, and 8; 148B.08; 148B.12; 148B.17; 148B.18, subdivision 10; 148B.33, subdivision 1; 148B.38, subdivision 3; 157.031, subdivisions 2, 3, 4, and 9; 171.29, subdivision 2; 198.007; 214.04, subdivision 3; 241.022; 245.461, subdivision 3, and by adding a subdivision; 245.462, subdivisions 6 and 18; 245.465; 245.4711, by adding a subdivision; 245.472, by adding a subdivision; 245.473, by adding subdivisions; 245.484; 245.487, subdivision 4, and by adding a subdivision; 245.4871, subdivisions 27, 31, and by adding a subdivision; 245.4873, subdivision 6; 245.4874; 245.4881, subdivision 1; 245.4882, by adding subdivisions; 245.4884, subdivision 1; 245.4885, subdivisions 1, 2, and by adding a subdivision; 245.697, subdivision 1; 246.18, subdivision 4, and by adding a subdivision; 246.64, subdivision 3; 251.011, subdivision 3; 252.24, by adding a subdivision; 252.27, subdivisions 1a and 2a; 252.275;

252.28, subdivisions 1, 3, and by adding a subdivision; 252.32; 252.40; 252.46, subdivisions 3, 6, 12, 14, and by adding a subdivision; 252.478, subdivisions 1 and 3; 252.50, subdivision 2; 253C.01, subdivisions 1 and 2; 254B.04, subdivision 1; 256.01, subdivisions 2, 11, and by adding a subdivision; 256.025, subdivisions 1, 2, 3, and 4; 256.031; 256.032; 256.033; 256.034; 256.035; 256.036, subdivisions 1, 2, 4, and 5; 256.045, subdivision 10; 256.482, subdivision 1; 256.736, subdivision 3a; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256.936, by adding a subdivision; 256.9365, subdivisions 1 and 3; 256.9685, subdivision 1; 256.9686, subdivisions 1 and 6; 256.969, subdivisions 1, 2, 2c, 3a, and 6a; 256.9695, subdivision 1; 256.98, by adding a subdivision; 256.983; 256B.031, subdivision 4, and by adding a subdivision; 256B.04, subdivision 16; 256B.055, subdivisions 10 and 12; 256B.057, subdivisions 1, 2, 3, 4, and by adding a subdivision; 256B.0575; 256B.0625, subdivisions 2, 4, 7, 13, 17, 19, 20, 24, 25, 28, 30, and by adding subdivisions; 256B.0627; 256B.064, subdivision 2; 256B.0641, by adding a subdivision; 256B.08, by adding a subdivision; 256B.091, subdivision 8; 256B.092; 256B.093; 256B.19, subdivision 1, and by adding subdivisions; 256B.431, subdivisions 2f, 3e, 3f, and by adding subdivisions; 256B.48, subdivision 1; 256B.49, by adding a subdivision; 256B.491, by adding a subdivision; 256B.50, subdivision 1d; 256B.501, subdivisions 3g, 8, 11, and by adding a subdivision; 256B.64; 256C.24, subdivision 2; 256C.25; 256D.03, subdivisions 2, 2a, 3, and 4; 256D.05, subdivision 6, and by adding a subdivision; 256D.051, subdivisions 1, 1a, 3a, 6, and 8; 256D.052, subdivision 3; 256D.06, subdivision 1b; 256D.07; 256D.10; 256D.101, subdivisions 1 and 3; 256D.36, subdivision 1; 256D.44, by adding a subdivision; 256F.01; 256F.02; 256F.03, subdivision 5; 256F.04; 256F.05; 256F.06; 256F.07, subdivisions 1, 2, and 3; 256H.02; 256H.03; 256H.05; 256H.08; 256H.09, by adding a subdivision; 256H.15, subdivisions 1, 2, and by adding a subdivision; 256H.18; 256H.20, subdivision 3a; 256H.21, subdivision 10; 256H.22, subdivisions 2, 6, and by adding a subdivision; 256I.04, by adding a subdivision; 256I.05, subdivision 2, and by adding subdivisions; 257.071, subdivision 1a; 257.352, subdivision 2; 257.57, subdivision 2; 261.035; 268.022, subdivision 2; 268.39; 268.914; 268.975, subdivision 3, and by adding a subdivision; 268.977; 268.98; 268A.06, by adding a subdivision; 268A.08, subdivision 2; 268A.09, subdivision 2; 270A.04, subdivision 2; 270A.08, subdivision 2; 273.1398, subdivision 1; 299A.21, subdivision 6; 299A.23, subdivision 2; 299A.27; 393.07, subdivisions 10 and 10a; 401.10; 401.13; 462A.02, subdivision 13; 462A.03, subdivisions 10, 13, and 16; 462A.05, subdivisions 14, 20, and by adding subdivisions; 462A.08, subdivision 2; 462A.21, subdivisions 4k, 12a, and 14; 462A.22, subdivision 9; 462A.222, subdivision 3; 471.705, subdivision 1; 474A.048, subdivision 2; 518.551, subdivision 5, and by adding subdivisions; 518.64; 609.52, by adding a subdivision; 638.04; 638.05; 638.06; Laws 1987, chapter 404, section 28, subdivision 1; Laws 1988, chapter 689, article 2, section 256, subdivision 1; and Laws 1989, chapter 335, article 1, section 27, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapters 16B; 144; 145; 148B; 241; 245; 252; 256; 256B; 256D; 256F; 256H; 257; 268A; and 462A; proposing coding for new law as Minnesota Statutes, chapter 144B; repealing Minnesota Statutes 1990, sections 144A.31, subdivisions 2 and 3; 148B.01, subdivisions 2, 5, and 6; 148B.02; 148B.16; 148B.171; 148B.40; 148B.41; 148B.42; 148B.43; 148B.44; 148B.45; 148B.46; 148B.47; 148B.48; 157.031, subdivision 5; 245.476, subdivisions 1, 2, and 3; 252.275, subdivision 2; 256.032, subdivisions 5 and 9;

256.035, subdivisions 6 and 7; 256.036, subdivision 10; 256B.0625, subdivisions 6 and 19; 256B.0627, subdivision 3; 256B.091; 256B.431, subdivision 6; 256B.69, subdivision 8; 256B.71, subdivision 5; 256D.051, subdivisions 1b, 3c, and 16; 256D.052, subdivision 4; 256D.09, subdivision 4; 256D.101, subdivision 2; 256H.26; 462A.05, subdivisions 28 and 29; and Laws 1990, chapter 568, article 6, section 4.

May 19, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 719, 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. 719 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [HUMAN RESOURCES; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this act, to be available for the fiscal years indicated for each purpose. The figures "1992" and "1993" where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1992, or June 30, 1993, respectively.

SUMMARY BY FUND

	1992	1993	TOTAL
General	$1,786,990,000	$1,894,841,000	$3,681,831,000
State Government Special Revenue	6,314,000	6,462,000	12,776,000
Metropolitan Landfill	168,000	168,000	336,000
Trunk Highway	1,487,000	1,486,000	2,973,000
Total	1,794,959,000	1,902,957,000	3,697,916,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1992	1993
Sec. 2. COMMISSIONER OF HUMAN SERVICES		
Subdivision 1. Appropriation by Fund		
General Fund	1,496,147,000	1,596,183,000

The amounts that may be spent from this appropriation for each program and activity are more

specifically described in the following subdivisions.

Federal money received in excess of the estimates shown in the 1991-1993 department of human services budget document reduces the state appropriation by the amount of the excess receipts, unless otherwise directed by the governor, after consulting with the legislative advisory commission.

For the biennium ending June 30, 1993, federal receipts as shown in the biennial budget document to be used for financing activities, programs, and projects under the supervision and jurisdiction of the commissioner must be credited to and become a part of the appropriations provided for in this section.

If federal money anticipated is less than that shown in the biennial budget document, the commissioner of finance shall reduce the amount available from the direct appropriation a corresponding amount. The reductions must be noted in the budget document submitted to the 78th legislature in addition to an estimate of similar federal money anticipated for the biennium ending June 30, 1995.

The commissioner of human services, with the approval of the commissioner of finance and by direction of the governor after consulting with the legislative advisory commission, may transfer unencumbered appropriation balances among the aid to families with dependent children, AFDC child care, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and work readiness programs, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium.

Effective the day following final enactment, the commissioner may transfer unencumbered appropriation balances for fiscal year 1991 among the aid to families with dependent children, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and work readiness programs with the approval of the commissioner of finance after notification of the chairs of the health and human services divisions of the senate finance committee and the house appropriations committee.

For the biennium ending June 30, 1993, information system project appropriations for development and federal receipts for the alien verification entitlement system must be deposited in the special systems account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Information Policy Office, funded by the legislature, and approved by the commissioner of finance may be transferred from one project to another and from development to operations as the commissioner considers necessary. Any unexpended balance in the appropriation for these projects does not cancel in the first year but is available for the second year of the biennium.

Subd. 2. Human Services Administration

12,194,000 11,665,000

Subd. 3. Legal and Intergovernmental Programs

4,351,000 4,340,000

Subd. 4. Economic Support and Transition Services for Families and Individuals

255,051,000 253,960,000

During the biennium ending June 30, 1993, the commissioner of human services shall provide supplementary grants not to exceed $200,000 a year for aid to families with dependent children and include the following costs in determining the amount of the supplementary grants: major home repairs; repair of major home appliances; utility recaps; supplementary dietary needs not covered by medical assistance; and replacement of essential household furnishings and essential major appliances.

For the biennium ending June 30, 1993, any federal money remaining from receipt of state legalization impact assistance grants, after reimbursing the department of education for actual expenditures, must be deposited in the aid to families with dependent children account.

The money appropriated from federal child care funds received by the department of human services and allocated to the Minnesota early childhood care and education council for the biennium ending June 30, 1993, for general operation of the council is to enable the council to provide coordination, training outreach, and

technical assistance to child care providers.

The commissioner shall set the monthly standard of assistance for general assistance and work readiness assistance units consisting of an adult recipient who is childless and unmarried or living apart from his or her parents or a legal guardian at $203.

Money appropriated for fiscal year 1991 for general assistance may be used to reimburse fiscal year 1990 and fiscal year 1991 county refugee cash assistance expenditures that were not reimbursed by the federal government, to the extent that unreimbursed refugee cash assistance payments do not exceed $140,000.

Chisago and Isanti counties shall be added to the list of counties in which the commissioner shall require establishment and operation of fraud prevention investigation programs.

By January 1, 1993, the commissioner shall report to the legislature on the fraud prevention investigation projects. The report shall include a comparison of the effectiveness of the fraud prevention investigation projects with other proposals to reduce fraud in public income assistance programs, including client reporting requirements.

Money appropriated for the AFDC child care program and the basic sliding fee program for the first year does not cancel but is available for the second year. Money carried forward does not become part of the base level funding for these programs for purposes of the 1993-1995 biennial budget.

For the biennium ending June 30, 1993, federal food stamp employment and training funds received for the work readiness program are appropriated to the commissioner to reimburse counties for work readiness service expenditures.

For the biennium ending June 30, 1993, federal job opportunity and basic skills (JOBS) funds received for direct employment services provided to refugees and immigrants is appropriated to the commissioner to provide bicultural employment service case managers to STRIDE-eligible refugees and immigrants. The commissioner of human services shall review expenditures of bilingual case management funds at the end of the third quarter of the second year of the biennium and may reallocate unencumbered funds to those counties

that can demonstrate a need for additional funds. Funds shall be reallocated according to the same formula used initially to allocate funds to counties.

By October 1, 1991, the commissioner shall submit to the secretary of health and human services an amendment to the state JOBS plan to secure federal reimbursement for child care for AFDC caretakers who are not eligible for STRIDE, but who are engaged in education or training or job search. The state plan amendment shall provide that the activities required of a non-STRIDE caretaker and the administrative services provided are the minimum necessary to secure federal reimbursement for child care assistance. Upon federal approval of the amendment, the commissioner shall submit to the legislature a proposal to transfer money from the basic sliding fee child care program to fund the state share of child care services under the state plan amendment.

Any balance remaining in the first year for the Minnesota family investment plan appropriation does not cancel but is available for the second year of the biennium.

Any balance remaining in the first year for the fraud prevention initiative appropriation does not cancel but is available for the second year of the biennium.

Any balance remaining in the first year for the job opportunities and basic skills (JOBS) automated system appropriation does not cancel but is available for the second year of the biennium.

For the biennium ending June 30, 1993, the commissioner of jobs and training shall certify as STRIDE employment and training service providers under Minnesota Statutes, section 268.871, the providers who provided services under the AFDC self-employment demonstration project. The commissioner of human services shall seek federal authority to renew or extend the waivers that are necessary to continue the demonstration project.

For the child support enforcement activity, during the biennium ending June 30, 1993, money received from the counties for providing data processing services must be deposited in that activity's account. The money is appropriated to the commissioner for the purposes of the child support enforcement activity.

A county, or the commissioner of human services with the consent of affected counties, may contract with the commissioner of revenue to collect child support obligations. The county and the commissioner of human services may furnish the data necessary for the collections to the commissioner of revenue. The commissioner of revenue is subject to the same laws governing the data that apply to the commissioner of human services and the county. The county or the commissioner of human services may provide an advance payment to the commissioner of revenue for collection services, to be repaid out of subsequent collections.

For the biennium ending June 30, 1993, federal money received for the operating costs of the statewide MAXIS automated eligibility information system is appropriated to the commissioner to pay for the development and operation of the MAXIS system and the counties' share of the operating costs.

Notwithstanding Minnesota Statutes, section 237.701, subdivision 1, the reimbursement of telephone assistance plan administrative expenses incurred shall not exceed $422,000 in the first year of the biennium.

Subd. 5. Economic Support and Services to Elderly

24,776,000 30,082,000

The increased funding to the area agencies on aging shall be distributed by the agencies to nutrition programs serving counties where congregate and home delivered meals were locally financed prior to participation in the nutrition program of the Older Americans Act. Supplemental funds for affected areas may be awarded in amounts up to the level of prior county financial participation less any local match as required by the Older Americans Act.

The Minnesota board on aging shall appoint an advisory task force consisting of Indian elders and representatives from the area agencies on aging, counties, and other interested parties to make recommendations on how Indian elder access to services can be improved. Compensation, terms, and removal of members shall be as provided in Minnesota Statutes, section 15.059. The Minnesota board on aging shall report its recommendations to the legislature by February 1, 1992.

For the biennium ending June 30, 1993, any

money allocated to the alternative care grants program that is not spent for the purposes indicated does not cancel but shall be transferred to the medical assistance account.

Subd. 6. Services to Special Needs Adults

121,283,000 124,166,000

Money is appropriated from the mental health special project account for adults with mental illness from across the state, for a camping program which utilizes the BWCA and is cooperatively sponsored by client advocacy, mental health treatment, and outdoor recreation agencies.

Money is appropriated from the mental health special projects fund for grants to two nonprofit charitable mental health self-help groups. One grant shall be used to provide support services to people with major depression. The other grant shall provide employability support services to people with mental illness delivered by people who have or have had a mental illness.

All of the fees paid to the commissioner for interpreter referral services for people with hearing impairments shall be used for direct client referral activities. None of the fees shall be used to pay for state agency administrative and support costs.

For the biennium ending June 30, 1993, if a facility's residents continue to be served in the same location, the commissioner of human services may continue the operating cost payment rate, including any program operating cost adjustments and special operating costs, of an intermediate care facility for persons with mental retardation under receivership pursuant to Minnesota Statutes, section 245A.12 or 245A.13, beyond the receivership period in order that this portion of the payment rate remain in effect for one full calendar year plus the following nine months. The allowable property-related costs of the previous operator before the receivership shall be the basis for establishing the property- related payment rate for rate periods following the end of the receivership period.

During the biennium ending June 30, 1993, the commissioner may transfer money from rule 12 residential program grants to rule 14 housing support program grants. Funds shall

be transferred only if agreement is reached between the participating county and rule 12 provider volunteering to convert to rule 14 services. The commissioner shall consider past utilization of the residential program in determining which counties to include in the transferred housing support funding.

Any unspent money appropriated in the first year for the nonentitlement portion of the consolidated chemical dependency treatment fund shall be carried forward to the second year of the biennium for that purpose.

Money appropriated in fiscal year 1992 for the Dakota county mental health pilot planning grant is available until spent.

By January 31, 1992, the commissioner of human services shall present to the legislature a report, prepared in cooperation with the commissioner of health, containing recommendations on the standards and procedures to be used in the licensing or credentialing of chemical dependency professionals. In preparing this report, the commissioners shall consult with an advisory group that includes a representative of each of the boards established under Minnesota Statutes, chapter 148B and at least six individuals representing chemical dependency professionals and service providers.

Of the funds appropriated above the base level for family preservation grants for the biennium ending June 30, 1993, 45 percent must be provided to counties for purposes of providing bonus incentives for early intervention services under Minnesota Statutes, section 256F.05, subdivision 4a.

The amount of money from the consolidated chemical dependency treatment fund that, on April 1, 1991, the department of human services projected would be received by the regional treatment center chemical dependency units each year of the biennium is transferred from the consolidated chemical dependency treatment fund to the appropriation for the regional treatment centers to fund the chemical dependency units.

The regional treatment centers are not required to repay any advances received in fiscal years 1990 and 1991 from the consolidated chemical dependency treatment fund in accordance with the provisions of Minnesota Statutes, section

246.18, subdivision 3, for chemical dependency services delivered under Minnesota Statutes, sections 254B.01 to 254B.09.

The commissioner of human services, after consultation with professional treatment experts, service providers, and the families of victims, shall develop recommendations on special residential and other treatment programs for persons suffering from Prader-Willi syndrome. A report with the recommendations shall be provided to the legislature by January 15, 1992.

Notwithstanding Minnesota Statutes, section 256I.04 or any other law to the contrary, the commissioner shall allow up to eight additional general assistance or Minnesota supplemental aid negotiated rate facility beds for adult foster homes licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, provided the beds serve persons with developmental disabilities and are located in Todd county. Agreements for new beds are subject to the approval of the commissioner.

Subd. 7. Services to Special Needs Children

15,167,000 17,075,000

The department of human services shall develop recommended standards for counties to use when conducting child protection investigations of child care providers. The standards, while maintaining the safety of children as a first priority, shall also ensure that child care providers under investigation are accorded adequate due process protections. The agency shall develop the recommendations through a process of public hearings and report back to the legislature by January 1992.

Money appropriated for child care incentive grants in the first year does not cancel but is available for the second year of the biennium.

Money is appropriated each year to provide a grant to the New Chance demonstration project that provides comprehensive services to young AFDC recipients who became pregnant as teenagers and dropped out of high school. The commissioner of human services shall provide an annual report on the progress of the demonstration project, including specific data on participant outcomes in comparison to a control group that received no services. The commissioner shall also include recommendations

on whether strategies or methods that have proven successful in the demonstration project should be incorporated into the STRIDE employment program for AFDC recipients.

Subd. 8. State-Operated Residential Care For Special Needs Populations

240,717,000 236,416,000

During the biennium ending June 30, 1993, the commissioner may determine the need for conversion of a state-operated home- and community-based service program to an intermediate care facility for persons with mental retardation if the conversion will produce a net savings to the state general fund and the persons receiving home- and community-based services choose to receive services in an intermediate care facility for persons with mental retardation. After the commissioner has determined the need to convert the program, the commissioner of health shall certify the program as an intermediate care facility for persons with mental retardation if the program meets applicable certification standards. Notwithstanding the provisions of Minnesota Statutes, section 246.18, receipts collected for state-operated community-based services are appropriated to the commissioner and are dedicated to the operation of state-operated community-based services which are converted in this section or which were authorized in Laws 1988, chapter 689, article 1, section 2, subdivision 5. Any balance remaining in this account at the end of the fiscal year does not cancel and is available for the second year of the biennium. The commissioner may, upon approval of the governor after consultation with the legislative advisory commission, transfer funds from the Minnesota supplemental aid program to the medical assistance program to fund services converted under this section.

Receipts received for the state-operated community services program are appropriated to the commissioner for that purpose.

During the biennium ending June 30, 1993, the commissioner of human services shall establish an on-site child care facility at the Ah-Gwah-Ching state nursing home. State employees must receive priority for child care services at the Ah-Gwah-Ching site. The commissioner shall contract with a nonprofit child

care provider by August 1, 1991, that can demonstrate knowledge of the child care needs at the site and that has a commitment to maximizing the salaries and benefits of its direct child care workers. The commissioner shall provide support to the center, including renovation expenses to meet and maintain all relevant building codes and ongoing building expenses including rent, maintenance, and utilities. The commissioner shall consult with the commissioner of administration regarding the establishment and operation of the on-site program. The child care contractor chosen by the commissioner shall become accredited by the National Academy of Early Childhood Programs within one year of beginning operation. The commissioner shall report to the chairs of the human resources division of the house appropriations committee and the senate finance committee on the status of the Ah-Gwah-Ching child care center by September 1, 1991.

During the biennium ending June 30, 1993, regional treatment center and state-operated nursing home employees, except temporary or emergency employees, affected by changes in the department of human services delivery system must receive, along with other options, priority consideration in order to transfer to vacant or newly created positions at the Minneapolis and Hastings veterans homes and at facilities operated by the commissioner of corrections. The veterans homes board, in cooperation with the commissioners of human services and corrections, shall develop procedures to facilitate these transfers.

Transfer of facilities at Faribault RTC: The legislature recognizes that the orderly transfer of some buildings at the Faribault regional treatment center from the department of human services to the department of corrections is necessary in order to develop a shared campus and to abide by legislated policies concerning the future of the regional treatment center. If the transfer of the infirmary, the skilled nursing facility, the Osage, Willow, or Birch buildings, or any other building on the campus of the Faribault regional treatment center requires the transfer of developmentally disabled residents to community residential facilities, the commissioner of human services shall accomplish this transfer according to the following schedule:

(1) the commissioner of human services shall maintain the 35 skilled nursing facility beds for developmentally disabled residents and an infirmary at the Faribault regional treatment center;

(2) the transfer of the hospital building at the Faribault regional treatment center to the department of corrections may take place only after alternative, state-operated, skilled nursing facility and infirmary space has been developed for residents on the campus of the Faribault regional treatment center;

(3) the transfer of the Osage facility to the department of corrections may not occur before December 31, 1992. Residents affected by the transfer of the Osage building shall not be transferred to another regional treatment center or state nursing home but must either be housed at the Faribault regional treatment center or placed in appropriate community-based facilities. At least 60 percent of the community-based facility beds to which affected regional center residents are transferred must be state-operated community services (SOCS) beds;

(4) the transfer of the Willow and Birch facilities to the department of corrections must not occur before June 30, 1993. Residents affected by the transfer of the Willow or Birch facilities shall not be transferred to another regional treatment center or state nursing home but must either be housed at the Faribault regional treatment center or placed in appropriate community-based facilities. At least 60 percent of the community-based facility beds to which affected regional treatment center residents are transferred must be state-operated community services (SOCS) beds.

Notwithstanding Minnesota Statutes, section 144A.071, the commissioner of health shall license and certify nursing home beds to be operated by the commissioner of human services in new or existing buildings if the following conditions are met: (1) the number of licensed and certified beds shall not exceed the number of beds that were operated by the commissioner of human services at the Oak Terrace nursing home; and (2) the beds will be located as follows: 105 at Brainerd in addition to the existing 28 beds at Brainerd; 70 beds at Cambridge; 85 beds at Fergus Falls; and up to 62 additional beds as needed at these or other regional treatment centers.

Any portion of the appropriation to remodel, set up, and operate state nursing home beds at the Fergus Falls and Cambridge regional treatment centers and state nursing home beds and security hospital beds at the Brainerd regional treatment center that is not spent in fiscal year 1992 does not cancel and shall be available for fiscal year 1993.

For the biennium ending June 30, 1993, savings realized from holding vacancies open at the regional treatment centers may only be used to pay negotiated salary increases for regional treatment center employees. The commissioner shall hold positions vacant in the general professional, supervisory, and managerial units at the regional treatment centers for the purpose of funding negotiated salary increases. Positions in other units shall not be held vacant for this purpose.

The appropriation for fiscal 1992 to improve property at regional treatment centers and state nursing homes to prepare the property for lease does not cancel but is available for fiscal 1993. For the biennium ending June 30, 1993, money collected as rent under Minnesota Statutes, section 16B.24, subdivision 5, for state property at any of the regional treatment centers or state nursing homes administered by the commissioner of human services is dedicated to the facility generating the rental income and is appropriated for the express purpose of maintaining the property. Any balance remaining at the end of the fiscal year shall not cancel and is available until expended.

If the resident population at the regional treatment centers is projected to be higher than the estimates upon which the medical assistance forecast and budget recommendations were based, the amount of the medical assistance appropriation that is attributable to the cost of services that would have been provided as an alternative to regional treatment center services is transferred to the residential facilities appropriation.

For purposes of restructuring the chemical dependency and developmental disabilities programs at the regional treatment centers during the biennium ending June 30, 1993, any regional treatment center employee whose position is to be eliminated shall be afforded the options provided in applicable collective bargaining agreements. Provided there is no

conflict with any collective bargaining agreement, any regional treatment center position reduction must only be accomplished through mitigation, attrition, transfer, and other measures as provided in state or applicable collective bargaining agreements and Minnesota Statutes, section 252.50, subdivision 11, and not through layoff. However, if the commissioner proceeds with construction of 10 additional state-operated community residences for persons with developmental disabilities and 84 additional state nursing home beds during the biennium ending June 30, 1993, and begins siting and constructing 24 additional state-operated community residential facilities for persons with developmental disabilities, then the commissioner may use a mitigated layoff procedure to reduce unnecessary staff at the regional treatment centers, as negotiated with respective collective bargaining agents. Affected employees must be offered alternative employment, severance pay, retraining, transfers, and other options that do not conflict with collective bargaining agreements. All of the 24 additional state-operated community facilities shall be sited within a reasonable distance of a regional treatment center. Community facilities shall be allocated to these sites based on the proportionate number of developmentally disabled clients that have been discharged from the area regional treatment center in the period 1980 to 1990.

The commissioner shall consolidate both program and support functions at each of the regional centers and state nursing homes to ensure efficient and effective space utilization that is consistent with applicable licensing and certification standards. The commissioner may transfer residents and positions between the regional center and state nursing home system as necessary to promote the most efficient use of available state buildings. Surplus buildings shall be reported to the commissioner of administration for appropriate disposition according to Minnesota Statutes, section 16B.24.

Any unencumbered balances in special equipment and repairs and betterments remaining in the first year do not cancel but are available for the second year of the biennium.

Subd. 9. Health Care for Families and Individuals

822,608,000 918,479,000

For the biennium ending June 30, 1993, medical assistance and general assistance medical care payments for mental health services provided by masters-prepared mental health practitioners and practitioners licensed at the masters level, except services provided by community mental health centers, shall be 65 percent of the rate paid to doctoral-prepared practitioners.

Notwithstanding Minnesota Statutes, section 252.46, subdivision 3, the commissioner shall increase reimbursement rates for day training and habilitation services by two percent, effective January 1, 1992.

Notwithstanding Minnesota Statutes, section 252.46, subdivision 12, payment rates established by a county board to be paid to a vendor for day training and habilitation services after July 1, 1993, must be determined under permanent rule adopted by the commissioner.

By October 1, 1991, the drug formulary committee shall review legend and nonlegend drug classes and advise the commissioner of formulary changes and prior authorization requirements necessary to provide a $1,300,000 savings in medical assistance and general assistance medical care drug expenditures for the biennium ending June 30, 1993.

The drug formulary committee shall review the department of human services drug utilization review program and drug utilization review programs that are available from other vendors to determine which program best ensures the appropriate use of pharmaceutical products for quality medical care for persons in the medical assistance, GAMC, and children's health plan programs. The committee shall report its findings to the commissioner by December 31, 1991.

Rates paid for anesthesiology services provided by physicians and certified registered nurse anesthetists (CRNAs) shall be according to the formula utilized in the Medicare program. For physicians, a conversion factor "at percentile of calendar year set by legislature" shall be used. For CRNAs, the conversion factor shall be that used by Medicare.

Implementation of the reduced rate for therapy services provided by a physical or occupational therapy assistant, to 65 percent of the rate paid

for services provided by a physical or occupational therapist, will be implemented in conjunction with the department's complete therapy code conversion project, or January 1, 1992, whichever occurs first.

For the biennium ending June 30, 1993, all receipts for services provided by community health clinics operated by the department of human services in accordance with Minnesota Statutes, sections 256B.04, subdivision 2, and 256B.0625, subdivision 4, and as enrolled medical assistance providers under Minnesota Rules, part 9505.0255, shall be dedicated to the commissioner of human services for operation and expansion of the clinics. Any balances remaining in the clinic accounts at the end of the first year do not cancel but are available until spent.

Notwithstanding Minnesota Statutes, section 13.03, subdivision 5, the rate setting computer program except the edits and screens for nursing home payment rates is not trade secret information and is public data not on individuals. If a person requests this data, the commissioner of human services shall require the requesting person to pay no more than the actual costs of searching for and retrieving the data, including the cost of employee time, and for making, certifying, compiling, and electronically transmitting the copies of the data or the data, but may not charge for separating public data from not public data.

Notwithstanding Minnesota Statutes, section 256B.0641, and Minnesota Rules, part 9505.0465, the commissioner of human services shall not be required to recover nonallowable federal medical assistance payments made between October 1, 1986, and December 31, 1988, from nursing facilities declared on January 1, 1989, as institutions for mental diseases.

Notwithstanding Minnesota Statutes, section 256B.431 or any other provision, the commissioner of human services shall postpone the seventh year catch-up reappraisals until the ninth year after the initial appraisal of all nursing homes.

Up to $260,000 of the appropriation for administration of the medical assistance provider surcharge program may be used in fiscal year 1991 to implement computer system changes necessary to begin operation on July 1, 1991.

The nonfederal share of the costs of case management services provided to persons with mental retardation or related conditions relocated from nursing homes as required by federal law and receiving home and community-based services funded through the waiver granted under section 1915(c)(7)(B) of the Social Security Act shall be provided from state-appropriated medical assistance grant funds for the biennium ending June 30, 1993. The division of cost is subject to Minnesota Statutes, section 256B.19, and the services are included as covered programs and services under Minnesota Statutes, section 256.025, subdivision 2.

For the biennium ending June 30, 1993, the money transferred from the special project account created in Minnesota Statutes, section 256.01, subdivision 2, paragraph (15), to the attorney general is for costs incurred in the resolution of long-term care appeals.

Money is appropriated the first year for a regional demonstration project under Minnesota Statutes, section 256B.73, to provide health coverage to uninsured persons. The commissioner shall contract with the coalition formed for the nine counties named in Minnesota Statutes, section 256B.73, subdivision 2.

The commissioner shall postpone the implementation of the new client based reimbursement system for the program operating cost payment rates as provided in Minnesota Statutes, section 256B.501, subdivision 3g, until October 1, 1993. Each facility's interdisciplinary team shall continue to assess each new admission to the facility. The quality assurance and review teams in the department of health shall continue to assess all residents annually. The quality assurance and review teams and the interdisciplinary team shall assess all residents using a uniform assessment instrument developed by the commissioner and the ICF-MR reimbursement and quality assurance and review manual. Beginning with the reporting year which ends December 31, 1991, the commissioner shall annually collect client statistical data based on assessments performed by the quality assurance and review teams and by the interdisciplinary team on annual cost reports submitted by the facility and may use this data in the calculation of program operating cost payment rates after October 1, 1993.

Recoveries obtained by the provider appeals unit shall be dedicated to the medical assistance account during the biennium ending June 30, 1993.

The commissioner shall study the need for enhanced reimbursement for the special Huntington's disease unit at Metro Health Care and shall make recommendations to the legislature by January 1, 1992.

Sec. 3. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION	1,033,000	1,031,000
Sec. 4. VETERANS NURSING HOMES BOARD	24,363,000	26,330,000

The amounts that may be spent from this appropriation for each program are more specifically described in the following subdivisions.

Subdivision 1. Veterans Nursing Homes

23,811,000	25,929,000

Any unencumbered balances in the first year do not cancel but are available for the second year of the biennium within the programs overseen by the veterans homes board of directors.

Notwithstanding Laws 1989, chapter 282, article 1, section 12, for the biennium ending June 30, 1991, the veterans homes and the veterans nursing homes board, with the approval of the commissioner of finance, may transfer money to the object of expenditure "personal services" in order to pay workers' compensation costs.

The system-wide reductions shall be prorated against the appropriations for the veterans nursing homes board and the facilities operated by the board.

For the biennium ending June 30, 1993, the veterans homes board of directors may transfer unencumbered appropriation balances and positions from Luverne and Silver Bay nursing homes among all programs.

For the biennium ending June 30, 1993, the board may set costs of care at the Silver Bay and Luverne facilities based on costs of average skilled nursing care provided to residents of the Minneapolis veterans home.

Until June 30, 1993, the commissioner of health shall not apply the provisions of Minnesota Statutes, section 144.55, subdivision 6, paragraph (b), to the Minnesota veterans home

at Hastings.

The department of health shall not reduce the licensed bed capacity for the Minneapolis veterans home for the biennium ending June 30, 1993, in lieu of presentation to the legislature of building needs and options by the veterans nursing homes board.

Any funds encumbered for use in repairing building 6 are available for unrestricted use in the fiscal year 1991 operations for the Minneapolis veterans home.

Subd. 2. Veterans Nursing Homes Board

552,000 401,000

The veterans nursing homes board and the department of veterans affairs shall review current alternatives to long-term care for veterans and report to the legislature by February 15, 1992, with their review and proposals to enhance the availability and use of these options by veterans. This study must be done with existing resources.

For the biennium ending June 30, 1991, the veterans nursing homes board, with the approval of the commissioner of finance, may transfer seven positions and unencumbered appropriation balances between the veterans nursing homes and the veterans nursing homes board.

Sec. 5. COMMISSIONER OF JOBS AND TRAINING 36,170,000 35,307,000

The amounts that may be spent from this appropriation for each program are more specifically described in the following subdivisions.

Subdivision 1. Rehabilitation Services

18,923,000 18,923,000

For the biennium ending June 30, 1993, at least 35 percent in the first year and 38 percent in the second year of the vocational rehabilitation activity budget must be directed toward grants, which are budgeted as aid to individuals and local assistance categories of expense.

The amount of the appropriation for vocational rehabilitation services that is designated for mental illness demonstration grants may be used for innovative programs to serve persons with serious and persistent mental illness, but only if this use of the money will satisfy federal maintenance of effort requirements. If this use will not satisfy the maintenance of effort

requirements, the money must be added to the base appropriation for vocational rehabilitation services.

The commissioner of jobs and training shall develop a plan for staffing adjustments and organizational restructuring in the vocational rehabilitation activity. The goal of the plan must be to lower administrative costs and redirect resources to direct services to clients. The commissioner shall present the plan to the legislature by February 15, 1992.

Money is appropriated to be directed toward developing a plan for rehabilitation services programs provided by the state departments of jobs and training and human services. The plan shall be directed toward the goals of supporting the delivery of services to citizens with disabilities through a single point of entry at the community level, allowing greater consumer control, and ensuring greater coordination of services among the public and private agencies currently involved in providing services. The development of this plan shall be done in cooperation with centers for independent living.

The money appropriated for a rehabilitation special project grant is transferred to the commissioner of labor and industry along with the workers' compensation program of the rehabilitation services division of the department of jobs and training, as provided in article 10.

Subd. 2. Services for the Blind

3,636,000 3,626,000

This appropriation may be supplemented by funds provided by the Friends of the Communication Center, for support of Services for the Blind's Communication Center which serves all blind and visually handicapped Minnesotans. The commissioner shall report to the legislature on a biennial basis the funds provided by the Friends of the Communication Center.

Subd. 3. Economic Opportunity Office

8,539,000 8,537,000

For the biennium ending June 30, 1993, the commissioner shall transfer to the community services block grant program ten 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 3.75 percent of the transferred money may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1993, the commissioner shall transfer to the low-income home weatherization program at least five percent of money received under the low-income home energy assistance block grant in each year of the biennium and shall spend all of the transferred money during the year of the transfer or the year following the transfer. Up to 1.63 percent of the transferred money may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1993, no more than 1.63 percent of money remaining under the low-income home energy assistance program after transfers to the community services block grant program and the weatherization program may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1993, discretionary money from the community services block grant program (regular) must be used to supplement the appropriation for local storage, transportation, processing, and distribution of United States Department of Agriculture surplus commodities to the extent supplemental funding is required. Any remaining money must be allocated to state-designated and state-recognized community action agencies, Indian reservations, and the Minnesota migrant council.

The state appropriation for the temporary emergency food assistance program may be used to meet the federal match requirements.

Subd. 4. Employment and Training

5,072,000 4,221,000

Of the money appropriated for the summer youth employment programs for fiscal year 1992, $750,000 is immediately available. Any remaining balance of the immediately available money is available for the year in which it is appropriated. If the appropriation for either year of the biennium is insufficient, money may be transferred from the appropriation for the other year.

Notwithstanding Minnesota Statutes, section 268.022, subdivision 2, the commissioner of

finance shall transfer in each year of the biennium ending June 30, 1993, from the dislocated worker fund to the general fund $5 million of the money collected through the special assessment established in Minnesota Statutes, section 268.022, subdivision 1.

MEED service providers may retain 75 percent of outstanding payback funds they collect to be used for the cost of collection and for program closeout activities without regard to existing cost category requirements. MEED service providers may continue to operate the program until all activities are closed out, financial reports are finalized, and participants are terminated.

For the biennium ending June 30, 1993, the commissioner shall hold harmless the allocations to any program receiving funding for the displaced homemaker program that would be reduced due to any change in funding formula. In the event of increased appropriations, increases may be used in accordance with a needs-based formula.

Sec. 6. COMMISSIONER OF CORRECTIONS 162,057,000 168,978,000

The amounts that may be spent from the appropriation for each program and activity are more specifically described in the following subdivisions.

Positions and administrative money may be transferred within the department of corrections as the commissioner considers necessary, upon the advance approval of the commissioner of finance.

Any unencumbered balances remaining from fiscal year 1992 do not cancel but are available for the second year of the biennium.

For the biennium ending June 30, 1993, the commissioner of corrections may, with the approval of the commissioner of finance and upon notification of the chairs of the human resources division of the house appropriations committee and the human development division of the senate finance committee, transfer funds to or from salaries.

For the biennium ending June 30, 1993, and notwithstanding Minnesota Statutes, section 243.51, the commissioner of corrections may enter into agreements with the appropriate officials of any state, political subdivision, or the

United States, for housing prisoners in Minnesota correctional facilities. Money received under the agreements is appropriated to the commissioner for correctional purposes.

The commissioner of corrections may transfer to the commissioner of human services unencumbered funds from fiscal year 1991 to accomplish the conversion of the Faribault regional treatment center to a shared campus with the department of corrections for a medium security correctional facility. The commissioner of corrections may use any additional unencumbered funds from fiscal year 1991 to renovate buildings at Faribault for the correctional facility. These funds do not cancel but are available to the commissioners of corrections and human services for both years of the biennium.

Subdivision 1. Correctional Institutions

111,632,000 118,292,000

Subd. 2. Community Services

40,043,000 40,329,000

The commissioner of finance shall adjust the base for the county probation reimbursement program, described in Minnesota Statutes, section 260.311, subdivision 5, to a level that allows the state to maintain a 50 percent reimbursement level to counties for the biennium beginning July 1, 1993.

During the biennium ending June 30, 1993, whenever offenders are assigned for the purpose of work under agreement with a state department or agency, local unit of government, or other government subdivision, the state department or agency, local unit of government, or other government subdivision must certify to the appropriate bargaining agent that the work performed by inmates will not result in the displacement of currently employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits.

Notwithstanding Minnesota Statutes, section 609.105 or any other provision of law to the contrary, a felony offender sentenced in a community corrections act county may not be committed to the custody of the commissioner of corrections under an executed sentence of imprisonment if the time remaining in the

offender's sentence, minus credit for prior imprisonment, is 60 days or less unless the offender's sentence was presumptively executed under the sentencing guidelines. Notwithstanding any provision of law to the contrary, these offenders may be sentenced to imprisonment in a local jail or workhouse. This does not apply to offenders whose sentences were executed at the time of sentencing and to offenders whose sentences were executed after revocation of a stayed felony sentence.

Subd. 3. Management Services

10,382,000 10,357,000

Sec. 7. SENTENCING GUIDELINES COMMISSION	248,000	254,000
Sec. 8. CORRECTIONS OMBUDSMAN	419,000	441,000
Sec. 9. COMMISSIONER OF HEALTH		
Subdivision 1. Appropriation by Fund		
General Fund	47,610,000	47,337,000
Metropolitan Landfill Contingency Fund	168,000	168,000
State Government Special Revenue Fund	455,000	513,000
Trunk Highway Fund	1,487,000	1,486,000

The appropriation from the metropolitan landfill contingency fund is for monitoring well water supplies and conducting health assessments in the metropolitan area.

The appropriation from the trunk highway fund is for emergency medical services activities.

The commissioner of health, with the approval of the commissioner of finance, may transfer appropriated funds between fiscal years and from supply and expense categories to the salary account in order to avoid layoffs.

The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions.

Subd. 2. Protective Health Services

General Fund

16,064,000 16,218,000

Metropolitan Landfill Contingency Fund

146,000 146,000

Subd. 3. Health Delivery Systems

General Fund

27,544,000 27,068,000

State Government Special Revenue Fund

455,000 513,000

Trunk Highway Fund

1,401,000 1,400,000

General fund appropriations for the women, infants and children food supplement program (WIC) are available for either year of the biennium. Transfers of appropriations between fiscal years must be for the purpose of maximizing federal funds or minimizing fluctuations in the number of participants.

When cost effective, the commissioner may use money received for the services for children with handicaps program to purchase health coverage for eligible children.

Minnesota Rules, parts 4655.1070 to 4655.1098, as in effect on September 1, 1989, are adopted as an emergency rule of the department of health. The commissioner of health shall publish in the State Register a notice of intent to adopt Minnesota Rules, parts 4655.1070 to 4655.1098 [Emergency]. The same notice shall be mailed to all persons registered with the agency to receive notice of any rulemaking proceedings. The emergency rule is exempt from the requirements of Minnesota Statutes, sections 14.32 to 14.35, and shall take effect five working days after publication in the State Register. Those rules shall govern the process for granting exceptions to the moratorium on nursing homes under Minnesota Statutes, section 144A.073, during the biennium.

In the event that Minnesota is required to comply with the provision in the federal maternal and child health block grant law, which requires 30 percent of the allocation to be spent on primary services for children, federal funds allocated to the commissioner of health under Minnesota Statutes, section 145.882, subdivision 2, may be transferred to the commissioner of human services for the purchase of primary services for children covered by the children's health plan. The commissioner of human services shall transfer an equal amount of the money appropriated for the children's health plan to the commissioner of health to

assure access to quality child health services under Minnesota Statutes, section 145.88.

General fund appropriations for treatment services in the services for children with handicaps program are available for either year of the biennium.

During the biennium ending June 30, 1993, and notwithstanding Minnesota Statutes, section 144A.48, subdivision 2, clause (9), the commissioner of health may issue a hospice license to a freestanding residential facility that was registered and was providing hospice services as of March 1, 1990, if that facility is licensed as a board and lodging facility, provides services to no more than six residents, meets group R, division 3 occupancy requirements and meets the fire protection provisions of chapter 21 of the 1985 Life Safety Code, NFPA 101, of the National Fire Protection Association, for facilities housing persons with impractical evacuation capabilities. Continued licensure as a hospice must be contingent on the facility's compliance with the department of health rules for hospices and for residential care facilities upon adoption of those rules.

The commissioner shall fund a statewide family planning hotline grant and shall allocate remaining family planning special project grant funds to eight regions according to a needs-based distribution formula.

The funding for family planning special project grants shall be awarded through the criteria established in Minnesota Rules. Notwithstanding any rule to the contrary, an organization shall not be excluded or reduced in priority for funding because the organization does not make available, directly or through referral, all methods of contraceptives for reasons of conscience. The commissioner of health shall develop procedures for establishing a conscience clause in the grant application process.

For the purpose of conducting a comprehensive review of nursing home licensure laws and regulations the commissioner may assess a licensing fee surcharge on nursing home beds and boarding care beds for which an initial or renewal license is issued during fiscal year 1992 and fiscal year 1993. The surcharge shall be $2.12 per bed in fiscal 1992 and $2.73 per bed in fiscal 1993. The surcharge shall not continue beyond fiscal 1993.

Subd. 4. Health Support Services

General Fund

4,002,000 4,051,000

Metropolitan Landfill Contingency Fund

22,000 22,000

Trunk Highway Fund

86,000 86,000

Sec. 10. HEALTH-RELATED BOARDS

Subdivision 1. Total Appropriation

State Government Special Revenue Fund 5,859,000 5,949,000

Fees generated by the health-related licensing boards or the commissioner of health under Minnesota Statutes, section 214.06, must be credited to the health occupations licensing account within the state government special revenue fund.

The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial revenues from fees collected by the boards. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account, if the amount transferred does not exceed the amount of surplus revenue accumulated by the transferee during the previous five years.

Unless otherwise designated, all appropriations in this section are from the state government special revenue fund.

Subd. 2. Board of Chiropractic Examiners 283,000 291,000

Subd. 3. Board of Dentistry 586,000 586,000

Subd. 4. Board of Medical Examiners 1,958,000 1,951,000

For the biennium ending June 30, 1993, fees set by the board of medical examiners pursuant to Minnesota Statutes, section 214.06, must be fixed by rule. The procedure for noncontroversial rules in Minnesota Statutes, sections 14.22 to 14.28 may be used except that, notwithstanding the requirements of Minnesota Statutes, section 14.22, paragraph (3), no public hearing may be held. The notice of intention to adopt the rules must state that no hearing will be held. This procedure may be used only

when the total fees estimated for the biennium do not exceed the sum of direct appropriations, indirect costs, transfers in, and salary supplements for that purpose. A public hearing is required for adjustments of fees spent under open appropriations of dedicated receipts.		
Subd. 5. Board of Nursing	1,375,000	1,412,000
Subd. 6. Board of Examiners for Nursing Home Administrators	165,000	193,000
Subd. 7. Board of Optometry	69,000	71,000
Subd. 8. Board of Pharmacy	544,000	599,000
Deficiency: $16,000 is appropriated for fiscal year 1991 to the board of pharmacy from the state government special revenue fund.		
Subd. 9. Board of Podiatry	28,000	28,000
Subd. 10. Board of Psychology	237,000	206,000
Deficiency: $30,000 is appropriated for fiscal year 1991 to the board of psychology from the state government special revenue fund.		
Subd. 11. Board of Marriage and Family Therapy	94,000	94,000
Subd. 12. Board of Social Work	410,000	410,000
Subd. 13. Board of Veterinary Medicine	110,000	108,000
Sec. 11. COUNCIL ON DISABILITY	568,000	583,000
Sec. 12. COUNCIL ON BLACK MINNESOTANS	195,000	200,000
Sec. 13. COUNCIL ON AFFAIRS OF SPANISH-SPEAKING PEOPLE	213,000	220,000
During the biennium ending June 30, 1993, council publications may contain advertising. Funds derived from advertising are appropriated to the council for purposes of council publications.		
For the biennium ending June 30, 1993, the council shall report to the legislature on the revenues and expenditures from advertising by February 15 each year.		
Sec. 14. COUNCIL ON ASIAN-PACIFIC MINNESOTANS	170,000	174,000
Sec. 15. INDIAN AFFAIRS COUNCIL	444,000	455,000
For the biennium ending June 30, 1993, federal money received for the Indian affairs council is appropriated to the council and added to this appropriation.		

Sec. 16. COMMISSIONER OF HUMAN RIGHTS	3,194,000	3,189,000

The department of human rights may not be charged by the attorney general for legal representation on behalf of complaining parties who have filed a charge of discrimination with the department. This provision is effective retroactive to July 1, 1989. The department does not have an obligation to pay for any services rendered by the attorney general since July 1, 1985, in excess of the amounts already paid for those services.

Sec. 17. COMMISSIONER OF HOUSING FINANCE AGENCY		
Subdivision 1. Total Appropriation	14,159,000	14,159,000

Approved Complement - 140

Spending limit on cost of general administration of agency programs:

1992	1993
8,305,000	8,686,000

This appropriation is for transfer to the housing development fund for the programs specified in the working documents of the conferees.

Money is appropriated from the housing development fund to be used to provide housing for chronic chemically dependent adults under Minnesota Statutes, section 462A.05, subdivision 20. Money is appropriated from the housing development fund to be used to make planning grants to nonprofit organizations to develop coordinated training and housing programs for homeless adults under Minnesota Statutes, section 462A.05, subdivision 20.

Any state appropriations used to meet match requirements under Title II of the National Affordable Housing Act of 1990, Public Law Number 101-625, 104 Stat. 4079, must be repaid, to the extent required by federal law, to the HOME Investment Trust Fund established by the department of housing and urban development pursuant to Title II of the National Affordable Housing Act of 1990 for the state of Minnesota or for the appropriate participating jurisdiction.

State appropriations to the Minnesota housing finance agency may be granted by the agency to cities or nonprofit organizations to the extent necessary to meet match requirements under

Title II of the National Affordable Housing Act of 1990, Public Law Number 101-625, 104 Stat. 4079, provided that other program requirements are met.

Sec. 18. ALLOCATIONS

All appropriations in this article shall be allocated according to the working documents of the conferees.

Sec. 19 CARRYOVER LIMITATION

None of the appropriations in this act which are allowed to be carried forward from fiscal year 1992 to fiscal year 1993 shall become part of the base level funding for the 1993-1995 biennial budget.

Sec. 20 UNCODIFIED LANGUAGE

All uncodified language contained in this article expires on June 30, 1993, unless a different expiration is explicit.

Sec. 21. TRANSFERS

Subdivision 1. Approval Required

Transfers may be made by the commissioners of human services, corrections, jobs and training, health, human rights, and housing finance, the councils listed in sections 11 to 15, and the veterans nursing homes board to salary accounts and unencumbered salary money may be transferred to the next fiscal year in order to avoid layoffs with the advance approval of the commissioner of finance and upon notification of the chairs of the health and human services divisions of the senate finance committee and the house appropriations committee. Amounts transferred to fiscal 1993 shall not increase the base funding level for the 1994-1995 appropriation. The commissioners and the board shall not transfer money to or from the object of expenditure "grants and aid" without the written approval of the governor after consulting with the legislative advisory commission, except for transfers in the services for the blind and rehabilitation services programs, which may be made with the approval of the commissioner of finance.

Subd. 2. Transfers of Unencumbered Appropriations

For the biennium ending June 30, 1993, the commissioners of human services, human

rights, corrections, health, and jobs and training, the housing finance agency, the councils listed in sections 11 to 15, and the veterans nursing homes board, by direction of the governor after consulting with the legislative advisory commission, may transfer unencumbered appropriation balances and positions among all programs.

Sec. 22 PROJECT LABOR

For the biennium ending June 30, 1993, wages for project labor may be paid by the commissioners of human services and corrections out of repairs and betterment funds if the individual is to be engaged in a construction project or repair project of a short-term and nonrecurring nature. Compensation for project labor shall be based on the prevailing wage rates, as defined in Minnesota Statutes, section 177.42, subdivision 6. Project laborers are excluded from the provisions of Minnesota Statutes, sections 43A.22 to 43A.30, and shall not be eligible for state-paid insurance and benefits.

Sec. 23. PROVISIONS

For the biennium ending June 30, 1993, money appropriated to the commissioner of corrections, the commissioner of human services, and the veterans nursing homes board in this act for the purchase of provisions within the item "current expense" must be used solely for that purpose. Money provided and not used for purchase of provisions must be canceled into the fund from which appropriated, except that money provided and not used for the purchase of provisions because of population decreases may be transferred and used for the purchase of medical and hospital supplies with the written approval of the governor after consulting with the legislative advisory commission.

The allowance for food may be adjusted annually according to the United States Department of Labor, Bureau of Labor Statistics publication, producer price index, with the approval of the commissioner of finance. Adjustments for fiscal year 1992 and fiscal year 1993 must be based on the June 1991 and June 1992 producer price index respectively, but the adjustment must be prorated if the wholesale food price index adjustment would require money in excess of this appropriation.

Sec. 24. SALES, LEASES AND TRANSFERS

The commissioner of human services shall not sell, lease, or otherwise transfer the ownership, management, or operation of a state-operated community-based group home or other state operated community facility authorized and funded by the legislature.

Sec. 25. EFFECTIVE DATE

Section 24 is effective the day following final enactment.

ARTICLE 2

HEALTH DEPARTMENT

Section 1. Minnesota Statutes 1990, section 15.46, is amended to read:

15.46 [PREVENTIVE HEALTH SERVICES FOR STATE EMPLOYEES.]

The commissioner of the department of employee relations may establish and operate a program of preventive health services for state employees, and shall provide such staff, equipment, and facilities as are necessary therefor. The commissioner shall develop these services in accordance with the accepted practices of and standards for occupational preventive health services in the state of Minnesota. Specific services shall be directed to the work environment and to the health of the employee in relation to the job. The commissioner shall cooperate with the department of health as well as other private and public community agencies providing health, safety, employment, and welfare services. *A county may establish and operate a program of preventive health and employee recognition services for county employees and may provide necessary staff, equipment, and facilities and may expend funds as necessary to achieve the objectives of the program.*

Sec. 2. Minnesota Statutes 1990, section 1031.235, is amended to read:

1031.235 [SALE OF PROPERTY WHERE WELLS ARE LOCATED.]

Subdivision 1. [DISCLOSURE OF WELLS TO BUYER.] (a) Before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and location of all known wells on the property, by delivering to the buyer either a statement by the seller that the seller does not know of any wells on the property, or a disclosure statement indicating the legal description and county, and a map drawn from available information showing the location of each well to the extent practicable. In the disclosure statement, the seller must indicate, for each well, whether the well is in use, not in use, or sealed.

(b) At the time of closing of the sale, the disclosure statement information and the quartile, section, township, and range in which each well is located must be provided on a well *disclosure* certificate signed by the seller or a person authorized to act on behalf of the seller. ~~A well certificate need not be provided~~ If ~~the closing occurs before November 1, 1990, or~~ the seller does not know of any wells on the property ~~and~~, *a well disclosure certificate is not required; however,* the deed or other instrument of conveyance ~~contains~~ *must contain* the statement: "The Seller certifies that the Seller does not know of any wells on the described real property."

If a deed is given pursuant to a contract for deed, the well *disclosure* certificate required by this subdivision shall be signed by the buyer or a

person authorized to act on behalf of the buyer. *If the buyer knows of no wells on the property, a well disclosure certificate is not required; however, the deed or other instrument of conveyance must contain the statement: "The purchaser certifies the purchaser does not know of any wells on the property."*

(c) This subdivision does not apply to the sale, exchange, or transfer of real property:

(1) that consists solely of a sale or transfer of severed mineral interests; or

(2) that consists of an individual condominium unit as described in chapters 515 and 515A.

(d) For an area owned in common under chapter 515 or 515A the association or other responsible person must report to the commissioner by January 1, 1992, the location and status of all wells in the common area. The association or other responsible person must notify the commissioner within 30 days of any change in the reported status of wells.

~~(c)~~ *(e)* If the seller fails to provide a required well *disclosure* certificate, the buyer, or a person authorized to act on behalf of the buyer, may sign a well *disclosure* certificate based on the information provided on the disclosure statement required by this section or based on other available information.

~~(d)~~ *(f)* A county recorder or registrar of titles may not record a deed or other instrument of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance either contains the statement "The Seller certifies that the Seller does not know of any wells on the described real property," or is accompanied by the well *disclosure* certificate required by this subdivision. The county recorder or registrar of titles shall note on each deed or other instrument of conveyance accompanied by a well *disclosure* certificate that the well *disclosure* certificate was received. The well *disclosure* certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. The county recorder or registrar of titles shall transmit the well *disclosure* certificate to the commissioner of health within 15 days after receiving the well *disclosure* certificate. *The commissioner shall maintain the well disclosure certificate for at least six years. The commissioner may store the certificate as an electronic image. A copy of that image shall be as valid as the original. The commissioner shall charge the buyer of the property a fee of $10 for the processing of the well disclosure certificate.*

~~(e)~~ *(g)* The commissioner in consultation with county recorders shall prescribe the form for a well *disclosure* certificate and provide well *disclosure* certificate forms to county recorders and registrars of titles and other interested persons.

~~(f)~~ *(h)* Failure to comply with a requirement of this subdivision does not impair:

(1) the validity of a deed or other instrument of conveyance as between the parties to the deed or instrument or as to any other person who otherwise would be bound by the deed or instrument; or

(2) the record, as notice, of any deed or other instrument of conveyance accepted for filing or recording contrary to the provisions of this subdivision.

Subd. 2. [LIABILITY FOR FAILURE TO DISCLOSE.] Unless the buyer and seller agree to the contrary, in writing, before the closing of the sale, a seller who fails to disclose the existence *or known status* of a well at the time of sale and knew or had reason to know of the existence *or known status* of the well, is liable to the buyer for costs relating to sealing of the well and reasonable attorney fees for collection of costs from the seller, if the action is commenced within six years after the date the buyer closed the purchase of the real property where the well is located.

Sec. 3. Minnesota Statutes 1990, section 144.335, subdivision 1, is amended to read:

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

(a) "Patient" means a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition, the surviving spouse and parents of a deceased patient, or a person the patient designates in writing as a representative. Except for minors who have received health care services pursuant to sections 144.341 to 144.347, in the case of a minor, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian.

(b) "Provider" means (1) any person who furnishes health care services and is licensed to furnish the services pursuant to chapter 147, 148, 148B, 150A, 151, or 153; (2) a home care provider licensed under section 144A.46; ~~and~~ (3) a health care facility licensed pursuant to this chapter or chapter 144A*; and (4) an unlicensed mental health practitioner regulated pursuant to sections 148B.60 to 148B.71*.

Sec. 4. [144.401] [COMMUNITY PREVENTION GRANTS.]

Subdivision 1. [GRANTS MAY BE AWARDED TO COMMUNITY HEALTH BOARDS AND INDIAN RESERVATIONS.] *Within the limits of funding provided by the legislature, the federal government, or public or private grants, the commissioner shall award grants to community health boards and the federally recognized Indian reservations to plan, develop, and implement community alcohol and drug use and abuse prevention programs. To be considered for a grant, a health board or Indian reservation must submit an application to the commissioner of health that includes a description of the planning process used, a description of community needs and existing resources, a description of the program activities to be implemented with grant money, and a list of the agencies and organizations with whom the board or Indian reservation intends to contract.*

Subd. 2. [LOCAL PLANNING REQUIREMENTS.] *To be eligible for a prevention grant, a community health board or Indian reservation must conduct a community-wide planning process that allows full participation of all agencies, organizations, and individuals interested in alcohol and drug use and abuse issues. This process must include at least an assessment of community needs, an inventory of existing resources, identification of prevention program activities that will be implemented, and a description of how the program will work collaboratively with programs in existence. A health board may comply with the planning requirements of this subdivision by expanding the community needs assessment process used to develop its*

community health plan under section 145A.10, subdivision 5.

Subd. 3. [USE OF GRANT MONEY.] *Grant money may be used to plan, develop, and implement community-wide primary prevention programs relating to alcohol and other drug use and abuse. Programs may include specific components to address related health risk behaviors involving use of tobacco, poor nutrition, limited exercise or physical activity, and behaviors that create a risk of serious injury. Grantees may contract with other agencies and organizations to implement the program activities identified in the grant application. Special consideration for contracts must be given to local agencies and organizations with previous successful experience conducting alcohol and other drug prevention programs. Grant money must not be used for alcohol and other drug testing, treatment, or law enforcement activities. Grant money must not be used to supplant or replace funding provided from other sources.*

Subd. 4. [LOCAL MATCH.] *Prevention grant money provided by the commissioner must not exceed 75 percent of the estimated cost of the eligible prevention program activities for the fiscal year for which the grant is awarded. Local funding of the remainder of the costs may be provided from the sources specified in section 145A.13, subdivision 2, paragraph (a).*

Subd. 5. [TRANSFER OF FUNDS.] *Federal money provided to the commissioner of education for community prevention grants through the federal Drug Free Schools and Communities Act is transferred to the commissioner of health for prevention grants under this section.*

Sec. 5. [144.661] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *For purposes of sections 144.661 to 144.665, the following terms have the meanings given them.*

Subd. 2. [TRAUMATIC BRAIN INJURY.] *"Traumatic brain injury" means a sudden insult or damage to the brain or its coverings caused by an external physical force which may produce a diminished or altered state of consciousness and which results in the following disabilities:*

(1) impairment of cognitive or mental abilities;

(2) impairment of physical functioning; or

(3) disturbance of behavioral or emotional functioning.

These disabilities may be temporary or permanent and may result in partial or total loss of function. "Traumatic brain injury" does not include injuries of a degenerative or congenital nature.

Subd. 3. [SPINAL CORD INJURY.] *"Spinal cord injury" means an injury that occurs as a result of trauma which may involve spinal vertebral fracture and where the injured person suffers an acute, traumatic lesion of neural elements in the spinal canal, resulting in any degree of temporary or permanent sensory deficit, motor deficit, or bladder or bowel dysfunction. "Spinal cord injury" does not include intervertebral disc disease.*

Sec. 6. [144.662] [TRAUMATIC BRAIN INJURY AND SPINAL CORD INJURY REGISTRY; PURPOSE.]

The commissioner of health shall establish and maintain a central registry of persons who sustain traumatic brain injury or spinal cord injury. The purpose of the registry is to:

(1) collect information to facilitate the development of injury prevention, treatment, and rehabilitation programs; and

(2) ensure the provision to persons with traumatic brain injury or spinal cord injury of information regarding appropriate public or private agencies that provide rehabilitative services so that injured persons may obtain needed services to alleviate injuries and avoid secondary problems, such as mental illness and chemical dependency.

Sec. 7. [144.663] [DUTY TO REPORT.]

Subdivision 1. [ESTABLISHMENT OF REPORTING SYSTEM.] *The commissioner shall design and establish a reporting system which designates either the treating hospital, medical facility, or physician to report to the department within a reasonable period of time after the identification of a person with traumatic brain injury or spinal cord injury. The consent of the injured person is not required.*

Subd. 2. [INFORMATION.] *The report must be submitted on forms provided by the department and must include the following information:*

(1) the name, age, and residence of the injured person;

(2) the date and cause of the injury;

(3) the initial diagnosis; and

(4) other information required by the commissioner.

Subd. 3. [REPORTING WITHOUT LIABILITY.] *The furnishing of information required by the commissioner shall not subject any person or facility required to report to any action for damages or other relief, provided that the person or facility is acting in good faith.*

Sec. 8. [144.664] [DUTIES OF COMMISSIONER.]

Subdivision 1. [STUDIES.] *The commissioner shall collect injury incidence information, analyze the information, and conduct special studies regarding traumatic brain injury and spinal cord injury.*

Subd. 2. [PROVISION OF DATA.] *The commissioner shall provide summary registry data to public and private entities to conduct studies using data collected by the registry. The commissioner may charge a fee under section 13.03, subdivision 3, for all out-of-pocket expenses associated with the provision of data or data analysis.*

Subd. 3. [NOTIFICATION.] *Within five days of receiving a report of traumatic brain injury or spinal cord injury, the commissioner shall notify the commissioner of jobs and training. The notification shall include the person's name and other identifying information.*

Subd. 4. [REVIEW COMMITTEE.] *The commissioner shall establish a committee to assist the commissioner in the adoption of rules under subdivision 5 and in the review of registry activities. The committee expires as provided in section 15.059, subdivision 5.*

Subd. 5. [RULES.] *The commissioner shall adopt rules to administer the registry, collect information, and distribute data. The rules must include, but are not limited to, the following:*

(1) the specific ICD-9 procedure codes included in the definitions of "traumatic brain injury" and "spinal cord injury";

(2) the type of data to be reported;

(3) standards for reporting specific types of data;

(4) the persons and facilities required to report and the time period in which reports must be submitted;

(5) criteria relating to the use of registry data by public and private entities engaged in research; and

(6) specification of fees to be charged under section 13.03, subdivision 3, for out-of-pocket expenses.

Sec. 9. [144.665] [TRAUMATIC BRAIN INJURY AND SPINAL CORD INJURY DATA.]

Data on individuals collected by the commissioner of health under sections 144.662 to 144.664 or provided to the commissioner of jobs and training under section 144.664 are private data on individuals as defined in section 13.02, subdivision 12, and may be used only for the purposes set forth in sections 144.662 to 144.664 in accordance with the rules adopted by the commissioner.

Sec. 10. Minnesota Statutes 1990, section 144A.46, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIRED.] (a) A home care provider may not operate in the state without a current license issued by the commissioner of health.

(b) Within ten days after receiving an application for a license, the commissioner shall acknowledge receipt of the application in writing. The acknowledgment must indicate whether the application appears to be complete or whether additional information is required before the application will be considered complete. Within 90 days after receiving a complete application, the commissioner shall either grant or deny the license. If an applicant is not granted or denied a license within 90 days after submitting a complete application, the license must be deemed granted. An applicant whose license has been deemed granted must provide written notice to the commissioner before providing a home care service.

(c) Each application for a home care provider license, or for a renewal of a license, shall be accompanied by a fee to be set by the commissioner under section 144.122, *except that the commissioner shall not charge a licensure fee to a home care provider operated by a statutory or home rule charter city, county, town, or other governmental entity.*

Sec. 11. Minnesota Statutes 1990, section 144A.49, is amended to read:

144A.49 [TEMPORARY PROCEDURES.]

For purposes of this section, "home care providers" shall mean the providers described in section 144A.43, subdivision 4, including hospice programs described in section 144A.48. Home care providers are exempt from the licensure requirement in section 144A.46, subdivision 1, until 90 days after the effective date of the licensure rules. Beginning July 1, 1987, no home care provider, as defined in section 144A.43, subdivision 4, except a provider exempt from licensure under section 144A.46, subdivision 2, may provide home care services in this state without registering with the commissioner. A home care provider is registered with the commissioner when the commissioner has received in writing the provider's name; the

name of its parent corporation or sponsoring organization, if any; the street address and telephone number of its principal place of business; the street address and telephone number of its principal place of business in Minnesota; the counties in Minnesota in which it may render services; the street address and telephone number of all other offices in Minnesota; and the name, educational background, and ten-year employment history of the person responsible for the management of the agency. A registration fee must be submitted with the application for registration, *except that the commissioner shall not collect a registration fee from a home care provider operated by a statutory or home rule charter city, county, town, or other governmental entity*. The fee must be established pursuant to section 144.122 and must be based on a consideration of the following factors: the number of clients served by the home care provider, the number of employees, the number of services offered, and annual revenues of the provider. The registration is effective until 90 days after licensure rules are effective. In order to maintain its registration and provide services in Minnesota, a home care provider must comply with section 144A.44 and comply with requests for information under section 144A.47. A registered home care provider is subject to sections 144A.51 to 144A.54. Registration under this section does not exempt a home care provider from the licensure and other requirements later adopted by the commissioner.

Within 90 days after the effective date of the licensure rules under section 144A.45, the commissioner of health shall issue provisional licenses to all home care providers registered with the department as of that date. The provisional license shall be valid until superseded by a license issued under section 144A.46 or for a period of one year, whichever is shorter. Applications for licensure as a home care provider received on or after the effective date of the home care licensure rules, shall be issued under section 144A.46, subdivision 1.

Sec. 12. Minnesota Statutes 1990, section 144A.51, subdivision 5, is amended to read:

Subd. 5. "Health facility" means a facility or that part of a facility which is required to be licensed pursuant to sections 144.50 to 144.58, ~~and~~ a facility or that part of a facility which is required to be licensed under any law of this state which provides for the licensure of nursing homes, *and a residential care home licensed under sections 144B.10 to 144B.17*.

Sec. 13. Minnesota Statutes 1990, section 144A.53, subdivision 1, is amended to read:

Subdivision 1. [POWERS.] The director may:

(a) Promulgate by rule, pursuant to chapter 14, and within the limits set forth in subdivision 2, the methods by which complaints against health facilities, health care providers, home care providers, or administrative agencies are to be made, reviewed, investigated, and acted upon; provided, however, that a fee may not be charged for filing a complaint.

(b) Recommend legislation and changes in rules to the state commissioner of health, legislature, governor, administrative agencies or the federal government.

(c) Investigate, upon a complaint or upon initiative of the director, any action or failure to act by a health care provider, home care provider, or a health facility.

(d) Request and receive access to relevant information, records, incident reports, or documents in the possession of an administrative agency, a health care provider, a home care provider, or a health facility, and issue investigative subpoenas to individuals and facilities for oral information and written information, including privileged information which the director deems necessary for the discharge of responsibilities. For purposes of investigation and securing information to determine violations, the director need not present a release, waiver, or consent of an individual. The identities of patients or residents must be kept private as defined by section 13.02, subdivision 12.

(e) Enter and inspect, at any time, a health facility and be permitted to interview staff; provided that the director shall not unduly interfere with or disturb the provision of care and services within the facility or the activities of a patient or resident unless the patient or resident consents.

(f) Issue a correction order pursuant to section 144.653 or any other law which provides for the issuance of correction orders to health ~~care~~ facilities or home care provider, or under section 144A.45. A facility's refusal to cooperate in providing lawfully requested information may also be grounds for a correction order.

(g) Recommend the certification or decertification of health facilities pursuant to Title XVIII or XIX of the United States Social Security Act.

(h) Assist patients or residents of health facilities in the enforcement of their rights under Minnesota law.

(i) Work with administrative agencies, health facilities, home care providers, and health care providers and organizations representing consumers on programs designed to provide information about health facilities to the public and to health facility residents.

Sec. 14. [144B.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *As used in sections 144B.01 to 144B.17, the following terms have the meanings given them in this section.*

Subd. 2. [ADULT.] *"Adult" means a person who has attained the age of 18 years.*

Subd. 3. [COMMISSIONER.] *"Commissioner" means the commissioner of health or the commissioner's designee.*

Subd. 4. [DEPARTMENT.] *"Department" means the Minnesota department of health.*

Subd. 5. [RESIDENTIAL CARE HOME OR HOME.] *"Residential care home" or "home" means an establishment with a minimum of five beds, where adult residents are provided sleeping accommodations and two or more meals per day and where supportive services are provided or offered to all residents by the facility. A "residential care home" does not include:*

(1) a board and lodging establishment licensed under chapter 157 and also licensed by the commissioner of human services under chapter 245A;

(2) a boarding care home or a supervised living facility licensed under chapter 144;

(3) a home care provider licensed under chapter 144A; and

(4) any housing arrangement which consists of apartments containing a

separate kitchen or kitchen equipment that will allow residents to prepare meals and where supportive services may be provided, on an individual basis, to residents in their living units either by the management of the residential care home or by home care providers under contract with the home's management.

Subd. 6. [SUPPORTIVE SERVICES.] *"Supportive services" means the provision of supervision and minimal assistance with independent living skills. Supportive services include assistance with transportation, arranging for meetings and appointments, arranging for medical and social services, help with laundry, managing money, and personal shopping assistance. In addition, supportive services include, if needed, assistance with walking, grooming, dressing, eating, bathing, toileting, and providing reminders to residents to take medications. Supportive services also include other health-related support services identified by the commissioner in rule.*

Sec. 15. [144B.02] [LICENSE REQUIRED.]

No person, partnership, association, or corporation, nor any state, county, or local governmental units, nor any division, department, board, or agency shall establish, operate, conduct, or maintain in the state any residential care home without first obtaining a license as required in sections 144B.01 to 144B.17. No person or entity shall advertise a home providing services required to be licensed under sections 144B.01 to 144B.17 without first obtaining a license. A violation of this section is a misdemeanor punishable by a fine of not more than $300. The commissioner may seek an injunction in the district court against the continuing operation of the unlicensed home. Proceedings for securing an injunction may be brought by the attorney general or by the appropriate county attorney. The sanctions in this section do not restrict other available sanctions.

Sec. 16. [144B.03] [LICENSE APPLICATION.]

Subdivision 1. [LICENSE PROCEDURES.] *The commissioner shall by rule establish forms and procedures for processing residential care home license applications. An application for a residential care home license shall include:*

(1) the name and address of the licensee and the manager of the home to be licensed;

(2) the address of the home; and

(3) any other relevant information which the commissioner by rule may determine is necessary to properly evaluate an application for license.

An applicant for licensure which is a corporation shall submit copies of its articles of incorporation and bylaws and any amendments as they occur, together with the names and addresses of its officers and directors. An applicant for licensure which is a foreign corporation shall furnish the commissioner with a copy of its certificate of authority to do business in this state. The application of a corporation, association, or a governmental unit or instrumentality shall be signed by at least two officers or managing agents of that entity.

Subd. 2. [AGENTS IDENTIFIED.] *Each application for a residential care home license or for renewal of a residential care home license shall specify one or more individuals or employees as agents:*

(1) who shall be responsible for dealing with the commissioner on all

matters provided for in sections 144B.01 to 144B.17; and

(2) on whom personal service of all notices and orders shall be made, and who shall be authorized to accept service on behalf of the licensee.

Notwithstanding any law to the contrary, personal service on the designated person or persons named in an application shall be deemed to be service on the licensee, and it shall not be a defense to any action arising, that personal service was not made on each individual. The designation of one or more individuals pursuant to this subdivision shall not affect the legal responsibility of the licensee under sections 144B.01 to 144B.17.

Sec. 17. [144B.04] [FEES.]

Each application for a license to operate a residential care home, or for a renewal of license, shall be accompanied by a fee established by the commissioner according to section 144.122. No fee shall be refunded. The fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the residential care home rules.

Sec. 18. [144B.05] [QUALIFICATIONS FOR LICENSE.]

Subdivision 1. [COMPLIANCE REQUIRED.] *No license shall be issued to a home unless the commissioner of health determines that the home complies with the requirements of this chapter.*

Subd. 2. [APPLICATION REQUIRED.] *The applicant for a license under sections 144B.01 to 144B.17 must comply with the application requirements specified by section 144B.03.*

Subd. 3. [HEALTH; SAFETY STANDARDS.] *The home must meet the minimum health, safety, comfort, and well-being standards prescribed by the rules of the commissioner with respect to the construction, equipment, maintenance, and operation of a residential care home.*

Subd. 4. [LICENSURE CONDITIONS OR LIMITATIONS.] *The commissioner may attach to the license any conditions or limitations necessary to assure compliance with the laws or rules governing the operation of the home or to protect the health, safety, comfort, or well-being of the residents. A condition or limitation may be attached to the license when first issued, when renewed, or during the course of the licensure year. The commissioner shall adopt rules governing the procedures for issuing conditions or limitations.*

Sec. 19. [144B.06] [LICENSE RENEWAL.]

Unless the license is suspended or revoked according to section 144B.08, a residential care home license is effective for one year from the date of its issuance. The commissioner shall by rule establish forms and procedures for the processing of license renewals. The commissioner shall approve a license renewal application if the home continues to satisfy the requirements, standards, and conditions of sections 144B.01 to 144B.17, and the rules adopted under those sections.

Sec. 20. [144B.07] [TRANSFERABILITY OF LICENSE.]

Subdivision 1. [TRANSFERS PROHIBITED; CHANGE OF OWNERSHIP.] *A license shall be issued only for the premise identified in the application for license and may not be transferred or assigned to another party. Prior to any change of licensee of a home, the prospective licensee*

must apply for a license according to subdivision 2. "Change of licensee" means a transfer of the legal responsibility to operate the home to a different individual or entity.

Subd. 2. [NOTIFICATION.] *At least 60 days prior to the final change of license, the prospective licensee shall notify the department of the intended change of licensee and shall file an application for a license. The original licensee shall notify the department of the intended change at least 90 days prior to the change. The original licensee remains responsible for the operation of the home until the date a new license is issued by the department. The original licensee is liable for all penalties assessed against the home and for all violations occurring prior to the transfer of operation. The commissioner may not issue a license to the prospective licensee if, at the time of the requested transfer, there are any uncorrected violations of sections 144B.01 to 144B.17 or rules adopted under those sections unless the commissioner determines that the violations will not create an imminent risk of harm to the residents and that the prospective licensee has submitted an acceptable plan of correction to the commissioner.*

Sec. 21. [144B.08] [LICENSE SUSPENSION, REVOCATION, OR REFUSAL TO ISSUE; HEARING; RELICENSING.]

Subdivision 1. [PROCEEDINGS.] *The commissioner may institute proceedings to suspend or revoke a residential care home license, or may refuse to grant or renew the license of a residential care home if any action by a licensee or employee of the residential care home:*

(1) violates any of the provisions of sections 144B.01 to 144B.17, or the rules adopted under those sections;

(2) permits, aids, or abets the commission of any illegal act in the residential care home or relating to the operation of the home;

(3) performs any act contrary to the welfare of the residential care home; or

(4) obtains, or attempts to obtain, a license by fraudulent means or misrepresentation.

Subd. 2. [HEARING.] *No residential care home license may be suspended or revoked, and renewal may not be denied, without a hearing held as a contested case in accordance with chapter 14. If the individual designated under section 144B.03, subdivision 2, as an agent to accept service on behalf of the licensee has been notified by the commissioner that the home will not receive an initial license or that a license renewal has been denied, the licensee or a legal representative on behalf of the residential care home may request and receive a hearing on the denial. This hearing shall be held as a contested case in accordance with chapter 14.*

Subd. 3. [MANDATORY REVOCATION OR REFUSAL TO ISSUE A LICENSE.] *Notwithstanding subdivision 2, the commissioner shall revoke or refuse to issue a residential care home license if the applicant, licensee, or manager of the licensed home is convicted of a felony or gross misdemeanor that is punishable by a term of imprisonment of not more than 90 days and that relates to operation of the residential care home or directly affects resident safety or care. The commissioner shall notify the residential care home 30 days before the date of revocation.*

Subd. 4. [RELICENSING.] *If a residential care home license is revoked, a new application for license may be considered by the commissioner when*

the conditions upon which revocation was based have been corrected and satisfactory evidence of this fact has been furnished to the commissioner. A new license may be granted after an inspection has been made and the home has been found to comply with all provisions of sections 144B.01 to 144B.17, and the rules adopted under those sections.

Sec. 22. [144B.09] [RULES.]

The commissioner shall establish by rule minimum standards for the construction, maintenance, equipping, and operation of residential care homes. To the extent possible, the rules shall assure the health, safety, comfort, and well-being of residential care home residents. The rules shall include, but not be limited to the following provisions:

(1) the supportive services that can be provided;

(2) special service permit requirements for medication or other supportive services;

(3) staffing requirements;

(4) training and qualifications of staff;

(5) criteria for admission and continued stay of a resident;

(6) resident rights;

(7) fire safety and physical plant requirements that are based on the size of the home, and the resident's ability to ambulate, taking into consideration the need for differing standards for existing physical plants and for new construction; and

(8) procedures for granting variances or waivers from the rules.

Sec. 23. [144B.10] [INSPECTIONS; ENFORCEMENT.]

Subdivision 1. [ENFORCEMENT.] *The department is the exclusive state agency charged with the responsibility and duty of inspecting all homes required to be licensed under sections 144B.01 to 144B.17. The commissioner shall enforce its rules subject only to the authority of the department of public safety respecting the enforcement of fire and safety standards in licensed residential care homes.*

Subd. 2. [PERIODIC INSPECTION.] *(a) All homes required to be licensed under sections 144B.01 to 144B.17 shall be periodically inspected by the commissioner to ensure compliance with rules and standards. Inspections shall occur at different times throughout the calendar year.*

(b) Within the limits of the resources available to the commissioner, the commissioner shall conduct inspections and reinspections with a frequency and in a manner calculated to produce the greatest benefit to residents. In performing this function, the commissioner may devote proportionately more resources to the inspection of those homes in which conditions present the most serious concerns with respect to resident health, safety, comfort, and well-being, including: (1) change in ownership; (2) frequent change in management or staff; (3) complaints about care, safety, or rights; (4) previous inspections or reinspections which have resulted in correction orders related to care, safety, or rights; and (5) indictment of persons involved in ownership or operation of the home for alleged criminal activity.

(c) A home that does not have any of the conditions in paragraph (b) or any other condition established by the commissioner that poses a risk to

resident care, safety, or rights shall be inspected once every two years.

Subd. 3. [AUTHORITY.] *The commissioner may request and must be given access to relevant information, records, incident reports, or other documents in the possession of a home if the commissioner considers them necessary for the discharge of responsibilities. For the purposes of inspections and securing information to determine compliance with the licensure laws and rules, the commissioner need not present a release, waiver, or consent of the individual. The identities of patients or residents must be kept private as defined by section 13.02, subdivision 12.*

Subd. 4. [INSPECTIONS WITHOUT NOTICE.] *No prior notice shall be given of an inspection or reinspection conducted under this section.*

Subd. 5. [CORRECTION ORDERS.] *Whenever a duly authorized representative of the commissioner determines that a home is not in compliance with the provisions of this chapter or the rules adopted under it, a correction order shall be issued to the home. The correction order shall state the deficiency, cite the specific law or rule violated, and specify the time allowed for correction.*

Subd. 6. [REINSPECTIONS; FINES.] *If, upon reinspection, it is found that the home has not corrected deficiencies specified in the correction order, a notice of noncompliance shall be issued stating all deficiencies not corrected. Unless a hearing is requested under subdivision 8, the home shall forfeit to the state, within 15 days after receiving the notice of noncompliance, up to $1,000 for each deficiency not corrected. For each subsequent reinspection, the home may be fined an additional amount for each deficiency which has not been corrected. All forfeitures shall be paid into the general fund. The commissioner shall adopt by rule a schedule of fines applicable for each type of uncorrected deficiency.*

Subd. 7. [RECOVERY.] *Any unpaid forfeitures may be recovered by the attorney general.*

Subd. 8. [HEARINGS.] *A licensee is entitled to a hearing on any notice of noncompliance provided that the licensee makes a written request within 15 days after receiving the notice of noncompliance. Failure to request a hearing shall result in the forfeiture of a penalty as determined by the commissioner according to subdivision 6. During the hearing and review process a request for a hearing shall operate as a stay of the payment of any forfeiture provided for in this section. The hearing shall be conducted as a contested case proceeding under the provisions of chapter 14.*

Subd. 9. [RECORDS OF INSPECTIONS.] *After each inspection or reinspection required or authorized by this section, the commissioner shall, by certified mail, send copies of any correction order or notice of noncompliance to the home. A copy of each correction order and notice of noncompliance shall be kept on file at the home and shall be made available for viewing by any person upon request.*

Subd. 10. [POWERS NOT LIMITED.] *Nothing in this section shall be construed to limit the powers granted to the commissioner in this chapter.*

Sec. 24. [144B.11] [INJUNCTIVE RELIEF; SUBPOENAS.]

Subdivision 1. [INJUNCTIVE RELIEF.] *In addition to any other remedy provided by law, the commissioner may bring an action in the district court in Ramsey or Hennepin county or in the district in which a home is located to enjoin the licensee or an employee of the home from illegally engaging*

in activities regulated by sections 144B.01 to 144B.17. A temporary restraining order may be granted by the court in the proceeding if continued activity by the licensee or employee would create an imminent risk of harm to a resident of the facility.

Subd. 2. [SUBPOENAS.] *In all matters pending before the commissioner under sections 144B.01 to 144B.17, the commissioner shall have the power to issue subpoenas, and to compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear or testify regarding any matter about which that person may be lawfully questioned or refusing to produce any papers, books, records, documents, or evidentiary materials in the matter to be heard, after having been required by order of the commissioner or by a subpoena of the commissioner to do so may, upon application by the commissioner to the district court in any district, be ordered by the court to comply with the subpoena or order. The commissioner may issue subpoenas and may administer oaths to witnesses, or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions, with the same fees and mileage and in the same manner as prescribed by law for process issued out of the district court of this state. Fees and mileage and other costs for persons subpoenaed by the commissioner shall be paid in the same manner as for proceedings in district court.*

Sec. 25. [144B.12] [PLACEMENT OF A MONITOR.]

Subdivision 1. [AUTHORITY.] *The commissioner may place a person to act as a monitor in a residential care home when the commissioner determines that violations of this chapter, or the rules adopted under it, require extended surveillance to enforce compliance or to protect the health, safety, or welfare of the residents.*

Subd. 2. [DUTIES OF THE MONITOR.] *The monitor shall observe the operation of the home, provide advice to the home on methods of complying with state law and rules, where documented deficiencies for the regulations exist, and periodically shall submit a written report to the commissioner on the ways in which the home meets or fails to meet state rules.*

Subd. 3. [SELECTION OF THE MONITOR.] *The commissioner may select as monitor an employee of the department or may contract with any other individual to serve as a monitor. The commissioner shall publish a notice in the State Register that requests proposals from individuals who wish to be considered for placement as monitors and that sets forth the criteria for selecting individuals as monitors. The commissioner shall maintain a list of individuals who are not employees of the department who are interested in serving as monitors. The commissioner may contract with those individuals determined to be qualified.*

Subd. 4. [PAYMENT OF THE MONITOR.] *A residential care home in which a monitor is placed shall pay to the department the actual costs associated with the placement, unless the payment would create an undue hardship for the home.*

Sec. 26. [144B.13] [FREEDOM FROM ABUSE AND NEGLECT.]

Residents shall be free from abuse and neglect as defined in section 626.557, subdivision 2. The commissioner shall by rule develop procedures for the reporting of alleged incidents of abuse or neglect in residential care homes. The office of health facility complaints shall investigate reports of

alleged abuse or neglect according to sections 144A.51 to 144A.54.

Sec. 27. [144B.14] [CESSATION OF OPERATIONS.]

If a residential care home voluntarily plans to cease operations or to curtail operations to the extent that relocation of residents is necessary, the licensee of the home shall notify the commissioner at least 90 days prior to the scheduled cessation or curtailment. The commissioner shall cooperate with and advise the licensee of the home in the resettlement of residents. Failure to comply with this section shall be subject to the issuance of a correction order and fine under section 144B.10.

Sec. 28. [144B.15] [HUMAN SERVICES LICENSURE EXCLUSION.]

Notwithstanding section 245A.03, subdivision 2, board and lodging establishments licensed by the commissioner and registered under section 157.031, subdivision 2, that provide services for five or more persons whose primary diagnosis is mental illness and who have refused a residential program offered by a county agency are exempt from licensure under sections 245A.01 to 245A.16, until one year after the residential care home licensure rules required under sections 144B.01 to 144B.17 are adopted by the commissioner of health. At that time, these establishments shall be licensed under sections 245A.01 to 245A.16, or as residential care homes.

Sec. 29. [144B.16] [TRANSITIONAL PERIOD.]

Except as provided for in section 157.031, subdivision 4, the requirement to obtain a residential care home license is effective as of the effective date of the rules adopted by the commissioner. Until that time, board and lodging establishments that are required to be registered under the provisions of section 157.031 shall continue to meet the requirements contained in that section.

Sec. 30. [144B.17] [ADVISORY WORK GROUP.]

The commissioner shall convene a work group to advise, consult with, and make recommendations to the commissioner regarding the development of rules required under sections 144B.01 to 144B.16. The work group must include consumers and providers of the services described in sections 144B.01 to 144B.16 and other interested parties.

Sec. 31. Minnesota Statutes 1990, section 145.924, is amended to read:

145.924 [AIDS PREVENTION GRANTS.]

(a) The commissioner may award grants to boards of health as defined in section 145A.02, subdivision 2, state agencies, state councils, or nonprofit corporations to provide evaluation and counseling services to populations at risk for acquiring human immunodeficiency virus infection, including, but not limited to, minorities, adolescents, intravenous drug users, and homosexual men.

(b) The commissioner may award grants to agencies experienced in providing services to communities of color, for the design of innovative outreach and education programs for targeted groups within the community who may be at risk of acquiring the human immunodeficiency virus infection, including intravenous drug users and their partners, adolescents, gay and bisexual individuals and women. Grants shall be awarded on a request for proposal basis and shall include funds for administrative costs. Priority for grants shall be given to agencies or organizations that have experience in providing service to the particular community which the grantee proposes to serve;

that have policymakers representative of the targeted population; that have experience in dealing with issues relating to HIV/AIDS; and that have the capacity to deal effectively with persons of differing sexual orientations. For purposes of this paragraph, the "communities of color" are: the American-Indian community; the Hispanic community; the African-American community; and the Asian-Pacific community.

Sec. 32. Minnesota Statutes 1990, section 145.925, is amended by adding a subdivision to read:

Subd. 9. Notwithstanding any rules to the contrary, including rules proposed in the State Register on April 1, 1991, the commissioner, in allocating grant funds for family planning special projects, shall not limit the total amount of funds that can be allocated to an organization that has submitted applications from more than one region, except that no more than $75,000 may be allocated to any grantee within a single region. For two or more organizations who have submitted a joint application, that limit is $75,000 for each organization. This subdivision does not affect any procedure established in rule for allocating special project money to the different regions. The commissioner shall revise the rules for family planning special project grants so that they conform to the requirements of this subdivision. In adopting these revisions, the commissioner is not subject to the rulemaking provisions of chapter 14, but is bound by section 14.38, subdivision 7.

Sec. 33. Minnesota Statutes 1990, section 148B.01, subdivision 7, is amended to read:

Subd. 7. [~~REGULATED INDIVIDUAL~~ *LICENSEE.*] "~~Regulated individual~~ *Licensee*" means a person licensed by the board of social work or the board of marriage and family therapy~~, or required to file with the board of unlicensed mental health service providers~~.

Sec. 34. Minnesota Statutes 1990, section 148B.03, is amended to read:

148B.03 [APPLICABILITY.]

Sections 148B.04 to 148B.17 apply to ~~all of the social work and mental health boards~~ *the board of social work and the board of marriage and family therapy,* and the ~~regulated individuals~~ *licensees* within their respective jurisdictions, unless superseded by an inconsistent law that relates specifically to a particular board.

Sec. 35. Minnesota Statutes 1990, section 148B.04, subdivision 3, is amended to read:

Subd. 3. [INFORMATION ON ~~ADVERSE~~ *DISCIPLINARY* ACTIONS.] If a board imposes disciplinary measures or takes ~~adverse~~ *disciplinary* action of any kind, the name and business address of the ~~regulated individual~~ *licensee*, the nature of the misconduct, and the action taken by the board are public data.

Sec. 36. Minnesota Statutes 1990, section 148B.04, subdivision 4, is amended to read:

Subd. 4. [EXCHANGE OF INFORMATION.] The boards shall exchange information with other boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph (d)~~, and may release information in the reports required under section 148B.02~~.

Sec. 37. Minnesota Statutes 1990, section 148B.05, subdivision 1, is amended to read:

Subdivision 1. [~~ADVERSE~~ *DISCIPLINARY* ACTION BY A BOARD.] A suspension, revocation, condition, limitation, qualification, or restriction of ~~a regulated~~ *an* individual's license~~, filing,~~ or right to practice is in effect pending determination of an appeal unless the court, upon petition and for good cause shown, orders otherwise. The right to provide services is automatically suspended if (1) a guardian of the person of a ~~regulated individual~~ *licensee* is appointed by order of a probate court pursuant to sections 525.54 to 525.61, for reasons other than the minority of the ~~individual~~ *licensee*, or (2) the ~~individual~~ *licensee* is committed by order of a probate court pursuant to chapter 253B or sections 526.09 to 526.11. The right to provide services remains suspended until the ~~individual~~ *licensee* is restored to capacity by a court and, upon petition by the ~~individual~~ *licensee*, the suspension is terminated by the board after a hearing. In its discretion, a board may restore and reissue permission to provide services, but as a condition thereof may impose any disciplinary or corrective measure that it might originally have imposed.

Sec. 38. Minnesota Statutes 1990, section 148B.06, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATE REQUIRED.] A board may not issue or renew a ~~filing~~ *license* if the commissioner of revenue notifies the board and the ~~regulated individual~~ *licensee* or applicant for a license ~~or filing~~ that the ~~individual~~ *licensee* or applicant owes the state delinquent taxes in the amount of $500 or more. A board may issue or renew a license or filing only if the commissioner of revenue issues a tax clearance certificate and the commissioner of revenue or the ~~individual~~ *licensee* or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the ~~individual~~ *licensee* or applicant does not owe the state any uncontested delinquent taxes. For purposes of this section, "taxes" means all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes. "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the ~~regulated individual~~ *licensee* or applicant has entered into a payment agreement to pay the liability and is current with the payments.

Sec. 39. Minnesota Statutes 1990, section 148B.06, subdivision 3, is amended to read:

Subd. 3. [INFORMATION REQUIRED.] The boards shall require all ~~regulated individuals~~ *licensees* or applicants to provide their social security number and Minnesota business identification number on all license ~~or filing~~ applications. Upon request of the commissioner of revenue, the board *of social work and the board of marriage and family therapy* must provide to the commissioner of revenue a list of all ~~regulated individuals~~ *licensees* and applicants, including the name and address, social security number, and business identification number. The commissioner of revenue may request a list of the ~~individuals~~ *licensees* and applicants no more than once each calendar year.

Sec. 40. Minnesota Statutes 1990, section 148B.07, is amended to read:

148B.07 [REPORTING OBLIGATIONS.]

Subdivision 1. [PERMISSION TO REPORT.] A person who has knowledge of any conduct constituting grounds for ~~discipline or adverse~~ *disciplinary* action relating to licensure or ~~filing~~ *unlicensed practice* under this chapter may report the violation to the appropriate board.

Subd. 2. [INSTITUTIONS.] A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the appropriate board any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition a ~~regulated individual's~~ *licensee's* privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other ~~adverse action or~~ disciplinary action for conduct that might constitute grounds for ~~adverse action or~~ disciplinary action by a board under this chapter. The institution or organization shall also report the resignation of any ~~regulated individuals~~ *licensees* prior to the conclusion of any disciplinary ~~or adverse~~ action proceeding for conduct that might constitute grounds for disciplinary ~~or adverse~~ action under this chapter, or prior to the commencement of formal charges but after the ~~individual~~ *licensee* had knowledge that formal charges were contemplated or in preparation.

Subd. 3. [PROFESSIONAL SOCIETIES.] A state or local professional society for ~~regulated individuals~~ *licensees* shall report to the appropriate board any termination, revocation, or suspension of membership or any other disciplinary ~~or adverse~~ action taken against a ~~regulated individual~~ *licensee*. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary ~~or adverse~~ action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the appropriate board.

Subd. 4. [~~REGULATED INDIVIDUALS AND~~ LICENSED PROFESSIONALS.] A ~~regulated individual or a~~ licensed health professional shall report to the appropriate board personal knowledge of any conduct that the ~~regulated individual or~~ licensed health professional reasonably believes constitutes grounds for disciplinary ~~or adverse~~ action under this chapter by any ~~regulated individual~~ *licensee*, including conduct indicating that the ~~individual~~ *licensee* may be medically incompetent, or may be medically or physically unable to engage safely in the provision of services. If the information was obtained in the course of a client relationship, the client is another ~~regulated individual~~ *licensee*, and the treating individual successfully counsels the other individual to limit or withdraw from practice to the extent required by the impairment, the board may deem this limitation of or withdrawal from practice to be sufficient disciplinary action.

Subd. 5. [INSURERS.] Four times each year as prescribed by a board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to ~~regulated individuals~~ *licensees*, or the medical joint underwriting association under chapter 62F, shall submit to the appropriate board a report concerning the ~~regulated individuals~~ *licensees* against whom malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

(1) the total number of malpractice settlements or awards made ~~to the plaintiff~~;

(2) the date the malpractice settlements or awards ~~to the plaintiff~~ were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made ~~to the plaintiff~~;

(4) the dollar amount of each malpractice settlement or award;

(5) the regular address of the practice of the ~~regulated individual~~ *licensee* against whom an award was made or with whom a settlement was made; and

(6) the name of the ~~regulated individual~~ *licensee* against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the above information, report to the board any information it possesses that tends to substantiate a charge that a ~~regulated individual~~ *licensee* may have engaged in conduct violating this chapter.

Subd. 6. [COURTS.] The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a ~~regulated individual~~ *licensee* is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the ~~regulated individual~~ *licensee* pursuant to sections 525.54 to 525.61 or commits a ~~regulated individual~~ *licensee* pursuant to chapter 253B or sections 526.09 to 526.11.

Subd. 7. [SELF-REPORTING.] A ~~regulated individual~~ *licensee* shall report to the appropriate board *or to the office of mental health practice* any personal action that would require that a report be filed ~~with the board~~ by any person, health care facility, business, or organization pursuant to subdivisions 2 to 6.

Subd. 8. [DEADLINES; FORMS.] Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The boards *and the office of mental health practice* may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Subd. 9. [SUBPOENAS.] The boards *and the office of mental health practice* may issue subpoenas for the production of any reports required by subdivisions 2 to 7 or any related documents.

Sec. 41. Minnesota Statutes 1990, section 148B.08, is amended to read:

148B.08 [IMMUNITY.]

Subdivision 1. [REPORTING.] Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report ~~to a board~~ under section 148B.07 or for otherwise reporting ~~to the board~~ violations or alleged violations of this chapter. All the reports are confidential and absolutely privileged communications.

Subd. 2. [INVESTIGATION.] Members of the boards of social work, *and* marriage and family therapy, ~~and unlicensed mental health professionals,~~ and persons employed by the ~~office~~ *boards* or engaged in the investigation of violations and in the preparation and management of charges of violations

of this chapter on behalf of the ~~office or~~ boards, are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

Sec. 42. Minnesota Statutes 1990, section 148B.12, is amended to read:

148B.12 [MALPRACTICE HISTORY.]

Subdivision 1. [SUBMISSION.] ~~Regulated individuals~~ *Licensees or applicants for licensure* who have previously practiced in another state shall submit with their ~~filing or~~ application the following information:

(1) number, date, and disposition of any malpractice settlement or award made ~~to the plaintiff or other claimant~~ relating to the quality of services provided by the ~~regulated individual~~ *licensee or applicant*; and

(2) number, date, and disposition of any civil litigations or arbitrations relating to the quality of services provided by the ~~regulated individual~~ *licensee or applicant* in which the party complaining against the ~~individual~~ *licensee or applicant* prevailed or otherwise received a favorable decision or order.

Subd. 2. [BOARD ACTION.] The board shall give due consideration to the information submitted under this section. A ~~regulated individual~~ *licensee or applicant for licensure* who willfully submits incorrect information is subject to disciplinary action under this chapter.

Sec. 43. Minnesota Statutes 1990, section 148B.13, is amended to read:

148B.13 [PUBLICATION OF DISCIPLINARY ACTIONS.]

At least annually, each board shall publish and release to the public a description of all disciplinary measures or ~~adverse~~ actions taken by the board. The publication must include, for each disciplinary measure or ~~adverse~~ action taken, the name and business address of the ~~regulated individual~~ *licensee*, the nature of the misconduct, and the measure or action taken by the board.

Sec. 44. Minnesota Statutes 1990, section 148B.17, is amended to read:

148B.17 [FEES.]

Each board shall by rule establish fees, including late fees, for licenses ~~or filings~~ and renewals so that the total fees collected by the board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128~~, plus the prorated costs of the office of social work and mental health boards~~. Fees must be credited to accounts in the special revenue fund.

Sec. 45. [148B.175] [COMPLAINTS; INVESTIGATION AND HEARING.]

Subdivision 1. [DISCOVERY; SUBPOENAS.] *In all matters relating to its lawful regulatory activities, a board may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear to testify regarding any matter about which the person may be lawfully questioned or failing to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by order of the board or by a subpoena of the board to do so may, upon application to the district court in any district, be ordered to comply with the subpoena or order. Any board member may administer oaths to witnesses or take their affirmation. Depositions*

may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon a person it names anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions in the same manner as prescribed by law for service of process issued out of the district court of this state.

Subd. 2. [CLASSIFICATION OF DATA.] *The board shall maintain any records, other than client records, obtained as part of an investigation, as investigative data under section 13.41. Client records are classified as private under chapter 13, and must be protected as such in the records of the board and in administrative or judicial proceeding unless the client authorizes the board in writing to make public the identity of the client or a portion or all of the client's records.*

Subd. 3. [EXAMINATION.] *If a board has probable cause to believe that an applicant or licensee has engaged in conduct prohibited by section 214.10, it may issue an order directing the applicant or licensee to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this section, every applicant or licensee is considered to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the board and to have waived all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication.*

Subd. 4. [FAILURE TO SUBMIT TO AN EXAMINATION.] *Failure to submit to an examination or evaluation when ordered, unless the failure was due to circumstances beyond the control of the applicant or licensee, constitutes an admission that the applicant or licensee violated section 214.10, based on the factual specifications in the examination or evaluation order, and may result in an application being denied or a default and final disciplinary order being entered after a contested case hearing. The only issues to be determined at the hearing are whether the designated board member had probable cause to issue the examination or evaluation order and whether the failure to submit was due to circumstances beyond the control of the applicant or licensee. Neither the record of a proceeding under this subdivision nor the orders entered by the board are admissible, subject to subpoena, or to be used against the applicant or licensee in a proceeding in which the board is not a party or decision maker. Information obtained under this subdivision is classified as private under chapter 13 and the orders issued by a board as the result of an applicant or licensee to submit to an examination or evaluation are classified as public.*

Subd. 5. [ACCESS TO DATA AND RECORDS.] *In addition to ordering a physical or mental examination or chemical dependency evaluation and notwithstanding section 13.42, 144.651, 595.02, or any other law limiting access to medical or other health records, a board may obtain data and health records relating to an applicant or licensee without the applicant's or licensee's consent if the board has probable cause to believe that an applicant or licensee has engaged in conduct prohibited by section 214.10. An applicant, licensee, insurance company, health care facility, provider as defined in section 144.335, subdivision 1, paragraph (b), or government agency shall comply with any 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 in accordance with a written request made under this subdivision, unless the information is false and the*

person or entity giving the information knew or had reason to know that the information was false. Information on individuals obtained under this section is investigative data under section 13.41.

Subd. 6. [FORMS OF DISCIPLINARY ACTION.] *When grounds for disciplinary action exist under section 214.10, or statute or rule enforced by the board, it may take one or more of the following disciplinary actions:*

(1) deny the right to practice;

(2) revoke the right to practice;

(3) suspend the right to practice;

(4) impose limitations on the practice of the licensee;

(5) impose conditions on the practice of the licensee;

(6) impose a civil penalty not exceeding $10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the licensee of any economic advantage gained by reason of the violation charged, or to discourage repeated violations;

(7) impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action including, but not limited to, the amount paid by the board for services from the office of administrative hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff;

(8) censure or reprimand the licensee; or

(9) take any other action justified by the facts of the case.

Subd. 7. [TEMPORARY SUSPENSION.] *In addition to any other remedy provided by law, the board may, acting through its designated board member and without a hearing, temporarily suspend the right of a licensee to practice if the board member finds that the licensee has violated a statute or rule that the board is empowered to enforce and that continued practice by the licensee would create a serious risk of harm to others. The suspension is in effect upon service of a written order on the licensee specifying the statute or rule violated. The order remains in effect until the board issues a final order in the matter after a hearing or upon agreement between the board and the licensee. Service of the order is effective if the order is served on the licensee or counsel of record personally or by first class mail to the most recent address provided to the board for the licensee or the counsel of record. Within ten days of service of the order, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board or licensee may be in affidavit form only. The licensee or the counsel of record may appear for oral argument. Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 45 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of that report.*

Subd. 8. [AUTOMATIC SUSPENSION.] *The right to practice is automatically suspended if (1) a guardian of a licensee is appointed by order of a probate court under sections 525.54 to 525.61, or (2) the licensee is committed by order of a probate court pursuant to chapter 253B or sections*

526.09 to 526.11. The right to practice remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing or upon agreement between the board and the licensee.

Subd. 9. [ADDITIONAL REMEDIES.] *The board may in its own name issue a cease and desist order to stop a person from engaging in an unauthorized practice or violating or threatening to violate a statute, rule, or order which the board has issued or is empowered to enforce. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under sections 14.57 to 14.62. If, within 15 days of service of the order, the subject of the order fails to request a hearing in writing, the order is the final order of the board and is not reviewable by a court or agency.*

A hearing must be initiated by the board not later than 30 days from the date of the board's receipt of a written hearing request. Within 30 days of receipt of the administrative law judge's report, the board shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the board.

When a request for a stay accompanies a timely hearing request, the board may, in its discretion, grant the stay. If the board does not grant a requested stay, it shall refer the request to the office of administrative hearings within three working days of receipt of the request. Within ten days after receiving the request from the board, an administrative law judge shall issue a recommendation to grant or deny the stay. The board shall grant or deny the stay within five days of receiving the administrative law judge's recommendation.

In the event of noncompliance with a cease and desist order, the board may institute a proceeding in Ramsey county district court to obtain injunctive relief or other appropriate relief, including a civil penalty payable to the board not exceeding $10,000 for each separate violation.

Subd. 10. [INJUNCTIVE RELIEF.] *In addition to any other remedy provided by law, including the issuance of a cease and desist order under subdivision 1, a board may in its own name bring an action in Ramsey county district court for injunctive relief to restrain any unauthorized practice or violation or threatened violation of any statute, rule, or order which the board is empowered to regulate, enforce, or issue. A temporary restraining order must be granted in the proceeding if continued activity by a licensee would create a serious risk of harm to others. The board need not show irreparable harm.*

Subd. 11. [ADDITIONAL POWERS.] *The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a licensee from criminal prosecution by a competent authority or from disciplinary action by the board. Nothing in this section limits the board's authority to seek injunctive relief under section 214.11.*

Sec. 46. Minnesota Statutes 1990, section 148B.18, subdivision 10, is amended to read:

Subd. 10. [QUALIFIED MENTAL HEALTH PROFESSIONAL.] "Qualified mental health professional" means a psychiatrist, board-certified or eligible for board certification, and licensed under chapter 147; a psychologist licensed under sections 148.88 to 148.98; an independent clinical

social worker who has the qualifications in section 148B.21, subdivision 6; ~~or~~ a psychiatric registered nurse with a master's degree from an accredited school of nursing, licensed under section 148.211, with at least two years of postmaster's supervised experience in direct clinical practice*; or a marriage and family therapist who is licensed under sections 148B.29 to 148B.39*.

Sec. 47. Minnesota Statutes 1990, section 148B.23, subdivision 1, is amended to read:

Subdivision 1. [EXEMPTION FROM EXAMINATION.] *(a)* For two years from July 1, 1987, the board shall issue a license without examination to an applicant:

(1) for a licensed social worker, if the board determines that the applicant has received a baccalaureate degree from an accredited program of social work, or that the applicant has at least a baccalaureate degree from an accredited college or university and two years in full-time employment or 4,000 hours of experience in the supervised practice of social work within the five years before July 1, 1989, or within a longer time period as specified by the board;

(2) for a licensed graduate social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline, as approved by the board;

(3) for a licensed independent social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline, as approved by the board; and, after receiving the degree, has practiced social work for at least two years in full-time employment or 4,000 hours under the supervision of a social worker meeting these requirements, or of another qualified professional; and

(4) for a licensed independent clinical social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline as approved by the board; and, after receiving the degree, has practiced clinical social work for at least two years in full-time employment or 4,000 hours under the supervision of a clinical social worker meeting these requirements, or of another qualified mental health professional.

(b) During the period beginning August 1, 1991, and ending September 30, 1991, the board shall issue a license without examination to an applicant who was licensed as a school social worker by the board of teaching between July 1, 1987, and July 1, 1989. To qualify for a license under this paragraph, the applicant must:

(1) provide evidence, as determined by the board, of meeting all other licensure requirements under paragraph (a);

(2) provide evidence, as determined by the board, of practicing social work between July 1, 1987, and July 1, 1989, at the level of licensure being applied for;

(3) provide verification, on a form provided by the board, that the license

held with the board of teaching was in good standing while licensed under their jurisdiction; and

(4) provide a completed application, including all information required in this paragraph, by September 30, 1991.

(c) The board shall allow an applicant who became licensed as a school social worker by the board of teaching between July 1, 1989, and July 1, 1990, to take the social work licensure examination and, upon passing the examination, to receive a license. To qualify for a license under this paragraph, the applicant must:

(1) take and pass one of the next two regularly scheduled social work licensure examinations administered after the effective date of this paragraph;

(2) provide verification, on a form provided by the board, that the license held with the board of teaching is in good standing; and

(3) provide a completed application, including all information required in this paragraph, by the board's examination application deadline for the February 1992 licensure examination.

Sec. 48. Minnesota Statutes 1990, section 148B.33, subdivision 1, is amended to read:

Subdivision 1. [DOCUMENTARY EVIDENCE OF QUALIFICATIONS.] An applicant for a license shall furnish evidence that the applicant:

(1) has attained the age of majority;

(2) is of good moral character;

(3) is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

(4) has at least two years of supervised postgraduate experience in marriage and family ~~counseling~~ *therapy* satisfactory to the board;

(5)(i) has completed a master's or doctoral degree in marriage and family therapy from a program in a regionally accredited educational institution or from a program accredited by the commissioner on accreditations for marriage and family therapy education of the American association for marriage and family ~~therapists~~ *therapy*; or (ii) has completed a master's or doctoral degree from a regionally accredited educational institution in a related field for which the course work is considered by the board to be equivalent to that provided in clause (5)(i);

(6) will agree to conduct all professional activities as a licensed marriage and family ~~counselor~~ *therapist* in accordance with a code of ethics for marriage and family therapists to be adopted by the board; and

(7) has passed an examination approved by the board by rule.

Sec. 49. Minnesota Statutes 1990, section 148B.38, subdivision 3, is amended to read:

Subd. 3. [FEDERALLY RECOGNIZED TRIBES AND PRIVATE NONPROFIT AGENCIES WITH A MINORITY FOCUS.] The licensure of marriage and family therapists who are employed by federally recognized tribes and private nonprofit agency marriage and family therapists, whose primary service focus addresses ethnic minority populations and who are themselves members of ethnic minority populations within said agencies, shall be

voluntary for a period of five years at which time the legislature will review the need for mandatory licensure for all marriage and family therapists *under this subdivision.*

Sec. 50. [148B.60] [DEFINITIONS.]

Subdivision 1. [TERMS.] *As used in sections 148B.60 to 148B.71, the following terms have the meanings given them in this section.*

Subd. 2. [OFFICE OF MENTAL HEALTH PRACTICE OR OFFICE.] *"Office of mental health practice" or "office" means the office of mental health practice established in section 148B.61.*

Subd. 3. [UNLICENSED MENTAL HEALTH PRACTITIONER OR PRACTITIONER.] *"Unlicensed mental health practitioner" or "practitioner" means a person who provides or purports to provide, for remuneration, mental health services as defined in subdivision 4. It does not include persons licensed by the board of medical examiners under chapter 147; the board of nursing under sections 148.171 to 148.285; the board of psychology under sections 148.88 to 148.98; the board of social work under sections 148B.18 to 148B.28; the board of marriage and family therapy under sections 148B.29 to 148B.39; or another licensing board if the person is practicing within the scope of the license; or members of the clergy who are providing pastoral services in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by a religious congregation. For the purposes of complaint investigation or disciplinary action relating to an individual practitioner, the term includes: (1) hospital and nursing home social workers exempt from licensure by the board of social work under section 148B.28, subdivision 6, including hospital and nursing home social workers acting within the scope of their employment by the hospital or nursing home; (2) persons employed by a program licensed by the commissioner of human services who are acting as mental health practitioners within the scope of their employment; (3) persons employed by a program licensed by the commissioner of human services who are providing chemical dependency counseling services; persons who are providing chemical dependency counseling services in private practice; and (4) clergy who are providing mental health services that are equivalent to those defined in subdivision 4.*

Subd. 4. [MENTAL HEALTH SERVICES.] *"Mental health services" means psychotherapy and the professional assessment, treatment, or counseling of another person for a cognitive, behavioral, emotional, social, or mental condition, symptom, or dysfunction, including intrapersonal or interpersonal dysfunctions. The term does not include pastoral services provided by members of the clergy to members of a religious congregation in the context of performing and fulfilling the salaried duties and obligations required of a member of the clergy by that religious congregation.*

Subd. 5. [MENTAL HEALTH CLIENT OR CLIENT.] *"Mental health client" or "client" means a person who receives or pays for the services of a mental health practitioner.*

Subd. 6. [MENTAL HEALTH PRACTITIONER ADVISORY COUNCIL OR COUNCIL.] *"Mental health practitioner advisory council" or "council" means the mental health practitioner advisory council established in section 148B.62.*

Subd. 7. [COMMISSIONER.] *"Commissioner" means the commissioner of health or the commissioner's designee.*

Subd. 8. [DISCIPLINARY ACTION.] *"Disciplinary action" means an adverse action taken by the commissioner against an unlicensed mental health practitioner relating to the person's right to provide mental health services.*

Sec. 51. [148B.61] [OFFICE OF MENTAL HEALTH PRACTICE.]

Subdivision 1. [CREATION.] *The office of mental health practice is created in the department of health to investigate complaints and take and enforce disciplinary actions against all unlicensed mental health practitioners for violations of prohibited conduct, as defined in section 148B.68. The office shall also serve as a clearinghouse on mental health services and both licensed and unlicensed mental health professionals, through the dissemination of objective information to consumers and through the development and performance of public education activities, including outreach, regarding the provision of mental health services and both licensed and unlicensed mental health professionals who provide these services.*

Subd. 2. [RULEMAKING.] *The commissioner of health shall adopt rules necessary to implement, administer, or enforce provisions of sections 148B.60 to 148B.71 pursuant to chapter 14. The commissioner may not adopt rules that restrict or prohibit persons from providing mental health services on the basis of education, training, experience, or supervision. The commissioner may consult with the mental health practitioner advisory council, established in section 148B.62, during the rulemaking process. Rules adopted pursuant to this authority are exempt from section 14.115.*

Subd. 3. [EMERGENCY RULES.] *The commissioner may adopt emergency rules under sections 14.29 to 14.385 to carry out the provisions of sections 148B.60 to 148B.71.*

Sec. 52. [148B.62] [MENTAL HEALTH PRACTITIONER ADVISORY COUNCIL.]

Subdivision 1. [CREATION.] *The mental health practitioner advisory council is created to serve in an advisory capacity to the commissioner of health and staff of the office of mental health practice in the development of rules and procedures necessary to enforce sections 148B.60 to 148B.71 and in the enforcement of section 148B.68 on prohibited conduct and sections 148B.69 and 148B.70 on disciplinary action and remedies for violations of prohibited conduct. The council shall also serve in an advisory capacity in the development of public education materials and activities, including outreach activities.*

Subd. 2. [COMPOSITION.] *The advisory council consists of nine members, including six individuals who are providing mental health services and three public members, as defined in section 214.02. The initial appointments of the first members of the council must include at least four members who were members of the board of unlicensed mental health service providers on June 30, 1991.*

Subd. 3. [APPOINTMENT.] *Members of the advisory council are appointed by the commissioner of health and serve pursuant to requirements under section 15.059. Members are appointed to serve terms of four years.*

Subd. 4. [COUNCIL ADMINISTRATION.] *Members of the council shall elect from among its members a chair and a vice-chair to serve for one year or until a successor is elected and qualifies.*

Sec. 53. [148B.63] [REPORTING OBLIGATIONS.]

Subdivision 1. [PERMISSION TO REPORT.] *A person who has knowledge of any conduct constituting grounds for disciplinary action relating to unlicensed practice under this chapter may report the violation to the office of mental health practice.*

Subd. 2. [INSTITUTIONS.] *A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the office of mental health practice any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition an unlicensed mental health practitioner's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the office under this chapter. The institution, organization, or governmental entity shall also report the resignation of any unlicensed mental health practitioners prior to the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or prior to the commencement of formal charges but after the practitioner had knowledge that formal charges were contemplated or were being prepared.*

Subd. 3. [PROFESSIONAL SOCIETIES.] *A state or local professional society for unlicensed mental health practitioners shall report to the office of mental health practice any termination, revocation, or suspension of membership or any other disciplinary action taken against an unlicensed practitioner. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the office of mental health practice.*

Subd. 4. [LICENSED PROFESSIONALS.] *A licensed health professional shall report to the office of mental health practice personal knowledge of any conduct that the licensed health professional reasonably believes constitutes grounds for disciplinary action under this chapter by any unlicensed mental health practitioner, including conduct indicating that the individual may be medically incompetent, or may be medically or physically unable to engage safely in the provision of services. If the information was obtained in the course of a client relationship, the client is an unlicensed mental health practitioner, and the treating individual successfully counsels the other practitioner to limit or withdraw from practice to the extent required by the impairment, the office may deem this limitation of or withdrawal from practice to be sufficient disciplinary action.*

Subd. 5. [INSURERS.] *Four times each year as prescribed by the commissioner, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to unlicensed mental health practitioners or the medical joint underwriting association under chapter 62F, shall submit to the office of mental health practice a report concerning the unlicensed mental health practitioners against whom malpractice settlements or awards have been made. The response must contain at least the following information:*

(1) the total number of malpractice settlements or awards made;

(2) the date the malpractice settlements or awards were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made;

(4) the dollar amount of each malpractice settlement or award;

(5) the regular address of the practice of the unlicensed practitioner against whom an award was made or with whom a settlement was made; and

(6) the name of the unlicensed practitioner against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the above information, submit to the office of mental health practice any information, records, and files, including clients' charts and records, it possesses that tend to substantiate a charge that an unlicensed mental health practitioner may have engaged in conduct violating this chapter.

Subd. 6. [COURTS.] *The court administrator of district court or any other court of competent jurisdiction shall report to the office of mental health practice any judgment or other determination of the court that adjudges or includes a finding that an unlicensed mental health practitioner is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the unlicensed mental health practitioner under sections 525.54 to 525.61 or commits an unlicensed mental practitioner under chapter 253B or sections 526.09 to 526.11.*

Subd. 7. [SELF-REPORTING.] *An unlicensed mental health practitioner shall report to the office of mental health practice any personal action that would require that a report be filed with the office by any person, health care facility, business, or organization pursuant to subdivisions 2 to 5. The practitioner shall also report the revocation, suspension, restriction, limitation, or other disciplinary action against the mental health practitioner's license, certificate, registration, or right of practice in another state or jurisdiction, for offenses that would be subject to disciplinary action in this state and also report the filing of charges regarding the practitioner's license, certificate, registration, or right of practice in another state or jurisdiction.*

Subd. 8. [DEADLINES; FORMS.] *Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the reporter learns of the occurrence of the reportable event or transaction. The office of mental health practice may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.*

Sec. 54. [148B.64] [IMMUNITY.]

Subdivision 1. [REPORTING.] *Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the office of mental health practice, for otherwise reporting to the office violations or alleged violations of this chapter, or for cooperating with an investigation of a report, except as provided in this subdivision. Any person who knowingly or recklessly makes a false report is liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury. An action requires clear and convincing evidence that the defendant made the statement with knowledge of falsity or with reckless disregard for its*

truth or falsity. The report or statement or any statement made in cooperation with an investigation or as part of a disciplinary proceeding is privileged except in an action brought under this subdivision.

Subd. 2. [INVESTIGATION.] *The commissioner and employees of the department of health, members of the advisory council on mental health practice, and other persons engaged in the investigation of violations and in the preparation, presentation, and management of and testimony pertaining to charges of violations of this chapter are absolutely immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.*

Sec. 55. [148B.65] [DISCIPLINARY RECORD ON JUDICIAL REVIEW.]

Upon judicial review of any disciplinary action taken by the commissioner under this chapter, the reviewing court shall seal the administrative record, except for the commissioner's final decision, and shall not make the administrative record available to the public.

Sec. 56. [148B.66] [PROFESSIONAL COOPERATION.]

Subdivision 1. [COOPERATION.] *An unlicensed mental health practitioner who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the office of mental health practice shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the office relating to the subject of the investigation and providing copies of client records, as reasonably requested by the office, to assist the office in its investigation, and appearing at conferences or hearings scheduled by the commissioner. If the office does not have a written consent from a client permitting access to the client's records, the unlicensed mental health practitioner shall delete any data in the record that identifies the client before providing it to the board. The office shall maintain any records obtained pursuant to this section as investigative data pursuant to section 13.41. If an unlicensed mental health practitioner refuses to give testimony or produce any documents, books, records, or correspondence on the basis of the fifth amendment to the Constitution of the United States, the commissioner may compel the unlicensed mental health practitioner to provide the testimony or information; however, the testimony or evidence may not be used against the practitioner in any criminal proceeding. Challenges to requests of the office may be brought before the appropriate agency or court.*

Subd. 2. [CLASSIFICATION OF DATA.] *The commissioner shall maintain any records, other than client records, obtained as part of an investigation, as investigative data under section 13.41. Client records are classified as private under chapter 13 and must be protected as such in the records of the office and in any administrative or judicial proceeding unless the client authorizes the office in writing to make public the identity of the client or a portion or all of the client's records.*

Sec. 57. [148B.67] [PROFESSIONAL ACCOUNTABILITY.]

The office of mental health practice shall maintain and keep current a file containing the reports and complaints filed against unlicensed mental health practitioners within the commissioner's jurisdiction. Each complaint filed with the office must be investigated. If the files maintained by the office show that a malpractice settlement or award has been made against an unlicensed mental health practitioner, as reported by insurers under section

148B.63, subdivision 5, the commissioner may authorize a review of the practitioner's practice by the staff of the office of mental health practice.

Sec. 58. [148B.68] [PROHIBITED CONDUCT.]

Subdivision 1. [PROHIBITED CONDUCT.] *The commissioner may impose disciplinary action as described in section 148B.69 against any unlicensed mental health practitioner. The following conduct is prohibited and is grounds for disciplinary action:*

(a) Conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to the provision of mental health services. Conviction, as used in this subdivision, includes a conviction of an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered.

(b) Conviction of crimes against persons. For purposes of this chapter, a crime against a person means violations of the following: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.23; 609.231; 609.235; 609.24; 609.245; 609.25; 609.255; 609.26, subdivision 1, clause (1) or (2); 609.265; 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; and 609.595.

(c) Failure to comply with the self-reporting requirements of section 148B.63, subdivision 6.

(d) Engaging in sexual contact with a client or former client as defined in section 148A.01, or engaging in contact that may be reasonably interpreted by a client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to the patient, or engaging in sexual exploitation of a client or former client.

(e) Advertising that is false, fraudulent, deceptive, or misleading.

(f) Conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a client; or any other practice that may create unnecessary danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established.

(g) Adjudication as mentally incompetent, or as a person who has a psychopathic personality as defined in section 526.09, or who is dangerous to self, or adjudication pursuant to chapter 253B, as chemically dependent, mentally ill, mentally retarded, or mentally ill and dangerous to the public.

(h) Inability to provide mental health services with reasonable safety to clients.

(i) The habitual overindulgence in the use of or the dependence on intoxicating liquors.

(j) Improper or unauthorized personal or other use of any legend drugs as defined in chapter 151, any chemicals as defined in chapter 151, or any controlled substance as defined in chapter 152.

(k) Revealing a communication from, or relating to, a client except when otherwise required or permitted by law.

(l) Failure to comply with a client's request made under section 144.335, or to furnish a client record or report required by law.

(m) Splitting fees or promising to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client.

(n) Engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws.

(o) Failure to make reports as required by section 148B.63, or cooperate with an investigation of the office.

(p) Obtaining money, property, or services from a client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud.

(q) Undertaking or continuing a professional relationship with a client in which the objectivity of the professional would be impaired.

(r) Failure to provide the client with a copy of the client bill of rights or violation of any provision of the client bill of rights.

(s) Violating any order issued by the commissioner.

(t) Failure to comply with sections 148B.60 to 148B.71, and the rules adopted under those sections.

(u) Failure to comply with any additional disciplinary grounds established by the commissioner by rule.

Subd. 2. [EVIDENCE.] *In disciplinary actions alleging a violation of subdivision 1, paragraph (a), (b), (c), or (g), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency that entered the same is admissible into evidence without further authentication and constitutes prima facie evidence of its contents.*

Subd. 3. [EXAMINATION; ACCESS TO MEDICAL DATA.] *(a) If the commissioner has probable cause to believe that an unlicensed mental health practitioner has engaged in conduct prohibited by subdivision 1, paragraph (g), (h), (i), or (j), the commissioner may issue an order directing the practitioner to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this subdivision, every unlicensed mental health practitioner is deemed to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the commissioner of health and further to have waived all objections to the admissibility of the testimony or examination reports of the health care provider performing the examination or evaluation on the grounds that the same constitute a privileged communication. Failure of an unlicensed mental health practitioner to submit to an examination or evaluation when ordered, unless the failure was due to circumstances beyond the practitioner's control, constitutes an admission that the unlicensed mental health practitioner violated subdivision 1, paragraph (g), (h), (i), or (j), based on the factual specifications in the examination or evaluation order and may result in a default and final disciplinary order being entered after a contested case hearing. An unlicensed mental health practitioner affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that the practitioner can resume the provision of mental health services with reasonable safety to clients. In any proceeding under*

this paragraph, neither the record of proceedings nor the orders entered by the commissioner shall be used against a mental health practitioner in any other proceeding.

(b) In addition to ordering a physical or mental examination or chemical dependency evaluation, the commissioner may, notwithstanding section 13.42, 144.651, 595.02, or any other law limiting access to medical or other health data, obtain medical data and health records relating to an unlicensed mental health practitioner without the practitioner's consent if the commissioner has probable cause to believe that a practitioner has engaged in conduct prohibited by subdivision 1, paragraph (g), (h), (i), or (j). The medical data may be requested from a health care professional, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency, including the department of human services. A health care professional, insurance company, or government agency shall comply with any written request of the commissioner under this subdivision and is not liable in any action for damages for releasing the data requested by the commissioner if the data are released pursuant to a written request under this subdivision, unless the information is false and the person or organization giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is private data under section 13.41.

Sec. 59. [148B.69] [DISCIPLINARY ACTIONS.]

Subdivision 1. [FORMS OF DISCIPLINARY ACTION.] *When the commissioner finds that an unlicensed mental health practitioner has violated a provision or provisions of this chapter, the commissioner may take one or more of the following actions, only against the individual practitioner:*

(1) revoke the right to practice;

(2) suspend the right to practice;

(3) impose limitations or conditions on the practitioner's provision of mental health services, the imposition of rehabilitation requirements, or the requirement of practice under supervision;

(4) impose a civil penalty not exceeding $10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the practitioner of any economic advantage gained by reason of the violation charged or to reimburse the office of mental health practice for all costs of the investigation and proceeding;

(5) order the practitioner to provide unremunerated professional service under supervision at a designated public hospital, clinic, or other health care institution;

(6) censure or reprimand the practitioner;

(7) impose a fee on the practitioner to reimburse the office for all or part of the cost of the proceedings resulting in disciplinary action including, but not limited to, the amount paid by the office for services from the office of administrative hearings, attorney fees, court reports, witnesses, reproduction of records, advisory council members' per diem compensation, staff time, and expense incurred by advisory council members and staff of the office of mental health practice; or

(8) any other action justified by the case.

Subd. 2. [DISCOVERY; SUBPOENAS.] *In all matters relating to the*

lawful activities of the office of mental health practice, the commissioner of health may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear or testify regarding any matter about which the person may be lawfully questioned or failing to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by order of the commissioner or by a subpoena of the commissioner to do so may, upon application to the district court in any district, be ordered to comply with the order or subpoena. The commissioner of health may administer oaths to witnesses or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon a person it names anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions, in the same manner as prescribed by law for service of process issued out of the district court of this state.

Subd. 3. [REINSTATEMENT.] *The commissioner may at the commissioner's discretion reinstate the right to practice and may impose any disciplinary measure listed under subdivision 1.*

Subd. 4. [TEMPORARY SUSPENSION.] *In addition to any other remedy provided by law, the commissioner may, acting through a person to whom the commissioner has delegated this authority and without a hearing, temporarily suspend the right of an unlicensed mental health practitioner to practice if the commissioner's delegate finds that the practitioner has violated a statute or rule that the commissioner is empowered to enforce and continued practice by the practitioner would create a serious risk of harm to others. The suspension is in effect upon service of a written order on the practitioner specifying the statute or rule violated. The order remains in effect until the commissioner issues a final order in the matter after a hearing or upon agreement between the commissioner and the practitioner. Service of the order is effective if the order is served on the practitioner or counsel of record personally or by first class mail. Within ten days of service of the order, the commissioner shall hold a hearing on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the office or practitioner shall be in affidavit form only. The practitioner or the counsel of record may appear for oral argument. Within five working days after the hearing, the commissioner shall issue the commissioner's order and, if the suspension is continued, schedule a contested case hearing within 45 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The commissioner shall issue a final order within 30 days after receipt of that report.*

Subd. 5. [AUTOMATIC SUSPENSION.] *The right to practice is automatically suspended if (1) a guardian of an unlicensed mental health practitioner is appointed by order of a probate court under sections 525.54 to 525.61, or (2) the practitioner is committed by order of a probate court pursuant to chapter 253B or sections 526.09 to 526.11. The right to practice remains suspended until the practitioner is restored to capacity by a court and, upon petition by the practitioner, the suspension is terminated by the commissioner after a hearing or upon agreement between the commissioner and the practitioner.*

Subd. 6. [PUBLIC EMPLOYEES.] *Notwithstanding subdivision 1, the*

commissioner must not take disciplinary action against an employee of the state or a political subdivision of the state. If, after an investigation conducted in compliance with and with the authority granted under sections 148B.60 to 148B.71, the commissioner determines that the employee violated a provision or provisions of this chapter, the commissioner shall report to the employee's employer the commissioner's findings and the actions the commissioner recommends that the employer take. The commissioner's recommendations are not binding on the employer.

Sec. 60. [148B.70] [ADDITIONAL REMEDIES.]

Subdivision 1. [CEASE AND DESIST.] *The commissioner of health may issue a cease and desist order to stop a person from violating or threatening to violate a statute, rule, or order which the office of mental health practice has issued or is empowered to enforce. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under sections 14.57 to 14.62. If, within 15 days of service of the order, the subject of the order fails to request a hearing in writing, the order is the final order of the commissioner and is not reviewable by a court or agency.*

A hearing must be initiated by the office of mental health practice not later than 30 days from the date of the office's receipt of a written hearing request. Within 30 days of receipt of the administrative law judge's report, the commissioner shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the commissioner.

When a request for a stay accompanies a timely hearing request, the commissioner may, in the commissioner's discretion, grant the stay. If the commissioner does not grant a requested stay, the commissioner shall refer the request to the office of administrative hearings within three working days of receipt of the request. Within ten days after receiving the request from the commissioner, an administrative law judge shall issue a recommendation to grant or deny the stay. The commissioner shall grant or deny the stay within five days of receiving the administrative law judge's recommendation.

In the event of noncompliance with a cease and desist order, the commissioner may institute a proceeding in Hennepin county district court to obtain injunctive relief or other appropriate relief, including a civil penalty payable to the office of mental health practice not exceeding $10,000 for each separate violation.

Subd. 2. [INJUNCTIVE RELIEF.] *In addition to any other remedy provided by law, including the issuance of a cease and desist order under subdivision 1, the commissioner may in the commissioner's own name bring an action in Hennepin county district court for injunctive relief to restrain an unlicensed mental health practitioner from a violation or threatened violation of any statute, rule, or order which the commissioner is empowered to regulate, enforce, or issue. A temporary restraining order must be granted in the proceeding if continued activity by a practitioner would create a serious risk of harm to others. The commissioner need not show irreparable harm.*

Subd. 3. [ADDITIONAL POWERS.] *The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a practitioner from criminal prosecution by a competent authority or from*

disciplinary action by the commissioner.

Sec. 61. [148B.71] [MENTAL HEALTH CLIENT BILL OF RIGHTS.]

Subdivision 1. [SCOPE.] *All unlicensed mental health practitioners other than those providing services in a facility regulated under section 144.651 or a government agency shall provide to each client prior to providing treatment a written copy of the mental health client bill of rights. A copy must also be posted in a prominent location in the office of the mental health practitioner. Reasonable accommodations shall be made for those clients who cannot read or who have communication impairments and those who do not read or speak English. The mental health client bill of rights shall include the following:*

(a) the name, title, business address, and telephone number of the practitioner;

(b) the degrees, training, experience, or other qualifications of the practitioner, followed by the following statement in bold print:

"THE STATE OF MINNESOTA HAS NOT ADOPTED UNIFORM EDUCATIONAL AND TRAINING STANDARDS FOR ALL MENTAL HEALTH PRACTITIONERS. THIS STATEMENT OF CREDENTIALS IS FOR INFORMATION PURPOSES ONLY."

(c) the name, business address, and telephone number of the practitioner's supervisor, if any;

(d) notice that a client has the right to file a complaint with the practitioner's supervisor, if any, and the procedure for filing complaints;

(e) the name, address, and telephone number of the office of mental health practice and notice that a client may file complaints with the office;

(f) the practitioner's fees per unit of service, the practitioner's method of billing for such fees, the names of any insurance companies that have agreed to reimburse the practitioner, or health maintenance organizations with whom the practitioner contracts to provide service, whether the practitioner accepts Medicare, medical assistance, or general assistance medical care, and whether the practitioner is willing to accept partial payment, or to waive payment, and in what circumstances;

(g) a statement that the client has a right to reasonable notice of changes in services or charges;

(h) a brief summary, in plain language, of the theoretical approach used by the practitioner in treating patients;

(i) notice that the client has a right to complete and current information concerning the practitioner's assessment and recommended course of treatment, including the expected duration of treatment;

(j) a statement that clients may expect courteous treatment and to be free from verbal, physical, or sexual abuse by the practitioner;

(k) a statement that client records and transactions with the practitioner are confidential, unless release of these records is authorized in writing by the client, or otherwise provided by law;

(l) a statement of the client's right to be allowed access to records and written information from records in accordance with section 144.335;

(m) a statement that other services may be available in the community,

including where information concerning services is available;

(n) a statement that the client has the right to choose freely among available practitioners, and to change practitioners after services have begun, within the limits of health insurance, medical assistance, or other health programs;

(o) a statement that the client has a right to coordinated transfer when there will be a change in the provider of services;

(p) a statement that the client may refuse services or treatment, unless otherwise provided by law; and

(q) a statement that the client may assert the client's rights without retaliation.

Subd. 2. [ACKNOWLEDGMENT BY CLIENT.] *Prior to the provision of any service, the client must sign a written statement attesting that the client has received the client bill of rights.*

Sec. 62. [148B.72] [EXPENSES.]

The expenses of administering the office of mental health practice under sections 148B.60 to 148B.71 must be recovered by transferring to the commissioner a portion of the surplus of the fees collected by the health-related licensing boards and by assessing a fee surcharge on the indirect costs charged to each health-related licensing board. At the end of each biennium, the commissioner of finance shall identify the amount of any surplus remaining in the state government special revenue fund of the license fees collected by the health-related licensing boards. The commissioner of finance shall also determine a reasonable amount of the surplus that must remain in the state government special revenue fund as a cash flow reserve. Any surplus remaining in the account in excess of the cash flow reserve that is attributable to health-related licensing board collections must be transferred to the commissioner of health for the office of mental health practice for the next biennium, not to exceed the amount of the legislative appropriation for the office. At the end of each biennium, the commissioner of health shall determine the amount of the health-related licensing board surcharge for the next biennium that must be assessed in order to cover the costs of administering the office of mental health practice, after deducting the amount of any surplus transferred from the state government special revenue fund. The fee surcharge must be based on a percentage of the indirect costs charged to each health-related licensing board. The total amount collected through the surcharge must not exceed the amount of the legislative appropriation from the state government special revenue fund minus any surplus transferred from the special revenue fund, except that the commissioner may recover the costs of initial rulemaking and other one-time expenses over a four-year period. The commissioner of health and the commissioner of finance shall determine the amount of the surcharge without adopting rules.

Sec. 63. Minnesota Statutes 1990, section 157.031, subdivision 2, is amended to read:

Subd. 2. [REGISTRATION.] A board and lodging establishment that provides supportive services or health supervision services must register with the commissioner by September 1, 1989. The registration must include the name, address, and telephone number of the establishment, the types of services that are being provided, a description of the residents being

served, the type and qualifications of staff in the facility, and other information that is necessary to identify the needs of the residents and the types of services that are being provided. The commissioner shall develop and furnish to the board and lodging establishment the necessary form for submitting the registration. The requirement for registration is effective until the ~~special license~~ rules required by ~~subdivision 5~~ *sections 144B.01 to 144B.17* are effective.

Sec. 64. Minnesota Statutes 1990, section 157.031, subdivision 3, is amended to read:

Subd. 3. [RESTRICTION ON THE PROVISION OF SERVICES.] Effective September 1, 1989, and until *one year after* the rules required under ~~subdivision 5~~ *sections 144B.01 to 144B.17* are adopted, a board and lodging establishment *registered under subdivision 2* may provide health supervision services only if a licensed nurse is on site in the facility for at least four hours a week to provide supervision and health monitoring of the residents. A board and lodging facility that admits or retains residents using wheelchairs or walkers must have the necessary clearances from the office of the state fire marshal.

Sec. 65. Minnesota Statutes 1990, section 157.031, subdivision 4, is amended to read:

Subd. 4. [~~SPECIAL LICENSE~~ *RESIDENTIAL CARE HOME LICENSE* REQUIRED.] Upon adoption of the rules required by ~~subdivision 5~~ *sections 144B.01 to 144B.17*, a board and lodging establishment *registered under subdivision 2*, that provides either supportive care or health supervision services must obtain a ~~special~~ *residential care home* license from the commissioner *within one year from the adoption of those rules*. ~~The special license is required until rules resulting from the recommendations made in accordance with Laws 1989, chapter 282, article 2, section 213, are implemented.~~

Sec. 66. Minnesota Statutes 1990, section 157.031, subdivision 9, is amended to read:

Subd. 9. [VIOLATIONS.] The commissioner may revoke ~~both the special service license, when issued, and~~ the establishment license, if the establishment is found to be in violation of this section. Violation of this section is a gross misdemeanor.

Sec. 67. Minnesota Statutes 1990, section 214.04, subdivision 3, is amended to read:

Subd. 3. The executive director of each health-related board and the executive secretary of each non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive director or executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive directors, executive secretaries, and other employees of the following boards shall be hired by the board, and the executive directors or executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

(1) dentistry;

(2) medical examiners;

(3) nursing;

(4) pharmacy;

(5) accountancy;

(6) architecture, engineering, land surveying, and landscape architecture;

(7) barber examiners;

(8) cosmetology;

(9) electricity;

(10) teaching;

(11) peace officer standards and training;

(12) social work; *and*

(13) marriage and family therapy~~;~~

~~(14) unlicensed mental health service providers; and~~

~~(15) office of social work and mental health boards~~.

The executive directors or executive secretaries serving the boards are hired by those boards and are in the unclassified civil service, except for part-time executive directors or executive secretaries, who are not required to be in the unclassified service. Boards not requiring full-time executive directors or executive secretaries may employ them on a part-time basis. To the extent practicable, the sharing of part-time executive directors or executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this subdivision, except executive directors or executive secretaries of the boards and employees of the attorney general, are classified civil service employees of the department servicing the board. To the extent practicable, the commissioner shall ensure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations.

Sec. 68. Minnesota Statutes 1990, section 256I.04, is amended by adding a subdivision to read:

Subd. 3. [MORATORIUM ON THE DEVELOPMENT OF NEGOTIATED RATE BEDS.] *County agencies shall not enter into agreements for new general assistance or Minnesota supplemental aid negotiated rate beds except: (1) for adult foster homes licensed by the commissioner of human services under Minnesota Rules, parts 9555.5105 to 9555.6265; (2) for facilities licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers; (3) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; or (4) for up to five handicapped accessible beds in a facility that serves primarily persons with a mental illness or chemical dependency that began construction to add space for the new beds before April 1, 1991, and will complete construction or remodeling by December 1, 1991.*

Sec. 69. Minnesota Statutes 1990, section 268A.03, is amended to read:

268A.03 [POWERS AND DUTIES.]

The commissioner shall:

(a) certify the rehabilitation facilities to offer extended employment programs, grant funds to the extended employment programs, and perform the duties as specified in section 268A.09;

(b) provide vocational rehabilitation services to persons with disabilities in accordance with the state plan for vocational rehabilitation. These services include but are not limited to: diagnostic and related services incidental to determination of eligibility for services to be provided, including medical diagnosis and vocational diagnosis; vocational counseling, training and instruction, including personal adjustment training; physical restoration, including corrective surgery, therapeutic treatment, hospitalization and prosthetic and orthotic devices, all of which shall be obtained from appropriate established agencies; transportation; occupational and business licenses or permits, customary tools and equipment; maintenance; books, supplies, and training materials; initial stocks and supplies; placement; on-the-job skill training and time-limited postemployment services leading to supported employment; acquisition of vending stands or other equipment, initial stocks and supplies for small business enterprises; supervision and management of small business enterprises, merchandising programs, or services rendered by severely disabled persons. Persons with a disability are entitled to free choice of vendor for any medical, dental, prosthetic, or orthotic services provided under this paragraph;

(c) expend funds and provide technical assistance for the establishment, improvement, maintenance, or extension of public and other nonprofit rehabilitation facilities or centers;

(d) formulate plans of cooperation with the commissioner of labor and industry for providing services to workers covered under the workers' compensation act;

(e) maintain a contractual or regulatory relationship with the United States as authorized by the Social Security Act, as amended. Under this relationship, the state will undertake to make determinations referred to in those public laws with respect to all individuals in Minnesota, or with respect to a class or classes of individuals in this state that is designated in the agreement at the state's request. It is the purpose of this relationship to permit the citizens of this state to obtain all benefits available under federal law;

(f) provide an in-service training program for division of rehabilitation services employees by paying for its direct costs with state and federal funds;

(g) conduct research and demonstration projects; provide training and instruction, including establishment and maintenance of research fellowships and traineeships, along with all necessary stipends and allowances; disseminate information to persons with a disability and the general public; and provide technical assistance relating to vocational rehabilitation and independent living;

(h) receive and disburse pursuant to law money and gifts available from governmental and private sources including, but not limited to, the federal Department of Education and the Social Security Administration, for the purpose of vocational rehabilitation or independent living. Money received from workers' compensation carriers for vocational rehabilitation services to injured workers must be deposited in the general fund;

(i) design all state plans for vocational rehabilitation or independent living services required as a condition to the receipt and disbursement of any money available from the federal government;

(j) cooperate with other public or private agencies or organizations for the purpose of vocational rehabilitation or independent living. Money received from school districts, governmental subdivisions, mental health centers or boards, and private nonprofit organizations is appropriated to the commissioner for conducting joint or cooperative vocational rehabilitation or independent living programs;

(k) enter into contractual arrangements with instrumentalities of federal, state, or local government and with private individuals, organizations, agencies, or facilities with respect to providing vocational rehabilitation or independent living services;

(l) take other actions required by state and federal legislation relating to vocational rehabilitation, independent living, and disability determination programs;

(m) hire staff and arrange services and facilities necessary to perform the duties and powers specified in this section; ~~and~~

(n) adopt, amend, suspend, or repeal rules necessary to implement or make specific programs that the commissioner by sections 268A.01 to 268A.10 is empowered to administer; *and*

(o) contact any person with traumatic brain injury or spinal cord injury reported by the commissioner of health under section 144.664, subdivision 3, and notify the person, or the person's parent or guardian if the person is a minor or is mentally incompetent, of services available to the person, eligibility requirements and application procedures for public programs, and other information the commissioner believes may be helpful to the person to make appropriate use of available rehabilitation services.

Sec. 70. [TRANSFER OF JURISDICTION FOR DISCIPLINARY ACTIONS TAKEN AGAINST UNLICENSED MENTAL HEALTH PRACTITIONERS.]

Subdivision 1. [COOPERATION.] *During the transition period prior to the sunset of the board of unlicensed mental health service providers and the establishment of the office of mental health practice on July 1, 1991, members of the board, staff persons employed by the board, and the office of social work and mental health boards shall provide all necessary assistance to the office of the attorney general to complete as many investigations and disciplinary actions on pending complaints as possible prior to the sunset of the board. The board members and staff of the board of unlicensed mental health service providers and the office of social work and mental health boards shall consult with and offer all necessary assistance to the commissioner of health in transferring pending complaints to the office of mental health practice and in implementing all other aspects of Minnesota Statutes, sections 148B.60 to 148B.71. Actions must be undertaken to ensure that complaints and investigations against unlicensed mental health practitioners pending before the board continue to receive attention during the transition period. As of July 1, 1991, jurisdiction of all open complaints still pending before the board as of June 30, 1991, is transferred to the commissioner of health who has the right to proceed on them under the authority granted to the commissioner in Minnesota Statutes, sections 148B.60 to 148B.71. Jurisdiction of all new complaints brought against*

unlicensed mental health practitioners on or after July 1, 1991, rests with the office of mental health practice, established under Minnesota Statutes, section 148B.61. The transfer of records, pending complaints, and other data shall be completed no later than June 30, 1991.

Subd. 2. [TRANSFER OF RULES.] *The rules adopted by the board of unlicensed mental health service providers are transferred to the commissioner of health and must be used by the office of mental health practice until the commissioner adopts new rules.*

Subd. 3. [TRANSFER OF POWERS AND DUTIES.] *The powers and duties of the board of unlicensed mental health service providers are transferred to the commissioner of health pursuant to Minnesota Statutes, section 15.039, effective July 1, 1991.*

Sec. 71. [FILING FEES NONREFUNDABLE.]

Filing fees paid to the board of unlicensed mental health service providers by unlicensed mental health service providers prior to June 30, 1991, are nonrefundable. Any balance held by the board of unlicensed mental health service providers as of June 30, 1991, shall be transferred to the department of health for the operation of the office of mental health practice no later than June 30, 1991.

Sec. 72. [TRANSFER OF DATA AND RECORDS.]

By June 30, 1992, the board of unlicensed mental health service providers shall transfer to the office of mental health practice all data and records obtained by the board as investigative data under Minnesota Statutes, section 148B.09, subdivision 1, and all other data gathered by the board.

Sec. 73. [REPORT TO THE LEGISLATURE.]

By February 1, 1992, the commissioner shall report to the legislature on the implementation of Minnesota Statutes, sections 144B.01 to 144B.16. This report must include a description of the provisions included in rules required under those sections and an estimate of the expected fiscal impact to the state of adopting those rules.

Sec. 74. [REVISOR INSTRUCTION.]

In the next edition of Minnesota Statutes, the revisor shall delete the terms "individual," "individuals," "regulated individual," "regulated individuals," and "regulated individual's" wherever found in Minnesota Statutes, sections 148B.04, subdivision 3; 148B.05, subdivision 2; 148B.06, subdivision 2; 148B.07, subdivisions 2, 3, 5, and 6; 148B.09; 148B.11; 148B.13; and 148B.15, and insert the term "licensee," "licensees," or "licensee's" as appropriate.

Sec. 75. [REPEALER.]

Subdivision 1. [RESIDENTIAL CARE HOMES.] *Minnesota Statutes 1990, section 157.031, subdivision 5, is repealed effective the day following final enactment.*

Subd. 2. [UNLICENSED MENTAL HEALTH PRACTIONERS.] *Minnesota Statutes 1990, sections 148B.01, subdivisions 2, 5, and 6; 148B.02; 148B.16; 148B.171; 148B.40; 148B.41; 148B.42; 148B.43; 148B.44; 148B.45; 148B.46; 148B.47; and 148B.48, are repealed effective July 1, 1991.*

Sec. 76. [EFFECTIVE DATES.]

Sections 14 to 25, 27 to 30, 47, 63 to 66, 68, and 70 to 73 are effective the day after final enactment. Sections 12, 13, and 26 are effective upon the effective date of rules adopted by the commissioner of health for licensure of residential care homes.

ARTICLE 3

MISCELLANEOUS SOCIAL SERVICES PROGRAMS

Section 1. Minnesota Statutes 1990, section 3.922, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION; EXPENSES; EXPIRATION.] Compensation of nonlegislator members is as provided in section 15.059. Expenses of the council shall be approved by two of any three members of the council designated by the council and then be paid in the same manner as other state expenses. The executive secretary shall inform the commissioner of finance in writing of the names of the persons authorized to approve expenses. ~~The council expires on June 30, 1993.~~

Sec. 2. Minnesota Statutes 1990, section 3.922, subdivision 8, is amended to read:

Subd. 8. [ADVISORY COUNCIL.] An advisory council on urban Indians is created to advise the board on the unique problems and concerns of Minnesota Indians who reside in urban areas of the state. The council shall be appointed by the board and consist of five Indians residing in the vicinity of Minneapolis, St. Paul, and Duluth. At least one member of the council shall be a resident of each city. The terms, compensation, and removal of members are as provided in section 15.059. ~~The council expires on June 30, 1993.~~

Sec. 3. Minnesota Statutes 1990, section 3.9223, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] A state council on affairs of Spanish-speaking people is created to consist of seven members appointed by the governor. The demographic composition of the council members shall accurately reflect the demographic composition of Minnesota's Spanish-speaking community, including migrant workers, as determined by the state demographer. Membership, terms, removal of members and filling of vacancies are as provided in section 15.0575. Compensation of members is as provided in section 15.059, subdivision 3. The council shall annually elect from its membership a chair and other officers it deems necessary. ~~The council expires on June 30, 1993.~~

Sec. 4. Minnesota Statutes 1990, section 3.9225, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] A state council on Black Minnesotans is created to consist of seven members appointed by the governor. The members of the council shall be broadly representative of the Black community of the state and include at least three males and at least three females. Membership terms, compensation, removal of members, and filling of vacancies for nonlegislative members are as provided in section 15.059. Two members of the house of representatives appointed by the speaker and two members of the senate appointed by the subcommittee on committees of the committee on rules and administration shall serve as ex officio, nonvoting members of the council. The council shall annually elect from its membership a chair and other officers it deems necessary. ~~The council expires on June 30, 1993.~~

Sec. 5. Minnesota Statutes 1990, section 3.9226, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] The state council on Asian-Pacific Minnesotans consists of 15 members. Eleven members are appointed by the governor and must be broadly representative of the Asian-Pacific community of the state. Terms, compensation, removal, and filling of vacancies for appointed members are as provided in section 15.059. Two members of the house of representatives appointed under the rules of the house of representatives and two members of the senate appointed under the rules of the senate shall serve as nonvoting members of the council. The council shall annually elect from its membership a chair and other officers it deems necessary. ~~The council expires on June 30, 1993.~~

Sec. 6. Minnesota Statutes 1990, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017; and

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds.

(2) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of

the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing

an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The proposed comprehensive plan, including estimated project costs and the proposed order establishing the waiver, shall be filed with the secretary of the senate and chief clerk of the house of representatives at least 60 days prior to its effective date.

(b) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(c) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) In accordance with federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and AFDC programs, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches ~~$400,000~~ *$1,000,000*. When the balance in the account exceeds ~~$400,000~~ *$1,000,000*, the excess shall be transferred and credited to the general fund. All money

in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children pursuant to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical

assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

Sec. 7. Minnesota Statutes 1990, section 256.482, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; MEMBERS.] There is hereby established the council on disability which shall consist of 21 members appointed by the governor. Members shall be appointed from the general public and from organizations which provide services for persons who have a disability. A majority of council members shall be persons with a disability or parents or guardians of persons with a disability. There shall be at least one member of the council appointed from each of the state development regions. The commissioners of the departments of education, human services, health, jobs and training, and human rights and the directors of the division of rehabilitation services and state services for the blind or their designees shall serve as ex officio members of the council without vote. In addition, the council may appoint ex officio members from other bureaus, divisions, or sections of state departments which are directly concerned with the provision of services to persons with a disability.

Notwithstanding the provisions of section 15.059, each member of the council appointed by the governor shall serve a three-year term and until a successor is appointed and qualified. The compensation and removal of all members shall be as provided in section 15.059. The governor shall appoint a chair of the council from among the members appointed from the general public or who are persons with a disability or their parents or guardians. Vacancies shall be filled by the authority for the remainder of the unexpired term. ~~The council expires on June 30, 1993.~~

Sec. 8. Minnesota Statutes 1990, section 256C.24, subdivision 2, is amended to read:

Subd. 2. [RESPONSIBILITIES.] The regional service center shall:

(a) serve as the central entry point for hearing impaired persons in need of human services and make referrals to the services needed;

(b) employ staff trained to work with hearing impaired persons;

(c) provide to all hearing impaired persons access to interpreter services which are necessary to help them obtain human services;

(d) ~~assist the central interpreter referral agency with local and regional interpreter referrals;~~

~~(e)~~ implement a plan to provide loan equipment and resource materials to hearing impaired persons; and

~~(f)~~ *(e)* cooperate with responsible departments and administrative authorities to provide access for hearing impaired persons to services provided by state, county, and regional agencies.

Sec. 9. Minnesota Statutes 1990, section 256C.25, is amended to read:

256C.25 [INTERPRETER SERVICES.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of human services shall ~~supervise the development and implementation of a~~ *maintain and coordinate* statewide interpreter referral ~~service~~ *services for use by any public or private agency or individual in the state.* ~~The commissioner of human services shall~~ *Within the seven-county metro area, the commissioner shall contract for these services; outside the metro area, the commissioner shall directly coordinate these services but may* contract with an appropriate agency to provide this ~~centralized~~ service. *The commissioner may collect a $3 fee per referral for interpreter referral services and the actual costs of interpreter services provided by department staff. Fees and payments collected shall be deposited in the general fund. The $3 referral fee shall not be collected from state agencies or local units of government or hearing-impaired consumers or interpreters.*

Subd. 2. [DUTIES.] ~~The central~~ Interpreter referral ~~agency shall~~ *services must include*:

(a) ~~Establish and maintain a~~ statewide *access to* interpreter referral ~~service~~ *services*, ~~maintain statistics related to interpreter referral services, and maintain~~ *coordinated with the regional service centers;*

(b) maintenance of a statewide directory of qualified interpreters;

~~(b) Cooperate with the regional service centers in providing interpreter referral service; and~~

(c) ~~Cooperate~~ *assessment of the present and projected supply and demand for interpreter services statewide; and*

(d) coordination with the regional service centers on projects to train interpreters and advocate for and evaluate interpreter services.

Sec. 10. Minnesota Statutes 1990, section 256F.01, is amended to read:

256F.01 [PUBLIC POLICY.]

~~It is the policy of this~~ *The public policy of this* state *is to assure* that all children, regardless of minority racial or ethnic heritage, ~~are entitled to~~ live in families that offer a safe, permanent relationship with nurturing parents or caretakers ~~and have~~. *To help assure children* the opportunity to establish lifetime relationships. ~~To help assure this opportunity~~, public social services must be directed toward ~~accomplishment of the following purposes~~:

(1) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family if ~~the prevention of child removal~~ *it* is desirable and possible;

(2) restoring to their families children who have been removed, by continuing to provide services to the reunited child and the families;

(3) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and

(4) assuring adequate care of children away from their homes, in cases

where the child cannot be returned home or cannot be placed for adoption.

Sec. 11. Minnesota Statutes 1990, section 256F.02, is amended to read:

256F.02 [CITATION.]

Sections 256F.01 to 256F.07 may be cited as the "~~permanency planning grants to counties~~ *Minnesota family preservation* act."

Sec. 12. Minnesota Statutes 1990, section 256F.03, subdivision 5, is amended to read:

Subd. 5. [FAMILY-BASED SERVICES.] "Family-based services" means ~~intensive family-centered services to families primarily in their own home and for a limited time.~~ *one or more of the services described in paragraphs (a) to (f) provided to families primarily in their own home for a limited time. Family-based services eligible for funding under the family preservation act are the services described in paragraphs (a) to (f).*

(a) [CRISIS SERVICES.] *"Crisis services" means professional services provided within 24 hours of referral to alleviate a family crisis and to offer an alternative to placing a child outside the family home. The services are intensive and time limited. The service may offer transition to other appropriate community-based services.*

(b) [COUNSELING SERVICES.] *"Counseling services" means professional family counseling provided to alleviate individual and family dysfunction; provide an alternative to placing a child outside the family home; or permit a child to return home. The duration, frequency, and intensity of the service is determined in the individual or family service plan.*

(c) [LIFE MANAGEMENT SKILLS SERVICES.] *"Life management skills services" means paraprofessional services that teach family members skills in such areas as parenting, budgeting, home management, and communication. The goal is to strengthen family skills as an alternative to placing a child outside the family home or to permit a child to return home. A social worker shall coordinate these services within the family case plan.*

(d) [CASE COORDINATION SERVICES.] *"Case coordination services" means professional services provided to an individual, family, or caretaker as an alternative to placing a child outside the family home, to permit a child to return home, or to stabilize the long-term or permanent placement of a child. Coordinated services are provided directly, are arranged, or are monitored to meet the needs of a child and family. The duration, frequency, and intensity of services is determined in the individual or family service plan.*

(e) [MENTAL HEALTH SERVICES.] *"Mental health services" means the professional services defined in section 245.4871, subdivision 31.*

(f) [EARLY INTERVENTION SERVICES.] *"Early intervention services" means family-based intervention services designed to help at-risk families avoid crisis situations.*

Sec. 13. Minnesota Statutes 1990, section 256F.04, is amended to read:

256F.04 [DUTIES OF COMMISSIONER OF HUMAN SERVICES.]

Subdivision 1. [GRANT PROGRAM.] The commissioner shall establish a statewide ~~permanency planning~~ *family preservation* grant program to assist counties in providing placement prevention and family reunification services.

Subd. 2. [FORMS AND INSTRUCTIONS.] The commissioner shall provide necessary forms and instructions to the counties for their community social services plan, as required in section 256E.09, that incorporate the permanency plan format and information necessary to apply for a ~~permanency planning~~ *family preservation* grant. ~~For calendar year 1986, the local social services agency shall submit an amendment to their approved biennial community social services plan using the forms and instructions provided by the commissioner. Beginning January 1, 1986, the biennial community social services plan must include the permanency plan.~~

Subd. 3. [MONITORING.] The commissioner shall design and implement methods for monitoring the delivery and evaluating the effectiveness of placement prevention and family reunification services ~~including family-based services within the state according to section 256E.05, subdivision 3, paragraph (e). An evaluation report describing program implementation, client outcomes, cost, and the effectiveness of those services in relation to measurable objectives and performance criteria to keep families unified and minimize the use of out-of-home placements for children must be prepared by the commissioner for the period from January 1, 1986 through June 30, 1988~~. *The commissioner shall monitor the provision of family-based services, conduct evaluations, and prepare and submit biannual reports to the legislature.*

Subd. 4. [TRAINING.] *The commissioner shall provide training on family-based services.*

Sec. 14. Minnesota Statutes 1990, section 256F.05, is amended to read:

256F.05 [DISTRIBUTION OF GRANTS.]

Subd. 2. [MONEY AVAILABLE.] Money appropriated for ~~permanency planning~~ *family preservation* grants to counties, together with an amount as determined by the commissioner of title IV-B funds distributed to Minnesota according to the Social Security Act, United States Code, title 42, section 621, must be distributed to counties *on a calendar year basis* according to the formula in subdivision 3.

Subd. 2a. [DISTRIBUTION OF FUNDS.] *Additional federal funds received by the commissioner, under title IV-E of the Social Security Act, as a direct result of revenue enhancement activities initiated subsequent to January 1, 1991, shall be allocated to counties. One-half of the allocation is for family preservation services under this chapter to be allocated as follows:*

(1) 50 percent based on a county's title IV-E earnings for family preservation services under this chapter during the previous calendar year; and

(2) 50 percent based on the formula set forth in subdivision 3.

Subd. 3. [FORMULA.] The amount of money ~~distributed~~ *allocated* to counties under subdivision 2 must be based on the following two factors:

(1) the population of the county under age 19 years as compared to the state as a whole as determined by the most recent data from the state demographer's office; and

(2) the county's percentage share of the number of minority children in substitute care as determined by the most recent department of human services annual report on children in foster care.

The amount of money allocated according to formula factor (1) must not be less than 90 percent of the total ~~distributed~~ *allocated* under subdivision

2.

Subd. 4. [PAYMENTS.] The commissioner shall make grant payments to each county whose biennial community social services plan includes a permanency plan under section 256F.04, subdivision 2. The payment must be made in four installments per year. The commissioner may certify the payments for the first three months of a calendar year. Subsequent payments must be made on ~~April 30~~ *May 15*, ~~July 30~~ *August 15*, and ~~October 30~~ *November 15*, of each calendar year. When an amount of title IV-B funds as determined by the commissioner is made available, it shall be reimbursed to counties on ~~October 30~~ *November 15*.

Subd. 4a. [SPECIAL INCENTIVE BONUS FOR EARLY INTERVENTION SERVICES.] *In addition to the funds which are provided to counties under subdivision 2 and distributed according to the formula in subdivision 3, the commissioner, in consultation with persons knowledgeable in child abuse and neglect early intervention, shall, within the limits of appropriations made specifically for this purpose, and as part of each quarterly payment made under subdivision 4, provide an incentive bonus payment to counties as provided in this subdivision. If a county, in submitting its application for funds under this section for a given calendar year, notifies the commissioner that the county will be increasing the amount of funds that will be allocated for counseling services under section 256F.03, subdivision 5, paragraph (b); life management skills under section 256F.03, subdivision 5, paragraph (c); and early intervention family-based services under section 256F.03, subdivision 5, paragraph (f), above the amount allocated in the previous calendar year, the commissioner shall provide the county with a bonus equal to 50 percent of the increased county allocation for the early intervention services. If funds are insufficient to provide the full 50 percent bonus to all eligible counties, the funds shall be allocated proportionately. A county may not reduce the amount of permanency planning grant funds which it makes available for other services, in order to earn the bonus incentive. The special incentive bonus is subject to retroactive settle-up based on the actual county allocation.*

Subd. 5. [INAPPROPRIATE EXPENDITURES.] ~~Permanency planning~~ *Family preservation* grant money must not be used for:

(1) child day care necessary solely because of the employment or training to prepare for employment, of a parent or other relative with whom the child is living;

(2) residential facility payments;

(3) adoption assistance payments;

(4) public assistance payments for aid to families with dependent children, supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.09 to 145A.13; or

(5) administrative costs for local social services agency public assistance staff.

Subd. 6. [TERMINATION OF GRANT.] A grant may be reduced or terminated by the commissioner when the county agency has failed to comply with the terms of the grant or sections 256F.01 to 256F.07.

Subd. 7. [TRANSFER OF FUNDS.] Notwithstanding subdivision 1, the commissioner may transfer money from the appropriation for ~~permanency~~

~~planning~~ *family preservation* grants to counties into the subsidized adoption account when a deficit in the subsidized adoption program occurs. The amount of the transfer must not exceed five percent of the appropriation for ~~permanency planning~~ *family preservation* grants to counties.

Subd. 8. [GRANTS FOR FAMILY-BASED CRISIS SERVICES.] *Within the limits of appropriations made for this purpose, the commissioner may award grants for the families first program, including section 256F.08, to be distributed on a calendar year basis to counties to provide programs for family-based crisis services defined in section 256F.03, subdivision 5. The commissioner shall ask counties to present proposals for the funding and shall award grants for the funding on a competitive basis. Beginning January 1, 1993, the state share of the costs of the programs shall be 75 percent and the county share, 25 percent.*

Sec. 15. Minnesota Statutes 1990, section 256F.06, is amended to read:

256F.06 [DUTIES OF COUNTY BOARDS.]

Subdivision 1. [RESPONSIBILITIES.] A county board may, alone or in combination with other county boards, apply for a ~~permanency planning~~ *family preservation* grant as provided in section 256F.04, subdivision 2. Upon approval of the ~~permanency planning~~ *family preservation* grant, the county board may contract for or directly provide ~~placement prevention and family reunification services~~ *family-based services.*

Subd. 2. [USES OF GRANTS.] The grant must be used exclusively ~~for placement prevention, family reunification services and training~~ for family-based ~~service and permanency planning~~ *services*. The grant may not be used as a match for other federal money or to meet the requirements of section 256E.06, subdivision 5.

Subd. 3. [DESCRIPTION OF FAMILY-BASED SERVICE.] When a county board elects to provide family-based service as a part of its permanency plan, its written description of family-based service must include the number of families to be served in each caseload, the provider of the service, the planned frequency of contacts with the families, and the maximum length of time family-based service will be provided to families.

Subd. 4. [REPORTING.] The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The reports must include:

(1) a detailed statement of expenses attributable to the grant during the preceding quarter; and

(2) a statement of the expenditure of money for ~~placement prevention and family reunification~~ *family-based* services by the county during the preceding quarter, including the number of clients served and the expenditures, by client, for each service provided.

Sec. 16. Minnesota Statutes 1990, section 256F.07, subdivision 1, is amended to read:

Subdivision 1. [PREPLACEMENT REVIEW.] Each county board shall establish a preplacement procedure to review each request for substitute care placement and determine if appropriate community resources have been utilized before making a substitute care placement. *Emergency placements shall be reviewed to determine services necessary to allow a child*

to return home. Placements shall be reviewed for compliance with the minority family heritage act, sections 257.072 and 259.255; the Minnesota minority family preservation act, section 260.181, subdivision 3; the Minnesota Indian family preservation act, sections 257.35 to 257.356; and the Indian Child Welfare Act of 1978, United States Code, title 25, part 1901.

Sec. 17. Minnesota Statutes 1990, section 256F.07, subdivision 2, is amended to read:

Subd. 2. [PROCEDURE FOR PLACEMENT.] When the preplacement review has determined that a substitute care placement is required because the child is in imminent risk of abuse or neglect; or requires treatment of an emotional disorder, chemical dependency, or mental retardation; the agency shall determine the level of care most appropriate to meet the child's needs in the least restrictive setting and in closest proximity to the child's family; and estimate the length of time of the placement, project a placement goal, and provide a statement of the anticipated outcome of the placement.

Placements must be in compliance with the minority family heritage act, sections 257.071 and 259.255; the Minnesota minority family preservation act, section 260.181, subdivision 3; the Minnesota Indian family preservation act, sections 257.35 to 257.356; and the Indian Child Welfare Act of 1978, United States Code, title 25, part 1901.

Sec. 18. Minnesota Statutes 1990, section 256F.07, subdivision 3, is amended to read:

Subd. 3. [TYPES OF SERVICES.] Placement prevention and family reunification services include:

~~(1) family-based service;~~

~~(2) individual and family counseling;~~

~~(3) crisis intervention and crisis counseling;~~

~~(4) day care;~~

~~(5) 24-hour emergency caretaker and homemaker services;~~

~~(6) emergency shelter care up to 30 days in 12 months;~~

~~(7) access to emergency financial assistance;~~

~~(8) arrangements to provide temporary respite care to the family for up to 72 hours consecutively or 30 days in 12 months; and~~

~~(9) transportation services to the child and parents in order to prevent placement or accomplish reunification of the family~~ *family-based services as defined in section 256F.03, subdivision 5.*

Family-based services must be coordinated with additional services identified and funded in the county social service act plan to provide a comprehensive placement prevention and family reunification services program.

Sec. 19. Minnesota Statutes 1990, section 257.071, subdivision 1a, is amended to read:

Subd. 1a. [PROTECTION OF HERITAGE OR BACKGROUND.] The authorized child placing agency shall ensure that the child's best interests are met by giving due consideration of the child's race or ethnic heritage in making a family foster care placement. The authorized child placing agency shall place a child, released by court order or by voluntary release

by the parent or parents, in a family foster home selected by following the preferences described in section 260.181, subdivision 3. *In instances where a child from a family of color is placed in a family foster home of a different racial or ethnic background, the local social service agency shall review the placement after 30 days and each 30 days thereafter for the first six months to determine if there is another available placement that would better satisfy the requirements of this subdivision.*

Sec. 20. [257.0755] [OFFICE OF OMBUDSPERSON; CREATION; QUALIFICATIONS; FUNCTION.]

An ombudsperson for families shall be appointed to operate independently but under the auspices of each of the following groups: the Indian Affairs Council, the Spanish-Speaking Affairs Council, the Council on Black Minnesotans, and the Council on Asian-Pacific Minnesotans. Each of these groups shall select its own ombudsperson subject to final approval by the advisory board established under section 257.0768. Each ombudsperson shall serve at the pleasure of the advisory board, shall be in the unclassified service, shall be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy regarding the protection and placement of children from families of color. In addition, the ombudsperson must be experienced in dealing with communities of color and knowledgeable about the needs of those communities. No individual may serve as ombudsperson while holding any other public office. The ombudsperson shall have the authority to investigate decisions, acts, and other matters of an agency, program, or facility providing protection or placement services to children of color.

Sec. 21. [257.076] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *For the purposes of sections 257.0755 to 257.0768, the following terms shall have the meanings given them in this section.*

Subd. 2. [AGENCY.] *"Agency" means the divisions, officials, or employees of the state departments of human services and health and local district courts or a designated county social service agency as defined in section 256G.02, subdivision 7, engaged in providing child protection and placement services for children. "Agency" also means any individual, service, or program providing child protection or placement services in coordination with or under contract to any other entity specified in this subdivision.*

Subd. 3. [COMMUNITIES OF COLOR.] *"Communities of color" means the following: American Indian, Hispanic-Latino, Asian-Pacific, African, and African-American communities.*

Subd. 4. [COMPADRAZGO.] *"Compadrazgo" is a kinship institution within the Hispanic-Latino community used as a means of parenting and caring for children from birth to adulthood.*

Subd. 5. [FAMILY OF COLOR.] *"Family of color" means any family with a child under the age of 18 who is identified by one or both parents or another trusted adult to be of American Indian, Hispanic-Latino, Asian-Pacific, African, or African-American descent.*

Subd. 6. [FACILITY.] *"Facility" means any entity required to be licensed under chapter 245A.*

Subd. 7. [TRUSTED ADULT.] *"Trusted adult" means an individual recognized by the child's parent or legal guardian, the child's community, or both, as speaking for the child's best interest. The term includes compadrazgo and other individuals with a kinship or community relationship with the child.*

Sec. 22. [257.0761] [ORGANIZATION OF OFFICE OF OMBUDSPERSON.]

Subdivision 1. [STAFF; UNCLASSIFIED STATUS; RETIREMENT.] *The ombudsperson for each group specified in section 257.0755 may select, appoint, and compensate out of available funds the assistants and employees as deemed necessary to discharge responsibilities. All employees, except the secretarial and clerical staff, shall serve at the pleasure of the ombudsperson in the unclassified service. The ombudsperson and full-time staff shall be members of the Minnesota state retirement association.*

Subd. 2. [DELEGATION TO STAFF.] *The ombudsperson may delegate to staff members any of the ombudsperson's authority or duties except the duty of formally making recommendations to an administrative agency or reports to the office of the governor, or to the legislature.*

Sec. 23. [257.0762] [DUTIES AND POWERS.]

Subdivision 1. [DUTIES.] *(a) Each ombudsperson shall monitor agency compliance with all laws governing child protection and placement, as they impact on children of color. In particular, the ombudsperson shall monitor agency compliance with sections 256F.07, subdivision 3a; 256F.08; 257.072; 257.075; 257.35 to 257.3579; and 260.181, subdivision 3.*

(b) The ombudsperson shall work with local state courts to ensure that:

(1) court officials, public policymakers, and service providers are trained in cultural diversity. The ombudsperson shall document and monitor court activities in order to heighten awareness of diverse belief systems and family relationships;

(2) experts from the appropriate community of color including tribal advocates are used as court advocates and are consulted in placement decisions that involve children of color;

(3) guardians ad litem and other individuals from communities of color are recruited, trained, and used in court proceedings to advocate on behalf of children of color; and

(4) training programs for bilingual workers are provided.

Subd. 2. [POWERS.] *In carrying out the duties in subdivision 1, each ombudsperson has the power to:*

(1) prescribe the methods by which complaints are to be made, reviewed, and acted upon;

(2) determine the scope and manner of investigations to be made;

(3) investigate, upon a complaint or upon personal initiative, any action of any agency;

(4) request and be given access to any information in the possession of any agency deemed necessary for the discharge of responsibilities. The ombudsperson is authorized to set reasonable deadlines within which an agency must respond to requests for information. Data obtained from any

agency under this clause shall retain the classification which it had under section 13.02 and shall be maintained and disseminated by the ombudsperson according to chapter 13;

(5) examine the records and documents of an agency;

(6) enter and inspect, during normal business hours, premises within the control of an agency; and

(7) subpoena any agency personnel to appear, testify, or produce documentary or other evidence which the ombudsperson deems relevant to a matter under inquiry, and may petition the appropriate state court to seek enforcement with the subpoena; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state. The ombudsperson may compel nonagency individuals to testify or produce evidence according to procedures developed by the advisory board.

Sec. 24. [257.0763] [MATTERS APPROPRIATE FOR REVIEW.]

(a) In selecting matters for review, an ombudsperson should give particular attention to actions of an agency, facility, or program that:

(1) may be contrary to law or rule;

(2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of an agency, facility, or program;

(3) may result in abuse or neglect of a child;

(4) may disregard the rights of a child or other individual served by an agency or facility; or

(5) may be unclear or inadequately explained, when reasons should have been revealed.

(b) An ombudsperson shall, in selecting matters for review, inform other interested agencies in order to avoid duplicating other investigations or regulatory efforts, including activities undertaken by a tribal organization under the authority of sections 257.35 to 257.3579.

Sec. 25. [257.0764] [COMPLAINTS.]

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section 626.556, subdivision 4a, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

Sec. 26. [257.0765] [RECOMMENDATIONS TO AGENCY.]

(a) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the ombudsperson determines that the complaint has merit or the investigation reveals a problem, the ombudsperson may recommend that the agency, facility, or program:

(1) consider the matter further;

(2) modify or cancel its actions;

(3) alter a rule, order, or internal policy;

(4) explain more fully the action in question; or

(5) take other action as authorized under section 257.0762.

(b) At the ombudsperson's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsperson about the action taken on the recommendation or the reasons for not complying with it.

Sec. 27. [257.0766] [RECOMMENDATIONS AND PUBLIC REPORTS.]

Subdivision 1. [SPECIFIC REPORTS.] *An ombudsperson may send conclusions and suggestions concerning any matter reviewed to the governor and shall provide copies of all reports to the advisory board and to the groups specified in section 257.0768, subdivision 1. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency, facility, program, or any person, the ombudsperson shall inform the governor and the affected agency, facility, program, or person concerning the conclusion or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency, facility, program, or any person, the ombudsperson shall include any statement of reasonable length made by that agency, facility, program, or person in defense or mitigation of the ombudsperson's conclusion or recommendation.*

Subd. 2. [GENERAL REPORTS.] *In addition to whatever conclusions or recommendations the ombudsperson may make to the governor on an ad hoc basis, the ombudsperson shall at the end of each year report to the governor concerning the exercise of the ombudsperson's functions during the preceding year.*

Sec. 28. [257.0767] [CIVIL ACTIONS.]

The ombudsperson and designees are not civilly liable for any action taken under sections 257.0755 to 257.0768 if the action was taken in good faith, was within the scope of the ombudsperson's authority, and did not constitute willful or reckless misconduct.

Sec. 29. [257.0768] [OMBUDSPERSON'S ADVISORY COMMITTEE.]

Subdivision 1. [MEMBERSHIP.] *The appointment of each ombudsperson is subject to approval by an advisory committee consisting of no more than 17 members. Members of the advisory committee shall be appointed by the following groups: the Indian Affairs Council; the Spanish-Speaking Affairs Council; the Council on Black Minnesotans; and the Council on Asian-Pacific Minnesotans. The committee shall provide advice and counsel to each ombudsperson.*

Subd. 2. [COMPENSATION; CHAIR.] *Members do not receive compensation but are entitled to receive reimbursement for reasonable and necessary expenses incurred. The members shall designate four rotating chairpersons to serve annually at the pleasure of the members.*

Subd. 3. [MEETINGS.] *The committee shall meet at least four times a year at the request of its chair or the ombudspersons.*

Subd. 4. [DUTIES.] *The committee shall advise and assist the ombudspersons in selecting matters for attention; developing policies, plans, and*

programs to carry out the ombudspersons' functions and powers; establishing protocols for working with the communities of color; developing procedures for the ombudspersons' use of the subpoena power to compel testimony and evidence from nonagency individuals; and making reports and recommendations for changes designed to improve standards of competence, efficiency, justice, and protection of rights. The committee shall function as an advisory body.

Subd. 5. [TERMS, COMPENSATION, REMOVAL, AND EXPIRATION.] *The membership terms, compensation, and removal of members of the committee and the filling of membership vacancies are governed by section 15.0575.*

Sec. 30. [257.0769] [FUNDING FOR THE OMBUDSPERSON PROGRAM.]

(a) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Indian Affairs Council for the purposes of sections 257.0755 to 257.0768.

(b) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Spanish-speaking Affairs Council for the purposes of sections 257.0755 to 257.0768.

(c) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council of Black Minnesotans for the purposes of sections 257.0755 to 257.0768.

(d) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council on Asian-Pacific Minnesotans for the purposes of sections 257.0755 to 257.0768.

Sec. 31. Minnesota Statutes 1990, section 257.352, subdivision 2, is amended to read:

Subd. 2. [AGENCY NOTICE OF POTENTIAL OUT-OF-HOME PLACEMENT.] When a local social service agency or private child placing agency determines that an Indian child is in a dependent or other condition that could lead to an out-of-home placement and requires the continued involvement of the agency with the child for a period in excess of 30 days, the agency shall send notice of the condition and of the initial steps taken to remedy it to the Indian child's tribal social service agency within seven days of the determination. At this and any subsequent stage of its involvement with an Indian child, the agency shall, upon request, give the tribal social service agency full cooperation including access to all files concerning the child. If the files contain confidential or private data, the agency may require execution of an agreement with the tribal social service agency that the tribal social service agency shall maintain the data according to statutory provisions applicable to the data. *This subdivision applies whenever the court transfers legal custody of an Indian child under section 260.185, subdivision 1, paragraph (c), clause (1), (2), or (3) following an adjudication for a misdemeanor-level delinquent act.*

Sec. 32. Minnesota Statutes 1990, section 261.035, is amended to read:

261.035 [BURIAL AT EXPENSE OF COUNTY.]

When a person dies in any county without apparent means to provide for burial and without relatives of sufficient ability to procure the burial, the county board shall first investigate to determine whether the person who

has died has contracted for any prepaid burial arrangements. If such arrangements have been made, the county shall authorize burial in accord with the written instructions of the deceased. If it is determined that the person did not leave sufficient means to defray the necessary expenses of burial, nor any relatives therein of sufficient ability to procure the burial, the county board shall cause a decent burial *or cremation* of the person's remains to be made at the expense of the county. *Cremation shall not be used for persons who are known to be opposed to cremation because of religious affiliation or belief.*

Sec. 33. Minnesota Statutes 1990, section 268.022, subdivision 2, is amended to read:

Subd. 2. [DISBURSEMENT OF SPECIAL ASSESSMENT FUNDS.] (a) The money collected under this section shall be deposited in the state treasury and credited to a dedicated fund to provide for the dislocated worker programs established under sections 268.975 to 268.98; including vocational guidance, training, placement, and job development.

(b) All money in the dedicated fund is appropriated to the commissioner who must act as the fiscal agent for the money and must disburse the money for the purposes of this section, not allowing the money to be used for any other obligation of the state. All money in the dedicated fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for the other dedicated funds in the state treasury, except that all interest or net income resulting from the investment or deposit of money in the fund shall accrue to the fund for the purposes of the fund.

(c) No more than five percent of the dedicated funds collected in each fiscal year may be used by the department of jobs and training for its administrative costs.

(d) The dedicated funds, less amounts under paragraph (c), must be allocated as follows:

(1) 50 percent to be allocated according to paragraph (e) to the substate grantees under subchapter III of the Job Training Partnership Act, United States Code, title 29, section 1661a in proportion to each substate area's share of the federal allocated funds, to be used to assist dislocated workers under the standards in section 268.98;

(2) 50 percent to fund specific programs proposed under the state plan request for proposal process and recommended by the governor's job training council. This fund shall be used for state plan request for proposal programs addressing plant closings or layoffs regardless of size; and

(3) in fiscal years 1991, 1992, and 1993, any amounts transferred to the general fund or obligated before the effective date of this section shall be excluded from the calculation under this paragraph.

(e) In the event that a substate grantee has obligated 100 percent of its formula allocated federal funds under subchapter III of the Job Training Partnership Act, United States Code, title 29, section 1651 et seq., and has demonstrated appropriate use of the funds to the governor's job training council, the substate grantee may request and the commissioner shall provide additional funds to the substate area in an amount equal to the federal formula allocated funds. When a substate grantee has obligated 100 percent of the additional funds provided under this section, and has demonstrated

appropriate use of the funds to the governor's job training council, the substate grantee may request and the commissioner shall provide further additional funds in amounts equal to the federal formula allocated funds until the substate area receives its proportionate share of funds under paragraph (d), clause (1).

(f) By December 31 of each fiscal year each substate grantee and the governor's job training council shall report to the commissioner on the extent to which funds under this section are committed and the anticipated demand for funds for the remainder of the fiscal year. The commissioner shall reallocate those funds that the substate grantees and the council do not anticipate expending for the remainder of the fiscal year to be available for requests from other substate grantees or other dislocated worker projects proposed to the governor's job training council which demonstrate a need for additional funding.

(g) Due to the anticipated quarterly variations in the amounts collected under this section, the amounts allocated under paragraph (d) must be based on collections for each quarter. Any amount collected in the final two quarters of the fiscal year, but not allocated, obligated or expended in the fiscal year, shall be available for allocation, obligation and expenditure in the following fiscal year.

Sec. 34. Minnesota Statutes 1990, section 268.914, is amended to read:

268.914 [DISTRIBUTION OF APPROPRIATION.]

Subdivision 1. [STATE SUPPLEMENT FOR FEDERAL GRANTEES.] (a) The commissioner of jobs and training shall distribute money appropriated for that purpose to head start program grantees to expand services to additional low-income children. Money must be allocated to each project head start grantee in existence on the effective date of Laws 1989, chapter 282. Migrant and Indian reservation grantees must be initially allocated money based on the grantees' share of federal funds. The remaining money must be initially allocated to the remaining local agencies based equally on the agencies' share of federal funds and on the proportion of eligible children in the agencies' service area who are not currently being served. A head start grantee must be funded at a per child rate equal to its contracted, federally funded base level for program accounts 20 to 26 at the start of the fiscal year. The commissioner may provide additional funding to grantees for start-up costs incurred by grantees due to the increased number of children to be served. Before paying money to the grantees, the commissioner shall notify each grantee of its initial allocation, how the money must be used, and the number of low-income children that must be served with the allocation. Each grantee must notify the commissioner of the number of additional low-income children it will be able to serve. For any grantee that cannot serve additional children to its full allocation, the commissioner shall reduce the allocation proportionately. Money available after the initial allocations are reduced must be redistributed to eligible grantees.

(b) Up to 11 percent of the funds appropriated annually may be used to provide grants to local head start agencies to provide funds for innovative programs designed either to target head start resources to particular at-risk groups of children or to provide services in addition to those currently allowable under federal head start regulations. The commissioner shall award funds for innovative programs under this paragraph on a competitive basis.

Subd. 2. [SERVICE EXPANSION GRANTS.] *One-third of any biennial*

increase in the state appropriations for head start programs shall be allocated by the commissioner of jobs and training, under a request for proposal system, to existing head start grantees for service expansion.

Priority for state-funded service expansion grants must be given to applicants who propose to:

(1) coordinate or co-locate the services through an existing community-based, family-oriented program such as a family resource center;

(2) minimize the amount of state funding that is needed for initial construction or remodeling costs by using an existing facility, by sharing a facility with a school or other program, or by obtaining contributions for these costs from private or local sources;

(3) reduce the costs and time of transportation by enabling children to attend a program closer to their home communities;

(4) increase services in an area where less than 15 percent of eligible children are enrolled; and

(5) expand programs within a city where no center-based program exists.

The additional funds provided to a grantee under this subdivision shall be considered part of the grantees funding base for future formula allocations of state or federal funds.

Sec. 35. Minnesota Statutes 1990, section 268.975, subdivision 3, is amended to read:

Subd. 3. [DISLOCATED WORKER.] "Dislocated worker" means an individual who:

(1) has been terminated or *who* has received a notice of termination ~~of~~ *from* employment ~~as a result of a plant closing or any substantial layoff at a plant, facility, or enterprise located in the state~~, *is eligible for or has exhausted entitlement to unemployment compensation, and is unlikely to return to the previous industry or occupation*;

(2) ~~was a resident of the state at the time~~ *has been terminated or has received a notice* of termination of employment ~~or at the time of receiving the notification of termination of employment~~ *as a result of any plant closing or any substantial layoff at a plant, facility, or enterprise*; ~~and~~

(3) ~~is eligible for or has exhausted unemployment compensation and is unlikely to return to the previous industry or occupation~~ *has been long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including older individuals who may have substantial barriers to employment by reason of age;*

(4) has been self-employed, including farmers and ranchers, and is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters, subject to rules to be adopted by the commissioner; or

(5) has been terminated or who has received a notice of termination from employment with a public or nonprofit employer.

A dislocated worker must have been working in Minnesota at the time employment ceased.

Sec. 36. Minnesota Statutes 1990, section 268.975, is amended by adding

a subdivision to read:

Subd. 3a. [ADDITIONAL DISLOCATED WORKER.] *"Additional dislocated worker" means an individual who was a full-time homemaker for a substantial number of years and derived the substantial share of his or her support from:*

(1) a spouse and no longer receives such support due to the death, divorce, permanent disability of, or permanent separation from the spouse; or

(2) public assistance on account of dependents in the home and no longer receives such support.

An additional dislocated worker must have resided in Minnesota at the time the support ceased.

Sec. 37. Minnesota Statutes 1990, section 268.977, is amended to read:

268.977 [RAPID RESPONSE PROGRAM.]

Subdivision 1. [PROGRAM ESTABLISHMENT.] (a) The commissioner shall establish a rapid response program to *(1)* assist employees, employers, business organizations or associations, labor organizations, local government units, and community organizations to quickly and effectively respond to announced or actual plant closings and substantial layoffs *and (2) assist dislocated workers and additional dislocated workers. Grant recipients and substate grantees may, but shall not be required to, subcontract with the department for readjustment services.*

(b) The program must include or address at least the following:

(1) within five working days after becoming aware of an announced or actual plant closing or substantial layoff, establish on-site contact with the employer, employees, labor organizations if there is one representing the employees, and leaders of the local government units and community organizations to provide coordination of efforts to formulate a communitywide response to the plant closing or substantial layoff, provide information on the public and private service and programs that might be available, inform the affected parties of the prefeasibility study grants under section 268.978, and collect any information required by the commissioner to assist in responding to the plant closing or substantial layoff;

(2) provide ongoing technical assistance to employers, employees, business organizations or associations, labor organizations, local government units, and community organizations to assist them in reacting to or developing responses to plant closings or substantial layoffs;

(3) establish and administer the prefeasibility study grant program under section 268.978 to provide an initial assessment of the feasibility of alternatives to plant closings or substantial layoffs;

(4) work with employment and training service providers, employers, business organizations or associations, labor organizations, local government units, dislocated workers, and community organizations in providing training, education, community support service, job search programs, job clubs, and other services to address the needs of potential or actual dislocated workers;

(5) coordinate with providers of economic development related financial and technical assistance services so that communities that are experiencing plant closings or substantial layoffs have immediate access to economic

development related services; ~~and~~

(6) collect and make available information on programs that might assist dislocated workers and the communities affected by plant closings or substantial layoffs; *and*

(7) when they can be provided without adversely affecting delivery of services to all dislocated workers, the services under clause (4) shall be available to additional dislocated workers as defined in section 268.975, subdivision 3a.

Subd. 2. [APPLICABILITY.] ~~Notwithstanding section 268.975, subdivisions 6 and 8, the commissioner may waive the threshold requirements for finding a plant closing or substantial layoff in special cases where the governor's job training council recommends waiver to the commissioner following a finding by the council that the number of workers dislocated as a result of a plant closing or substantial layoff would have a substantial impact on the community or labor market where the closure or layoff occurs and, in the absence of intervention through the rapid response program, would overwhelm the capacity of other programs to provide effective assistance.~~ *A proposal for a program recommended for funding by the governor's job training council shall not be denied based upon the increased funding and resources of substate areas.*

Sec. 38. Minnesota Statutes 1990, section 268.98, is amended to read:

268.98 [PERFORMANCE STANDARDS.]

(a) The commissioner shall establish performance standards for the programs and activities administered or funded through the rapid response program under section 268.977. The commissioner may use existing federal performance standards or, if the commissioner determines that the federal standards are inadequate or not suitable, may formulate new performance standards to ensure that the programs and activities of the rapid response program are effectively administered.

(b) Not less than 20 percent of the funds expended under this section must be used to provide needs-related payments and other supportive services as those terms are used in subchapter III of the Job Training Partnership Act, United States Code, title 29, section 1661d(b). This requirement does not apply to the extent that a program proposal requests less than 20 percent of such funds. At the end of the fiscal year, each substate grantee and each grant recipient shall report to the commissioner on the types of services funded under this paragraph and the amounts expended for such services. By January 15 of each year, the commissioner shall provide a summary report to the legislature.

Sec. 39. Minnesota Statutes 1990, section 268A.06, is amended by adding a subdivision to read:

Subd. 3. [REHABILITATION FACILITIES: SALARY ADJUSTMENTS; GRANTS.] *The commissioner shall increase grants, for the fiscal year beginning July 1, 1991, for each rehabilitation facility by a salary adjustment figured by multiplying the total salaries, payroll taxes, and fringe benefits for personnel below top management by three percent. All increased revenue produced by this calculation must be used for salary and related costs of personnel in positions below top management. The commissioner shall ensure that all increased revenue produced by this calculation is used for salary and related costs of personnel in positions below top management.*

Sec. 40. [LAND CONVEYANCE TO CITY OF CAMBRIDGE.]

Notwithstanding Minnesota Statutes, sections 94.09 to 94.16; for the purposes of this section and Laws 1990, chapter 610, article 1, section 12, subdivision 5; on behalf of the Cambridge regional human services center; and in cooperation with the city of Cambridge, the commissioner of administration may transfer to the city of Cambridge the real properties, consisting of 68 acres, more or less, described as follows:

Government Lot 2, Section 6, Township 35, Range 23, Isanti county, Minnesota.

ALSO: that part of the West Half of the Northeast Quarter, that part of the East Half of the Northwest Quarter, that part of Government Lot 4, and that part of Government Lot 5, all in Section 5, Township 35, Range 23, Isanti county, Minnesota, described jointly as follows:

Commencing at the intersection of the North line of the said Section 5 and the center line of state trunk highway No. 65 as laid out and constructed, said point being 786.27 feet West from the northeast corner of said Section 5; thence South 15 degrees 39 minutes 50 seconds West, along the center line of said state trunk highway No. 65 and the tangent line of a curve to the right, a distance of 573.03 feet; thence on a bearing of West, a distance of 80.63 feet to a point to be hereinafter known as point "A", said point being the intersection of the westerly right-of-way line of said state trunk highway No. 65 with a line drawn parallel with and distant 50 feet South, as measured at right angles thereto, from the center line of state highway No. 293, as laid out and constructed; thence continuing on a bearing of West and parallel with the center line of said state highway No. 293, said center line being parallel with the North line of said Section 5, a distance of 1484.50 feet to a point to be hereinafter known as point "B"; thence on a bearing of South, a distance of 714.00 feet; thence on a bearing of West, a distance of 545.64 feet; thence North 6 degrees 13 minutes 06 seconds East, a distance of 591.12 feet to the point of beginning of the land to be herein described; thence South 6 degrees 13 minutes 06 seconds West, retracing the last described course, a distance of 591.12 feet; thence on a bearing of East, a distance of 545.64 feet; thence on a bearing of South, a distance of 70.57 feet; thence South 89 degrees 15 minutes 02 seconds West, a distance of 957.32 feet; thence South 1 degree 37 minutes 42 seconds East, a distance of 133.27 feet to the south line of the North 102.5 feet of the Southeast Quarter of Northwest Quarter of Section 5, as measured along the west line of said Southeast Quarter of Northwest Quarter; thence South 89 degrees 24 minutes 15 seconds West, along said south line, a distance of 2040.05 feet to the west line of said Section 5; thence northerly, along said west line of Section 5 to the southerly shoreline of the Rum River; thence easterly and northeasterly along the southerly and southeasterly shoreline of the Rum River to the north line of the Northwest Quarter of said Section 5; thence North 89 degrees 47 minutes 10 seconds East, along said north line of the Northwest Quarter of Section 5 to a point distant 646.00 feet west of the northeast corner of said Northwest Quarter of Section 5, as measured along the north line of said Northwest Quarter; thence South 0 degrees 03 minutes 35 seconds East, a distance of 134.02 feet; thence North 89 degrees 56 minutes 25 seconds East, a distance of 238.29 feet to the westerly line of an easement for highway purposes for state highway No. 293, by Transfer of Custodial Control, dated June 15, 1959; thence South 0 degrees 04 minutes 00 seconds East, along said westerly line, a

distance of 7.77 feet; thence southeasterly along a tangential curve in the westerly line of said easement for highway purposes, said curve is concave to the northeast, radius 381.10 feet, central angle 58 degrees 44 minutes 37 seconds, 390.73 feet to the point of intersection with a line that bears North 30 degrees 00 minutes 00 seconds East from the point of beginning; thence South 30 degrees 00 minutes 00 seconds West, along said line, a distance of 240.68 feet to the point of beginning.

That part of Lot 30 of Auditor's Subdivision No. 9, Isanti county, Minnesota, described as follows:

Commencing at the East quarter corner of Section 32, Township 36, Range 23, Isanti county, Minnesota; thence South 89 degrees 44 minutes 35 seconds West, assumed bearing, along the east-west quarter line of said Section 32, a distance of 2251.43 feet; thence South 1 degree 48 minutes 40 seconds East, a distance of 344.47 feet to the south line of Lot 30 of Auditor's Subdivision No. 9; thence South 89 degrees 35 minutes 05 seconds West along said south line, a distance of 205.34 feet to the west line of the East 1098 feet of said Lot 30 and the point of beginning of the parcel to be herein described; thence continuing South 89 degrees 35 minutes 05 seconds West along the south line of said Lot 30, a distance of 534.66 feet; thence North 45 degrees 24 minutes 55 seconds West, a distance of 180 feet, more or less, to the shoreline of the Rum River; thence northeasterly along said shoreline, a distance of 252 feet, more or less, to the east-west quarter line of said Section 32; thence North 89 degrees 44 minutes 35 seconds East along said east-west quarter line, a distance of 524 feet, more or less, to the west line of the East 1098 feet of said Lot 30; thence South 2 degrees 40 minutes 50 seconds East along said west line, a distance of 345.21 feet to the point of beginning.

That part of the North half of the Northeast Quarter and that part of the Northeast Quarter of the Northwest Quarter, both in said Section 5, lying northerly of the following described line "C" and lying southerly of a line drawn parallel with and distant 32 feet northerly of said line "C" (as measured at right angles to said line "C"). Said line "C" is described as follows:

Beginning at the previously described point "A"; thence on a bearing of West, a distance of 1484.50 feet to the previously described point "B"; thence continuing on a bearing of West, a distance of 164.52 feet to a point to be hereinafter known as point "D".

The northerly line of the strip of land described herein is to extend easterly to terminate on the westerly right-of-way line of said state trunk highway No. 65.

That part of the Northeast Quarter of the Northwest Quarter of said Section 5, lying northerly of the following described line "E" and lying southerly of a line drawn parallel with and distant 27 feet northerly of said line "E" (as measured at right angles to said line "E"). Said line "E" is described as follows:

Beginning at the previously described point "D", said point is on a curve, the tangent of said curve bears East from said point; thence westerly, along said curve, concave to the north, radius 408.10 feet, central angle 31 degrees 02 minutes 09 seconds, a distance of 221.06 feet and there terminating.

All of the land described herein is subject to easements, restrictions and

reservations of record, if any.

In accordance with this section and Laws 1990, chapter 610, article 1, section 12, subdivision 5, the department of human services and the city may attach to the transfer the conditions that they agree are appropriate, including conditions that relate to water and sewer service at the center and in the city. If the transfer requires the conveyance of any interest in real estate, the attorney general shall prepare appropriate instruments of conveyance. The deeds to convey the properties must contain a clause that the property will revert to the state if the property ceases to be used for a public purpose.

The city of Cambridge shall use the land to preserve flood plain open space, to construct a wastewater treatment facility, to construct a trail system, to access the regional treatment center cemetery, to access existing infrastructure, and other public purposes. Economic development is a public purpose within the meaning of the term in Laws 1990, chapter 610, article 1, section 12, subdivision 5, and sales or conveyances to private parties shall be deemed as economic development. Property conveyed by the state under this section shall not revert to the state if it is conveyed or otherwise encumbered by the city as part of a city economic development activity. The appropriation in Laws 1990, chapter 610, article 1, section 12, subdivision 5, expires upon the accomplishment or abandonment of its purpose and the purposes of this section.

Sec. 41. [REPEALER.]

Laws 1990, chapter 568, article 6, section 4, is repealed effective the day following final enactment.

Sec. 42. [EFFECTIVE DATE.]

Sections 35 to 37 are effective the day following final enactment.

ARTICLE 4

HEALTH CARE

Section 1. Minnesota Statutes 1990, section 144A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a new certified bed or the addition of a new licensed nursing home bed, under the following conditions:

(a) to replace a bed decertified after May 23, 1983, or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care. An extreme

hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

(c) to certify beds in a new nursing home that is needed in order to meet the special dietary needs of its residents, if: the nursing home proves to the commissioner's satisfaction that the needs of its residents cannot otherwise be met; elements of the special diet are not available through most food distributors; and proper preparation of the special diet requires incurring various operating expenses, including extra food preparation or serving items, not incurred to a similar extent by most nursing homes;

(d) to license a new nursing home bed in a facility that meets one of the exceptions contained in clauses (a) to (c);

(e) to license nursing home beds in a facility that has submitted either a completed licensure application or a written request for licensure to the commissioner before March 1, 1985, and has either commenced any required construction as defined in clause (b) before May 1, 1985, or has, before May 1, 1985, received from the commissioner approval of plans for phased-in construction and written authorization to begin construction on a phased-in basis. For the purpose of this clause, "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules;

(f) to certify or license new beds in a new facility that is to be operated by the commissioner of veterans' affairs or when the costs of constructing and operating the new beds are to be reimbursed by the commissioner of veterans' affairs or the United States Veterans Administration;

(g) to license or certify beds in a new facility constructed to replace a facility that was destroyed after June 30, 1987, by fire, lightning, or other hazard provided:

(1) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(2) at the time the facility was destroyed the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(3) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility;

(4) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5; and

(5) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility;

(h) to license or certify beds that are moved from one location to another

within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the remodeling or renovation;

(i) to license or certify beds in a facility that has been involuntarily delicensed or decertified for participation in the medical assistance program, provided that an application for relicensure or recertification is submitted to the commissioner within 120 days after delicensure or decertification;

(j) to license or certify beds in a project recommended for approval by the interagency board for quality assurance under section 144A.073;

(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided: (1) the nursing home beds are not certified for participation in the medical assistance program; and (2) the relocation of nursing home beds under this clause should not exceed a radius of six miles;

(l) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home to a building formerly used as a hospital, provided the original nursing home building will no longer be operated as a nursing home and the building to which the beds are moved will no longer be operated as a hospital. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. Relocation of nursing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;

(m) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds. *The relocated beds need not be licensed and certified at the new location simultaneously with the delicensing and decertification of the old beds and may be licensed and certified at any time after the old beds are delicensed and decertified*;

(n) to license new nursing home beds in a continuing care retirement community affiliated with a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its residents from outside the state for the purpose of meeting contractual obligations to residents of the retirement community, provided the facility makes a written commitment to the commissioner of human services that it will not seek medical assistance certification for the new beds;

(o) to certify or license new beds in a new facility on the Red Lake Indian Reservation for which payments will be made under the Indian Health Care Improvement Act, Public Law Number 94-437, at the rates specified in

United States Code, title 42, section 1396d(b);

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

(q) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of Saint Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this clause;

(r) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements; ~~or~~

(s) to license or certify beds that are moved from a nursing home to a separate facility under common ownership or control that was formerly licensed as a hospital and is currently licensed as a nursing facility and that is located within eight miles of the original facility, provided the original nursing home building will no longer be operated as a nursing home. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation; *or*

(t) to license as a nursing home and certify as a nursing facility a facility that is licensed as a boarding care facility but not certified under the medical assistance program, but only if the commissioner of human services certifies to the commissioner of health that licensing the facility as a nursing home and certifying the facility as a nursing facility will result in a net annual savings to the state general fund of $200,000 or more.

Sec. 2. Minnesota Statutes 1990, section 144A.071, is amended by adding a subdivision to read:

Subd. 3a. [CERTIFICATION OF LICENSED BEDS IN A CERTIFIED FACILITY.] *Nothing in this section prohibits the commissioner of health from certifying licensed nursing home beds in a facility certified for medical assistance provided that these beds meet the certification requirements and the facility enters into a written agreement with the commissioner of human services specifying that medical assistance reimbursement shall not be requested for a greater number of residents than the facility had medical assistance certified beds on April 1, 1991.*

Sec. 3. Minnesota Statutes 1990, section 144A.10, subdivision 4, is amended to read:

Subd. 4. [CORRECTION ORDERS.] Whenever a duly authorized representative of the commissioner of health finds upon inspection of a nursing home, that the facility or a controlling person or an employee of the facility is not in compliance with sections 144.651, 144A.01 to 144A.16, or 626.557 or the rules promulgated thereunder, a correction order shall be issued to the facility. The correction order shall state the deficiency, cite the specific rule or statute violated, state the suggested method of correction, and specify the time allowed for correction. If the commissioner finds that the nursing home had uncorrected or repeated violations which create a risk to resident care, safety, or rights, the commissioner shall notify the commissioner of human services who shall ~~(1) review reimbursement to the nursing home to determine the extent to which the state has paid for substandard care and, (2) furnish the findings and disposition to the commissioner of health within 30 days of notification~~ *require the facility to use any efficiency incentive payments received under section 256B.431, subdivision 2b, paragraph (d), to correct the violations and shall require the facility to forfeit incentive payments for failure to correct the violations as provided in section 256B.431, subdivision 2p. The forfeiture shall not apply to correction orders issued for physical plant deficiencies.*

Sec. 4. Minnesota Statutes 1990, section 245.465, is amended to read:

245.465 [DUTIES OF COUNTY BOARD.]

Subdivision 1. The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local mental health service proposal approved by the commissioner. The county board must:

(1) develop and coordinate a system of affordable and locally available adult mental health services in accordance with sections 245.461 to 245.486;

(2) provide for case management services to adults with serious and persistent mental illness in accordance with sections 245.462, subdivisions 3 and 4; 245.4711; and 245.486;

(3) provide for screening of adults specified in section 245.476 upon admission to a residential treatment facility or acute care hospital inpatient, or informal admission to a regional treatment center;

(4) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.461 to 245.486; and

(5) assure that mental health professionals, mental health practitioners,

and case managers employed by or under contract with the county to provide mental health services have experience and training in working with adults with mental illness.

Subd. 2. [RESIDENTIAL AND COMMUNITY SUPPORT PROGRAMS FOR PERSONS WITH MENTAL ILLNESS: SALARY ADJUSTMENTS PER DIEM.] *In establishing, operating, or contracting for the provision of programs licensed under Minnesota Rules, parts 9520.0500 to 9520.0690 and programs funded under Minnesota Rules, parts 9535.0100 to 9535.1600, for the fiscal year beginning July 1, 1991, a county board's contract must reflect increased salaries by multiplying the total salaries, payroll taxes, and fringe benefits related to personnel below top management by three percent. This increase shall remain in the base for purposes of wage determination in future contract years. County boards shall verify in writing to the commissioner that each program has complied with this requirement. If a county board determines that a program has not complied with this requirement for a specific contract period, the county board shall reduce the program's payment rates for the next contract period to reflect the amount of money not spent appropriately. The commissioner shall modify reporting requirements for programs and counties as necessary to monitor compliance with this provision.*

Sec. 5. Minnesota Statutes 1990, section 246.23, is amended to read:

246.23 [PERSONS ADMISSIBLE TO REGIONAL TREATMENT CENTERS.]

Subdivision 1. [RESIDENCE.] No person who has not a settlement in a county, as defined in section 256D.18, shall be admitted to a regional treatment center for persons with mental illness, mental retardation, or chemical dependency, except that the commissioner of human services may authorize admission thereto when the residence cannot be ascertained, or when the circumstances in the judgment of the commissioner make it advisable. ~~Except for emergency admissions under sections 253B.05 and 253B.11, or when authorized by the commissioner, a chemical dependency program must not admit a chemically dependent person unless the cost of services will be paid for by private money or nongovernmental third-party payments, the person has been placed by a county or a federally recognized tribal unit that is responsible for payment, or the regional treatment center obtains approval of the admission from the county financially responsible for the person. The commissioner shall maintain and enhance cooperative and effective relationships between counties and regional treatment centers and between the various regional treatment center chemical dependency programs. In carrying out this responsibility. The commissioner shall maintain a regionally based, state administered system of chemical dependency programs.~~ When application is made to a judge of probate for admission to any of the regional treatment centers above named for admission thereto, if the judge finds that the person for whom application is made has not such residence, or that residence cannot be ascertained, the judge shall so report to the commissioner; and may recommend that such person be admitted notwithstanding, giving reasons therefor. The commissioner of human services shall thereupon investigate the question of residence and, if the commissioner finds that such person has not such residence and has a legal residence in another state or country, the commissioner may cause the person to be returned thereto at the expense of this state.

Subd. 2. [CHEMICAL DEPENDENCY TREATMENT.] *The commissioner shall maintain a regionally based, state-administered system of chemical dependency programs. Counties may refer individuals who are eligible for services under chapter 254B to the chemical dependency units in the regional treatment centers. A 15 percent county share of the per diem cost of treatment is required for individuals served within the treatment capacity funded by direct legislative appropriation. By July 1, 1991, the commissioner shall establish criteria for admission to the chemical dependency units that will maximize federal and private funding sources, fully utilize the regional treatment center capacity, and make state-funded treatment capacity available to counties on an equitable basis. The admission criteria may be adopted without rulemaking. Existing rules governing placements under chapters 254A and 254B do not apply to admissions to the capacity funded by direct appropriation. Private and third-party collections and payments are appropriated to the commissioner for the operation of the chemical dependency units. In addition to the chemical dependency treatment capacity funded by direct legislative appropriation, the regional treatment centers may provide treatment to additional individuals whose treatment is paid for out of the chemical dependency consolidated treatment fund under chapter 254B, in which case placement rules adopted under chapter 254B apply, or through other nonstate payment sources.*

Sec. 6. Minnesota Statutes 1990, section 246.64, subdivision 3, is amended to read:

Subd. 3. [RESPONSIBILITIES OF COMMISSIONER.] The commissioner shall credit all receipts from billings for rates set in subdivision 1, except those credited according to subdivision 2, to the chemical dependency fund. This money must not be used for a regional treatment center activity that is not a chemical dependency service or an allocation of expenditures that are included in the base for computation of the rates under subdivision 1. The commissioner may expand chemical dependency services so long as expenditures are recovered by patient fees, transfer of funds, or supplementary appropriations. The commissioner may expand or reduce chemical dependency staff complement as long as expenditures are recovered by patient fees, transfer of funds, or supplementary appropriations. ~~An increase or decrease in chemical dependency staff shall not result in an increase or decrease in staff in any facility or unit not providing chemical dependency services.~~ Notwithstanding chapters 176 and 268, the commissioner shall provide for the self-insurance of regional treatment center chemical dependency programs for the costs of unemployment compensation and workers' compensation claims. The commissioner shall provide a biennial report to the chairs of the senate finance subcommittee on health and human services, the house of representatives human services division of appropriations, and the senate and house of representatives health and human services committees.

Sec. 7. Minnesota Statutes 1990, section 252.24, is amended by adding a subdivision to read:

Subd. 5. [DAC'S: SALARY ADJUSTMENT PER DIEM.] *The commissioner shall approve a two percent increase in the payment rates for day training and habilitation services vendors effective July 1, 1991. All revenue generated shall be used by vendors to increase salaries, fringe benefits, and payroll taxes by at least three percent for personnel below top management. County boards shall amend contracts with vendors to require that all revenue generated by this provision is expended on salary increases to*

staff below top management. County boards shall verify in writing to the commissioner that each vendor has complied with this requirement. If a county board determines that a vendor has not complied with this requirement for a specific contract period, the county board shall reduce the vendor's payment rates for the next contract period to reflect the amount of money not spent appropriately. The commissioner shall modify reporting requirements for vendors and counties as necessary to monitor compliance with this provision.

Each county agency shall report to the commissioner by July 30, 1991, its actual social service day training and habilitation expenditures for calendar year 1990. The commissioner shall allocate the day habilitation service CSSA appropriation made available for this purpose to county agencies in proportion to these expenditures.

Sec. 8. Minnesota Statutes 1990, section 252.275, is amended by adding a subdivision to read:

Subd. 9. [SILS: SALARY ADJUSTMENTS; RATES.] *In establishing, operating, or contracting for the provision of semi-independent living services, for the fiscal year beginning July 1, 1991, a county board must contract at rates to pay for increased salaries by multiplying the total salaries, payroll taxes, and fringe benefits related to personnel below top management by three percent. Any maximum rate limit shall be adjusted to provide for this provision. The state shall provide counties with proper reimbursement to cover these increased costs. County boards shall verify in writing to the commissioner that each semi-independent living service provider has complied with this requirement. If a county board determines that a semi-independent living service provider has not complied with this requirement for a specific contract period, the county board shall reduce the provider's payment rates for the next contract period to reflect the amount of money not spent appropriately. The commissioner shall modify reporting requirements for providers and counties as necessary to monitor compliance with this provision.*

Sec. 9. Minnesota Statutes 1990, section 252.46, subdivision 3, is amended to read:

Subd. 3. [RATE MAXIMUM.] Unless a variance is granted under subdivision 6, the maximum payment rates for each vendor for a calendar year must be equal to the payment rates approved by the commissioner for that vendor in effect December 1 of the previous calendar year increased by no more than the projected percentage change in the urban consumer price index, all items, published by the United States Department of Labor, for the upcoming calendar year over the current calendar year. *The commissioner shall not provide an annual inflation adjustment for the biennium ending June 30, 1993.*

Sec. 10. Minnesota Statutes 1990, section 252.46, subdivision 6, is amended to read:

Subd. 6. [VARIANCES.] A variance from the minimum or maximum payment rates in subdivisions 2 and 3 may be granted by the commissioner when the vendor requests and the county board submits to the commissioner a written variance request with the recommended payment rates. The commissioner shall develop by October 1, 1989, a uniform format for submission of documentation for the variance requests. This format shall be used by each vendor requesting a variance. The form shall be developed by the

commissioner and shall be reviewed by representatives of advocacy and provider groups and counties. A variance may be utilized for costs associated with compliance with state administrative rules, compliance with court orders, capital costs required for continued licensure, increased insurance costs, start-up and conversion costs for supported employment, direct service staff salaries and benefits, and transportation. The county board shall review all vendors' payment rates that are ten or more than ten percent lower than the statewide median payment rates. If the county determines that the payment rates do not provide sufficient revenue to the vendor for authorized service delivery the county must recommend a variance under this section. When the county board contracts for increased services from any vendor for some or all individuals receiving services from the vendor, the county board shall review the vendor's payment rates to determine whether the increase requires that a variance to the minimum rates be recommended under this section to reflect the vendor's lower per unit fixed costs. The written variance request must include documentation that all the following criteria have been met:

(1) The commissioner and the county board have both conducted a review and have identified a need for a change in the payment rates and recommended an effective date for the change in the rate.

(2) The proposed changes are required for the vendor to deliver authorized individual services in an effective and efficient manner.

(3) The proposed changes are necessary to demonstrate compliance with minimum licensing standards~~, or to provide community integrated and supported employment services after a change in the vendor's existing services has been approved as provided in section 252.28~~.

(4) The vendor documents that the changes cannot be achieved by reallocating current staff or by reallocating financial resources.

(5) The county board submits evidence that the need for additional staff cannot be met by using temporary special needs rate exceptions under Minnesota Rules, parts 9510.1020 to 9510.1140.

(6) The county board submits a description of the nature and cost of the proposed changes, and how the county will monitor the use of money by the vendor to make necessary changes in services.

(7) The county board's recommended payment rates do not exceed 125 percent of the current calendar year's statewide median payment rates.

The commissioner shall have 60 calendar days from the date of the receipt of the complete request to accept or reject it, or the request shall be deemed to have been granted. If the commissioner rejects the request, the commissioner shall state in writing the specific objections to the request and the reasons for its rejection.

Sec. 11. Minnesota Statutes 1990, section 252.46, subdivision 14, is amended to read:

Subd. 14. [PILOT STUDY.] The commissioner may initiate a pilot payment rate system under section 252.47. The pilot project may establish training and demonstration sites. The pilot payment rate system must include actual transfers of funds, not simulated transfers. The pilot payment rate system may involve ~~up to four counties and four~~ vendors representing different geographic regions and rates of reimbursement. Participation in the pilot project is voluntary. Selection of participants by the commissioner is

based on the vendor's submission of a complete application form provided by the commissioner. The application must include letters of agreement from the host county, counties of financial responsibility, and residential service providers. Evaluation of the pilot project must include consideration of the effectiveness of procedures governing establishment of equitable payment rates. Implementation of the pilot payment rate system is contingent upon federal approval and systems feasibility. The policies and procedures governing administration, participation, evaluation, service utilization, and payment for services under the pilot payment rate system are not subject to the rulemaking requirements of chapter 14.

Sec. 12. Minnesota Statutes 1990, section 252.478, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF ~~PROGRAM~~ *METRO TRANSPORTATION SUPPORT GRANTS.*] The commissioner of human services shall establish and operate a metro transportation support grants program to provide reimbursement for client transportation by metro mobility, *or cost-effective alternatives*, to day training and habilitation services for which client transportation is a required and funded component, and to maximize use of federal funds for this reimbursement. A metro transportation support grants account shall be established in the department of human services chart of accounts.

Sec. 13. Minnesota Statutes 1990, section 252.478, subdivision 3, is amended to read:

Subd. 3. [COUNTY SHARE.] The county share of the metro transportation support grants program costs will be distributed by the department to all metropolitan counties from the metro transportation support grants account. ~~For state fiscal year 1991, the funds transferred from the regional transit board to this account shall be distributed to: Ramsey county, 48 percent; Hennepin county, 46 percent; Dakota county, five percent; and Anoka county, one percent. For subsequent fiscal years, funds shall be distributed annually based on each county's percentage of total expenses incurred for trips provided on metro mobility to and from day training and habilitation services during the preceding 12-month period.~~ *in amounts not to exceed those received by the counties and used for increased expenses incurred for trips provided on metro mobility during fiscal year 1991. Counties must recommend decreases to the payment rates for vendors whose transportation costs decrease with use of cost-effective alternatives.* Counties should deposit these funds into the program accounts that will incur the transportation expenses.

Sec. 14. Minnesota Statutes 1990, section 254B.04, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] (a) Persons eligible for benefits under Code of Federal Regulations, title 25, part 20, persons eligible for medical assistance benefits under sections 256B.055 and 256B.056 or who meet the income standards of section 256B.056, subdivision 4, and persons eligible for general assistance medical care under section 256D.03, subdivision 3, are entitled to chemical dependency fund services. *State money appropriated for this paragraph must be placed in a separate account established for this purpose.*

(b) A person not entitled to services under paragraph (a), but with family income that is less than 60 percent of the state median income for a family of like size and composition, shall be eligible to receive chemical dependency

fund services within the limit of funds available after persons entitled to services under paragraph (a) have been served. A county may spend money from its own sources to serve persons under this paragraph. *State money appropriated for this paragraph must be placed in a separate account established for this purpose.*

(c) Persons whose income is between 60 percent and 115 percent of the state median income shall be eligible for chemical dependency services on a sliding fee basis, within the limit of funds available, after persons entitled to services under paragraph (a) and persons eligible for services under paragraph (b) have been served. Persons eligible under this paragraph must contribute to the cost of services according to the sliding fee scale established under subdivision 3. A county may spend money from its own sources to provide services to persons under this paragraph. *State money appropriated for this paragraph must be placed in a separate account established for this purpose.*

Sec. 15. Minnesota Statutes 1990, section 254B.05, is amended by adding a subdivision to read:

Subd. 4. [REGIONAL TREATMENT CENTERS.] *Regional treatment center chemical dependency treatment units are eligible vendors. The commissioner may expand the capacity of chemical dependency treatment units beyond the capacity funded by direct legislative appropriation to serve individuals who are referred for treatment by counties and whose treatment will be paid for with a county's allocation under section 254B.02 or other funding sources.*

Sec. 16. Minnesota Statutes 1990, section 256.045, subdivision 10, is amended to read:

Subd. 10. [PAYMENTS PENDING APPEAL.] If the commissioner of human services or district court orders monthly assistance or aid or services paid or provided in any proceeding under this section, it shall be paid or provided pending appeal to the commissioner of human services, district court, court of appeals, or supreme court. *The human services referee may order the local human services agency to reduce or terminate medical assistance or general assistance medical care to a recipient before a final order is issued under this section if: (1) the human services referee determines at the hearing that the sole issue on appeal is one of a change in state or federal law; and (2) the commissioner or the local agency notifies the recipient before the action.* The state or county agency has a claim for food stamps ~~and~~, cash payments, *medical assistance, and general assistance medical care* made to *or on behalf of* a recipient or former recipient while an appeal is pending if the recipient or former recipient is determined ineligible for the food stamps ~~and~~, cash payments, *medical assistance, or general assistance medical care* as a result of the appeal, *except for medical assistance and general assistance medical care made on behalf of a recipient pursuant to a court order.*

Sec. 17. Minnesota Statutes 1990, section 256.936, is amended by adding a subdivision to read:

Subd. 5. [APPEALS.] *If the commissioner suspends, reduces, or terminates eligibility for the children's health plan, or services provided under the children's health plan, the commissioner must provide notification according to the laws and rules governing the medical assistance program. A children's health plan applicant or enrollee aggrieved by a determination*

of the commissioner has the right to appeal the determination according to section 256.045.

Sec. 18. Minnesota Statutes 1990, section 256.9365, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM ESTABLISHED.] The commissioner of human services shall establish a program to pay private health plan premiums for persons who have contracted human immunodeficiency virus (HIV) to enable them to continue coverage under a group or individual health plan. If a person is determined to be eligible under subdivision 2, the commissioner shall: *(1)* pay the eligible person's group plan ~~continuation coverage~~ premium for ~~18 months after termination of employment, or~~ *the period of continuation coverage provided in the Consolidated Omnibus Budget Reconciliation Act of 1985; or (2)* pay the eligible person's individual plan premium for 24 months ~~after initial application~~.

Sec. 19. Minnesota Statutes 1990, section 256.9365, subdivision 3, is amended to read:

Subd. 3. [RULES.] The commissioner shall establish rules as necessary to implement the program. Special requirements for the payment of individual plan premiums under subdivision 2, clause (5), must be designed to ensure that the state cost of paying an individual plan premium over a two-year period does not exceed the estimated state cost that would otherwise be incurred in the medical assistance *or general assistance medical care* program.

Sec. 20. [256.656] [DEPOSITS INTO THE GENERAL FUND.]

All money collected under section 256.9657 shall be deposited in the general fund and is appropriated to the commissioner of human services for the purposes of section 256B.82. Deposits do not cancel and are available until expended.

Sec. 21. [256.9657] [PROVIDER SURCHARGES.]

Subdivision 1. [NURSING FACILITY LICENSE SURCHARGE.] *Effective July 1, 1991, each nursing facility subject to the reimbursement principles in Minnesota Rules, parts 9549.0010 to 9549.0080, shall pay to the commissioner an annual surcharge according to the schedule in subdivision 4. The surcharge shall be calculated as $500 per bed licensed on the previous April 1.*

Subd. 2. [HOSPITAL SURCHARGE.] *(a) Effective July 1, 1991, each Minnesota and local trade area hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to ten percent of medical assistance payments issued to that provider for inpatient services according to the schedule in subdivision 4. Medicare crossovers and indigent care payments paid under section 256B.82 are excluded from the amount of medical assistance payments issued.*

(b) Effective July 1, 1991, each Minnesota and local trade area hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to five percent of medical assistance payments issued to that provider for outpatient services according to the schedule in subdivision 4. Medicare crossovers are excluded from the amount of medical assistance payments issued.

Subd. 3. [HEALTH PLAN SURCHARGE.] *Effective July 1, 1991, each health plan under contract with the commissioner shall pay to the commissioner a surcharge equal to the equivalent value of the surcharges described in subdivision 2 for each medical assistance rate cell payment according to the schedule in subdivision 4. The surcharge for each quarter or month of a fiscal year shall be calculated based on the payments due in September of the same fiscal year under subdivision 2.*

Subd. 4. [PAYMENTS INTO THE ACCOUNT.] *Payments to the commissioner under subdivision 1 must be paid in monthly installments due on the 15th of the month beginning August 15, 1991. The monthly payment must be equal to the annual surcharge divided by 12. Payments to the commissioner under subdivisions 2 and 3 must be paid as follows: the first payment is a quarterly payment due September 15, 1991, with subsequent payments due monthly on the fifteenth of each month. The September 15, 1991, payment under subdivisions 2 and 3 shall be determined by taking the amount of medical assistance payments issued to each provider in the calendar quarter beginning six months prior to the quarter in which the payment is due multiplied by the percentage surcharge for each provider. The subsequent monthly payments shall be determined by taking the amount of medical assistance payments issued to each provider in the month beginning six months prior to the month in which the payment is due multiplied by the percentage surcharge for each provider.*

Subd. 5. [NOT ALLOWABLE COST.] *Provider payments to the commissioner under this section are not an allowable cost for purposes of the medical assistance program.*

Subd. 6. [NOTICE; APPEALS.] *At least 30 days prior to the date the payment is due, the commissioner shall give each provider a written notice of each payment due. A provider may request a contested case hearing under chapter 14 within 30 days of receipt of the notice. The decision of the commissioner regarding the amount due stands until the appeal is decided. The provider shall pay the contested payment at the time of appeal with settle-up at the time of appeal resolution.*

Subd. 7. [ENFORCEMENT.] *The commissioner shall bring action in district court to collect provider payments due under subdivisions 1 to 3 that are more than 30 days in arrears.*

Sec. 22. Minnesota Statutes 1990, section 256.9685, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] The commissioner shall establish procedures for determining medical assistance and general assistance medical care payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. The *medical assistance* payment rates must be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of recipients in efficiently and economically operated hospitals. Services must meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), to be eligible for payment.

Sec. 23. Minnesota Statutes 1990, section 256.9686, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] For purposes of this section and sections ~~256.9685,~~ 256.969, and 256.9695, the following terms and phrases have the meanings given.

Sec. 24. Minnesota Statutes 1990, section 256.9686, subdivision 6, is amended to read:

Subd. 6. [HOSPITAL.] "Hospital" means a facility licensed under sections 144.50 to 144.58 ~~or~~, an out-of-state facility licensed *to provide acute care* under the requirements of that state in which it is located, *or an Indian health service facility designated to provide acute care by the federal government.*

Sec. 25. Minnesota Statutes 1990, section 256.969, subdivision 1, is amended to read:

Subdivision 1. [HOSPITAL COST INDEX.] The hospital cost index shall be obtained from an independent source and shall represent a weighted average of historical, *as limited to statutory maximums,* and projected cost change estimates determined for expense categories to include wages and salaries, employee benefits, medical and professional fees, raw food, utilities, insurance including malpractice insurance, and other applicable expenses as determined by the commissioner. The index shall reflect Minnesota cost category weights. Individual indices shall be specific to Minnesota if the commissioner determines that sufficient accuracy of the hospital cost index is achieved. The hospital cost index shall be used to adjust the base year operating payment rate through the rate year on an annually compounded basis. *Notwithstanding section 256.9695, subdivision 3, paragraph (c), the hospital cost index shall not be effective under the general assistance medical care program for admissions occurring during the biennium ending June 30, 1993.*

Sec. 26. Minnesota Statutes 1990, section 256.969, subdivision 2, is amended to read:

Subd. 2. [DIAGNOSTIC CATEGORIES.] The commissioner shall use to the extent possible existing diagnostic classification systems, including the system used by the Medicare program to determine the relative values of inpatient services and case mix indices. The commissioner may combine diagnostic classifications into diagnostic categories and may establish separate categories and numbers of categories based on program eligibility or hospital peer group. Relative values shall be recalculated when the base year is changed ~~and shall not be determined on a hospital specific basis~~. Relative value determinations shall include paid claims for admissions during each hospital's base year. The commissioner may extend the time period forward to obtain sufficiently valid information to establish relative values. Relative value determinations shall not include property cost data, Medicare crossover data, and data ~~from the transferring hospital~~ on *admissions that are paid a per day* transfer ~~discharges, except data on transfer discharges with a burn diagnostic classification or data on transfer discharges for the patient's convenience that have been reported by the hospital to the commissioner by the October 1 preceding the~~ rate ~~year~~ *under subdivision 13.* The computation of the base year cost per admission must include identified outlier cases and their weighted costs up to the point that they become outlier cases, but must exclude costs recognized in outlier payments beyond that point. The commissioner may recategorize the diagnostic classifications and recalculate relative values and case mix indices to reflect actual hospital practices, the specific character of specialty hospitals, or to reduce variances

within the diagnostic categories after notice in the State Register and a 30-day comment period.

Sec. 27. Minnesota Statutes 1990, section 256.969, subdivision 2c, is amended to read:

Subd. 2c. [PROPERTY PAYMENT RATES.] For each hospital's first two consecutive fiscal years beginning on or after July 1, 1988, the commissioner shall limit the annual increase in property payment rates for depreciation, rents and leases, and interest expense to the annual growth in the hospital cost index derived from the methodology in effect on the day before July 1, 1989. When computing budgeted and settlement property payment rates, the commissioner shall use the annual increase in the hospital cost index forecasted by Data Resources, Inc., consistent with the quarter of the hospital's fiscal year end. For admissions occurring on or after the rate year beginning January 1, 1991, the commissioner shall obtain property data from an updated base year and establish property payment rates per admission for each hospital. Property payment rates shall be derived from data from the same base year that is used to establish operating payment rates. The property information shall include cost categories not subject to the hospital cost index and shall reflect the cost-finding methods and allowable costs of the Medicare program ~~in effect during the base year~~. The *base year* property payment ~~rate per admission~~ *rates* shall be adjusted for ~~positive percentage change differences~~ *increases* in the ~~net book value of hospital~~ property ~~and equipment~~ *cost* by increasing the *base year* property payment rate ~~per admission~~ 85 percent of the percentage change from the base year through the ~~most recent~~ year ~~ending prior to the rate year~~ for which ~~required information is available~~ *a Medicare cost report has been submitted to the Medicare program and filed with the department by the October 1 before the rate year*. ~~The percentage change shall be derived from equivalent audited information in both years and shall be adjusted to account for changes in generally accepted accounting principles, reclassification of assets, allocations to nonhospital areas, and fiscal years.~~ The ~~cost, audit, and charge data used to establish~~ property rates shall only reflect inpatient services covered by medical assistance ~~and shall not include operating cost information. To be eligible for the property payment rate per admission adjustment, the hospital must provide the necessary information to the commissioner, in a format specified by the commissioner, by the October 1 preceding the rate year.~~ The commissioner shall adjust rates for the rate year beginning January 1, 1991, to ensure that all hospitals are subject to the hospital cost index limitation for two complete years.

Sec. 28. Minnesota Statutes 1990, section 256.969, subdivision 3a, is amended to read:

Subd. 3a. [PAYMENTS.] Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. To establish interim rates, the commissioner is exempt from the requirements of chapter 14. Medical assistance reimbursement for treatment of mental illness shall be reimbursed based on diagnostic classifications. The commissioner may selectively contract with hospitals for services within the diagnostic categories relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to use a hospital under contract

with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Individual hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party *and recipient* liability, for ~~admissions~~ *discharges* occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation ~~is not applicable and~~ shall ~~not~~ be calculated ~~to include~~ *separately for medical assistance and* general assistance medical care services. *The limitation on general assistance medical care shall be effective for admissions occurring on or after July 1, 1991.* Services that have rates established under subdivision 6a, paragraph (a), clause (5) or (6), must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.

Sec. 29. Minnesota Statutes 1990, section 256.969, subdivision 6a, is amended to read:

Subd. 6a. [SPECIAL CONSIDERATIONS.] ~~(a)~~ In determining the payment rates, the commissioner shall consider whether the ~~following~~ circumstances *in subdivisions 7 to 14* exist~~:~~.

~~(1)~~ *Subd. 7.* [MINIMAL MEDICAL ASSISTANCE USE.] Minnesota hospitals with 30 or fewer annualized admissions of Minnesota medical assistance recipients in the base year, excluding Medicare crossover admissions, may have the base year operating rates, as adjusted by the case mix index, and property payment rates established at the 70th percentile of hospitals in the peer group in effect during the base year as established by the Minnesota department of health for use by the rate review program. Rates within a peer group shall be adjusted for differences in fiscal years and outlier percentage payments before establishing the 70th percentile. The operating payment rate portion of the 70th percentile shall be adjusted by the hospital cost index. To have rates established under this paragraph, the hospital must notify the commissioner in writing by November 1 of the year preceding the rate year. ~~This paragraph shall be applied to all payment~~

~~rates of the affected hospital.~~

~~(2)~~ *Subd. 8.* [UNUSUAL COST OR LENGTH OF STAY EXPERIENCE.] The commissioner shall establish day and cost outlier thresholds for each diagnostic category established under subdivision 2 at two standard deviations beyond the ~~geometric~~ mean length of stay or allowable cost. Payment for the days and cost beyond the outlier threshold shall be in addition to the operating and property payment rates per admission established under subdivisions 2, 2b, and 2c. Payment for outliers shall be at 70 percent of the allowable operating cost ~~calculated by dividing the operating payment rate per admission~~, after adjustment by the case mix index, hospital cost index, relative values and the disproportionate population adjustment~~, by the arithmetic mean length of stay for the diagnostic category~~. The outlier threshold for neonatal and burn diagnostic categories shall be established at one standard deviation beyond the ~~geometric~~ mean length of stay or allowable cost, and payment shall be at 90 percent of allowable operating cost calculated in the same manner as other outliers. A hospital may choose an alternative ~~percentage~~ *to the 70 percent* outlier payment ~~to~~ *that is at* a minimum of 60 percent and a maximum of 80 percent if the commissioner is notified in writing of the request by October 1 of the year preceding the rate year. The chosen percentage applies to all diagnostic categories except burns and neonates. The percentage of allowable cost that is unrecognized by the outlier payment shall be added back to the base year operating payment rate per admission. Cost outliers shall be calculated using hospital specific allowable cost data. If a stay is both a day and a cost outlier, outlier payments shall be based on the higher outlier payment.

~~(3)~~ *Subd. 9.* [DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS SERVED.] For admissions occurring on or after July 1, 1989, the medical assistance disproportionate population adjustment shall comply with federal law at fully implemented rates. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. ~~For admissions occurring on or after the rate year beginning January 1, 1991, the disproportionate population adjustment shall be derived from base year Medicare cost report data and may be adjusted by data reflecting actual claims paid by the department.~~

~~(4)~~ *Subd. 10.* [SEPARATE BILLING BY CERTIFIED REGISTERED NURSE ANESTHETISTS.] Hospitals may exclude certified registered nurse anesthetist costs from the operating payment rate as allowed by section 256B.0625, subdivision 11. To be eligible, a hospital must notify the commissioner in writing by October 1 of the year preceding the rate year of the request to exclude certified registered nurse anesthetist costs. The hospital must agree that all hospital claims for the cost and charges of certified registered nurse anesthetist services will not be included as part of the rates for inpatient services provided during the rate year. In this case, the operating payment rate shall be adjusted to exclude the cost of certified registered nurse anesthetist services. Payments made through separate claims for certified registered nurse anesthetist services shall not be paid directly through the hospital provider number or indirectly by the certified registered nurse anesthetist to the hospital or related organizations.

For admissions occurring on or after July 1, 1991, and until the expiration date of section 256.9695, subdivision 3, services of certified registered nurse anesthetists provided on an inpatient basis may be paid as allowed by section 256B.0625, subdivision 11, when the hospital's base year did

not include the cost of these services. To be eligible, a hospital must notify the commissioner in writing by July 1, 1991, of the request and must comply with all other requirements of this subdivision.

~~(5)~~ *Subd. 11.* [SPECIAL RATES.] The commissioner may establish special rate-setting methodologies, including a per day operating and property payment system, for hospice, ventilator dependent, and other services on a hospital and recipient specific basis taking into consideration such variables as federal designation, program size, and admission from a medical assistance waiver or home care program. The data and rate calculation method shall conform to the requirements of ~~paragraph (7)~~ *subdivision 13*, except that *rates shall not be standardized by the case mix index or adjusted by relative values and* hospice rates shall not exceed the amount allowed under federal law ~~and payment shall be secondary to any other medical assistance hospice program~~. Rates and payments established under this ~~paragraph~~ *subdivision* must meet the requirements of section 256.9685, subdivisions 1 and 2~~, and must not exceed payments that would otherwise be made to a hospital in total for rate year admissions under subdivisions 2, 2b, 2c, 3, 4, 5, and 6~~. The cost and charges used to establish rates shall only reflect inpatient medical assistance covered services. Hospital and claims data that are used to establish rates under this ~~paragraph~~ *subdivision* shall not be used to establish payments or relative values under subdivisions 2, 2b, 2c, ~~3, 4, 5~~ *3a, 4a, 5a*, and ~~6~~ *7 to 14*.

~~(6)~~ *Subd. 12.* [REHABILITATION DISTINCT PARTS.] Units of hospitals that are recognized as rehabilitation distinct parts by the Medicare program shall have separate provider numbers under the medical assistance program for rate establishment and billing purposes only. These units shall also have operating and property payment rates and the disproportionate population adjustment, *if allowed by federal law,* established separately from other inpatient hospital services~~, based on the methods of subdivisions 2, 2b, 2c, 3, 4, 5, and 6~~. The commissioner may establish separate relative values under subdivision 2 for rehabilitation hospitals and distinct parts as defined by the Medicare program. For individual hospitals that did not have separate medical assistance rehabilitation provider numbers or rehabilitation distinct parts in the base year, hospitals shall provide the information needed to separate rehabilitation distinct part cost and claims data from other inpatient service data.

~~(7)~~ *Subd. 13.* [NEONATAL TRANSFERS.] For admissions occurring on or after July 1, 1989, neonatal diagnostic category transfers shall have operating and property payment rates established at receiving hospitals which have neonatal intensive care units on a per day payment system that is based on the cost finding methods and allowable costs of the Medicare program during the base year. Other neonatal diagnostic category transfers shall have rates established according to ~~paragraph (8)~~ *subdivision 14*. The rate per day for the neonatal service setting within the hospital shall be determined by dividing base year neonatal allowable costs by neonatal patient days. The operating payment rate portion of the rate shall be adjusted by the hospital cost index and the disproportionate population adjustment. *For admissions occurring after the transition period specified in section 256.9695, subdivision 3, the operating payment rate portion of the rate shall be standardized by the case mix index and adjusted by relative values.* The cost and charges used to establish rates shall only reflect inpatient services covered by medical assistance. Hospital and claims data used to establish rates under this ~~paragraph~~ *subdivision* shall not be used to establish

~~payments or relative values~~ *rates* under subdivisions 2, 2b, 2c, ~~3, 4, 5~~ *3a, 4a, 5a*, and ~~6~~ *7 to 14*.

~~(8)~~ *Subd. 14.* [TRANSFERS.] Except as provided in ~~paragraphs (5)~~ *subdivisions 11* and ~~(7)~~ *13*, operating and property payment rates for admissions that result in transfers and transfers shall be established on a per day payment system. The per day payment rate shall be the sum of the adjusted operating and property payment rates determined ~~in~~ *under this subdivision and* subdivisions *2*, 2b ~~and~~, 2c, *3a, 4a, 5a, and 7 to 12*, divided by the arithmetic mean length of stay for the diagnostic category. Each admission that results in a transfer and each transfer is considered a separate admission to each hospital, and the total of the admission and transfer payments to each hospital must not exceed the total per admission payment that would otherwise be made to each hospital under ~~paragraph (2) and~~ *this subdivision and* subdivisions *2*, 2b ~~and~~, 2c, *3a, 4a, 5a, and 7 to 13*.

~~(b)~~ *Subd. 15.* [ROUTINE SERVICE COST LIMITATION; APPLICABILITY.] The computation of each hospital's payment rate and the relative values of the diagnostic categories are not subject to the routine service cost limitation imposed under the Medicare program.

~~(c)~~ *Subd. 16.* [INDIAN HEALTH SERVICE FACILITIES.] Indian health service facilities are exempt from the rate establishment methods required by this section and shall be reimbursed at ~~the facility's usual and customary~~ charges ~~to the general public~~ *as limited to the amount allowed under federal law*. This exemption is not effective for payments under general assistance medical care.

~~(d)~~ *Subd. 17.* [OUT-OF-STATE HOSPITALS IN LOCAL TRADE AREAS.] ~~Except as provided in paragraph (a), clauses (1) and (3),~~ Out-of-state hospitals that are located within a Minnesota local trade area shall have rates established using the same procedures and methods that apply to Minnesota hospitals. *For this subdivision and subdivision 18, local trade area means a county contiguous to Minnesota*. Hospitals that are not required by law to file information in a format necessary to establish rates shall have rates established based on the commissioner's estimates of the information. Relative values of the diagnostic categories shall not be redetermined under this ~~paragraph~~ *subdivision* until required by rule. Hospitals affected by this ~~paragraph~~ *subdivision* shall then be included in determining relative values. However, hospitals that have rates established based upon the commissioner's estimates of information shall not be included in determining relative values. This ~~paragraph~~ *subdivision* is effective for hospital fiscal years beginning on or after July 1, 1988. A hospital shall provide the information necessary to establish rates under this ~~paragraph~~ *subdivision* at least 90 days before the start of the hospital's fiscal year.

~~(e)~~ *Subd. 18.* [OUT-OF-STATE HOSPITALS OUTSIDE LOCAL TRADE AREAS.] Hospitals that are not located within Minnesota or a Minnesota local trade area shall have operating and property rates established at the average of statewide and local trade area rates or, at the commissioner's discretion, at an amount negotiated by the commissioner. Relative values shall not include data from hospitals that have rates established under this ~~paragraph~~ *subdivision*. Payments, including third party *and recipient* liability, established under this ~~paragraph~~ *subdivision* may not exceed the charges on a claim specific basis for inpatient services that are covered by medical assistance.

~~(f)~~ *Subd. 19.* [METABOLIC DISORDER TESTING OF MEDICAL

ASSISTANCE RECIPIENTS.] Medical assistance inpatient payment rates must include the cost incurred by hospitals to pay the department of health for metabolic disorder testing of newborns who are medical assistance recipients, if the cost is not recognized by another payment source.

~~(g)~~ *Subd. 20.* [INCREASES IN MEDICAL ASSISTANCE INPATIENT PAYMENTS; CONDITIONS.] *(a)* Medical assistance inpatient payments shall increase 20 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

~~(h)~~ *(b)* Medical assistance inpatient payments shall increase 15 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

~~(i)~~ *Subd. 21.* [MENTAL HEALTH OR CHEMICAL DEPENDENCY ADMISSIONS; RATES.] Admissions occurring on or after July 1, 1990, that are classified to a diagnostic category of mental health or chemical dependency shall have rates established according to the methods of ~~paragraph (a), clause (8)~~ *subdivision 14*, except the per day rate shall be multiplied by a factor of 2, provided that the total of the per day rates shall not exceed the per admission rate. This methodology shall also apply when a hold or commitment is ordered by the court for the days that inpatient hospital services are medically necessary. Stays which are medically necessary for inpatient hospital services and covered by medical assistance shall not be billable to any other governmental entity. Medical necessity shall be determined under criteria established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b).

Sec. 30. Minnesota Statutes 1990, section 256.9695, subdivision 1, is amended to read:

Subdivision 1. [APPEALS.] A hospital may appeal a decision arising from the application of standards or methods under section 256.9685, 256.9686, or 256.969, if an appeal would result in a change to the hospital's payment rate or payments. Both overpayments and underpayments that result from the submission of appeals shall be implemented. Regardless of any appeal outcome, relative values shall not be recalculated. The appeal shall be heard by an administrative law judge according to sections ~~14.48~~ *14.57* to ~~14.56~~ *14.62*, or upon agreement by both parties, according to a modified appeals procedure established by the commissioner and the office of administrative hearings. In any proceeding under this section, the appealing party must demonstrate by a preponderance of the evidence that the commissioner's determination is incorrect or not according to law.

(a) To appeal a payment rate or payment determination or a determination made from base year information, the hospital shall file a written appeal request to the commissioner within 60 days of the date the payment rate determination was mailed. The appeal request shall specify: (i) the disputed items; (ii) the authority in federal or state statute or rule upon which the hospital relies for each disputed item; and (iii) the name and address of the person to contact regarding the appeal. ~~A change to a payment rate or payments that results from a successful appeal to the Medicare program of the base year information establishing rates for the rate year beginning in 1991 and after is a prospective adjustment to subsequent rate years.~~ After December 31, 1990, payment rates shall not be adjusted for appeals of base year information that affect years prior to the rate year beginning January 1, 1991. Facts to be considered in any appeal of base year information are limited to those in existence at the time the payment rates of the first rate year were established from the base year information. In the case of Medicare settled appeals, the 60-day appeal period shall begin on the mailing date of the notice by the Medicare program or the date the medical assistance payment rate determination notice is mailed, whichever is later.

(b) To appeal a payment rate or payment change that results from a difference in case mix between the base year and a rate year, the procedures and requirements of paragraph (a) apply. However, the appeal must be filed with the commissioner within 120 days after the end of a rate year. A case mix appeal must apply to the cost of services to all medical assistance patients that received inpatient services from the hospital during the rate year appealed.

Sec. 31. Minnesota Statutes 1990, section 256B.031, subdivision 4, is amended to read:

Subd. 4. [PREPAID HEALTH PLAN RATES.] For payments made during calendar year 1988, the monthly maximum allowable rate established by the commissioner of human services for payment to prepaid health plans must not exceed 90 percent of the projected average monthly per capita fee-for-service medical assistance costs for state fiscal year 1988 for recipients of aid to families with dependent children. The base year for projecting the average monthly per capita fee-for-service medical assistance costs is state fiscal year 1986. A maximum allowable per capita rate must be established collectively for Anoka, Carver, Dakota, Hennepin, Ramsey, St. Louis, Scott, and Washington counties. A separate maximum allowable per capita rate must be established collectively for all other counties. The maximum allowable per capita rate may be adjusted to reflect utilization differences among eligible classes of recipients. For payments made during calendar year 1989, the maximum allowable rate must be calculated in the same way as 1988 rates, except the base year is state fiscal year 1987. For payments made during calendar year 1990 and later years, the commissioner shall ~~contract~~ *consult* with an independent actuary ~~to establish~~ *in establishing* prepayment rates, *but shall retain final control over the rate methodology.* Rates established for prepaid health plans must be based on the services that the prepaid health plan provides under contract with the commissioner.

Sec. 32. Minnesota Statutes 1990, section 256B.031, is amended by adding a subdivision to read:

Subd. 11. [LIMITATION ON REIMBURSEMENT TO PROVIDERS NOT AFFILIATED WITH A PREPAID HEALTH PLAN.] *A prepaid health plan may limit any reimbursement it may be required to pay to providers*

not employed by or under contract with the prepaid health plan to the medical assistance rates for medical assistance enrollees, and the general assistance medical care rates for general assistance medical care enrollees, paid by the commissioner of human services to providers for services to recipients not enrolled in a prepaid health plan.

Sec. 33. Minnesota Statutes 1990, section 256B.055, subdivision 10, is amended to read:

Subd. 10. [INFANTS.] Medical assistance may be paid for an infant less than one year of age ~~born on or after October 1, 1984~~, whose mother was eligible *for and receiving medical assistance* at the time of birth and who remains in the mother's household *or who is in a family with countable income that is equal to or less than the income standard established under section 256B.057, subdivision 1.* ~~Eligibility under this subdivision is concurrent with the mother's and does not depend on the father's income except as the income affects the mother's eligibility.~~

Sec. 34. Minnesota Statutes 1990, section 256B.055, subdivision 12, is amended to read:

Subd. 12. [DISABLED CHILDREN.] (a) A person is eligible for medical assistance if the person is under age 19 and qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance under the state plan if residing in a medical institution, and who requires a level of care provided in a hospital, skilled nursing facility, intermediate care facility, or intermediate care facility for persons with mental retardation or related conditions, for whom home care is appropriate, provided that the cost to medical assistance for home care services is not more than the amount that medical assistance would pay for appropriate institutional care.

(b) For purposes of this subdivision, "hospital" means an acute care institution as defined in section 144.696, subdivision 3, licensed pursuant to sections 144.50 to 144.58, which is appropriate if a person is technology dependent or has a chronic health condition which requires frequent intervention by a health care professional to avoid death.

(c) For purposes of this subdivision, "skilled nursing facility" and "intermediate care facility" means a facility which provides nursing care as defined in section 144A.01, subdivision 5, licensed pursuant to sections 144A.02 to 144A.10, which is appropriate if a person is in active restorative treatment; is in need of special treatments provided or supervised by a licensed nurse; or has unpredictable episodes of active disease processes requiring immediate judgment by a licensed nurse.

(d) For purposes of this subdivision, "intermediate care facility for the mentally retarded" or "ICF/MR" means a program licensed to provide services to persons with mental retardation under section 252.28, and chapter 245A, and a physical plant licensed as a supervised living facility under chapter 144, which together are certified by the Minnesota department of health as meeting the standards in Code of Federal Regulations, title 42, part 483, for an intermediate care facility which provides services for persons with mental retardation or persons with related conditions who require 24-hour supervision and active treatment for medical, behavioral, or habilitation needs.

(e) For purposes of this subdivision, a person "requires a level of care provided in a hospital, skilled nursing facility, intermediate care facility,

or intermediate care facility for persons with mental retardation or related conditions" if the person requires 24-hour supervision because the person exhibits suicidal or homicidal ideation or behavior, psychosomatic disorders or somatopsychic disorders that may become life threatening, severe socially unacceptable behavior associated with psychiatric disorder, psychosis or severe developmental problems requiring continuous skilled observation, or disabling symptoms that do not respond to office-centered outpatient treatment.

The determination of the level of care needed by the child shall be made by the commissioner based on information supplied to the commissioner by the case manager if the child has one, the parent or guardian, the child's physician or physicians or, if available, the screening information obtained under section 256B.092.

Sec. 35. Minnesota Statutes 1990, section 256B.057, subdivision 1, is amended to read:

Subdivision 1. [PREGNANT WOMEN AND INFANTS.] An infant less than one year of age or a pregnant woman who has written verification of a positive pregnancy test from a physician or licensed registered nurse, is eligible for medical assistance if countable family income is equal to or less than 185 percent of the federal poverty guideline for the same family size. Eligibility for a pregnant woman or infant less than one year of age under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3. ~~Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.~~

An infant born on or after January 1, 1991, to a woman who was eligible for and receiving medical assistance on the date of the child's birth shall continue to be eligible for medical assistance without redetermination until the child's first birthday, as long as the child remains in the woman's household.

Sec. 36. Minnesota Statutes 1990, section 256B.057, subdivision 2, is amended to read:

Subd. 2. [CHILDREN.] A child one through five years of age in a family whose countable income is less than 133 percent of the federal poverty guidelines for the same family size, is eligible for medical assistance. A child six through ~~seven~~ *18* years of age, who was born after September 30, 1983, in a family whose countable income is less than 100 percent of the federal poverty guidelines for the same family size is eligible for medical assistance. Eligibility for children under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3. ~~Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.~~

Sec. 37. Minnesota Statutes 1990, section 256B.057, subdivision 3, is amended to read:

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

and deductibles, and cost-effective premiums for enrollment with a health maintenance organization or a competitive medical plan under section 1876 of the Social Security Act. The income limit shall be increased to 90 percent of the federal poverty guidelines on January 1, 1990; *and* to ~~95~~ *100* percent on January 1, 1991~~; and to 100 percent on January 1, 1992~~. Reimbursement of the Medicare coinsurance and deductibles, when added to the amount paid by Medicare, must not exceed the total rate the provider would have received for the same service or services if the person were a medical assistance recipient with Medicare coverage. ~~Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.~~ *Increases in benefits under Title II of the Social Security Act shall not be counted as income for purposes of this subdivision until the first day of the second full month following publication of the change in the federal poverty guidelines.*

Sec. 38. Minnesota Statutes 1990, section 256B.057, subdivision 4, is amended to read:

Subd. 4. [QUALIFIED WORKING DISABLED ADULTS.] A person who is entitled to Medicare Part A benefits under section 1818A of the Social Security Act; whose income does not exceed 200 percent of the federal poverty guidelines for the applicable family size; whose nonexempt assets do not exceed twice the maximum amount allowable under the supplemental security income program, according to family size; and who is not otherwise eligible for medical assistance, is eligible for medical assistance reimbursement of the Medicare Part A premium. ~~Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.~~

Sec. 39. Minnesota Statutes 1990, section 256B.057, is amended by adding a subdivision to read:

Subd. 6. [DISABLED WIDOWS AND WIDOWERS.] *A person who is at least 50 years old who is entitled to disabled widow's or widower's benefits under United States Code, title 42, section 402(e) or (f), who is not entitled to Medicare Part A, and who received supplemental security income or Minnesota supplemental aid in the month before the month the widow's or widower's benefits began, is eligible for medical assistance as long as the person would be entitled to supplemental security income or Minnesota supplemental aid in the absence of the widow's or widower's benefits.*

Sec. 40. Minnesota Statutes 1990, section 256B.0575, is amended to read:

256B.0575 [AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.]

When an institutionalized person is determined eligible for medical assistance, the income that exceeds the deductions in paragraphs (a) and (b) must be applied to the cost of institutional care.

(a) The following amounts must be deducted from the institutionalized person's income in the following order:

(1) the personal needs allowance under section 256B.35 *or, for a veteran who does not have a spouse or child, the amount of his or her veteran's pension not exceeding $90 per month*;

(2) the personal allowance for disabled individuals under section 256B.36;

(3) if the institutionalized person has a legally appointed guardian or conservator, five percent of the recipient's gross monthly income up to $100 as reimbursement for guardianship or conservatorship services;

(4) a monthly income allowance determined under section 256B.058, subdivision 2, but only to the extent income of the institutionalized spouse is made available to the community spouse;

(5) a monthly allowance for children under age 18 which, together with the net income of the children, would provide income equal to the medical assistance standard *for families and children according to section 256B.056, subdivision 4*, for a family size that includes only the minor children. This deduction applies only if the children do not live with the community spouse and only if the children resided with the institutionalized person immediately prior to admission;

(6) a monthly family allowance for other family members, equal to one-third of the difference between 122 percent of the federal poverty guidelines and the monthly income for that family member; ~~and~~

(7) *reparations payments made by the Federal Republic of Germany; and*

(8) amounts for reasonable expenses incurred for necessary medical or remedial care for the institutionalized spouse that are not medical assistance covered expenses and that are not subject to payment by a third party.

For purposes of clause (6), "other family member" means a person who resides with the community spouse and who is a minor or dependent child, dependent parent, or dependent sibling of either spouse. "Dependent" means a person who could be claimed as a dependent for federal income tax purposes under the Internal Revenue Code.

(b) Income shall be allocated to an institutionalized person for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if:

(1) a physician certifies that the person is expected to reside in the long-term care facility for three calendar months or less;

(2) if the person has expenses of maintaining a residence in the community; and

(3) if one of the following circumstances apply:

(i) the person was not living together with a spouse or a family member as defined in paragraph (a) when the person entered a long-term care facility; or

(ii) the person and the person's spouse become institutionalized on the same date, in which case the allocation shall be applied to the income of one of the spouses.

For purposes of this paragraph, a person is determined to be residing in a licensed nursing home, regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.

Sec. 41. Minnesota Statutes 1990, section 256B.0625, subdivision 4, is amended to read:

Subd. 4. [OUTPATIENT AND *PHYSICIAN-DIRECTED* CLINIC SERVICES.] Medical assistance covers outpatient hospital or physician-directed clinic services. The physician-directed clinic staff shall include at least two physicians and all services shall be provided under the direct supervision of a physician. Hospital outpatient departments are subject to the same limitations and reimbursements as other enrolled vendors for all services, except initial triage, emergency services, and services not provided or immediately available in clinics, physicians' offices, or by other enrolled providers. ~~A second medical opinion is required before reimbursement for elective surgeries requiring a second opinion. The commissioner shall publish in the State Register a list of elective surgeries that require a second medical opinion before reimbursement and the criteria and standards for deciding whether an elective surgery should require a second surgical opinion. The list and the criteria and standards are not subject to the requirements of sections 14.001 to 14.69. The commissioner's decision whether a second medical opinion is required, made in accordance with rules governing that decision, is not subject to administrative appeal.~~ "Emergency services" means those medical services required for the immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death or are necessary to alleviate severe pain. Neither the hospital, its employees, nor any physician or dentist, shall be liable in any action arising out of a determination not to render emergency services or care if reasonable care is exercised in determining the condition of the person, or in determining the appropriateness of the facilities, or the qualifications and availability of personnel to render these services consistent with this section.

Sec. 42. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

Subd. 4a. [SECOND MEDICAL OPINION FOR SURGERY.] *Certain surgeries require a second medical opinion to confirm the necessity of the procedure, in order for reimbursement to be made. The commissioner shall publish in the State Register a list of surgeries that require a second medical opinion and the criteria and standards for deciding whether a surgery should require a second medical opinion. The list and the criteria and standards are not subject to the requirements of sections 14.01 to 14.69. The commissioner's decision about whether a second medical opinion is required, made according to rules governing that decision, is not subject to administrative appeal.*

Sec. 43. Minnesota Statutes 1990, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs if prescribed by a licensed practitioner *and dispensed by a licensed pharmacist, or by a physician enrolled in the medical assistance program as a dispensing physician*. The commissioner shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three

of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two-year terms and shall serve without compensation. The commissioner ~~may~~ *shall* establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. *The formulary committee shall review and recommend drugs which require prior authorization.* Prior authorization may be required by the commissioner~~, with the consent of the drug formulary committee,~~ before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, *products for the treatment of lice,* and vitamins for children under the age of seven and pregnant or nursing women; or any other over-the-counter drug identified by the commissioner, in consultation with the ~~appropriate professional consultants under contract with or employed by the state agency,~~ *drug formulary committee* as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the administrative procedure act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow milk, and soy formula, or any other childhood or adult diseases, conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Separate payment shall not be made for nutritional products for residents of long-term care facilities; payment for dietary requirements is a component of the per diem rate paid to these facilities. Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and the commissioner's determination shall not be subject to chapter 14, the administrative procedure act. The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(b) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner, the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee or the usual and customary price charged to the public. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug may be estimated by the commissioner. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the administrative procedure act. An additional dispensing fee of $.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug.

The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. *The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply.* Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written - *brand necessary*" on the prescription as required by section 151.21, subdivision 2. Implementation of any change in the fixed dispensing fee that has not been subject to the administrative procedure act is limited to not more than 180 days, unless, during that time, the commissioner initiates rulemaking through the administrative procedure act.

Sec. 44. Minnesota Statutes 1990, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. [TRANSPORTATION COSTS.] (a) Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this subdivision, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory.

(b) *Medical assistance covers* special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, *if the provider receives and maintains a current physician's order by the recipient's attending physician. The commissioner shall establish maximum medical assistance reimbursement rates for special transportation services for persons who need a wheelchair lift van or stretcher-equipped vehicle and for those who do not need a wheelchair lift van or stretcher-equipped vehicle. The average of these two rates must not exceed $12.50 for the base rate and $1 per mile. Special transportation* provided to nonambulatory persons who do not need a wheelchair lift van or stretcher-equipped vehicle, may be reimbursed at a lower rate than special transportation provided to persons who need a wheelchair lift van or stretcher-equipped vehicle.

Sec. 45. Minnesota Statutes 1990, section 256B.0625, subdivision 19, is amended to read:

Subd. 19. [PERSONAL CARE ASSISTANTS.] Medical assistance covers personal care assistant services provided by an individual, not a relative, who is qualified to provide the services, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse. Payments to personal care assistants shall be adjusted annually to reflect changes in the cost of living or of providing services by the average annual adjustment granted to vendors such as nursing homes and home health agencies. *The commissioner shall not provide an annual inflation adjustment for the fiscal year ending June 30, 1993.*

Sec. 46. Minnesota Statutes 1990, section 256B.0625, subdivision 24, is amended to read:

Subd. 24. [OTHER MEDICAL OR REMEDIAL CARE.] Medical assistance covers any other medical or remedial care licensed and recognized under state law unless otherwise prohibited by law, except licensed chemical dependency treatment programs or primary treatment or extended care treatment units in hospitals that are covered under ~~Laws 1986, chapter 394, sections 8 to 20~~ *chapter 254B*. The commissioner shall include chemical dependency services in the state medical assistance plan for federal reporting purposes, but payment must be made under ~~Laws 1986, chapter 394, sections 8 to 20~~ *chapter 254B*. The commissioner shall publish in the State Register a list of elective surgeries that require a second medical opinion before medical assistance reimbursement, and the criteria and standards for deciding whether an elective surgery should require a second medical opinion. The list and criteria and standards are not subject to the requirements of sections 14.01 to 14.69.

Sec. 47. Minnesota Statutes 1990, section 256B.0625, subdivision 25, is amended to read:

Subd. 25. [~~SECOND OPINION OR~~ PRIOR AUTHORIZATION REQUIRED.] The commissioner shall publish in the State Register a list of health services that require prior authorization, as well as the criteria and standards used to select health services on the list. The list and the criteria and standards used to formulate it are not subject to the requirements of sections 14.001 to 14.69. The commissioner's decision whether prior authorization is required for a health service ~~or a second medical opinion is required for an elective surgery~~ is not subject to administrative appeal.

Sec. 48. Minnesota Statutes 1990, section 256B.0625, subdivision 28, is amended to read:

Subd. 28. [CERTIFIED ~~PEDIATRIC OR FAMILY~~ NURSE PRACTITIONER SERVICES.] Medical assistance covers services performed by a certified pediatric nurse practitioner ~~or~~, a certified family nurse practitioner, *a certified adult nurse practitioner, or a certified geriatric nurse practitioner* in independent practice, if the services are otherwise covered under this chapter as a physician service, and if the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171.

Sec. 49. Minnesota Statutes 1990, section 256B.0625, subdivision 30, is amended to read:

Subd. 30. [OTHER CLINIC SERVICES.] *(a)* Medical assistance covers rural health clinic *services*, federally qualified health center *services*, ~~and~~ nonprofit community health clinic services, *public health clinic services, and the services of a clinic meeting the criteria established in rule by the commissioner*. Rural health clinic services and federally qualified health center services mean services defined in United States Code, title 42, section 1396d(a)(2)(B) and (C). Payment for rural health clinic and federally qualified health center services shall be made according to applicable federal law and regulation.

(b) A federally qualified health center that is beginning initial operation shall submit an estimate of budgeted costs and visits for the initial reporting period in the form and detail required by the commissioner. A federally qualified health center that is already in operation shall submit an initial report using actual costs and visits for the initial reporting period. Within 90 days of the end of its reporting period, a federally qualified health center

shall submit, in the form and detail required by the commissioner, a report of its operations, including allowable costs actually incurred for the period and the actual number of visits for services furnished during the period, and other information required by the commissioner. Federally qualified health centers that file Medicare cost reports shall provide the commissioner with a copy of the most recent Medicare cost report filed with the Medicare program intermediary for the reporting year which support the costs claimed on their cost report to the state.

Sec. 50. Minnesota Statutes 1990, section 256B.08, is amended by adding a subdivision to read:

Subd. 3. [OUTREACH LOCATIONS.] *The local agency must establish locations, other than those used to process applications for cash assistance, to receive and perform initial processing of applications for pregnant women and children who want medical assistance only. At a minimum, these locations must be in federally qualified health centers and in hospitals that receive disproportionate share adjustments under section 256.969, subdivision 8, except that hospitals located outside of this state that receive the disproportionate share adjustment are not included. Initial processing of the application need not include a final determination of eligibility. Local agencies shall designate a person or persons within the agency who will receive the applications taken at an outreach location and the local agency will be responsible for timely determination of eligibility.*

Sec. 51. Minnesota Statutes 1990, section 256B.19, subdivision 1, is amended to read:

Subdivision 1. [DIVISION OF COST.] The ~~cost~~ *state and county share* of medical assistance ~~paid by each county of financial responsibility~~ *costs not paid by federal funds* shall be ~~borne~~ as follows:

(1) ninety percent ~~of the expense of assistance not paid by federal funds available for that purpose shall be paid by the~~ state *funds* and ten percent ~~shall be paid by the~~ county ~~of financial responsibility~~ *funds, unless otherwise provided below;*

(2) beginning January 1, 1992, 50 percent state funds and 50 percent county funds for the cost of placement of severely emotionally disturbed children in regional treatment centers.

For counties that participate in a Medicaid demonstration project under sections 256B.69 and 256B.71, the division of the nonfederal share of medical assistance expenses for payments made to prepaid health plans or for payments made to health maintenance organizations in the form of prepaid capitation payments, this division of medical assistance expenses shall be 95 percent by the state and five percent by the county of financial responsibility.

~~Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision from January 1, 1991, on. Payment to counties under this subdivision is subject to the provisions of section 256.017.~~

In counties where prepaid health plans are under contract to the commissioner to provide services to medical assistance recipients, the cost of court ordered treatment ordered without consulting the prepaid health plan that does not include diagnostic evaluation, recommendation, and referral for treatment by the prepaid health plan is the responsibility of the county

of financial responsibility.

Sec. 52. Minnesota Statutes 1990, section 256B.19, is amended by adding a subdivision to read:

Subd. 1a. [STATE REIMBURSEMENT OF COUNTIES.] *Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on and after January 1, 1991, except for costs described in subdivision 1, clause (2). Payment to counties under this subdivision is subject to the provisions of section 256.017.*

Sec. 53. Minnesota Statutes 1990, section 256B.19, is amended by adding a subdivision to read:

Subd. 2c. [OBLIGATION OF LOCAL AGENCY TO INVESTIGATE AND DETERMINE ELIGIBILITY FOR MEDICAL ASSISTANCE.] *(a) When the commissioner receives information that indicates that a general assistance medical care recipient or children's health plan enrollee may be eligible for medical assistance, the commissioner may notify the appropriate local agency of that fact. The local agency must investigate eligibility for medical assistance and take appropriate action and notify the commissioner of that action within 90 days from the date notice is issued. If the person is eligible for medical assistance, the local agency must find eligibility retroactively to the date on which the person met all eligibility requirements.*

(b) When a prepaid health plan under a contract with the state to provide medical assistance services notifies the commissioner that an infant has been or will be born to an enrollee under the contract, the commissioner may notify the appropriate local agency of that fact. The local agency must investigate eligibility for medical assistance for the infant, take appropriate action, and notify the commissioner of that action within 90 days from the date notice is issued. If the infant would have been eligible on the date of birth, the local agency must establish eligibility retroactively to that month.

(c) For general assistance medical care recipients and children's health plan enrollees, if the local agency fails to comply with paragraph (a), the local agency is responsible for the entire cost of general assistance medical care or children's health plan services provided from the date the commissioner issues the notice until the date the local agency takes appropriate action on the case and notifies the commissioner of the action. For infants, if the local agency fails to comply with paragraph (b), the commissioner may determine eligibility for medical assistance for the infant for a period of two months, and the local agency shall be responsible for the entire cost of medical assistance services provided for that infant, in addition to a fee of $100 for processing the case. The commissioner shall deduct any obligation incurred under this paragraph from the amount due to the local agency under subdivision 1.

Sec. 54. Minnesota Statutes 1990, section 256B.431, subdivision 2l, is amended to read:

Subd. 2l. [INFLATION ADJUSTMENTS AFTER JULY 1, 1990.] *(a)* For rate years beginning on or after July 1, 1990, the forecasted composite price index for a nursing home's allowable operating cost per diems shall be determined using Data Resources, Inc., forecast for change in the Nursing Home Market Basket. The commissioner of human services shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

(b) For rate years beginning on or after July 1, 1992, the commissioner shall index the prior year's operating cost limits by the percentage change in the Data Resources, Inc., nursing home market basket between the midpoint of the current reporting year and the midpoint of the previous reporting year. The commissioner shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

Sec. 55. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2m. [NURSING HOMES SPECIALIZING IN THE TREATMENT OF HUNTINGTON'S DISEASE.] *For the rate year beginning July 1, 1991, the commissioner shall reimburse nursing homes that specialize in the treatment of Huntington's disease using the case mix per diem limit that applies to nursing homes licensed under the department of human services' rules governing residential services for physically handicapped persons to establish rates for up to 35 persons with Huntington's disease. For purposes of this subdivision, a nursing home specializes in the treatment of Huntington's disease if more than 25 percent of its licensed capacity is used for residents with Huntington's disease.*

Sec. 56. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2n. [EFFICIENCY INCENTIVE REDUCTIONS FOR SUBSTANDARD CARE.] *For rate years beginning on or after July 1, 1991, the efficiency incentive established under subdivision 2b, paragraph (d), shall be reduced or eliminated for nursing homes determined by the commissioner of health under section 144A.10, subdivision 4, to have uncorrected or repeated violations which create a risk to resident care, safety, or rights, except for uncorrected or repeated violations relating to a facility's physical plant. Upon being notified by the commissioner of health of uncorrected or repeated violations, the commissioner of human services shall require the nursing home to use efficiency incentive payments to correct the violations. The commissioner of human services shall require the nursing home to forfeit efficiency incentive payments for failure to correct the violations. Any forfeiture shall be limited to the amount necessary to correct the violation.*

Sec. 57. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2o. [SPECIAL PAYMENT RATES FOR SHORT-STAY NURSING HOMES.] *Notwithstanding contrary provisions of this section and rules adopted by the commissioner, for the rate year beginning July 1, 1992, a nursing home whose average length of stay for the rate year beginning July 1, 1991, is less than 180 days must be reimbursed for allowable costs up to 125 percent of the total care-related limit and 105 percent of the other-operating-cost limit for hospital-attached nursing facilities. The nursing home continues to receive this rate even if the home's average length of stay is more than 180 days in the rate year subsequent to the rate year beginning July 1, 1991.*

Sec. 58. Minnesota Statutes 1990, section 256B.431, subdivision 3e, is amended to read:

Subd. 3e. [HOSPITAL-ATTACHED CONVALESCENT AND NURSING CARE FACILITIES.] If a nonprofit or community-operated hospital and attached convalescent and nursing care facility suspend operation of the

hospital, the surviving nursing care facility must be allowed to continue its status as a hospital-attached convalescent and nursing care facility for reimbursement purposes in ~~three~~ *five* subsequent rate years. *In the fourth year the facility shall receive 60 percent of the difference between the hospital-attached limit and the freestanding nursing facility limit, and in the fifth year the facility shall receive 30 percent of the difference.*

Sec. 59. Minnesota Statutes 1990, section 256B.431, subdivision 3f, is amended to read:

Subd. 3f. [PROPERTY COSTS AFTER JULY 1, 1988.] (a) [INVESTMENT PER BED LIMIT.] For the rate year beginning July 1, 1988, the replacement-cost-new per bed limit must be $32,571 per licensed bed in multiple bedrooms and $48,857 per licensed bed in a single bedroom. For the rate year beginning July 1, 1989, the replacement-cost-new per bed limit for a single bedroom must be $49,907 adjusted according to Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1). Beginning January 1, 1990, the replacement-cost-new per bed limits must be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1). *Beginning January 1, 1991, the replacement-cost-new per bed limits will be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1), except that the index utilized will be the Bureau of the Census: Composite fixed-weighted price index as published in the Survey of Current Business.*

Sec. 60. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 14. [INTERIM PROPERTY-RELATED PAYMENT RATES.] *For the rate period July 1, 1991, to June 30, 1993, the commissioner shall continue the property-related payment rate in effect on June 30, 1991, for each nursing facility, except as provided in section 256B.431, subdivision 3i, paragraphs (f) and (g), and subdivision 11, except that:*

(1) A chain organization consisting of 28 nursing facilities which has a majority of owners beyond the retirement age of 62 and that has a change in ownership or reorganization of provider entity between July 1, 1991, and June 30, 1993, or until the property reimbursement system is changed, shall receive the property-related payment rate in effect at the time of the sale or reorganization. This exception is not effective until the commissioner has received approval of its state plan from the federal government; and

(2) If the property-related payment rate in effect on June 30, 1991, is later adjusted by the commissioner, the property-related payment rate for the rate period July 1, 1991, to July 1, 1993, shall also be adjusted correspondingly.

Sec. 61. Minnesota Statutes 1990, section 256B.49, is amended by adding a subdivision to read:

Subd. 4. [INFLATION ADJUSTMENT.] *For the biennium ending June 30, 1993, the commissioner of human services shall not provide an annual inflation adjustment for home and community-based waivered services, except as provided in section 256B.491, subdivision 3, and except that the commissioner shall provide an inflation adjustment for the community alternatives for disabled individuals (CADI) and community alternative care (CAC) waivered services programs for the fiscal year beginning July 1, 1991.*

Sec. 62. Minnesota Statutes 1990, section 256B.491, is amended by adding a subdivision to read:

Subd. 3. [WAIVERED SERVICES; SALARY ADJUSTMENTS.] *For the fiscal year beginning July 1, 1991, the commissioner of human services shall increase the statewide reimbursement rates for home and community-based waivered services for persons with developmental disabilities to reflect a three percent increase in salaries, payroll taxes, and fringe benefits of personnel below top management employed by agencies under contract with the county board to provide these services. The specific rate increase made available to county boards shall be calculated based on the estimated portion of the fiscal year 1991 reimbursement rate that is attributable to these costs. County boards shall verify in writing to the commissioner that each waivered service provider has complied with this requirement. If a county board determines that a waivered service provider has not complied with this requirement for a specific contract period, the county board shall reduce the provider's payment rates for the next contract period to reflect the amount of money not spent appropriately. The commissioner shall modify reporting requirements for vendors and counties as necessary to monitor compliance with this provision.*

Sec. 63. Minnesota Statutes 1990, section 256B.50, subdivision 1d, is amended to read:

Subd. 1d. [EXPEDITED APPEAL REVIEW PROCESS.] (a) Within 120 days of the date an appeal is due according to subdivision 1b, the department shall review an appealed adjustment equal to or less than $100 annually per licensed bed of the provider, make a determination concerning the adjustment, and notify the provider of the determination. Except as allowed in paragraph (g), this review does not apply to an appeal of an adjustment made to, or proposed on, an amount already paid to the provider. In this subdivision, an adjustment is each separate disallowance, allocation, or adjustment of a cost item or part of a cost item as submitted by a provider according to forms required by the commissioner.

(b) For an item on which the provider disagrees with the results of the determination of the department made under paragraph (a), the provider may, within 60 days of the date of the review notice, file with *both* the office of administrative hearings and the department its written argument and documents, information, or affidavits in support of its appeal. If the provider fails to make ~~a submission~~ *timely submissions* in accordance with this paragraph, the department's determinations on the disputed items must be upheld.

(c) Within 60 days of the date the department received the provider's submission under paragraph (b), the department may file with the office of administrative hearings and serve upon the provider its written argument and documents, information, and affidavits in support of its determination. If the department fails to make a submission in accordance with this paragraph, the administrative law judge shall proceed pursuant to paragraph (d) based on the provider's submission.

(d) Upon receipt by the office of administrative hearings of the department's submission made under paragraph (c) or upon the expiration of the 60-day filing period, whichever is earlier, the chief administrative law judge shall assign the matter to an administrative law judge. The administrative law judge shall consider the submissions of the parties and all relevant rules, statutes, and case law. The administrative law judge may request

additional argument from the parties if it is deemed necessary to reach a final decision, but shall not allow witnesses to be presented or discovery to be made in the proceeding. Within 60 days of receipt by the office of administrative hearings of the department's submission or the expiration of the 60-day filing period in paragraph (c), whichever is earlier, the administrative law judge shall make a final decision on the items in issue, and shall notify the provider and the department by first-class mail of the decision on each item. The decision of the administrative law judge is the final administrative decision, is not appealable, and does not create legal precedent, except that the department may make an adjustment contrary to the decision of the administrative law judge based upon a subsequent cost report amendment or field audit that reveals information relating to the adjustment that was not known to the department at the time of the final decision.

(e) For a disputed item otherwise subject to the review set forth in this subdivision, the department and the provider may mutually agree to bypass the expedited review process and proceed to a contested case hearing at any time prior to the time for the department's submission under paragraph (c).

(f) When the department determines that ~~the appeals of two or more providers otherwise~~ *an appeal item* subject to the review set forth in this subdivision ~~present~~ *presents* the same or substantially the same adjustment~~,~~ *presented in another appeal filed pursuant to this chapter,* the department may remove the disputed items from the review in this subdivision, and the disputed items shall proceed in accordance with subdivision 1c. The department's decision to remove the appealed adjustments to contested case proceeding is final and is not reviewable.

(g) For a disputed item otherwise subject to the review in this subdivision, the department or a provider may petition the chief administrative law judge to issue an order allowing the petitioning party to bypass the expedited review process. If the petition is granted, the disputed item must proceed in accordance with subdivision 1c. In making the determination, the chief administrative law judge shall consider the potential impact and precedential and monetary value of the disputed item. A petition for removal to contested case hearing must be filed with the chief administrative law judge and the opposing party on or before the date on which its submission is due under paragraph (b) or (c). Within 20 days of receipt of the petition, the opposing party may submit its argument opposing the petition. Within 20 days of receipt of the argument opposing the petition, or if no argument is received, within 20 days of the date on which the argument was due, the chief administrative law judge shall issue a decision granting or denying the petition. If the petition is denied, the petitioning party has 60 days from the date of the denial to make a submission under paragraph (b) or (c).

(h) The department and a provider may mutually agree to use the procedures set forth in this subdivision for any disputed item not otherwise subject to this subdivision.

(i) Nothing shall prevent either party from making its submissions and arguments under this subdivision through a person who is not an attorney.

(j) This subdivision applies to all appeals for rate years beginning after June 30, 1988.

Sec. 64. Minnesota Statutes 1990, section 256B.501, subdivision 8, is

amended to read:

Subd. 8. [PAYMENT FOR PERSONS WITH SPECIAL NEEDS.] The commissioner shall establish by December 31, 1983, procedures to be followed by the counties to seek authorization from the commissioner for medical assistance reimbursement for very dependent persons with special needs in an amount in excess of the rates allowed pursuant to subdivisions 2 and 4, including rates established under section 252.46 when they apply to services provided to residents of intermediate care facilities for persons with mental retardation or related conditions, and procedures to be followed for rate limitation exemptions for intermediate care facilities for persons with mental retardation or related conditions. No excess payment ~~or limitation exemption~~ *approved by the commissioner after June 30, 1991,* shall be authorized unless ~~the need for the service is documented in the individual service plan of the person or persons to be served, the type and duration of the services needed are stated, and there is a basis for estimated cost of the services.~~:

(1) the need for specific level of service is documented in the individual service plan of the person to be served;

(2) the level of service needed can be provided within the rates established under section 252.46 and Minnesota Rules, parts 9553.0010 to 9553.0080, without a rate exception within 12 months;

(3) staff hours beyond those available under the rates established under section 252.46 and Minnesota Rules, parts 9553.0010 to 9553.0080, necessary to deliver services do not exceed 720 hours within six months;

(4) there is a basis for the estimated cost of services;

(5) the provider requesting the exception documents that current per diem rates are insufficient to support needed services;

(6) estimated costs, when added to the costs of current medical assistance-funded residential and day training and habilitation services and calculated as a per diem, do not exceed the per diem established for the regional treatment centers for persons with mental retardation and related conditions on July 1, 1990, indexed annually by the urban consumer price index, all items, published by the United States Department of Labor, for the next fiscal year over the current fiscal year;

(7) any contingencies for an approval as outlined in writing by the commissioner are met; and

(8) any commissioner orders for use of preferred providers are met.

The commissioner shall evaluate the services provided pursuant to this subdivision through program and fiscal audits.

The commissioner may terminate the rate exception at any time under any of the conditions outlined in Minnesota Rules, part 9510.1120, subpart 3, for county termination, or by reason of information obtained through program and fiscal audits which indicate the criteria outlined in this subdivision have not been, or are no longer being, met.

The commissioner may approve no more than two consecutive six-month rate exceptions for an eligible client whose first application for funding occurs after June 30, 1991.

Sec. 65. Minnesota Statutes 1990, section 256B.501, subdivision 11, is

amended to read:

Subd. 11. [INVESTMENT PER BED LIMITS, INTEREST EXPENSE LIMITATIONS, AND ARMS-LENGTH LEASES.] (a) The provisions of Minnesota Rules, part 9553.0075, except as modified under this subdivision, shall apply to newly constructed or established facilities that are certified for medical assistance on or after May 1, 1990.

(b) For purposes of establishing payment rates under this subdivision and Minnesota Rules, parts 9553.0010 to 9553.0080, the term "newly constructed or newly established" means a facility (1) for which a need determination has been approved by the commissioner under sections 252.28 and 252.291; (2) whose program is newly licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, and certified under Code of Federal Regulations, title 42, section 442.400, et seq.; and (3) that is part of a proposal that meets the requirements of section 252.291, subdivision 2, paragraph (2). The term does not include a facility for which a need determination was granted solely for other reasons such as the relocation of a facility; a change in the facility's name, program, number of beds, type of beds, or ownership; or the sale of a facility, unless the relocation of a facility to one or more service sites is the result of a closure of a facility under section 252.292, in which case clause (3) shall not apply. The term does include a facility that converts more than 50 percent of its licensed beds from class A to class B residential or class B institutional to serve persons discharged from state regional treatment centers on or after May 1, 1990, in which case clause (3) does not apply.

(c) Newly constructed or newly established facilities that are certified for medical assistance on or after May 1, 1990, shall be allowed the capital asset investment per bed limits as provided in clauses (1) to (4).

(1) The 1990 calendar year investment per bed limit for a facility's land must not exceed $5,700 per bed for newly constructed or newly established facilities in Hennepin, Ramsey, Anoka, Washington, Dakota, Scott, Carver, Chisago, Isanti, Wright, Benton, Sherburne, Stearns, St. Louis, Clay, and Olmsted counties, and must not exceed $3,000 per bed for newly constructed or newly established facilities in other counties.

(2) The 1990 calendar year investment per bed limit for a facility's depreciable capital assets must not exceed $44,800 for class B residential beds, and $45,200 for class B institutional beds.

(3) The investment per bed limit in clause (2) must not be used in determining the three-year average percentage increase adjustment in Minnesota Rules, part 9553.0060, subpart 1, item C, subitem (4), for facilities that were newly constructed or newly established before May 1, 1990.

(4) The investment per bed limits in clause (2) *and Minnesota Rules, part 9553.0060, subpart 1, item C, subitem (2)* shall be adjusted annually beginning January 1, 1991, and each January 1 following, as provided in Minnesota Rules, part 9553.0060, subpart 1, item C, subitem (2), *except that the index utilized will be the Bureau of the Census: Composite fixed-weighted price index as published in the Survey of Current Business.*

(d) A newly constructed or newly established facility's interest expense limitation as provided for in Minnesota Rules, part 9553.0060, subpart 3, item F, on capital debt for capital assets acquired during the interim or settle-up period, shall be increased by 2.5 percentage points for each full .25 percentage points that the facility's interest rate on its mortgage is below

the maximum interest rate as established in Minnesota Rules, part 9553.0060, subpart 2, item A, subitem (2). For all following rate periods, the interest expense limitation on capital debt in Minnesota Rules, part 9553.0060, subpart 3, item F, shall apply to the facility's capital assets acquired, leased, or constructed after the interim or settle-up period. If a newly constructed or newly established facility is acquired by the state, the limitations of this paragraph and Minnesota Rules, part 9553.0060, subpart 3, item F, shall not apply.

(e) If a newly constructed or newly established facility is leased with an arms-length lease as provided for in Minnesota Rules, part 9553.0060, subpart 7, the lease agreement shall be subject to the following conditions:

(1) the term of the lease, including option periods, must not be less than 20 years;

(2) the maximum interest rate used in determining the present value of the lease must not exceed the lesser of the interest rate limitation in Minnesota Rules, part 9553.0060, subpart 2, item A, subitem (2), or 16 percent; and

(3) the residual value used in determining the net present value of the lease must be established using the provisions of Minnesota Rules, part 9553.0060.

(f) All leases of the physical plant of an intermediate care facility for the mentally retarded shall contain a clause that requires the owner to give the commissioner notice of any requests or orders to vacate the premises 90 days before such vacation of the premises is to take place. In the case of unlawful detainer actions, the owner shall notify the commissioner within three days of notice of an unlawful detainer action being served upon the tenant. The only exception to this notice requirement is in the case of emergencies where immediate vacation of the premises is necessary to assure the safety and welfare of the residents. In such an emergency situation, the owner shall give the commissioner notice of the request to vacate at the time the owner of the property is aware that the vacating of the premises is necessary. This section applies to all leases entered into after May 1, 1990. Rentals set in leases entered into after that date that do not contain this clause are not allowable costs for purposes of medical assistance reimbursement.

(g) A newly constructed or newly established facility's preopening costs are subject to the provisions of Minnesota Rules, part 9553.0035, subpart 12, and must be limited to only those costs incurred during one of the following periods, whichever is shorter:

(1) between the date the commissioner approves the facility's need determination and 30 days before the date the facility is certified for medical assistance; or

(2) the 12-month period immediately preceding the 30 days before the date the facility is certified for medical assistance.

(h) The development of any newly constructed or newly established facility as defined in this subdivision and projected to be operational after July 1, 1991, by the commissioner of human services shall be delayed until July 1, 1993, except for those facilities authorized by the commissioner as a result of a closure of a facility according to section 252.292 prior to January 1, 1991, or those facilities developed as a result of a receivership of a

facility according to section 245A.12. This paragraph does not apply to state-operated community facilities authorized in section 252.50.

Sec. 66. Minnesota Statutes 1990, section 256B.501, is amended by adding a subdivision to read:

Subd. 12. [ICF/MR SALARY ADJUSTMENTS.] *For the rate period beginning January 1, 1992, and ending September 30, 1993, the commissioner shall add the appropriate salary adjustment cost per diem calculated in paragraphs (a) to (d) to the total operating cost payment rate of each facility. The salary adjustment cost per diem must be determined as follows:*

(a) [COMPUTATION AND REVIEW GUIDELINES. *Except as provided in paragraph (c), a state-operated community service, and any facility whose payment rates are governed by closure agreements, receivership agreements, or Minnesota Rules, part 9553.0075, are not eligible for a salary adjustment otherwise granted under this subdivision. For purposes of the salary adjustment per diem computation and reviews in this subdivision, the term "salary adjustment cost" means the facility's allowable program operating cost category employee training expenses, and the facility's allowable salaries, payroll taxes, and fringe benefits. The term does not include these same salary-related costs for both administrative or central office employees.*

For the purpose of determining the amount of salary adjustment to be granted under this subdivision, the commissioner must use the reporting year ending December 31, 1990, as the base year for the salary adjustment per diem computation. For the purpose of each year's salary adjustment cost review, the commissioner must use the facility's salary adjustment cost for the reporting year ending December 31, 1991, as the base year. If the base year and the reporting year subject to review include salary cost reclassifications made by the department, the commissioner must reconcile those differences before completing the salary adjustment per diem review.

(b) [SALARY ADJUSTMENT PER DIEM COMPUTATION.] *For the rate period beginning January 1, 1992, each facility shall receive a salary adjustment cost per diem equal to its salary adjustment costs multiplied by 1-1/2 percent, and then divided by the facility's resident days.*

(c) [ADJUSTMENTS FOR NEW FACILITIES.] *For newly constructed or newly established facilities, except for state-operated community services, whose payment rates are governed by Minnesota Rules, part 9553.0075, if the settle-up cost report includes a reporting year which is subject to review under this subdivision, the commissioner shall adjust the rule provision governing the maximum settle-up payment rate by increasing the .4166 percent for each full month of the settle-up cost report to .7083. For any subsequent rate period which is authorized for salary adjustments under this subdivision, the commissioner shall compute salary adjustment cost per diems by annualizing the salary adjustment costs for the settle-up cost report period and treat that period as the base year for purposes of reviewing salary adjustment cost per diems.*

(d) [SALARY ADJUSTMENT PER DIEM REVIEW.] *The commissioner shall review the implementation of the salary adjustments on a per diem basis. For reporting years ending December 31, 1992, and December 31, 1993, the commissioner must review and determine the amount of change in salary adjustment costs in each of the above reporting years over the base year. In the case of each review, the commissioner must inflate the base year's salary adjustment costs by the cumulative percentage increase*

granted in paragraph (b), plus three percentage points for each of the two years reviewed. The commissioner must then compare each facility's salary adjustment costs for the reporting year divided by the facility's resident days for that reporting year to the base year's inflated salary adjustment cost divided by the facility's resident days for the base year. If the facility has had a one-time program operating cost adjustment settle-up during any of the reporting years subject to review, the commissioner must remove the per diem effect of the one-time program adjustment before completing the review and per diem comparison.

The review and per diem comparison must be done by the commissioner each year following the reporting years subject to review. If the salary adjustment cost per diem for the reporting year being reviewed is less than the base year's inflated salary adjustment cost per diem, the commissioner must recover the difference within 120 days after the date of written notice. The amount of the recovery shall be equal to the per diem difference multiplied by the facility's resident days in the reporting year being reviewed. Written notice of the amount subject to recovery must be given by the commissioner following each reporting year reviewed. Interest charges must be assessed by the commissioner after the 120th day of that notice at the same interest rate the commissioner assesses for other balance outstanding.

Sec. 67. [256B.82] [SPECIAL PAYMENTS.]

Subdivision 1. [HOSPITAL REIMBURSEMENT.] *(a) Effective for admissions occurring on or after July 1, 1991, the commissioner shall make an indigent care payment to Minnesota and local trade area hospitals except facilities of the federal Indian Health Service and regional treatment centers, in addition to all other payment to hospitals for inpatient services. The indigent care payment shall be ten percent of the amount of medical assistance payments issued to that provider for inpatient services in a given calendar quarter or month, excluding indigent care payments paid under this section, divided by the number of related admissions, or patient days if applicable, and multiplying the result by 111 percent. The indigent care payment is added to each admission, or patient day if applicable, occurring (1) in the second calendar quarter beginning after the quarter on which the September 15, 1991, indigent care payment amount is based and (2) in the month beginning six months after the month on which the subsequent monthly indigent care payment amount is based. Medicare crossovers are excluded from indigent care payments and from the payments and admissions on which the indigent care payment is based. The commissioner may issue indigent care payments as disproportionate population adjustments for eligible hospitals.*

(b) Effective for services rendered on or after July 1, 1991, the commissioner shall reimburse outpatient hospital facility fees at 80 percent of calendar year 1990 submitted charges, not to exceed the medicare upper payment limit. Services excepted from this payment methodology are emergency room facility fees, clinic facility fees, and those services for which there is a federal maximum allowable payment.

Subd. 2. [PHYSICIAN REIMBURSEMENT.] *The commissioner shall make payments for physician services rendered on or after July 1, 1992, as follows:*

(a) Payments for level one Health Care Finance Administration's common procedural coding system (HCPCS) codes titled "office and other outpatient medical services," "preventive medicine new and established patient,"

"delivery, antepartum and postpartum care," caesarean delivery, and pharmacologic management provided to psychiatric patients and HCPCS level three codes for enhanced services for prenatal high risk shall be calculated at the lower of (1) submitted charges, or (2) the median charges in 1989 minus 20 percent. If the median minus 20 percent results in a decrease to rates in effect June 30, 1991, for obstetrical and prenatal services, the rate on those codes in effect on June 30, 1991, shall be increased by an additional five percent.

(b) Payments for level one HCPCS codes titled "critical care" initial or subsequent visits only shall be calculated at the lower of (1) submitted charges, or (2) the median charges in 1989 minus 30 percent.

(c) Payments for all other services shall be calculated at the lower of (1) submitted charges, or (2) the median charges in 1989 minus 40 percent.

(d) In addition to the payment rates in paragraphs (a) to (c), rates for obstetrical services shall be adjusted by the ten percent increase in Laws 1989, chapter 689, article 1, section 2, subdivision 5, and rates for obstetrical and pediatric services shall be adjusted by the 15 percent increase in Laws 1990, chapter 568, article 1, section 2, subdivision 7.

Subd. 3. [NURSING FACILITY REIMBURSEMENT.] *For rate years beginning on or after July 1, 1991, the commissioner shall reimburse nursing facilities participating in the medical assistance program as follows:*

(1) a capital allowance of $1.44 per resident day shall be paid. For a licensed provider with an operating lease on the nursing facility, the capital equipment allowance shall not be the property of the lessor but shall be the property of the licensed provider for the duration of the operating lease or any renewal or extension of the operating lease; and

(2) the maximum efficiency incentive per diem payment established annually under section 256B.431, subdivision 2b, paragraph (d), shall be increased to $2.10 effective July 1, 1991, and $2.20 effective July 1, 1992.

Subd. 4. [PERSONAL NEEDS ALLOWANCE.] *The commissioner shall provide cost of living increases in the personal needs allowance under section 256B.35, subdivision 1.*

Subd. 5. [DENTISTS.] *The commissioner shall increase reimbursement to dentists for services rendered on or after July 1, 1992, by 20 percent for preventative services and five percent for all other services.*

Subd. 6. [HEALTH PLANS.] *Effective for services rendered after July 1, 1991, the commissioner shall adjust the monthly medical assistance capitation rate cell established in contract by the amount necessary to accommodate the equivalent value of the reimbursement increase established under subdivisions 1, 2, and 5.*

Subd. 7. [ADMINISTRATIVE COST.] *The commissioner may expend up to $1,700,000 for the administrative costs associated with sections 256.9657 and 256B.82.*

Subd. 8. [CONTINGENT ON FEDERAL FINANCIAL PARTICIPATION.] *The provisions of this section and section 256.9657 apply only as long as federal financial participation under Title XIX of the Social Security Act is available for medical assistance payments made under this section. In the event federal financial participation is denied for payments under this section, the commissioner shall discontinue collections from providers*

under section 256.9657, eliminate payments to providers and recipients under this section, and implement the contingent budget reductions in section 77, effective immediately.

Subd. 9. [NO ADJUSTMENTS WHILE FEES IN EFFECT.] *The commissioner shall not adjust the payments under this section as long as the surcharges under section 256.9657 remain in effect. The commissioner shall report to the legislature when submitting the budget forecast regarding the amount of actual and anticipated surcharge collections and provider payments. The report must include recommendations for improving the operation of this section and section 256.9657, including any changes in surcharges or payments necessary to ensure that payments under this section do not exceed collections under section 256.9657.*

Subd. 10. [IMPLEMENTATION; RULEMAKING.] *The commissioner shall implement sections 256.9657 and 256B.82 on July 1, 1991, without complying with the rulemaking requirements of the administrative procedure act. The commissioner shall begin to adopt emergency rules to implement this article within 30 days, and may adopt permanent rules to implement this article. Emergency and permanent rules adopted to implement this article supersede any provisions adopted under the exemption from rulemaking requirements in this section.*

Sec. 68. Minnesota Statutes 1990, section 256D.03, subdivision 3, is amended to read:

Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] (a) General assistance medical care may be paid for any person *who is age 18 or older and who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spend-down of excess income according to section 256B.056, subdivision 5, and:*

(1) who is receiving assistance under section 256D.05 or 256D.051 ~~and is not eligible for medical assistance under chapter 256B including eligibility for medical assistance based on a spend-down of excess income according to section 256B.056, subdivision 5~~; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of $1,000 per assistance unit. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B; and

(ii) who has countable income not in excess of the assistance standards established in section 256B.056, subdivision 4, or whose excess income is spent down pursuant to section 256B.056, subdivision 5, using a six-month budget period, except that a one-month budget period must be used for recipients residing in a long-term care facility. The method for calculating earned income disregards and deductions for a person who resides with a dependent child under age 21 shall be as specified in section 256.74, subdivision 1. However, if a disregard of $30 and one-third of the remainder described in section 256.74, subdivision 1, clause (4), has been applied to the wage earner's income, the disregard shall not be applied again until the wage earner's income has not been considered in an eligibility determination for general assistance, general assistance medical care, medical assistance, or aid to families with dependent children for 12 consecutive months. The earned income and work expense deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision

1, except the disregard of the first $50 of earned income is not allowed; or

(3) ~~who is over age 18 and~~ who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal health care financing administration to be an institution for mental diseases.

(b) Eligibility is available for the month of application, and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

(c) General assistance medical care ~~may be paid for a person, regardless of age, who~~ *is not available for a person in a correctional facility unless the person* is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, ~~if~~ *and* the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(d) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

(e) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 30 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

Sec. 69. Minnesota Statutes 1990, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.] (a) ~~Reimbursement under the general assistance medical care program shall be limited to the following categories of service~~ *For a person who is eligible under subdivision 3, paragraph (a), clause (3), general assistance medical care covers:*

(1) inpatient hospital ~~care,~~ *services;*

(2) outpatient hospital ~~care,~~ services*;*

(3) services provided by Medicare certified rehabilitation agencies~~,~~*;*

(4) prescription drugs~~,~~ *and other products recommended through the process established in section 256B.0625, subdivision 13;*

(5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level~~,~~*;*

(6) eyeglasses and eye examinations provided by a physician or optometrist~~,~~*;*

(7) hearing aids~~,~~*;*

(8) prosthetic devices~~,~~*;*

(9) laboratory and X-ray services~~,~~*;*

(10) physician's services~~,~~*;*

(11) medical transportation~~,~~*;*

(12) chiropractic services as covered under the medical assistance program~~,~~*;*

(13) podiatric services~~,~~ ~~and~~*;*

(14) dental ~~care. In addition, payments of state aid shall be made for:~~ *services;*

~~(1)~~ *(15)* outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;

~~(2)~~ *(16)* day treatment services for mental illness provided under contract with the county board;

~~(3)~~ *(17)* prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;

~~(4)~~ *(18)* case management services for a person with serious and persistent mental illness ~~who would be eligible for medical assistance except that the person resides in an institution for mental diseases~~;

~~(5)~~ *(19)* psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments ~~for a person who would be eligible for medical assistance except that the person resides in an institution for mental diseases~~; and

~~(6)~~ *(20) medical* equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision.

(b) For a recipient who is eligible under subdivision 3, paragraph (a), clause (1) or (2), general assistance medical care covers the services listed in paragraph (a) with the exception of special transportation services.

~~(b)~~ *(c)* In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical

manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. For payments made during fiscal year 1990 and later years, the commissioner shall ~~contract~~ *consult* with an independent actuary ~~to establish~~ *in establishing* prepayment rates, *but shall retain final control over the rate methodology.*

~~(c)~~ *(d)* The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions.

For the period July 1, 1985, to December 31, 1985, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986, to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987, to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1987, to June 30, 1988, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than five percent. Reductions below

the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1988, to June 30, 1989, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

~~(d)~~ *(e)* Any county may, from its own resources, provide medical payments for which state payments are not made.

~~(e)~~ *(f)* Chemical dependency services that are reimbursed under ~~Laws 1986, chapter 394, sections 8 to 20,~~ *chapter 254B* must not be reimbursed under general assistance medical care.

~~(f)~~ *(g)* The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

~~(g)~~ *(h)* The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

Sec. 70. Minnesota Statutes 1990, section 256D.06, subdivision 1b, is amended to read:

Subd. 1b. [EARNED INCOME SAVINGS ACCOUNT.] In addition to the $50 disregard required under subdivision 1, the county agency shall disregard an additional earned income up to a maximum of $150 per month for*: (1)* persons residing in facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690 and 9530.2500 to 9530.4000, and for whom discharge and work are part of a treatment plan ~~and for~~*; (2)* persons living in supervised apartments with services funded under Minnesota Rules, parts 9535.0100 to 9535.1600, and for whom discharge and work are part of a treatment plan*; and (3) persons residing in a negotiated rate residence, as that term is defined in section 256I.03, subdivision 3, for whom the county agency has approved a discharge plan which includes work*. The additional amount disregarded must be placed in a separate savings account by the eligible individual, to be used upon discharge from the residential facility into the community. A maximum of $1,000, including interest, of the money in the savings account must be excluded from the resource limits established by section 256D.08, subdivision 1, clause (1). Amounts in that account in excess of $1,000 must be applied to the resident's cost of care. If excluded money is removed from the savings account by the eligible individual at any time before the individual is discharged from the facility into the community, the money is income to the individual in the month of receipt

and a resource in subsequent months. If an eligible individual moves from a community facility to an inpatient hospital setting, the separate savings account is an excluded asset for up to 18 months. During that time, amounts that accumulate in excess of the $1,000 savings limit must be applied to the patient's cost of care. If the patient continues to be hospitalized at the conclusion of the 18-month period, the entire account must be applied to the patient's cost of care.

Sec. 71. Minnesota Statutes 1990, section 256I.05, is amended by adding a subdivision to read:

Subd. 1a. [LOWER MAXIMUM RATE.] *The maximum monthly rate for a general assistance or Minnesota supplemental aid negotiated rate residence that enters into an initial negotiated rate agreement with a county agency on or after June 1, 1989, may not exceed 90 percent of the maximum rate established under subdivision 1. This is effective until June 30, 1993, or until the statewide system authorized under subdivision 6 is established, whichever occurs first.*

Sec. 72. Minnesota Statutes 1990, section 256I.05, is amended by adding a subdivision to read:

Subd. 1b. [RATES FOR UNCERTIFIED BOARDING CARE HOMES.] *Effective July 1, 1992, the maximum rate for a boarding care home not certified to receive medical assistance is equal to 65 percent of the average nursing home level "A" rate in effect for the geographic area in which the boarding care home is located, except that a facility's rate must not be reduced by more than ten percent for the year ending June 30, 1992. This is effective until June 30, 1993. A noncertified boarding care home licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, is exempt from this rate limit. The commissioner shall study the numbers of facilities and residents that will be affected by the limit in this subdivision, the number of facilities likely to close because of the limit, the available alternatives for affected residents, methods of relocating or securing alternative placements for residents, and other effects of the limit. The commissioner shall provide a report to the legislature by January 1, 1992, on the commissioner's findings and recommendations relating to the rate limit.*

Sec. 73. Minnesota Statutes 1990, section 256I.05, subdivision 2, is amended to read:

Subd. 2. [MONTHLY RATES; EXEMPTIONS.] (a) The maximum negotiated rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690. For residences in this clause that have less than five percent of their licensed boarding care capacity reimbursed by the medical assistance program, rate increases shall be provided according to section 256B.431, subdivision 4, paragraph (c).

(b) The maximum negotiated rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a negotiated rate residence under general assistance or Minnesota supplemental aid. Rate increases for these residences are subject to the provisions of subdivision 7.

(c) ~~The following residences are exempt from the limit on negotiated rates~~

~~and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:~~

~~(1) a residence that is not certified to participate in the medical assistance program, that was licensed as a boarding care facility by March 1, 1985, and does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or 9553.0010 to 9553.0080;~~

~~(2)~~ *The maximum negotiated rate does not apply to* a residence certified to participate in the medical assistance program, licensed as a boarding care facility or a nursing home, and declared to be an institution for mental disease by January 1, 1989. Effective January 1, 1989, the ~~actual documented cost~~ *rate* for these residences is the individual's appropriate medical assistance case mix rate ~~until the commissioner develops a comprehensive system of rates and payments for persons in all negotiated rate residences~~. The exclusion from the rate limit for residences under this clause ~~expires July 1, 1991~~ *continues until June 30, 1992*. The commissioner of human services, in consultation with the counties in which these residences are located, shall review the status of each certified nursing home and board and care facility declared to be an institution for mental disease. This review shall include the cost effectiveness of continued payment for residents through general assistance or Minnesota supplemental aid; the appropriateness of placement of general assistance or supplemental aid clients in these facilities; the effects of Public Law Number 100-203 on these facilities; and the role of these facilities in the mental health service delivery system. The commissioner shall make recommendations to the legislature by January 1, 1990, regarding the need to continue the exclusion of these facilities from the negotiated rate maximum and the future role of these facilities in serving persons with mental illness.

(d) The commissioner of human services shall take the following action in relation to certified boarding care facilities and nursing homes that have been declared institutions for mental diseases, excluding those facilities exempt under paragraph (a):

(1) All mental health and placement screenings and diagnostic assessments required under the federal Omnibus Budget Reconciliation Act (OBRA) must be completed by July 1, 1991, for all residents in institutions for mental diseases admitted before June 1, 1991. Residents determined to need relocation under the preadmission screening and annual resident review must be relocated to a more appropriate placement in accordance with the timelines established in the state's alternative disposition plan.

(2) By October 1, 1991, all institutions for mental diseases must be reviewed again by the commissioner to determine if they are still institutions for mental diseases, and the commissioner shall immediately revoke a declaration that a facility is an institution for mental diseases if the commissioner determines that the facility is not an institution for mental diseases.

(3) The commissioner shall provide to institutions for mental diseases training in the criteria used in assessing residents for determination of institutions for mental diseases status and the numbers of residents in each category.

(4) For facilities whose status as an institution for mental diseases is not revoked by the commissioner by October 1, 1991, a facility-specific plan must be developed by the commissioner and the facility, in consultation with

the appropriate consumer groups, to offer alternative services to enough residents by July 1, 1992, to allow the commissioner to revoke the facility's status as an institution for mental diseases.

Sec. 74. Minnesota Statutes 1990, section 256I.05, is amended by adding a subdivision to read:

Subd. 7a. [RATE INCREASES FOR THE 1991-1993 BIENNIUM.] *For the biennium ending June 30, 1993, no inflationary increases shall be provided in rates for negotiated rate settings under subdivision 7.*

Sec. 75. [REGULATORY REVIEW.]

The commissioner of health shall study the regulation of long-term care facilities and report to the legislature by January 15, 1992, with any recommendations for changes in the current regulatory structure. The study must address at least the following issues:

(1) the possibility of unifying the federal and state enforcement systems;

(2) the effectiveness of existing enforcement tools;

(3) the appropriateness of current licensure standards; and

(4) alternative mechanisms for dispute resolution.

Sec. 76. [NURSING HOME FINANCIAL PERFORMANCE MONITORING.]

The commissioners of health and human services shall recommend to the legislature by January 15, 1992, a system to monitor the financial performance of nursing homes on an ongoing basis. The system may provide for the inclusion of nursing homes in the health care cost information act of 1984 or for another method to obtain, analyze, and report financial data. The system must be coordinated with existing nursing home financial reporting requirements and must provide for periodic reports to the legislature on the financial condition of nursing homes.

Sec. 77. [CONTINGENT BUDGET REDUCTIONS.]

Subdivision 1. [CONTINGENT MEDICAL ASSISTANCE PROVIDER REDUCTIONS.] *This section is effective only if federal financial participation under Title XIX of the Social Security Act is not available for payments under Minnesota Statutes, section 256B.82. This section is effective on the date the commissioner of human services receives an official denial of federal financial participation or an official communication from the federal government stating that federal financial participation will not be available, or on the effective date of a federal law that specifically prohibits federal financial participation.*

Subd. 2. [HOSPITAL PEER GROUPS.] *(a) For admissions occurring after the transition period specified in Minnesota Statutes, section 256.9695, subdivision 3, operating payment rates of each hospital shall be limited to the operating payment rates within its peer group so that the statewide operating payment level is reduced by 4.5 percent. For subsequent rate years, the limits shall be adjusted by the hospital cost index. The commissioner shall contract for the development of criteria for and the establishment of the peer groups. Peer groups must be established based on variables that affect medical assistance cost such as scope and intensity of services, acuity of patients, location, and capacity. Rates shall be standardized by the case mix index and adjusted, if applicable, for the variable outlier percentage.*

The peer groups may exclude and have separate limits or be standardized for operating cost differences that are not common to all hospitals in order to establish a minimum number of groups. The criteria and establishment of the peer groups is not subject to the requirements of Minnesota Statutes, chapter 14, the administrative procedure act.

(b) The commissioner shall not implement section 67, subdivision 1, paragraph (b).

Subd. 3. [MEDICAL ASSISTANCE COVERAGE OF DENTAL SERVICES.] *Notwithstanding Minnesota Statutes, section 256B.0625, subdivision 9, medical assistance only covers dental services for children under age 18, and dental services not to exceed $150 annually for adults. The commissioner shall not implement section 67, subdivision 5.*

Subd. 4. [MEDICAL ASSISTANCE COVERAGE OF SPECIAL TRANSPORTATION.] *For medical assistance coverage of special transportation under Minnesota Statutes, section 256B.0625, subdivision 17, the commissioner of human services shall establish maximum medical assistance reimbursement rates for special transportation services for persons who need a wheelchair lift van or stretcher-equipped vehicle and for those who do not need a wheelchair lift van or stretcher-equipped vehicle. The average of these two rates must not exceed $12.50 for the base rate and 60 cents per mile.*

Subd. 5. [NURSING HOME WORKERS' COMPENSATION COSTS.] *Notwithstanding contrary provisions of Minnesota Statutes, section 256B.431, in determining medical assistance payments to nursing facilities, the commissioner must reduce the workers' compensation cost during the reporting year for each nursing facility to account for any savings in workers' compensation costs that result from actions of the 1991 legislature for the purposes of computing the payment rates for the rate year beginning July 1, 1991, and for the first nine months of the rate year beginning July 1, 1992. For any nursing facility that cannot separately report the workers' compensation costs, the commissioner shall determine the amount of the workers' compensation costs to be reduced by identifying the nursing facility's portion of total workers' compensation costs by applying the individual Medicare stepdowns which the nursing facility used to allocate its payroll taxes and fringe benefits and multiplying that amount by 16 percent.*

Subd. 6. [NURSING HOME COST LIMITS.] *(a)* [NURSING HOME RATES.] *The provisions in paragraphs (b) to (e) apply to medical assistance payments to nursing facilities and supersede any inconsistent provisions in Minnesota Statutes, section 256B.431.*

(b) [OTHER OPERATING COST LIMITS.] *For the rate year beginning July 1, 1991, the commissioner, in conjunction with the rebasing for the reporting year September 30, 1990, shall establish the other operating cost limits in Minnesota Rules, part 9549.0055, subpart 2, item E, at 108 percent of the median of the array of allowable historical other operating cost per diems. The limits must be established according to Minnesota Statutes, section 256B.431, subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1992, the adjusted other operating cost limits must be indexed as in subdivision 2l.*

(c) [CARE-RELATED OPERATING COST LIMITS.] *For the rate year beginning July 1, 1991, the commissioner, in conjunction with the rebasing for the reporting year September 30, 1990, shall establish the care-related*

operating cost limits in Minnesota Rules, part 9549.0055, subpart 2, items A and B, at 122 percent of the median of the array of the allowable historical case mix operating cost standardized per diems and the allowable historical other care-related operating cost per diems. The limits must be established according to Minnesota Statutes, section 256B.431, subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1992, the adjusted care-related limits must be indexed as in Minnesota Statutes, section 256B.431, subdivision 2l.

(d) [ADMINISTRATIVE COST LIMITS.] *For rate years beginning on or after July 1, 1991, the cost limitation for costs in the general and administrative cost category in Minnesota Rules, part 9549.0055, subpart 2, item D, shall be modified as in clauses (1) to (4):*

(1) the percentage limitation for nursing homes with 60 or fewer licensed beds shall be 14 percent;

(2) the percentage limitation for nursing homes with 61 to 100 licensed beds shall be 13 percent;

(3) the percentage limitation for nursing homes with 101 to 200 licensed beds shall be 12 percent; and

(4) the percentage limitation for nursing homes with more than 200 licensed beds shall be 11 percent.

(e) [EFFICIENCY INCENTIVE.] *For rate years beginning on or after July 1, 1991, a nursing home's maximum efficiency incentive shall be $1.*

Subd. 7. [NURSING HOME PROPERTY COSTS.] *(a) The provisions of paragraphs (b) to (d) apply to medical assistance payments to nursing facilities and supersede any inconsistent provisions of Minnesota Statutes, section 256B.431.*

(b) For the rate year beginning July 1, 1991, the property-related payment rate for a nursing home classified as a group A nursing home under Minnesota Statutes, section 256B.431, subdivision 3i, shall be the lesser of the nursing home's property-related payment rate in effect on July 1, 1990; or the sum of 115 percent of the nursing home's allowable principal and interest expense, plus its equipment allowance multiplied by the resident days for the reporting year ending September 30, 1990, divided by the nursing home's capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by Minnesota Statutes, section 256B.431, subdivision 3f, paragraph (c); but not less than the lesser of $3.25 or the nursing home's July 1, 1990, property-related payment rate.

(c) For the rate year beginning July 1, 1991, a nursing home classified as a group B nursing home under Minnesota Statutes, section 256B.431, subdivision 3i, shall receive the greater of 90 percent of its property-related payment rate in effect on July 1, 1990; or the sum of 115 percent of the nursing home's allowable principal and interest expense, plus its equipment allowance multiplied by the resident days for the reporting year ending September 30, 1990, divided by the nursing home's capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by Minnesota Statutes, section 256B.431, subdivision 3f, paragraph (c); except that the nursing home's property-related payment rate must not exceed the property-related payment rate in effect on July 1, 1990.

(d) For the rate year beginning July 1, 1991, a nursing home classified as a group C nursing home under Minnesota Statutes, section 256B.431,

subdivision 3i, shall receive the greater of 85 percent of its property-related payment rate in effect on July 1, 1990; or the sum of 115 percent of the nursing home's allowable principal and interest expense, plus its equipment allowance multiplied by the resident days for the reporting year ending September 30, 1990, divided by the nursing home's capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by Minnesota Statutes, section 256B.431, subdivision 3f, paragraph (c); except that the nursing home's property-related payment rate must not exceed the property-related payment rate in effect on July 1, 1990.

Subd. 8. [PERSONAL NEEDS ALLOWANCE INFLATION.] *Notwithstanding Minnesota Statutes, section 256B.35, subdivision 1, no increase for inflation may be provided to the personal needs allowance for persons receiving medical assistance.*

Subd. 9. [NURSING HOME MORATORIUM EXCEPTIONS.] *The commissioner of health shall not authorize exceptions to the nursing home moratorium under Minnesota Statutes, section 144A.073.*

Subd. 10. [NURSING HOMES TREATING HUNTINGTON'S.] *The commissioner shall not implement section 55.*

Subd. 11. [EXTENSION OF HOSPITAL-ATTACHED STATUS.] *The commissioner shall not implement section 58.*

Subd. 12. [EFFICIENCY INCENTIVE INCREASE.] *The commissioner shall not implement section 67, subdivision 3, clause (2).*

Subd. 13. [ICF/MR WORKERS' COMPENSATION.] *The commissioner shall adjust reimbursement rates for intermediate care facilities for persons with mental retardation and related conditions to account for any savings in workers' compensation costs that results from actions of the 1991 legislature.*

Subd. 14. [ICF/MR EFFICIENCY INCENTIVE.] *The commissioner shall reduce the maximum efficiency incentive for intermediate care facilities for persons with mental retardation to $1.*

Subd. 15. [INFLATION ADJUSTMENTS.] *The commissioner shall not provide inflationary increases for fiscal year 1992 for the medical assistance alternative care grants program, the community alternatives for disabled individuals (CADI) program, the community alternative care (CAC) waiver, and for personal care attendant and private duty nursing services.*

Subd. 16. [DAY TRAINING INFLATION.] *The commissioner shall not provide the two percent inflation adjustment authorized under article 1 for day training and habilitation services for the fiscal year beginning July 1, 1991.*

Subd. 17. [CHIROPRACTIC SERVICES.] *The commissioner shall limit chiropractic services under medical assistance to 18 visits per year.*

Subd. 18. [PHYSICIAN REIMBURSEMENT.] *The commissioner shall not implement section 67, subdivision 2.*

Subd. 19. [MASTERS-LEVEL PSYCHOLOGISTS.] *The commissioner shall reimburse masters-prepared mental health practitioners and practitioners licensed at the masters level providing services through community mental health centers at 65 percent of the level for doctoral-prepared practitioners.*

Subd. 20. [GENERAL ASSISTANCE MEDICAL CARE.] *The commissioner shall:*

(1) reduce retroactive eligibility for general assistance medical care recipients who are not residents of institutions for mental diseases from three months to one month;

(2) limit coverage for over the counter drugs for general assistance medical care recipients residing in institutions for mental diseases to insulin, aspirin, antacids, products for the treatment of lice, and acetaminophen, and limit coverage for dental services to $150 a year; and

(3) establish the following coverage limitations for general assistance medical care recipients who are not residents in institutions for mental diseases:

(i) chiropractic services, vision care, podiatry services, allergy testing, special transportation, case management for persons with serious and persistent mental illness, and Medicare premiums, coinsurance, and deductibles are not covered;

(ii) audiology, occupational therapy, and speech therapy are not covered, regardless of provider type;

(iii) physical therapy is limited to five treatment modalities, regardless of provider type;

(iv) services of a Medicare-certified rehabilitation agency, except physical therapy services under item (iii), are not covered;

(v) coverage for dental services is limited to $100 annually;

(vi) coverage for physician services is limited to 14 physician visits;

(vii) coverage for mental health therapy, including psychological services and diagnostic services is limited to ten hours annually. For purposes of this clause, two hours of group therapy count as one hour;

(viii) coverage for legend drugs is limited to those prescribed by a physician and contained in a general assistance medical care drug formulary established by the commissioner in the manner used to establish and publish the formulary in section 256B.0625, subdivision 13;

(ix) outpatient hospital services are covered to the extent otherwise provided under this paragraph; and

(x) for an emergency room visit that does not result in an inpatient admission, reimbursement for the emergency room visit shall be reduced by $5 and the hospital may collect that amount from the recipient. The hospital may not deny services to the recipient for failure to pay the copayment amount.

Contracts with prepaid health plans to provide health care services to recipients of general assistance medical care may include, without limitation, the services set forth in clause (3), items (iii), (v), (vi), (viii), and (x). The commissioner may seek a waiver according to Minnesota Statutes, section 62D.30, in order to execute contracts for the benefit package in this subdivision.

Subd. 21. [REIMBURSEMENT FOR SHORT STAY FACILITIES.] *The commissioner shall not implement section 57.*

Sec. 78. [INSTRUCTION TO REVISOR.]

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C. The revisor shall also correct any cross-references to Minnesota Statutes, section 256.969, subdivision 6a, that appear in Minnesota Rules.

Column A	*Column B*	*Column C*
256.969, subd. 3a	*256.969, subd. 6a, paragraph (a), clause (5) or (6)*	*256.969, subds. 10 and 11*
256.9695, subd. 3	*256.969, subd. 6a, paragraph (a), clause (3)*	*256.969, subd. 8*
256.9695, subd. 3, paragraph (a)	*256.969, subd. 6a, paragraph (a), clauses (1), (2), (4), (5), (6), and (8)*	*256.969, subds. 7, 9, 10, 11, and 13*
256.9695, subd. 3, paragraph (a)	*256.969, subd. 6a, paragraph (a), clause (7), and paragraph (i)*	*256.969, subds. 12 and 20*
256.9695, subd. 3, paragraph (c)	*256.969, subd. 6a, paragraphs (g) and (h)*	*256.969, subd. 19, paragraphs (a) and (b)*

Sec. 79. [REPEALER.]

Subdivision 1. [CONTINGENT MEDICAL ASSISTANCE REDUCTIONS.] *Section 77 is repealed effective July 1, 1993.*

Subd. 2. [REGIONAL TREATMENT CENTER CHEMICAL DEPENDENCY UNIT FUNDING.] *Minnesota Statutes 1990, section 246.18, subdivisions 3 and 3a, are repealed.*

Sec. 80. [EFFECTIVE DATES.]

Subdivision 1. [SPECIAL CATEGORIES OF ELIGIBILITY.] *(a) Those portions of sections 35, 36, and 38 regarding publication of federal poverty guidelines are effective retroactive to the date the 1991 change in the federal poverty guidelines became effective.*

(b) Sections 37 and 39 are effective retroactive to January 1, 1991.

Subd. 2. [ADMISSION CRITERIA.] *That portion of section 5 requiring the commissioner of human services to establish criteria for admission to chemical dependency units is effective the day following final enactment.*

Subd. 3. [AVAILABILITY OF INCOME.] *The deduction for reparation payments in section 40 is effective retroactive to January 1, 1991. The deduction for veterans pensions in section 40 is effective the month in which the Veteran's Administration implements the change at section 8003 of the Omnibus Budget Reconciliation Act of 1990.*

Subd. 4. [HOSPITAL-ATTACHED CONVALESCENT AND NURSING CARE FACILITIES.] *Section 58 takes effect the day after its final enactment and applies to facilities whose attached hospitals suspend operation before or after its effective date.*

Subd. 5. [FEDERALLY QUALIFIED HEALTH CENTER.] *Section 49, paragraph (b), is effective retroactive to July 1, 1990.*

ARTICLE 5

ASSISTANCE PAYMENTS

Section 1. Minnesota Statutes 1990, section 13.46, subdivision 2, is amended to read:

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

(1) pursuant to section 13.05;

(2) pursuant to court order;

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

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

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

(6) to administer federal funds or programs;

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

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

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

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

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

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

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

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

Sec. 2. Minnesota Statutes 1990, section 136A.121, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY FOR GRANTS.] An applicant is eligible to be considered for a grant, regardless of the applicant's sex, creed, race, color, national origin, or ancestry, under sections 136A.095 to 136A.131 if the board finds that the applicant:

(1) is a resident of the state of Minnesota;

(2) is a graduate of a secondary school or its equivalent, or is 17 years of age or over, and has met all requirements for admission as a student to an eligible college or technical college of choice as defined in sections 136A.095 to 136A.131;

(3) has met the financial need criteria established in Minnesota Rules; ~~and~~

(4) is not in default, as defined by the board, of any federal or state student educational loan; *and*

(5) is not more than 30 days in arrears for any child support payments owed to a public agency responsible for child support enforcement or, if the applicant is more than 30 days in arrears, is complying with a payment plan for arrearages.

The director and the commissioner of human services shall develop procedures to implement clause (5).

Sec. 3. Minnesota Statutes 1990, section 136A.162, is amended to read:

136A.162 [CLASSIFICATION OF DATA.]

All data on applicants for financial assistance collected and used by the higher education coordinating board for student financial aid programs administered by that board shall be classified as private data on individuals under section 13.02, subdivision 12. Exceptions to this classification are that:

(a) the names and addresses of program recipients or participants are public data; ~~and~~

(b) data on applicants may be disclosed to the commissioner of human services to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5); and

~~(b)~~ *(c)* the following data collected in the Minnesota supplemental loan program under section 136A.1701 may be disclosed to a consumer credit reporting agency only if the borrower and the cosigner give informed consent, according to section 13.05, subdivision 4, at the time of application for a loan:

(1) the lender-assigned borrower identification number;

(2) the name and address of borrower;

(3) the name and address of cosigner;

(4) the date the account is opened;

(5) the outstanding account balance;

(6) the dollar amount past due;

(7) the number of payments past due;

(8) the number of late payments in previous 12 months;

(9) the type of account;

(10) the responsibility for the account; and

(11) the status or remarks code.

Sec. 4. [214.101] [CHILD SUPPORT; SUSPENSION OF LICENSE.]

Subdivision 1. [COURT ORDER; HEARING ON SUSPENSION.] *If a licensing board receives an order from a court under section 518.551, subdivision 12, dealing with suspension of a license of a person found by the court to be in arrears in child support payments, the board shall, within 30 days of receipt of the court order, provide notice to the licensee and hold a hearing. If the board finds that the person is licensed by the board and evidence of full payment of arrearages found to be due by the court is not presented at the hearing, the board shall suspend the license unless it determines that probation is appropriate under subdivision 2. The only issues to be determined by the board are whether the person named in the court order is a licensee, whether the arrearages have been paid, and whether suspension or probation is appropriate. The board may not consider evidence with respect to the appropriateness of the court order or the ability of the person to comply with the order. The board may not lift the suspension until the licensee files with the board proof showing that the licensee is current in child support payments.*

Subd. 2. [PROBATION.] *If the board determines that the suspension of the license would create an extreme hardship to either the licensee or to persons whom the licensee serves, the board may, in lieu of suspension, allow the licensee to continue to practice the occupation on probation. Probation must be conditioned upon full compliance with the court order that referred the matter to the board. The probation period may not exceed two years, and the terms of probation must provide for automatic suspension of the license if the licensee does not provide monthly proof to the board of full compliance with the court order that referred the matter to the board or a further court order if the original order is modified by the court.*

Subd. 3. [REVOCATION OR REINSTATEMENT OF PROBATION.] *If the licensee has a modification petition pending before the court, the board may, without a hearing, defer a revocation of probation and institution of suspension until receipt of the court's ruling on the modification order. A licensee who was placed on probation and then automatically suspended may be automatically reinstated upon providing proof to the board that the licensee is currently in compliance with the court order.*

Subd. 4. [VERIFICATION OF PAYMENTS.] *Before a board may terminate probation, remove a suspension, issue, or renew a license of a person who has been suspended or placed on probation under this section, it shall contact the court that referred the matter to the board to determine that the applicant is not in arrears for child support. The board may not issue or renew a license until the applicant proves to the board's satisfaction that the applicant is current in support payments.*

Subd. 5. [APPLICATION.] *This section applies to support obligations*

ordered by any state, territory, or district of the United States.

Sec. 5. Minnesota Statutes 1990, section 237.70, subdivision 7, is amended to read:

Subd. 7. [ADMINISTRATION.] The telephone assistance plan must be administered jointly by the commission, the department of human services, and the telephone companies in accordance with the following guidelines:

(a) The commission and the department of human services shall develop an application form that must be completed by the subscriber for the purpose of certifying eligibility for telephone assistance plan credits to the ~~telephone companies~~ *department of human services*. The application must contain the applicant's social security number. ~~Applications without~~ *Applicants who refuse to provide* a social security number will be denied *telephone assistance plan credits. The application form must include provisions for the applicant to show the name of the applicant's telephone company. The application must also advise the applicant to submit the required proof of age or disability, and income and must provide examples of acceptable proof. The application must state that failure to submit proof with the application will result in the applicant being found ineligible.* Each telephone company shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing and shall mail the application form to customers when requested.

The notice must state the following:

YOU MAY BE ELIGIBLE FOR ASSISTANCE IN PAYING YOUR TELEPHONE BILL IF ~~YOU MEET CERTAIN HOUSEHOLD INCOME LIMITS, AND~~ YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED *AND IF YOU MEET CERTAIN HOUSEHOLD INCOME LIMITS*. FOR MORE INFORMATION OR AN APPLICATION FORM PLEASE CONTACT . . . . . .

(b) The department of human services shall determine the eligibility for telephone assistance plan credits at least annually according to the criteria contained in subdivision 4a.

(c) ~~Each telephone company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of an application form and shall continue to provide credits unless notified that the subscriber is ineligible. The company shall cease granting credits at the earliest possible billing cycle when notified by the department of human services that the subscriber is ineligible.~~ *An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf. On completing the application certifying that the statutory criteria for eligibility are satisfied, the applicant must return the application to an office of the department of human services specially designated to process telephone assistance plan applications. On receiving a completed application from an applicant, the department of human services shall determine the applicant's eligibility or ineligibility within 120 days. If the department fails to do so, it shall within three working days provide written notice to the applicant's telephone company that the company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of the written notice. The applicant must receive telephone assistance plan credits until the earliest possible month following the company's receipt of notice from the department that the applicant is ineligible.*

If the department of human services determines that an applicant is not eligible to receive telephone assistance plan credits, it shall notify the applicant within ten working days of that determination.

Within ten working days of determining that an applicant is eligible to receive telephone assistance plan credits, the department of human services shall provide written notification to the telephone company that serves the applicant. The notice must include the applicant's name, address, and telephone number.

Each telephone company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of notice from the department of human services.

By December 31 of each year, the department of human services shall redetermine eligibility of each person receiving telephone assistance plan credits, as required in paragraph (b). The department of human services shall submit an annual report to the legislature and the commission by January 15 of each year showing that the department has determined the eligibility for telephone assistance plan credits of each person receiving the credits or explaining why the determination has not been made and showing how and when the determination will be completed.

If the department of human services determines that a current recipient of telephone assistance plan credits is not eligible to receive the credits, it shall notify, in writing, the recipient within ten working days and the telephone company serving the recipient within 20 working days of the determination. The notice must include the recipient's name, address, and telephone number.

Each telephone company shall remove telephone assistance plan credits against monthly charges in the earliest possible month following receipt of notice from the department of human services.

Each telephone company that disconnects a subscriber receiving the telephone assistance plan credit shall report the disconnection to the department of human services. The reports must be submitted monthly, identifying the subscribers disconnected. Telephone companies that do not disconnect a subscriber receiving the telephone assistance plan credit are not required to report.

If the telephone assistance plan credit is not itemized on the subscriber's monthly charges bill for local telephone service, the telephone company must notify the subscriber of the approval for the telephone assistance plan credit.

(d) The commission shall serve as the coordinator of the telephone assistance plan and be reimbursed for its administrative expenses from the surcharge revenue pool. As the coordinator, the commission shall:

(1) establish a uniform statewide surcharge in accordance with subdivision 6;

(2) establish a uniform statewide level of telephone assistance plan credit that each telephone company shall extend to each eligible household in its service area;

(3) require each telephone company to account to the commission on a periodic basis for surcharge revenues collected by the company, expenses incurred by the company, not to include expenses of collecting surcharges, and credits extended by the company under the telephone assistance plan;

(4) require each telephone company to remit surcharge revenues to the

department of administration for deposit in the fund; and

(5) remit to each telephone company from the surcharge revenue pool the amount necessary to compensate the company for expenses, not including expenses of collecting the surcharges, and telephone assistance plan credits. When it appears that the revenue generated by the maximum surcharge permitted under subdivision 6 will be inadequate to fund any particular established level of telephone assistance plan credits, the commission shall reduce the credits to a level that can be adequately funded by the maximum surcharge. Similarly, the commission may increase the level of the telephone assistance plan credit that is available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

(e) Each telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan and shall, as part of its annual report or separately, provide the commission and the department of public service with a financial report of its experience under the telephone assistance plan for the previous year. That report must also be adequate to satisfy the reporting requirements of the federal matching plan.

(f) The department of public service shall investigate complaints against telephone companies with regard to the telephone assistance plan and shall report the results of its investigation to the commission.

Sec. 6. Minnesota Statutes 1990, section 256.01, subdivision 11, is amended to read:

Subd. 11. [CENTRALIZED DISBURSEMENT SYSTEM.] The state agency may establish a system for the centralized disbursement of ~~(1) assistance payments to recipients of aid to families with dependent children, (2) emergency assistance payments to needy families with dependent children as defined in Minnesota Statutes 1976, section 256.12, and (3) the benefit documents for food stamp recipients~~ *food coupons, assistance payments, and related documents*. ~~The state agency shall adopt rules and set guidelines for the operation of the statewide system. If required by federal law or regulations promulgated thereunder, or by state law, or by rule of the state agency, each county shall pay to the state treasurer that portion of assistance for which the county is responsible.~~ *Benefits shall be issued by the state or county and funded under this section according to section 256.025, subdivision 3, and subject to section 256.017.*

Sec. 7. Minnesota Statutes 1990, section 256.01 is amended by adding a subdivision to read:

Subd. 11a. [CONTRACTING WITH FINANCIAL INSTITUTIONS.] *The state agency may contract with banks or other financial institutions to provide services associated with the processing of public assistance checks and may pay a service fee for these services, provided the fee charged does not exceed the fee charged to other customers of the institution for similar services.*

Sec. 8. [256.023] [ONE HUNDRED PERCENT COUNTY ASSISTANCE.]

The commissioner of human services may maintain client records and issue public assistance benefits that are over state and federal standards or that are not required by state or federal law, providing the cost of benefits is

paid by the counties to the department of human services. Payment methods for this section shall be according to section 256.025, subdivision 3.

Sec. 9. Minnesota Statutes 1990, section 256.025, subdivision 1, is amended to read:

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

(b) "Base amount" means the calendar year 1990 county share of county agency expenditures for all of the programs specified in subdivision 2.

(c) "County agency expenditure" means the total expenditure or cost incurred by the county of financial responsibility for the benefits and services for each of the programs specified in subdivision 2. The term includes the federal, state, and county share of costs for programs in which there is federal financial participation. For programs in which there is no federal financial participation, the term includes the state and county share of costs. The term excludes county administrative costs, unless otherwise specified.

(d) "Nonfederal share" means the sum of state and county shares of costs of the programs specified in subdivision 2.

(e) The "county share of county agency expenditures growth amount" is the amount by which the county share of county agency expenditures in calendar years 1991 to ~~1997~~ *2000* has increased over the base amount.

Sec. 10. Minnesota Statutes 1990, section 256.025, subdivision 3, is amended to read:

Subd. 3. [PAYMENT METHODS.] ~~The state shall pay counties, according to the reporting cycle established by the commissioner, all federal funds available for the services and benefits distributed under subdivision 2 together with an amount of state funds equal to the state share of expenditures, except as provided for in section 256.017.~~ *(a)* Beginning July 1, 1991, the state will reimburse counties for the county share of county agency expenditures for benefits and services distributed under subdivision 2 and funded by the human services account established under section 273.1392~~.~~, *except as follows:*

(1) beginning July 1, 1992, the county shall pay 25 percent of the costs of the growth in emergency general assistance payments which exceed expenditures during the base year of calendar year 1990;

(2) beginning July 1, 1992, the county shall pay 25 percent of the costs of the growth in eligible general assistance negotiated rate payments which exceed expenditures during the base year of calendar year 1990;

(3) beginning July 1, 1992, the county shall pay 15 percent of the costs of the growth in Minnesota supplemental aid negotiated rate payments made which exceed expenditures during the base year of calendar year 1990;

(4) beginning July 1, 1992, the county shall pay 50 percent of the nonfederal portion of the growth in emergency assistance payments made which exceed expenditures during the base year of calendar year 1990.

(b) Payments under subdivision 4 are only for client benefits and services distributed under subdivision 2 and do not include reimbursement for county administrative expenses.

(c) The state and the county agencies shall pay for assistance programs as follows:

(1) Where the state issues payments for the programs, the county shall monthly advance to the state, as required by the department of human services, the portion of program costs not met by federal and state funds. The advance shall be an estimate that is based on actual expenditures from the prior period and that is sufficient to compensate for the county share of disbursements as well as state and federal shares of recoveries;

(2) Where the county agencies issue payments for the programs, the state shall monthly advance to counties all federal funds available for those programs together with an amount of state funds equal to the state share of expenditures; and

(3) Payments made under this paragraph are subject to section 256.017. Adjustment of any overestimate or underestimate in advances shall be made by the state agency in any succeeding month.

Sec. 11. Minnesota Statutes 1990, section 256.025, subdivision 4, is amended to read:

Subd. 4. [PAYMENT SCHEDULE.] *Except as provided for in subdivision 3,* beginning July 1, 1991, the state will reimburse counties, according to the following payment schedule, for the county share of county agency expenditures for the programs specified in subdivision 2.

(a) Beginning July 1, 1991, the state will reimburse or pay the county share of county agency expenditures according to the reporting cycle as established by the commissioner, for the programs identified in subdivision 2. Payments for the period of January 1 through July 31, for calendar years 1991, 1992, and 1993 shall be made on or before July 10 in each of those years. Payments for the period August through December for calendar years 1991, 1992, and 1993 shall be made on or before the third of each month thereafter through December 31 in each of those years.

(b) Payment for 1/24 of the base amount and the January 1994 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before January 3, 1994. For the period of February 1, 1994, through July 31, 1994, payment of the base amount shall be made on or before July 10, 1994, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1994 through December 1994 shall be made on or before the third of each month thereafter through December 31, 1994.

(c) Payment for the county share of county agency expenditures during January 1995 shall be made on or before January 3, 1995. Payment for 1/24 of the base amount and the February 1995 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before February 3, 1995. For the period of March 1, 1995, through July 31, 1995, payment of the base amount shall be made on or before July 10, 1995, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1995 through December 1995 shall be made on or before the third of each month thereafter through December 31, 1995.

(d) Monthly payments for the county share of county agency expenditures from January 1996 through February 1996 shall be made on or before the third of each month through February 1996. Payment for 1/24 of the base amount and the March 1996 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before March 1996. For the period of April 1, 1996, through July 31,

1996, payment of the base amount shall be made on or before July 10, 1996, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1996 through December 1996 shall be made on or before the third of each month thereafter through December 31, 1996.

(e) Monthly payments for the county share of county agency expenditures from January 1997 through March 1997 shall be made on or before the third of each month through March 1997. Payment for 1/24 of the base amount and the April 1997 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before April 3, 1997. For the period of May 1, 1997, through July 31, 1997, payment of the base amount shall be made on or before July 10, 1997, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1997 through December 1997 shall be made on or before the third of each month thereafter through December 31, 1997.

(f) Monthly payments for the county share of county agency expenditures from January 1998 through April 1998 shall be made on or before the third of each month through April 1998. Payment for 1/24 of the base amount and the May 1998 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before May 3, 1998. For the period of June 1, 1998, through July 31, 1998, payment of the base amount shall be made on or before July 10, 1998, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1998 through December 1998 shall be made on or before the third of each month thereafter through December 31, 1998.

(g) Monthly payments for the county share of county agency expenditures from January 1999 through May 1999 shall be made on or before the third of each month through May 1999. Payment for 1/24 of the base amount and the June 1999 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before June 3, 1999. For the period of June 1, 1999, through July 31, 1999, payment shall be made on or before July 10, 1999. Payments for the period August 1999 through December 1999 shall be made on or before the third of each month thereafter through December 31, 1999.

(h) Effective January 1, 2000, monthly payments for the county share of county agency expenditures shall be made subsequent to the first of each month.

Payments under this subdivision are subject to the provisions of section 256.017.

Sec. 12. Minnesota Statutes 1990, section 256.031, is amended to read:

256.031 [MINNESOTA FAMILY INVESTMENT PLAN.]

Subdivision 1. [CITATION.] Sections 256.031 to ~~256.036~~ *256.0361* may be cited as the Minnesota family investment plan.

Subd. 2. [LEGISLATIVE FINDINGS.] The legislature recognizes the need to fundamentally change the way government supports families. The legislature finds that many features of the current system of public assistance do not help families carry out their two basic functions: the economic support of the family unit and the care and nurturing of children. The legislature

recognizes that the Minnesota family investment plan is an investment strategy that will support and strengthen the family's social and financial functions. This investment in families will provide long-term benefits through stronger and more independent families.

Subd. 3. [AUTHORIZATION FOR THE DEMONSTRATION.] *(a)* The commissioner of human services, in consultation with the commissioners of education, finance, jobs and training, health, and planning, and the ~~directors~~ *director* of the higher education coordinating board ~~and the office of jobs policy~~, is authorized to proceed with the planning and designing of the Minnesota family investment plan and *to implement the plan to* test policies, methods, and cost impact on an experimental basis by using field trials. *The commissioner, under the authority in section 256.01, subdivision 2, shall implement the plan according to* sections 256.031 to ~~256.033 describe the basic principles of the program. Sections 256.034 to 256.036 provide a basis for congressional action. Using sections 256.031 to 256.036, the commissioner shall seek congressional authority to implement the program in field trials After obtaining congressional authority to implement the Minnesota family investment plan in field trials, the commissioner shall request specific appropriations from the legislature to implement field trials~~ *256.0361 and Public Law Numbers 101-202 and 101-239, section 8015, as amended. If major and unpredicted costs to the program occur, the commissioner may take corrective action consistent with Public Law Numbers 101-202 and 101-239, which may include termination of the program. Before taking such corrective action, the commissioner shall consult with the chairs of the senate health and human services committee, the house health and human services committee, the health and human services division of the senate finance committee and the human resources division of the house appropriations committee, or, if the legislature is not in session, consult with the legislative advisory commission.*

(b) The field trials ~~must~~ *shall* be conducted *as permitted under federal law,* for as many years as necessary, and in different geographical settings, to provide reliable instruction about the desirability of expanding the program statewide.

(c) The commissioner shall select the counties which shall serve as field trial or control sites based on criteria which ensure reliable evaluation of the program.

(d) The commissioner is authorized to determine the number of families and characteristics of subgroups to be included in the evaluation.

(i) A family that applies for or is currently receiving financial assistance from aid to families with dependent children; family general assistance or work readiness; or food stamps may be assigned by the commissioner to an experimental or a control group for the purposes of evaluating the family investment plan. Families assigned to an experimental group receive benefits and services through the family investment plan. Families assigned to a control group receive benefits and services through existing programs. A family may not select the group to which it is assigned. Once assigned to a group, a family must remain in that group for the duration of the project.

(ii) To evaluate the effectiveness of the family investment plan, the commissioner may designate a subgroup of families from the experimental group who shall be exempt from section 256.035, subdivision 1, and shall not receive case management services under section 256.035, subdivision 6a. Families are eligible for services under section 256.736 to the same extent as families receiving AFDC.

Subd. 4. [GOALS OF THE MINNESOTA FAMILY INVESTMENT PLAN.] The commissioner shall design the program to meet the following goals:

(1) to support families' transition to financial independence by emphasizing options, removing barriers to work and education, providing necessary support services, and building a supportive network of education, employment and training, health, social, counseling, and family-based services;

(2) to allow resources to be more effectively and efficiently focused on investing in families by removing the complexity of current rules and procedures and consolidating public assistance programs;

(3) to prevent long-term dependence on public assistance through paternity establishment, child support enforcement, emphasis on education and training, and early intervention with minor parents; and

(4) to provide families with an opportunity to increase their living standard by rewarding efforts aimed at transition to employment and by allowing families to keep a greater portion of earnings when they become employed.

Subd. 5. [FEDERAL WAIVERS.] ~~The commissioner of human services shall seek authority from Congress to implement the Minnesota family investment plan on a demonstration basis. If necessary~~ *In accordance with sections 256.031 to 256.0361 and federal laws authorizing the program*, the commissioner shall seek waivers of ~~compliance with~~ *federal* requirements ~~for~~ *of*: ~~aid to families with dependent children under~~ United States Code, title 42, ~~sections~~ *section* 601 ~~to 679a, as amended; medical assistance under United States Code, title 42, sections 1396 to 1396s, as amended; food stamps under~~ *et seq., and* United States Code, title 7, ~~sections~~ *section* 2011 ~~to 2030, as amended; and other federal requirements that would inhibit implementation of~~ *et seq., needed to implement* the Minnesota family investment plan *in a manner consistent with the goals and objectives of the program*. The commissioner shall seek terms from the federal government that are consistent with the goals of the Minnesota family investment plan. The commissioner shall also seek terms from the federal government that will maximize federal financial participation so that the extra costs to the state of implementing the program are minimized, to the extent that those terms are consistent with the goals of the Minnesota family investment plan. An agreement with the federal government under this section shall provide that the agreements may be canceled by the state or federal government upon ~~six months'~~ *180 days'* notice or immediately upon mutual agreement. If the ~~agreements are~~ *agreement is* canceled, families *which cease* receiving assistance under the Minnesota family investment plan who are eligible for the aid to families with dependent children, general assistance, medical assistance, general assistance medical care, ~~and~~ *or* the food stamp ~~programs~~ *program* must be placed *with their consent* on ~~those~~ *the* programs *for which they are eligible*.

Sec. 13. Minnesota Statutes 1990, section 256.032, is amended to read:

256.032 [DEFINITIONS.]

Subdivision 1. [SCOPE OF DEFINITIONS.] The terms used in sections 256.031 to ~~256.036~~ *256.0361* have the meanings given them unless otherwise provided or indicated by the context.

Subd. 1a. [ASSISTANCE UNIT.] *(a) "Assistance unit" means the following individuals when they are living together: a minor child; the minor*

child's blood-related siblings; and the minor child's natural and adoptive parents. The income and assets of members of the assistance unit must be considered in determining eligibility for the family investment plan.

(b) A nonparental caregiver, as defined in subdivision 2, may elect to be included in the assistance unit. A nonparental caregiver who does not elect to be included under this paragraph must apply for assistance with the minor child.

(c) A stepparent of the minor child may elect to be included in the assistance unit. If the stepparent does not choose to be included, the county agency shall not count the stepparent's resources or income, if the stepparent's income is less than 275 percent of the federal poverty guidelines for a family of one. If the stepparent's income is more than 275 percent of the federal poverty guidelines for a family of one and the stepparent does not choose to be included, the county agency shall not count the stepparent's resources, but shall count the stepparent's income in accordance with section 256.033, subdivision 2, clause (5).

(d) A stepsibling of the minor child may elect to be included in the assistance unit.

(e) A parent of a minor caregiver may elect to be included in the minor caregiver's assistance unit. If the parent of the minor caregiver does not choose to be included, the county agency shall not count the resources of the parent of the minor caregiver, but shall count the income of the parent of the minor caregiver, in accordance with section 256.033, subdivision 2, clause (5).

Subd. 2. [CAREGIVER.] "Caregiver" means a minor child's natural or adoptive parent or parents who live in the home with the minor child. For purposes of determining eligibility for this program, "caregiver" also means any of the following individuals, *if adults,* who live with and provide care and support to a minor child when the minor child's natural or adoptive parent or parents do not reside in the same home: grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, persons of preceding generations as denoted by prefixes of "great" or "great-great," or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

Subd. 3. [CASE MANAGEMENT.] "Case management" means the assessment of family needs ~~and~~, *the development of the employability plan and family support agreement, and the* coordination of services necessary to support the family in its social and economic roles, ~~in addition to the services described in~~ *according to* section ~~256.736~~ *256.035*, subdivision ~~11~~ *6a*.

Subd. 4. [COMMISSIONER.] "Commissioner" means the commissioner of human services or a designee.

~~Subd. 5. [CONTRACT.] "Contract" means a family self-sufficiency plan, described in section 256.035, subdivision 7, based on the case manager's assessment of the family's needs and abilities and developed, together with a parental caregiver, by a county agency or its designee.~~

Subd. 5a. [COUNTY AGENCY.] *"County agency" means the agency designated by the county board to implement financial assistance for current programs and for the Minnesota family investment plan and the agency responsible for enforcement of child support collection.*

Subd. 5b. [COUNTY BOARD.] *"County board" means the county board of commissioners; a county welfare board as defined in chapter 393; a board established under the joint powers act, section 471.59; or a human services board under chapter 402.*

Subd. 6. [DEPARTMENT.] "Department" means the department of human services.

Subd. 6a. [EMPLOYABILITY PLAN.] *"Employability plan" means the plan developed by the case manager and the caregiver according to section 256.035, subdivision 6b, which meets the requirements for an employability development plan under section 256.736, subdivision 10, paragraph (a), clause (15).*

Subd. 7. [FAMILY.] ~~For purposes of determining eligibility for this program,~~ "Family" includes the following individuals who live together: a minor child or a group of minor children related to each other as siblings, half siblings, stepsiblings, or adopted siblings, together with their natural or adoptive parents, or their caregiver as defined in subdivision 2. "Family" also includes a pregnant woman in the third trimester of pregnancy with no children.

Subd. 7a. [FAMILY SUPPORT AGREEMENT.] *"Family support agreement" means the agreement developed by the case manager and the caregiver under section 256.035, subdivision 6c.*

Subd. 8. [FAMILY WAGE LEVEL.] "Family wage level" means 120 percent of the transitional standard, as defined in subdivision 13.

Subd. 8a. [MINOR CHILD.] *"Minor child" means a child who is living in the same home of a parent or other caregiver, who is in financial need, and who is either less than 18 years of age or is under the age of 19 years and is regularly attending as a full-time student and is expected to complete a high school or a secondary level course of vocational or technical training designed to fit students for gainful employment before reaching age 19.*

~~Subd. 9. [ORIENTATION.] "Orientation" means a presentation that meets the requirements of section 256.736, subdivision 10a, provides information to caregivers about the Minnesota family investment plan, and encourages parental caregivers to engage in activities that will stabilize the family and lead to self-sufficiency.~~

Subd. 10. [PROGRAM.] "Program" means the Minnesota family investment plan.

Subd. 11. [SIGNIFICANT CHANGE.] "Significant change" means a change ~~of ten percent or $50, whichever is less, in monthly gross family earned income, or a change in family composition~~ *in income available to the family so that the sum of the income and the grant for the current month would be less than the transitional standard as defined in subdivision 13.*

Subd. 11a. [SUITABLE EMPLOYMENT.] *"Suitable employment" has the meaning given in section 256.736, subdivision 1a, paragraph (h).*

Subd. 12. [TRANSITIONAL STATUS.] "Transitional status" means the status of caregivers who are independently pursuing self-sufficiency or caregivers who are complying with the terms of a ~~contract~~ *family support agreement* with a county ~~agency or its designee~~.

Subd. 13. [TRANSITIONAL STANDARD.] "Transitional standard" means the sum of the AFDC standard of assistance and the full cash value

of food stamps for a family of the same size and composition in effect ~~when~~ *for the remainder of the state during* implementation of the Minnesota family investment plan ~~begins~~ *field trials*. This standard applies *only* to families in which the parental caregiver is in transitional status and to families in which the caregiver is exempt from ~~having a contract or is exempt from~~ *developing or has good cause for not* complying with the terms of the ~~contract~~ *family support agreement*. Full cash value of food stamps is the amount of the cash value of food stamps to which a family of a given size would be entitled for a month, determined by assuming unearned income equal to the AFDC standard for a family of that size and composition and subtracting the standard deduction and maximum shelter deduction from gross family income, as allowed under the Food Stamp Act of 1977, as amended, and Public Law Number 100-435. The assistance standard for a family consisting of a pregnant woman in the third trimester of pregnancy with no children must equal the assistance standard for one adult and one child.

Sec. 14. Minnesota Statutes 1990, section 256.033, is amended to read:

256.033 [ELIGIBILITY FOR THE MINNESOTA FAMILY INVESTMENT PLAN.]

Subdivision 1. [ELIGIBILITY CONDITIONS.] *(a)* A family is ~~eligible for and~~ entitled to assistance under the Minnesota family investment plan if:

(1) ~~the family's net income, after deducting an amount to cover taxes and actual dependent care costs up to the maximum disregarded under United States Code, title 42, section 602(a)(8)(A)(iii), does not exceed the applicable standard of assistance for that family as defined under section 256.032, subdivision 13; and~~ *the family meets the definition of assistance unit under section 256.032, subdivision 1a;*

(2) the family's ~~nonexcluded~~ resources *not excluded under subdivision 3* do not exceed $2,000~~.~~*;*

(3) the family can verify citizenship or lawful resident alien status;

(4) the family provides or applies for a social security number for each member of the family receiving assistance under the family investment plan; and

(5) the family assigns child support collection to the county agency.

(b) A family is eligible for the family investment plan if the net income is less than the transitional standard as defined in section 256.032, subdivision 13, for that size and composition of family. In determining available net income, the provisions in subdivision 2 shall apply.

(c) Upon application, a family is initially eligible for the family investment plan if the family's gross income does not exceed the applicable transitional standard of assistance for that family as defined under section 256.032, subdivision 13, after deducting:

(1) 18 percent to cover taxes;

(2) actual dependent care costs up to the maximum disregarded under United States Code, title 42, section 602(a)(8)(A)(iii); and

(3) $50 of child support collected in that month.

(d) A family can remain eligible for the program if:

(1) it meets the conditions in section 256.035, subdivision 4; and

(2) its income is below the transitional standard in section 256.032, subdivision 13, allowing for income exclusions in subdivision 2 and after applying the family investment plan treatment of earnings under section 256.035, subdivision 4.

Subd. 2. [DETERMINATION OF FAMILY INCOME.] The aid to families with dependent children income exclusions listed in Code of Federal Regulations, title 45, sections 233.20(a)(3) and 233.20(a)(4), must be used when determining a family's available income, except that:

(1) ~~the disregard of the first $75 of gross earned income is replaced with a single disregard described in section 256.035, subdivision 4, paragraph (a);~~

~~(2)~~ all earned income of a minor child receiving assistance through the Minnesota family investment plan is excluded when the child is attending school at least half-time;

~~(3)~~ *(2)* all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments are excluded in accordance with United States Code, title 42, section 602(a)(8)(A)(viii);

~~(4)~~ *(3)* educational grants and loans as provided in section 256.74, subdivision 1, clause (2), are excluded; ~~and~~

~~(5)~~ *(4)* all other income listed in Minnesota Rules, part 9500.2380, subpart 2, is excluded~~.~~*; and*

(5) when determining income available from members of the family who do not elect to be included in the assistance unit under section 256.032, subdivision 1a, paragraphs (c) and (e), the county agency shall count the remaining income after disregarding:

(i) the first 18 percent of the excluded family member's gross earned income;

(ii) an amount for the support of the stepparent and any other individuals whom the stepparent claims as dependents for determining federal personal income tax liability and who live in the same household but whose needs are not considered in determining eligibility for assistance under sections 256.031 to 256.033. The amount equals the transitional standard in section 256.032, subdivision 13, for a family of the same size and composition;

(iii) amounts the stepparent actually paid to individuals not living in the same household but whom the stepparent claims as dependents for determining federal personal income tax liability; and

(iv) alimony or child support, or both, paid by the stepparent for individuals not living in the same household.

Subd. 3. [DETERMINATION OF FAMILY RESOURCES.] When determining a family's resources, the following are excluded:

(1) the family's home, together with ~~the~~ surrounding property *that does not exceed ten acres and that is* not separated from the home by intervening property owned by others;

(2) one burial plot for each family member;

(3) one prepaid burial contract with an equity value of no more than $1,500 for each member of the family;

(4) licensed automobiles, trucks, or vans up to a total equity value of $4,500;

(5) ~~the value of~~ personal property needed to produce earned income, including tools, implements, farm animals, and inventory;

(6) the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business; and

(7) clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living.

Subd. 4. [TREATMENT OF SSI AND MSA.] The monthly benefits and any other income received through the supplemental security income or Minnesota supplemental aid ~~programs~~ *program* and any real or personal property of ~~a person receiving~~ *an assistance unit member who receives* supplemental security income or Minnesota supplemental aid must be excluded in determining the family's eligibility for the Minnesota family investment plan and the amount of assistance. In determining the amount of assistance to be paid to the family, the needs of the person receiving supplemental security income or Minnesota supplemental aid must not be taken into account.

Subd. 5. [ABILITY TO APPLY FOR FOOD STAMPS.] A family that is ineligible for assistance through the Minnesota family investment plan due to income or resources may apply for, and if eligible receive, benefits under the food stamp program.

Sec. 15. Minnesota Statutes 1990, section 256.034, is amended to read:

256.034 [PROGRAM SIMPLIFICATION.]

Subdivision 1. [CONSOLIDATION OF TYPES OF ASSISTANCE.] Under the Minnesota family investment plan, assistance previously provided to families through the AFDC, food stamp, and general assistance programs must be combined into a single cash assistance program. ~~If~~ *As* authorized by Congress, families receiving assistance through the Minnesota family investment plan are automatically eligible for and entitled to medical assistance under chapter 256B. Federal, state, and local funds that would otherwise be allocated for assistance to families under the AFDC, food stamp, and general assistance programs must be transferred to the Minnesota family investment plan. The provisions of the Minnesota family investment plan prevail over any provisions of sections 256.72 to 256.87 or 256D.01 to 256D.21 *and any rules implementing those sections* with which they are irreconcilable. The food stamp, general assistance, and work readiness programs for single persons and couples who are not responsible for the care of children are not replaced by the Minnesota family investment plan.

Subd. 2. [COUPON OPTION.] Families have the option to receive a ~~portion of their assistance~~ *standardized amount of assistance as described in Public Law Number 101-202, section 22(a)(3)(D)*, designated by the commissioner, in the form of food coupons or vendor payments.

Subd. 3. [MODIFICATION OF ELIGIBILITY TESTS.] (a) A needy family is eligible and entitled to receive assistance under the program even if its children are not found to be deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity of a parent, or unemployment of a parent, provided the family's income and resources do not exceed the eligibility requirements in section 256.033. In addition, a ~~family member~~ *caregiver who is in the assistance*

unit who is physically and mentally fit, who is between the ages of 18 and 60 years, who is enrolled at least half time in an institution of higher education, and whose family income and resources do not exceed the eligibility requirements in section 256.033, is eligible for assistance under the Minnesota family investment plan even if the conditions for eligibility as prescribed under the federal Food Stamp Act of 1977, as amended, are not met.

(b) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support, *health care benefits coverage,* and maintenance from any other person the applicant may have in the applicant's own behalf or on behalf of any other family member for whom application is made under the Minnesota family investment plan. The provisions of section 256.74, subdivision 5, govern the assignment. An applicant for, or a person receiving, assistance under the Minnesota family investment plan shall cooperate with the efforts of the county agency to collect child and spousal support. The county agency is entitled to any child support and maintenance received by or on behalf of the person receiving assistance or another member of the family for which the person receiving assistance is responsible. Failure by an applicant or a person receiving assistance to cooperate with the efforts of the county agency to collect child and spousal support without good cause must be sanctioned according to section 256.035, subdivision 3.

(c) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is not required to comply with the employment and training requirements prescribed under sections 256.736, subdivisions 3, 3a, and 14; and 256D.05, subdivision 1; section 402(a)(19) of the Social Security Act; the federal Food Stamp Act of 1977, as amended; Public Law Number 100-485; or any other state or federal employment and training program, unless *and to the extent* compliance is specifically required in a ~~contract~~ *family support agreement* with the county agency *or its designee*.

Subd. 4. [SIMPLIFICATION OF BUDGETING PROCEDURES.] The monthly amount of assistance provided by the Minnesota family investment plan must be calculated ~~on a prospective basis~~ *by* taking into account actual income or circumstances that existed in a previous month and other relevant information to predict income and circumstances for the next month or months. When a family has a significant change in circumstances, the budgeting cycle must be interrupted and the amount of assistance for the payment month must be based on the county agency's best estimate of the family's income and circumstances for that month. Families may be required to report their income monthly, but income may be averaged over a period of more than one month.

Subd. 5. [SIMPLIFICATION OF VERIFICATION PROCEDURES.] Verification procedures must be reduced to the minimum that is workable and consistent with the goals and requirements of the Minnesota family investment plan *as determined by the commissioner*.

Sec. 16. Minnesota Statutes 1990, section 256.035, is amended to read:

256.035 [INCOME SUPPORT AND TRANSITION.]

Subdivision 1. [EXPECTATIONS.] All families eligible for assistance under the family investment plan are expected to be in transitional status

as defined in section 256.032, subdivision 12. To be considered in transitional status, families must meet the following expectations:

(a) For a family headed by a single adult ~~parent~~ *parental caregiver*, the expectation is that the ~~parent~~ *parental caregiver* will independently pursue self-sufficiency until the family has received assistance for 24 months within the preceding 36 months. Beginning with the 25th month of assistance, the parent must be developing or ~~have a contract and comply~~ *complying* with the terms of the ~~contract with the county agency or its designee~~ *family support agreement*.

(b) For a family with a minor ~~parent~~ *parental caregiver or a family whose parental caregiver is 18 or 19 years of age and does not have a high school diploma or its equivalent*, the expectation is that, concurrent with the receipt of assistance, the ~~minor parent~~ *parental caregiver* must be developing or ~~have a contract with the county agency~~ *complying with a family support agreement*. The terms of the ~~contract~~ *family support agreement* must include compliance with section 256.736, subdivision 3b. *However, if the assistance unit does not comply with section 256.736, subdivision 3b, the sanctions in subdivision 3 apply.*

(c) For a family with two adult ~~parents~~ *parental caregivers*, the expectation is that *at least* one ~~or both parents~~ *parent* will independently pursue self-sufficiency until the family has received assistance for six months within the preceding 12 months. Beginning with the seventh month of assistance, one parent must be developing or ~~have a contract and comply~~ *complying* with the terms of the ~~contract with the county agency or its designee~~ *family support agreement*.

Subd. 2. [EXEMPTIONS.] *(a)* A caregiver is exempt from the requirement of developing ~~a contract~~ and complying with the terms of the ~~contract developed with the county agency~~ *family support agreement*, or engaging in transitional activities, if:

(1) the caregiver is not the natural or adoptive parent of a minor child; or

(2) ~~in the case of a parental caregiver, the county agency determines that:~~

~~(i) individual circumstances prevent compliance;~~

~~(ii) support services necessary to enable compliance are not available;~~

~~(iii) activities identified in the contract are not available; or~~

~~(iv) a parental caregiver is willing to accept suitable employment but employment is not available.~~ *the caregiver is exempt under United States Code, title 7, section 2031(c)(1)(A)(B)(C)(D)(E) or (F);*

(b) A parental caregiver exempt under paragraph (a), clause (2), may meet with a case manager and develop an employability plan if the parental caregiver fits one of the categories of expectations in subdivision 1, and may receive support services including child care if needed to participate in activities identified in the employability plan.

Subd. 2a. [GOOD CAUSE.] *The county agency shall not impose the sanction in subdivision 3 if it determines that the parental caregiver has good cause for not meeting the expectations of developing and complying with the terms of a family support agreement developed with the county agency. Good cause exists when:*

(1) needed child care is not available;

(2) the job does not meet the definition of suitable employment in section 256.032, subdivision 11a;

(3) the parental caregiver is ill or injured;

(4) a family member is ill and needs care by the parental caregiver that prevents the parental caregiver from complying with the family support agreement;

(5) the parental caregiver is unable to secure the necessary transportation;

(6) the parental caregiver is in an emergency situation which prevents compliance with the family support agreement;

(7) the schedule of compliance with the family support agreement conflicts with judicial proceedings;

(8) the parental caregiver is already participating in acceptable activities;

(9) the family support agreement requires an educational program for a parent under age 20, but the educational program is not offered in the school district;

(10) activities identified in the family support agreement are not available;

(11) the parental caregiver is willing to accept suitable employment as defined in section 256.032, subdivision 11a, but employment is not available; or

(12) the parental caregiver documents other verifiable impediments to compliance with the family support agreement beyond the parental caregiver's control.

Subd. 3. [SANCTIONS.] A family whose parental caregiver is not exempt from the expectations in subdivision 1 and who is not complying with those expectations *by developing or complying with the family support agreement* must have assistance reduced by a value equal to ten percent of the transitional standard as defined in section 256.032, subdivision 13. This reduction *is effective with the month following the finding of noncompliance and* continues until the *beginning of the month after* failure to comply ceases. The county ~~agency~~ must ~~notify~~ *provide written notice to* the parental caregiver of its intent to implement this sanction and the opportunity to have a conciliation conference, upon request, before the ~~sanctions are~~ *sanction is* implemented. *Implementation of the sanction shall be postponed pending resolution of the conciliation conference under section 256.036, subdivision 5, or hearing under section 256.045.*

Subd. 4. [TREATMENT OF INCOME *FOR THE PURPOSES OF CONTINUED ELIGIBILITY.*] To help families during their transition from the Minnesota family investment plan to self-sufficiency, the following income supports are available:

(a) The $30 and one-third and ~~$75~~ *$90* disregards allowed under section 256.74, subdivision 1, and the 20 percent earned income deduction allowed under the federal Food Stamp Act of 1977, as amended, are replaced with a single disregard of not less than 35 percent of gross earned income to cover taxes and other work-related expenses and to reward the earning of income. This single disregard is available for the entire time a family receives assistance through the Minnesota family investment plan.

(b) The dependent care deduction, as prescribed under section 256.74, subdivision 1, and United States Code, title 7, section 2014(e), is replaced for families with earned income who need assistance with dependent care with an entitlement to a dependent care subsidy from money ~~earmarked~~ *appropriated* for the Minnesota family investment plan.

(c) The family wage level, as defined in section 256.032, subdivision 8, allows families to supplement earned income with assistance received through the Minnesota family investment plan. If, after earnings are adjusted according to the disregard described in paragraph (a), earnings have raised family income to a level equal to or greater than the family wage level, the amount of assistance received through the Minnesota family investment plan must be reduced.

(d) The first $50 of any timely support payment for a month received by the public agency responsible for child support enforcement shall be paid to the family and disregarded in determining eligibility and the amount of assistance in accordance with United States Code, title 42, sections 602(a)(8)(A)(vi) and 657(b)(1). This paragraph applies regardless of whether the caregiver is in transitional status, is exempt from ~~having~~ *developing* or complying with the terms of a ~~contract~~ *family support agreement*, or has had a sanction imposed under subdivision 3.

Subd. 5. [ORIENTATION.] ~~All caregivers receiving assistance through the Minnesota family investment plan must attend orientation~~ *The county agency must provide orientation which supplies information to caregivers about the Minnesota family investment plan, and must encourage parental caregivers to engage in activities to stabilize the family and lead to employment and self-support.*

~~Subd. 6. [CONTRACT.] (a) To receive the transitional standard of assistance, a single adult parent who is a member of a family that has received assistance through the Minnesota family investment plan for 24 months within the preceding 36 months, a minor parent receiving assistance through the Minnesota family investment plan, and one parent in a two-parent family that has received assistance through the Minnesota family investment plan for six months within the preceding 12 months, must comply with the terms of a contract with the county agency or its designee unless exempt under subdivision 2. Case management must be provided to a caregiver who is a parent to assist the caregiver in meeting established goals and to monitor the caregiver's progress toward achieving those goals. The parental caregiver and the county agency must finalize the contract as soon as possible, but in any event within a reasonable period of time after the deadline specified in subdivision 1, paragraph (a), (b), or (c), whichever applies.~~

~~(b) A contract must identify the parental caregiver's employment goal and explain what steps the family must take to pursue self-sufficiency. Activities may include:~~

~~(1) orientation;~~

~~(2) employment;~~

~~(3) employment and training services as defined under section 256.736, subdivision 1a, paragraph (d);~~

~~(4) preemployment activities;~~

~~(5) participation in an educational program leading to a high school or~~

~~general equivalency diploma and post-secondary education programs, excluding postbaccalaureate degrees as provided in section 256.736, subdivision 1a, paragraph (d);~~

~~(6) case management;~~

~~(7) social services; or~~

~~(8) other programs or services leading to self-sufficiency.~~

~~The contract must also identify the services that the county agency will provide to the family that the family needs to enable the parental caregiver to comply with the contract, including support services such as transportation and child care.~~

Subd. 6a. [CASE MANAGEMENT SERVICES.] *(a) The county agency will provide case management services to caregivers required to develop and comply with a family support agreement as provided in subdivision 1. For minor parents, the responsibility of the case manager shall be as defined in section 256.736, subdivision 3b. Sanctions for failing to develop or comply with the terms of a family support agreement shall be imposed according to subdivision 3. When a minor parent reaches age 17, or earlier if determined necessary by the social service agency, the minor parent shall be referred for case management services.*

(b) Case managers shall provide the following services:

(1) the case manager shall provide or arrange for an assessment of the family and caregiver's needs, interests, and abilities according to section 256.736, subdivision 11, paragraph (a), clause (1);

(2) the case manager shall coordinate services according to section 256.736, subdivision 11, paragraph (a), clause (3);

(3) the case manager shall develop an employability plan according to subdivision 6b;

(4) the case manager shall develop a family support agreement according to subdivision 6c; and

(5) the case manager shall monitor the caregiver's compliance with the employability plan and the family support agreement as required by the commissioner.

(c) Case management may continue for up to six months following the caregiver's achievement of employment goals.

Subd. 6b. [EMPLOYABILITY PLAN.] *(a) The case manager shall develop an employability plan with the caregiver according to this subdivision and section 256.736, subdivision 11, paragraph (a), clause (2), which will be based on the assessment in subdivision 6a of the caregiver's needs, interests, and abilities.*

(b) An employability plan must identify the caregiver's employment goal or goals and explain what steps the family must take to pursue self-sufficiency.

(c) Activities in the employability plan may include preemployment activities such as: programs, activities, and services related to job training and job placement. These preemployment activities may include, based on availability and resources, participation in dislocated worker services, chemical

dependency treatment, mental health services, self-esteem enhancement activities, peer group networks, displaced homemaker programs, education programs leading toward the employment goal, parenting education, and other programs to help the families reach their employment goals and enhance their ability to care for their children.

Subd. 6c. [FAMILY SUPPORT AGREEMENT.] *(a) The family support agreement is the enforceable component of the employability plan as described in subdivision 6b and section 256.736, subdivision 10, paragraph (a), clause (15). A parental caregiver's failure to comply with any part of the family support agreement without good cause as provided in subdivision 2a is subject to sanction as provided in subdivision 3.*

(b) A family support agreement must identify the parental caregiver's employment goal or goals and outline the steps which the parental caregiver and case manager mutually determined are necessary to achieve each goal. Activities are limited to:

(1) employment;

(2) employment and training activities; or

(3) education up to a baccalaureate degree.

(c) A family support agreement shall include only those activities described in paragraph (b). Social services or activities, such as mental health or chemical dependency services, parenting education, or budget management, can be included in the employability plan and not in the family support agreement and are not subject to a sanction under subdivision 3.

(d) For a parental caregiver whose employability plan is composed entirely of services described in paragraph (c), the family support agreement shall designate a date for reassessment of the activities needed to reach the parental caregiver's employment goal and this date shall be considered as the content of the family support agreement. The parental caregiver and case manager shall meet at least semiannually to review and revise the family support agreement.

(e) The family support agreement must identify the services that the county agency will provide to the family to enable the parental caregiver to comply with the family support agreement, including support services such as transportation and child care.

(f) The family support agreement must state the parental caregiver's obligations and the conditions under which the county agency will recommend a sanction be applied to the grant and withdraw the services.

(g) The family support agreement will specify a date for completion of activities leading to the employment goal.

(h) The family support agreement must be signed and dated by the case manager and parental caregiver. In all cases, the case manager must assist the parental caregiver in reviewing and understanding the family support agreement and must assist the caregiver in setting realistic goals in the agreement which are consistent with the ultimate goal of financial support for the caregiver's family. The case manager must inform the caregiver of the right to seek conciliation as provided in subdivision 6e.

(i) The caregiver may revise the family support agreement with the case manager when good cause indicates revision is warranted. Revisions for

reasons other than good cause to employment goals or steps toward self-support may be made in the first six months after the signing of the family support agreement with the approval of the case manager. After that, the revision must be approved by the case management supervisor or other persons responsible for review of case management decisions.

Subd. 6d. [LENGTH OF JOB SEARCH.] *When the family support agreement specifies a date when job search should begin, the parental caregiver must participate in employment search activities. If, after three months of search, the parental caregiver does not find a job that is consistent with the parental caregiver's employment goal, the parent must accept any suitable employment. The search may be extended for up to three months if the parental caregiver seeks and needs additional job search assistance.*

Subd. 6e. [CONCILIATION.] *A conciliation procedure shall be available as provided in section 256.736, subdivision 11, paragraph (c). The conciliation conference will be available to parental caregivers who cannot reach agreement with the case manager about the contents or interpretation of the family support agreement, or who have received a notice of intent to implement a sanction as required under subdivision 3. Implementation of the sanction will be postponed pending the outcome of conciliation. The conciliation conference will be facilitated by a neutral mediator, and the goal will be to achieve mutual agreement between the parental caregiver and case manager. The conciliation conference is an optional procedure preceding the hearing process under section 256.045.*

~~Subd. 7. [EMPLOYMENT BONUS.] A family leaving the program as a result of increased earnings through employment is entitled to an employment bonus. This bonus is a one-time cash incentive, not more than the family's monthly payment standard, to cover initial expenses incurred by the family leaving the Minnesota family investment plan.~~

Subd. 8. [CHILD CARE.] The commissioner shall ensure that each Minnesota family investment plan caregiver who is ~~a parent in transitional status~~ *employed or is developing or is engaged in activities identified in an employability plan under subdivision 6b* and who needs assistance with child care costs to ~~independently pursue self-sufficiency~~ *be employed* or *to develop or* comply with the terms of ~~a contract with the county agency~~ *an employability plan* receives a child care subsidy through child care money ~~earmarked~~ *appropriated* for the Minnesota family investment plan. The subsidy must cover all actual child care costs for eligible hours up to the maximum rate allowed under ~~sections~~ *section* 256H.15 ~~and 256H.16~~. A caregiver who is ~~a parent~~ *in the assistance unit* who leaves the program as a result of increased earnings from employment and who needs child care assistance to remain employed is entitled to extended child care assistance as provided under United States Code, title 42, section 602(g)(1)(A)(ii) *on a copayment basis.*

Subd. 9. [HEALTH CARE.] A family leaving the program as a result of increased earnings from employment is eligible for extended medical assistance as provided under Public Law Number 100-485, section 303, as amended *and Public Law Number 101-239, section 8015(b)(7).*

Sec. 17. Minnesota Statutes 1990, section 256.036, subdivision 1, is amended to read:

Subdivision 1. [SUPPORT SERVICES.] If assistance with child care or transportation is necessary to enable a *parental* caregiver ~~who is a parent~~

to work, obtain training or education, attend orientation, or comply with the terms of a ~~contract~~ *family support agreement* with the county agency, and the county *agency* determines that child care or transportation is not available, the family's applicable standard of assistance continues to be the transitional standard.

Sec. 18. Minnesota Statutes 1990, section 256.036, subdivision 2, is amended to read:

Subd. 2. [VOLUNTEERS.] For caregivers receiving assistance under the Minnesota family investment plan who *are not currently employed but who* are independently pursuing self-sufficiency, case management ~~and~~, support services ~~other than~~, *and* child care are available to the extent that resources permit. *A caregiver who volunteers is not subject to a sanction under section 256.035, subdivision 3.*

Sec. 19. Minnesota Statutes 1990, section 256.036, subdivision 4, is amended to read:

Subd. 4. [TIMELY ASSISTANCE.] Applications must be processed in a timely manner according to the processing standards of the federal Food Stamp Act of 1977, as amended, and no later than 30 days following the date of application, unless the county agency has requested information that the applicant has not yet supplied. Financial assistance must be provided ~~on no less than a~~ *at least* monthly ~~basis~~ to eligible families.

Sec. 20. Minnesota Statutes 1990, section 256.036, subdivision 5, is amended to read:

Subd. 5. [DUE PROCESS.] Any family that applies for or receives assistance under the Minnesota family investment plan whose application for assistance is denied or not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, is entitled, upon request, to a hearing under section 256.045. A parental caregiver may request a conciliation conference, *as provided* under section ~~256.736~~ *256.035*, ~~subdivisions 4a and 11~~ *subdivision 6e*, when the caregiver disputes the ~~contents~~ *terms* of a ~~contract~~ *family support agreement* developed under the Minnesota family investment plan or disputes a decision regarding failure or refusal to ~~cooperate~~ *comply* with the terms of a ~~contract~~ *family support agreement*. The disputes are not subject to administrative review under section 256.045, unless they result in a denial, suspension, reduction, or termination, and the parental caregiver complies with section 256.045. A caregiver need not request a conciliation conference to request a hearing according to section 256.045.

Sec. 21. [256.0361] [FIELD TRIAL OPERATION.]

Subdivision 1. [LOCAL PLAN.] *A county that is selected to serve as a field trial or control site shall carry out the activities necessary to perform the evaluation for the duration of the field trials.*

Subd. 2. [FINANCIAL REIMBURSEMENT.] *(a) Up to the limit of the state appropriation, a county selected by the commissioner to serve as a field trial or a control site for the Minnesota family investment plan shall be reimbursed by the state for the nonfederal share of administrative costs that were incurred during the development, implementation, and operation of the program and that exceed the administrative costs that would have been incurred in the absence of the program.*

(b) Minnesota family investment plan assistance is included as covered

programs and services under section 256.025, subdivision 2.

Sec. 22. Minnesota Statutes 1990, section 256.736, subdivision 3a, is amended to read:

Subd. 3a. [PARTICIPATION.] (a) Except as provided under paragraphs (b) and (c), participation in employment and training services under this section is limited to the following recipients:

(1) caretakers who are required to participate in a job search under subdivision 14;

(2) custodial parents who are subject to the school attendance or case management participation requirements under subdivision 3b;

(3) caretakers whose participation in employment and training services began prior to May 1, 1990, if the caretaker's AFDC eligibility has not been interrupted for 30 days or more and the caretaker's employability development plan has not been completed;

(4) recipients who are members of a family in which the youngest child is within two years of being ineligible for AFDC due to age;

(5) ~~effective September 1, 1990,~~ custodial parents under the age of ~~22~~ *24* who: (i) have not completed a high school education and who, at the time of application for AFDC, were not enrolled in high school or in a high school equivalency program; or (ii) have had little or no work experience in the preceding year;

(6) recipients who have received AFDC for ~~48~~ *36* or more months out of the last 60 months;

(7) recipients who are participants in the self-employment investment demonstration project under section 268.95; and

(8) recipients who participate in the new chance research and demonstration project under contract with the department of human services.

(b) If the commissioner determines that participation of persons listed in paragraph (a) in employment and training services is insufficient either to meet federal performance targets or to fully utilize funds appropriated under this section, the commissioner may, after notifying the chairs of the senate and house health and human services committees, the health and human services division of the senate finance committee, and the health and human services division of the house appropriations committee, permit additional groups of recipients to participate until the next meeting of the legislative advisory commission, after which the additional groups may continue to enroll for participation unless the legislative advisory commission disapproves the continued enrollment. The commissioner shall allow participation of additional groups in the following order only as needed to meet performance targets or fully utilize funding for employment and training services under this section:

(1) ~~recipients who have received at least 42 months of AFDC out of the previous 60 months;~~

~~(2) custodial parents under the age of 24 who meet the criteria in paragraph (a), clause (5), subclause (i) or (ii);~~

~~(3) recipients who have received at least 36 months of AFDC out of the previous 60 months;~~

~~(4)~~ recipients who have received 24 or more months of AFDC out of the previous 48 months; and

~~(5)~~ *(2)* recipients who have not completed a high school education or a high school equivalency program.

(c) To the extent of money appropriated specifically for this paragraph, the commissioner may permit AFDC caretakers who are not eligible for participation in employment and training services under the provisions of paragraph (a) or (b) to participate. Money must be allocated to county agencies based on the county's percentage of participants statewide in services under this section in the prior calendar year. ~~Counties must provide equal or greater services to participants enrolled under this paragraph, as measured in average per client expenditures, as provided to other participants in employment and training services under this section.~~ Caretakers must be selected on a first-come, first-served basis from a waiting list of caretakers who volunteer to participate. The commissioner may, on a quarterly basis, reallocate unused allocations to county agencies that have sufficient volunteers. If funding under this paragraph is discontinued in future fiscal years, caretakers who began participating under this paragraph must be deemed eligible under paragraph (a), clause (3).

Sec. 23. Minnesota Statutes 1990, section 256.82, subdivision 1, is amended to read:

Subdivision 1. [~~MONTHLY~~ *DIVISION OF COSTS AND* PAYMENTS.] Based upon estimates submitted by the county agency to the state agency, which shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency, payment shall be made monthly in advance by the state to the counties of all federal funds available for that purpose for such succeeding month. The state share of the nonfederal portion of county agency expenditures shall be 85 percent and the county share shall be 15 percent. ~~Payments to counties for costs incurred shall include an amount of state funds equal to 85 percent of the difference between the total estimated cost and the federal funds so available for payments made.~~ *Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017.* Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of county agency expenditures under this subdivision from January 1, 1991, on. Payment to counties under this subdivision is subject to the provisions of section 256.017. Adjustment of any overestimate or underestimate made by any county shall be paid upon the direction of the state agency in any succeeding month.

Sec. 24. Minnesota Statutes 1990, section 256.871, subdivision 6, is amended to read:

Subd. 6. [REPORTS OF ESTIMATED EXPENDITURES; PAYMENTS.] The county agency shall submit to the state agency reports required under section 256.01, subdivision 2, paragraph (17). Fiscal reports shall estimate expenditures for each succeeding month in such form as required by the state agency. ~~Payment shall be made monthly in advance by the state agency to the counties, of federal funds available for that purpose for each succeeding month. The state share of the nonfederal portion of county agency expenditures shall be ten percent and the county share shall be 90 percent. Payments to counties for costs incurred shall include an amount of state funds equal to ten percent of the difference between the total estimated cost and the federal funds~~

~~available.~~ *The state share of the nonfederal portion of eligible expenditures shall be ten percent and the county share shall be 90 percent. Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017.* Beginning July 1, 1991, the state will reimburse counties according to the payment schedule set forth in section 256.025 for the county share of county agency expenditures made under this subdivision from January 1, 1991, on. Payment ~~to counties~~ under this subdivision is subject to the provisions of section 256.017. Adjustment of any overestimate or underestimate made by any county shall be paid upon the direction of the state agency in any succeeding month.

Sec. 25. Minnesota Statutes 1990, section 256.935, subdivision 1, is amended to read:

Subdivision 1. On the death of any person receiving public assistance through aid to dependent children, the county agency shall pay an amount for funeral expenses not exceeding $370 and actual cemetery charges. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the children, or spouse, who were legally responsible for the support of the deceased while living, are able to pay such expenses; provided, that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which the deceased resided, shall not limit payment by the county agency as herein authorized. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the burial of any such deceased recipient. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant funeral expenses where the sale would cause undue loss to the estate. Any amount paid for funeral expenses shall be a prior claim against the estate, as provided in section 524.3-805, and any amount recovered shall be reimbursed to the agency which paid the expenses. The commissioner shall specify requirements for reports, including fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The state share of county agency expenditures shall be 50 percent and the county share shall be 50 percent. ~~The state shall reimburse the county for 50 percent of county agency expenditures made for funeral expenses.~~ *Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017.*

Beginning July 1, 1991, the state will reimburse counties according to the payment schedule set forth in section 256.025 for the county share of county agency expenditures made under this subdivision from January 1, 1991, on. Payment ~~to counties~~ under this subdivision is subject to the provisions of section 256.017.

Sec. 26. Minnesota Statutes 1990, section 256.98, is amended by adding a subdivision to read:

Subd. 8. [DISQUALIFICATION FROM PROGRAM.] *Any person found to be guilty of wrongfully obtaining assistance by a federal or state court, in either the aid to families with dependent children program or the food stamp program, shall be disqualified from that program. The needs of that individual shall not be taken into consideration in determining the grant level for that assistance unit:*

(1) for six months after the first conviction;

(2) for 12 months after the second conviction; and

(3) permanently after the third or subsequent conviction.

Any period for which sanctions are imposed is effective, without possibility of administrative stay, until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved. When the disqualified individual is a caretaker relative, the remainder of the aid to families with dependent children grant payable to the other eligible assistance unit members must be provided in the form of protective payments. These payments may be made to the disqualified individual only if, after reasonable efforts, the county agency documents that it cannot locate an appropriate protective payee. Protective payments must continue until the disqualification period ends.

Sec. 27. Minnesota Statutes 1990, section 256.983, is amended to read:

256.983 [FRAUD PREVENTION INVESTIGATIONS.]

Subdivision 1. [PROGRAMS ESTABLISHED.] ~~(a) Within the limits of available appropriations, and to the extent either required or authorized by applicable federal regulations, the commissioner of human services shall select and fund not less than four pilot projects for a two-year period to test the effectiveness of fraud prevention investigations conducted at the point of application for assistance. County agencies must be selected to be involved in the pilot projects based on their response to requests for proposals issued by the commissioner. One of the county agencies selected must be located in either Hennepin or Ramsey county, one must be from a county in the seven-county metropolitan area other than Hennepin and Ramsey counties, and two must be located outside the metropolitan area.~~

~~(b) If proposals are not submitted, the commissioner may select the county agencies to be involved. The county agencies must be selected from the locations described in paragraph (a).~~ *Within the limits of available appropriations, and to the extent required or authorized by applicable federal regulations, the commissioner of human services shall require the establishment of fraud prevention investigation programs in the seven counties participating in the fraud prevention investigation pilot project established under Laws 1989, chapter 282, article 5, section 41, and in 11 additional Minnesota counties with the largest aid to families with dependent children program caseloads as of July 1, 1991. If funds are sufficient, the commissioner may also extend fraud prevention investigation programs to other counties that have welfare fraud control programs already in place based on enhanced funding contracts covering the fraud investigation function.*

Subd. 2. [COUNTY PROPOSALS.] *Each participating county agency shall develop and submit an annual staffing and funding proposal to the commissioner no later than April 30 of each year. Each proposal shall include, but not be limited to, the staffing and funding of the fraud prevention investigation program, a job description for investigators involved in the fraud prevention investigation program, and the organizational structure of the county agency unit, training programs for case workers, and the operational requirements which may be directed by the commissioner. The proposal shall be approved, to include any changes directed or negotiated by the commissioner, no later than June 30 of each year.*

Subd. 3. [DEPARTMENT RESPONSIBILITIES.] *The commissioner shall establish training programs which shall be attended by all investigative and supervisory staff of the involved county agencies. The commissioner shall also develop the necessary operational guidelines, forms, and reporting mechanisms, which shall be used by the involved county agencies.*

Subd. 4. [FUNDING.] *Every involved county agency shall either have in place or obtain an approved contract which meets all federal requirements necessary to obtain enhanced federal funding for its welfare fraud control and fraud prevention investigation programs. County agency reimbursement shall be made through the settlement provisions applicable to the aid to families with dependent children and food stamp programs.*

Sec. 28. [256.984] [DECLARATION AND PENALTY.]

Subdivision 1. [DECLARATION.] *Every application for food stamps under chapter 393 shall be in writing or reduced to writing as prescribed by the state agency and shall contain the following declaration which shall be signed by the applicant:*

"I declare under the penalties of perjury that this application has been examined by me and to the best of my knowledge is a true and correct statement of every material point. I understand that a person convicted of perjury may be sentenced to imprisonment of not more than five years or to payment of a fine of not more than $10,000, or both."

Subd. 2. [PENALTY.] *Any person who willfully and falsely makes the declaration in subdivision 1 is guilty of perjury and shall be subject to the penalties prescribed in section 609.48.*

Sec. 29. Minnesota Statutes 1990, section 256B.064, subdivision 2, is amended to read:

Subd. 2. The commissioner shall determine monetary amounts to be recovered and the sanction to be imposed upon a vendor of medical care for conduct described by subdivision 1a. Neither a monetary recovery nor a sanction will be sought by the commissioner without prior notice and an opportunity for a hearing, pursuant to chapter 14, on the commissioner's proposed action, provided that the commissioner may suspend or reduce payment to a vendor of medical care, except a nursing home or convalescent care facility, prior to the hearing if in the commissioner's opinion that action is necessary to protect the public welfare and the interests of the program.

Upon receipt of a notice that a monetary recovery or sanction is to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision 3, by filing with the commissioner a written request of appeal. The appeal request must be received by the commissioner no later than 30 days after the date the notification of monetary recovery or sanction was mailed to the vendor. The appeal request must specify:

(1) each disputed item, the reason for the dispute, and an estimate of the dollar amount involved for each disputed item;

(2) the computation that the vendor believes is correct;

(3) the authority in statute or rule upon which the vendor relies for each disputed item;

(4) the name and address of the person or entity with whom contacts may be made regarding the appeal; and

(5) other information required by the commissioner.

Sec. 30. Minnesota Statutes 1990, section 256D.03, subdivision 2, is amended to read:

Subd. 2. After December 31, 1980, state aid shall be paid ~~to county agencies~~ for 75 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017 ~~and except that, until January 1, 1991, state aid is reduced to 65 percent of all work readiness assistance if the county agency does not make occupational or vocational literacy training available and accessible to recipients who are eligible for assistance under section 256D.051~~. *Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3.*

Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of county agency expenditures made under this subdivision from January 1, 1991, on. Payment to counties under this subdivision is subject to the provisions of section 256.017.

Sec. 31. Minnesota Statutes 1990, section 256D.03, subdivision 2a, is amended to read:

Subd. 2a. [COUNTY AGENCY OPTIONS.] Any county agency may, from its own resources, make payments of general assistance and work readiness assistance: (a) at a standard higher than that established by the commissioner without reference to the standards of section 256D.01, subdivision 1; or (b) to persons not meeting the eligibility standards set forth in section 256D.05, subdivision 1, or 256D.051 but for whom the aid would further the purposes established in the general assistance or work readiness program in accordance with rules adopted by the commissioner pursuant to the administrative procedure act. *The Minnesota department of human services may maintain client records and issue these payments, providing the cost of benefits is paid by the counties to the department of human services in accordance with sections 256.01 and 256.025, subdivision 3.*

Sec. 32. Minnesota Statutes 1990, section 256D.05, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] (a) Each person or family whose income and resources are less than the standard of assistance established by the commissioner and who is a resident of the state shall be eligible for and entitled to general assistance if the person or family is:

(1) a person who is suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

(2) a person whose presence in the home on a substantially continuous basis is required because of the professionally certified illness, injury, incapacity, or the age of another member of the household;

(3) a person who has been placed in, and is residing in, a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the county agency through its director or designated

representative;

(4) a person who resides in a shelter facility described in subdivision 3;

(5) a person not described in clause (1) or (3) who is diagnosed by a licensed physician, licensed psychologist, or other qualified professional, as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining employment;

(6) ~~a person who has an application pending for the social security disability program or the program of supplemental security income for the aged, blind, and disabled, provided that within 60 days of the initial denial of the application by the social security administration, the person produces medical evidence in support of the person's application; or a person who has been terminated from either program and has an appeal from that termination pending. A person whose benefits are terminated for failure to produce any medical evidence within 60 days of the denial of the application, is eligible as soon as medical evidence in support of the application for the social security disability program or the program of supplemental security income for the aged, blind, and disabled is produced. Except for a person whose application is based in whole or in part on mental illness or chemical dependency, a person whose application for either program is denied and who does not pursue an appeal is eligible under this paragraph based on a new application only if the new application concerns a different disability or alleges new or aggravated symptoms of the original disability~~ *a person who has an application pending for, or is appealing termination of benefits from, the social security disability program or the program of supplemental security income for the aged, blind, and disabled, provided the person has a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment*;

(7) a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work;

(8) a person who ~~has been assessed by a qualified professional or a vocational specialist as not being likely to obtain permanent employment. The assessment must consider the recipient's age, physical and mental health, education, trainability, prior work experience, and the local labor market;~~ , *following participation in the work readiness program, completion of an individualized employability assessment by the work readiness service provider, and consultation between the county agency and the work readiness service provider, the county agency determines is not employable. For purposes of this item, a person is considered employable if the county agency determines that there exist positions of employment in the local labor market, regardless of the current availability of openings for those positions, that the person is capable of performing. Eligibility under this category must be reassessed at least annually by the county agency and must be based upon the results of a new individualized employability assessment completed by the work readiness service provider. The recipient shall, if otherwise eligible, continue to receive general assistance while the annual individualized employability assessment is completed by the work readiness service provider, rather than receive work readiness payments under section 256D.051. Subsequent eligibility for general assistance is dependent upon the county agency determining, following consultation with the work readiness service provider, that the person is not employable, or the person meeting*

the requirements of another general assistance category of eligibility;

(9) a person who is determined by the county agency, in accordance with emergency and permanent rules adopted by the commissioner, to be learning disabled, *provided that if a rehabilitation plan for the person is developed or approved by the county agency, the person is following the plan*;

(10) a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, but only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the county agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the county agency. *For purposes of this clause, "legally emancipated" means a person under the age of 18 years who: (i) has been married; (ii) is on active duty in the uniformed services of the United States; (iii) has been emancipated by a court of competent jurisdiction; or (iv) is otherwise considered emancipated under Minnesota law, and for whom county social services has not determined that a social services case plan is necessary, for reasons other than that the child has failed or refuses to cooperate with the county agency in developing the plan*;

(11) a woman in the last trimester of pregnancy who does not qualify for aid to families with dependent children. A woman who is in the last trimester of pregnancy who is currently receiving aid to families with dependent children may be granted emergency general assistance to meet emergency needs;

(12) a person ~~whose need for general assistance will not exceed 30 days~~ *who is eligible for displaced homemaker services, programs, or assistance under section 268.96, but only if that person is enrolled as a full-time student*;

(13) a person who lives more than two hours round-trip traveling time from any potential suitable employment; and

(14) a person who is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day~~.~~*; and*

(15) a family as defined in section 256D.02, subdivision 5, which is ineligible for the aid to families with dependent children program. If all children in the family are six years of age or older, or if suitable child care is available for children under age six at no cost to the family, all the adult members of the family must register for and cooperate in the work readiness program under section 256D.051. If one or more of the children is under the age of six and suitable child care is not available without cost to the family, all the adult members except one adult member must register for and cooperate with the work readiness program under section 256D.051. The adult member who must participate in the work readiness program is the one having earned the greater of the incomes, excluding in-kind income, during the 24-month period immediately preceding the month of application for assistance. When there are no earnings or when earnings are identical for each adult, the applicant must designate the adult who must participate in work readiness and that designation must not be transferred or changed after program eligibility is determined as long as program eligibility continues without an interruption of 30 days or more. The adult members

required to register for and cooperate with the work readiness program are not eligible for financial assistance under section 256D.051, except as provided in section 256D.051, subdivision 6, and shall be included in the general assistance grant. If an adult member fails to cooperate with requirements of section 256D.051, the local agency shall not take that member's needs into account in making the grant determination as provided by the termination provisions of section 256D.051, subdivision 1a, paragraph (b). The time limits of section 256D.051, subdivision 1, do not apply to persons eligible under this clause.

(b) Persons or families who are not state residents but who are otherwise eligible for general assistance may receive emergency general assistance to meet emergency needs.

(c) As a condition of eligibility under paragraph (a), clauses (1), (3), (5), (8), and (9), the recipient must complete an interim assistance agreement and must apply for other maintenance benefits as specified in section 256D.06, subdivision 5, and must comply with efforts to determine the recipient's eligibility for those other maintenance benefits.

(d) The burden of providing documentation for a county agency to use to verify eligibility for general assistance or work readiness is upon the applicant or recipient. The county agency shall use documents already in its possession to verify eligibility, and shall help the applicant or recipient obtain other existing verification necessary to determine eligibility which the applicant or recipient does not have and is unable to obtain.

Sec. 33. Minnesota Statutes 1990, section 256D.05, subdivision 2, is amended to read:

Subd. 2. [USE OF FEDERAL FUNDS.] Notwithstanding any law to the contrary, if any person otherwise eligible for general assistance would, but for state statutory restriction or limitation, be eligible for a *funded* federally aided assistance program providing benefits equal to or greater than those of general assistance, the person shall be eligible for that federally aided program and ineligible for general assistance; provided, however, that (a) nothing in this section shall be construed to extend eligibility for federally aided programs to persons not otherwise eligible for general assistance; (b) this section shall not be effective to the extent that federal law or regulation require new eligibility for federal programs to persons not otherwise eligible for general assistance; and (c) nothing in this section shall deny general assistance to a person otherwise eligible who is determined ineligible for a substitute federally aided program.

Sec. 34. Minnesota Statutes 1990, section 256D.05, subdivision 6, is amended to read:

Subd. 6. [ASSISTANCE FOR PERSONS WITHOUT A VERIFIED RESIDENCE.] (a) For applicants or recipients of general assistance, emergency general assistance, or work readiness assistance who do not have a verified residence address, the county agency may provide assistance using one or more of the following methods:

(1) the county agency may provide assistance in the form of vouchers or vendor payments and provide separate vouchers or vendor payments for food, shelter, and other needs;

(2) the county agency may divide the monthly assistance standard into weekly payments, whether in cash or by voucher or vendor payment; ~~or, if~~

~~actual need is greater than the standards of assistance established under section 256D.01, subdivision 1a, issue assistance based on actual need~~. Nothing in this clause prevents the county agency from issuing voucher or vendor payments for emergency general assistance in an amount less than the standards of assistance; and

(3) the county agency may determine eligibility and provide assistance on a weekly basis. Weekly assistance can be issued in cash or by voucher or vendor payment and can be determined either on the basis of actual need or by prorating the monthly assistance standard.

(b) An individual may verify a residence address by providing a driver's license; a state identification card; a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address; or other written documentation approved by the commissioner.

(c) *Notwithstanding the provisions of section 256D.06, subdivision 1,* if the county agency elects to provide assistance on a weekly *payment* basis, the agency may not provide assistance for a period during which no need is claimed by the individual *unless the individual has good cause for failing to claim need.* The individual must be notified, each time weekly assistance is provided, that subsequent weekly assistance will not be issued unless the individual claims need. The advance notice required under section 256D.10 does not apply to weekly assistance ~~issued under this paragraph~~ *that is withheld because the individual failed to claim need without good cause.*

(d) The county agency may not issue assistance on a weekly basis to an applicant or recipient who has professionally certified mental illness or mental retardation or a related condition, or to an assistance unit that includes minor children, unless requested by the assistance unit.

Sec. 35. Minnesota Statutes 1990, section 256D.05, is amended by adding a subdivision to read:

Subd. 7. [INELIGIBILITY FOR GENERAL ASSISTANCE.] *No person disqualified from any federally aided assistance program shall be eligible for general assistance during the period covered by the disqualification sanction.*

Sec. 36. Minnesota Statutes 1990, section 256D.051, subdivision 1, is amended to read:

Subdivision 1. [WORK REGISTRATION.] (a) ~~A person, family, or married couple~~ *Except as provided in this subdivision, persons* who are residents of the state and whose income and resources are less than the standard of assistance established by the commissioner, but who are not *categorically* eligible under section 256D.05, subdivision 1, are eligible for the work readiness program *for a maximum period of five consecutive calendar months during any 12 consecutive calendar month period, subject to the provisions of paragraph (d), subdivision 3, and section 256D.052, subdivision 4. The person's five-month eligibility period begins on the first day of the calendar month following the date of application for assistance or following the date all eligibility factors are met, whichever is later, and ends on the last day of the fifth consecutive calendar month, whether or not the person has received benefits for all five months. The person is not eligible to receive work readiness benefits during the seven calendar months immediately following the five-month eligibility period; however, the person may voluntarily continue to participate in work readiness services for up to three additional consecutive months immediately following the last month of benefits to*

complete the provisions of the person's employability development plan. Prior to terminating work readiness assistance the county agency must advise the person of his or her eligibility for general assistance medical care and must assess the person's eligibility for general assistance under section 256D.05 to the extent possible, using information in the case file, and determine the person's eligibility for general assistance. A determination that the person is not eligible for general assistance must be stated in the notice of termination of work readiness benefits.

(b) Persons, families, and married couples who are not state residents but who are otherwise eligible for work readiness assistance may receive emergency assistance to meet emergency needs.

(c) Except for family members who must participate in work readiness services under the provisions of section 256D.05, subdivision 1, clause (14), any person who would be defined for purposes of the food stamp program as being enrolled at least half-time in an institution of higher education is ineligible for the work readiness program.

(d) Notwithstanding the provisions of sections 256.045 and 256D.10, during the pendency of an appeal, work readiness payments and services shall not continue to a person who appeals the termination of benefits due to exhaustion of the period of eligibility specified in paragraph (a) or (d).

Sec. 37. Minnesota Statutes 1990, section 256D.051, subdivision 1a, is amended to read:

Subd. 1a. [WORK READINESS PAYMENTS.] (a) *Except as provided in this subdivision,* grants of work readiness shall be determined using the standards of assistance, exclusions, disregards, and procedures which are used in the general assistance program. Work readiness shall be granted in an amount that, when added to the nonexempt income actually available to the assistance unit, the total amount equals the applicable standard of assistance.

(b) ~~Work readiness payments must be provided to persons determined eligible for the work readiness program as provided in this subdivision except when the special payment provisions in subdivision 1b are utilized. The initial payment must be prorated to provide assistance for the period beginning with the date the completed application is received by the county agency or the date the assistance unit meets all work readiness eligibility factors, whichever is later, and ending on the final day of that month. The amount of the first payment must be determined by dividing the number of days to be covered under the payment by the number of days in the month, to determine the percentage of days in the month that are covered by the payment, and multiplying the monthly payment amount by this percentage. Subsequent payments must be paid monthly on the first day of each month.~~ *Except as provided in section 256D.05, subdivision 6, work readiness assistance must be paid on the first day of each month.*

At the time the county agency notifies the assistance unit that it is eligible for *family general assistance or* work readiness assistance *and by the first day of each month of services*, the county agency must inform all mandatory registrants in the assistance unit that they must ~~attend an orientation within 30 days~~ *comply with all work readiness requirements that month*, and that work readiness eligibility will end at the end of the month ~~in which the orientation is scheduled~~ unless the registrants ~~attend orientation~~ *comply with work readiness requirements specified in the notice*. A registrant who fails,

without good cause, to comply with requirements during this time period, including attendance at orientation, will lose *family general assistance or* work readiness eligibility without notice under section 256D.101, subdivision 1, paragraph (b). The registrant shall, however, be sent a notice~~, on or before the date that~~ *no later than five days after* eligibility ends, which informs the registrant that *family general assistance or* work readiness eligibility has ended in accordance with this section for failure to comply with work readiness requirements. The notice shall set forth the factual basis for such determination and ~~advises~~ *advise* the registrant of the right to reinstate eligibility upon a showing of good cause for the failure to meet the requirements. Subsequent assistance must not be issued unless the person completes an application, is determined eligible, and ~~attends an orientation~~ *complies with the work readiness requirements that had not been complied with*, or demonstrates that the person had good cause for failing to comply with the requirement. *The time during which the person is ineligible under these provisions is counted as part of the person's period of eligibility under subdivision 1.*

(c) Notwithstanding the provisions of section 256D.01, subdivision 1a, paragraph (d), when one member of a married couple has exhausted the five months of work readiness eligibility in a 12-month period and the other member has one or more months of eligibility remaining within the same 12-month period, the standard of assistance applicable to the member who remains eligible is the first adult standard in the aid to families with dependent children program.

(d) Notwithstanding sections 256.045 and 256D.10, during the pendency of an appeal, work readiness payments and services shall not continue to a person who appeals the termination of benefits under paragraph (b).

Sec. 38. Minnesota Statutes 1990, section 256D.051, subdivision 2, is amended to read:

Subd. 2. [COUNTY AGENCY DUTIES.] (a) The county agency shall provide to registrants a work readiness program. The work readiness program must include:

(1) orientation to the work readiness program;

(2) an individualized employability assessment and *an individualized employability* development plan that includes assessment of literacy, ability to communicate in the English language, ~~eligibility for displaced homemaker services under section 268.96,~~ educational *and employment* history, and that estimates the length of time it will take the registrant to obtain employment. The employability assessment and development plan must be completed in consultation with the registrant, must assess the registrant's assets, barriers, and strengths, and must identify steps necessary to overcome barriers to employment. *A copy of the employability development plan must be provided to the registrant*;

(3) referral to available accredited remedial or skills training programs designed to address registrant's barriers to employment;

(4) referral to available programs including the Minnesota employment and economic development program;

(5) a job search program, including job seeking skills training; and

(6) other activities, to the extent of available resources designed by the county agency to prepare the registrant for permanent employment.

The work readiness program may include a public sector or nonprofit work experience component only if the component is established according to section 268.90.

In order to allow time for job search, the county agency may not require an individual to participate in the work readiness program for more than 32 hours a week. The county agency shall require an individual to spend at least eight hours a week in job search or other work readiness program activities.

(b) The county agency shall prepare an annual plan for the operation of its work readiness program. The plan must be submitted to and approved by the commissioner of jobs and training. The plan must include:

(1) a description of the services to be offered by the county agency;

(2) a plan to coordinate the activities of all public entities providing employment-related services in order to avoid duplication of effort and to provide services more efficiently;

(3) a description of the factors that will be taken into account when determining a client's employability development plan; ~~and~~

(4) provisions to assure that applicants and recipients are evaluated for eligibility for general assistance prior to termination from the work readiness program*; and*

(5) provisions to ensure that the county agency's employment and training service provider provides each recipient with an orientation, employability assessment, and employability development plan as specified in paragraph (a), clauses (1) and (2), within 30 days of the recipient's application for assistance.

Sec. 39. Minnesota Statutes 1990, section 256D.051, subdivision 3, is amended to read:

Subd. 3. [REGISTRANT DUTIES.] In order to receive work readiness assistance, a registrant shall: (1) cooperate with the county agency in all aspects of the work readiness program; (2) accept any suitable employment, including employment offered through the job training partnership act, ~~Minnesota employment and economic development act,~~ and other employment and training options; and (3) participate in work readiness activities assigned by the county agency. The county agency may terminate assistance to a registrant who fails to cooperate in the work readiness program, as provided in subdivision ~~3e~~ *1a*.

Sec. 40. Minnesota Statutes 1990, section 256D.051, subdivision 3a, is amended to read:

Subd. 3a. [PERSONS REQUIRED TO REGISTER FOR AND PARTICIPATE IN THE WORK READINESS PROGRAM.] Each person in a work readiness assistance unit who is 18 years old or older must register for and participate in the work readiness program. A ~~child~~ *person* in the assistance unit who is at least 16 years old but less than 19 years old and who is not a full-time secondary school student is required to register and participate. A student who was enrolled as a full-time student during the last school term must be considered a full-time student during summers and school holidays. ~~If an assistance unit includes children under age six and suitable child care is not available at no cost to the family, one adult member of the assistance unit is exempt from registration for and participation in the work~~

~~readiness program. The county agency shall designate the adult who must register. The registrant must be the adult who is the principal wage earner, having earned the greater of the incomes, except for income received in-kind, during the 24 months immediately preceding the month of application for assistance. When there are no earnings or when earnings are identical for each parent, the applicant must designate the principal wage earner, and that designation must not be transferred after program eligibility is determined as long as assistance continues without interruption.~~

Sec. 41. Minnesota Statutes 1990, section 256D.051, subdivision 6, is amended to read:

Subd. 6. [SERVICE COSTS.] The commissioner shall reimburse 92 percent of county agency expenditures for providing work readiness services including direct participation expenses and administrative costs, except as provided in section 256.017; ~~and reimbursement from the state appropriation must not exceed an average of $260 each year for each registrant who has completed an employment development plan for direct expenses incurred by the registrant for transportation, clothes, and tools necessary for employment. Beginning July 1, 1991, the state will reimburse counties, up to the limit of state appropriations, according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision from January 1, 1991, on~~. *State work readiness funds shall be used only to pay the county agency's and work readiness service provider's actual costs of providing participant support services, direct program services, and program administrative costs for persons who participate in work readiness services.* Beginning January 1, 1991, the average reimbursable cost per recipient must not exceed $283 annually. *Beginning July 1, 1991, the average annual reimbursable cost for providing work readiness services to a recipient for whom an individualized employability development plan is not completed must not exceed $60 for the work readiness services, and $223 for necessary recipient support services such as transportation or child care needed to participate in work readiness services. If an individualized employability development plan has been completed, the annual reimbursable cost for providing work readiness services must not exceed $283 for all services and costs necessary to implement the plan, including the costs of training, employment search assistance, placement, work experience, on-the-job training, other appropriate activities, the administrative and program costs incurred in providing these services, and necessary recipient support services such as tools, clothing, and transportation needed to participate in work readiness services. Beginning July 1, 1991, the state will reimburse counties, up to the limit of state appropriations, according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991.* Payment to counties under this subdivision is subject to the provisions of section 256.017. ~~After paying direct expenses as needed by individual registrants, the county agency may use any remaining money to provide additional services as needed by any registrant including employability assessments and employability development plans, education, orientation, employment search assistance, placement, other work experience, on-the-job training, and other appropriate activities and the administrative costs incurred providing these services.~~

Sec. 42. Minnesota Statutes 1990, section 256D.051, subdivision 8, is amended to read:

Subd. 8. [VOLUNTARY QUIT.] A person *who is required to participate in work readiness services* is not eligible for *general assistance or* work

readiness payments or services if, without good cause, the person refuses a legitimate offer of, or quits, suitable employment within 60 days before the date of application. A person who *is required to participate in work readiness services and*, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving *general assistance or* work readiness payments or services shall be terminated from the *general assistance or* work readiness program ~~and disqualified for two months according to rules adopted by the commissioner~~ *as specified in subdivision 1a.*

Sec. 43. Minnesota Statutes 1990, section 256D.052, subdivision 3, is amended to read:

Subd. 3. [SERVICES PROVIDED.] *Within the limits of the state appropriation* the county agency must provide ~~child care and~~ transportation to enable people to participate in literacy training under this section. The state shall reimburse county agencies for the costs of providing transportation under this section *up to the amount of the state appropriation*. Counties must make every effort to ensure that child care is available as needed by recipients who are pursuing literacy training.

Sec. 44. Minnesota Statutes 1990, section 256D.052, subdivision 4, is amended to read:

Subd. 4. [PAYMENT OF WORK READINESS.] The county agency must provide assistance under section 256D.051 to persons who:

(1) participate in a literacy program assigned under subdivision 2. To "participate" means to attend regular classes, complete assignments, and make progress toward literacy goals; or

(2) are not assigned to literacy training because there is no program available or accessible to them.

Notwithstanding contrary provisions of section 256D.051, subdivision 1, a person eligible for assistance under this section is eligible for assistance for a maximum period of seven consecutive calendar months during any 12 consecutive calendar month period, subject to section 256D.051, subdivision 1, paragraph (d). Work readiness payments may be terminated for persons who fail to attend the orientation and participate in the assessment and development of the employment development plan.

Sec. 45. [256D.065] [GENERAL ASSISTANCE AND WORK READINESS PAYMENTS FOR NEW RESIDENTS.]

Notwithstanding any other provisions of sections 256D.01 to 256D.21, otherwise eligible applicants without minor children, who have been residing in the state less than six months, shall be granted general assistance and work readiness payments in an amount that, when added to the nonexempt income actually available to the applicant, shall equal 60 percent of the amount that the applicant would be eligible to receive under section 256D.06, subdivision 1. A person may receive benefits in excess of this amount, equal to the lesser of the benefits actually received in the last state of residence or the maximum benefits allowable under section 256D.06, subdivision 1. To receive the higher benefit amount, the person must provide verification of the amount of assistance received in the last state of residence. Nonexempt income is the income considered available under Minnesota Rules, parts 9500.1200 to 9500.1270.

Sec. 46. Minnesota Statutes 1990, section 256D.07, is amended to read:

256D.07 [TIME OF PAYMENT OF ASSISTANCE.]

An applicant for general assistance or general assistance medical care authorized by section 256D.03, subdivision 3, shall be deemed eligible if the application and the verification of the statement on that application demonstrate that the applicant is within the eligibility criteria established by sections 256D.01 to 256D.21 and any applicable rules of the commissioner. Any person requesting general assistance or general assistance medical care shall be permitted by the county agency to make an application for assistance as soon as administratively possible and in no event later than the fourth day following the date on which assistance is first requested, and no county agency shall require that a person requesting assistance appear at the offices of the county agency more than once prior to the date on which the person is permitted to make the application. The application shall be in writing in the manner and upon the form prescribed by the commissioner and attested to by the oath of the applicant or in lieu thereof shall contain the following declaration which shall be signed by the applicant: "I declare that this application has been examined by me and to the best of my knowledge and belief is a true and correct statement of every material point." On the date that general assistance is first requested, the county agency shall inquire and determine whether the person requesting assistance is in immediate need of food, shelter, clothing, assistance for necessary transportation, or other emergency assistance pursuant to section 256D.06, subdivision 2. A person in need of emergency assistance shall be granted emergency assistance immediately, and necessary emergency assistance shall continue ~~until either the person is determined to be ineligible for general assistance or the first grant of general assistance is paid to the person~~ *for up to 30 days following the date of application*. A determination of an applicant's eligibility for general assistance shall be made by the county agency as soon as the required verifications are received by the county agency and in no event later than 30 days following the date that the application is made. Any verifications required of the applicant shall be reasonable, and the commissioner shall by rule establish reasonable verifications. General assistance shall be granted to an eligible applicant without the necessity of first securing action by the board of the county agency. The first month's grant must be computed to cover the time period starting with the date a signed application form is received by the county agency or from the date that the applicant meets all eligibility factors, whichever occurs later. ~~The first grant may be reduced by the amount of emergency general assistance provided to the applicant.~~

If upon verification and due investigation it appears that the applicant provided false information and the false information materially affected the applicant's eligibility for general assistance or general assistance medical care provided pursuant to section 256D.03, subdivision 3, or the amount of the applicant's general assistance grant, the county agency may refer the matter to the county attorney. The county attorney may commence a criminal prosecution or a civil action for the recovery of any general assistance wrongfully received, or both.

Sec. 47. Minnesota Statutes 1990, section 256D.10, is amended to read:

256D.10 [HEARINGS PRIOR TO REDUCTION; TERMINATION; SUSPENSION OF GENERAL ASSISTANCE GRANTS.]

No grant of general assistance except one made pursuant to ~~sections~~ *section* 256D.06, subdivision 2; *256D.051, subdivisions 1, paragraph (d), and 1a,*

paragraph (b); or 256D.08, subdivision 2, shall be reduced, terminated or suspended unless the recipient receives notice and is afforded an opportunity to be heard prior to any action by the county agency.

Nothing herein shall deprive a recipient of the right to full administrative and judicial review of an order or determination of a county agency as provided for in section 256.045 subsequent to any action taken by a county agency after a prior hearing.

Sec. 48. Minnesota Statutes 1990, section 256D.101, subdivision 1, is amended to read:

Subdivision 1. [NOTICE REQUIREMENTS.] (a) At the time a registrant is registered for the work readiness program, and ~~at least every 30 days~~ *on the first day of each month of services* after that, the county agency shall provide, in advance, a clear, written description of the specific tasks and assigned duties ~~the registrant~~ *which the mandatory registrant* must complete to receive *general assistance or* work readiness pay. The notice must explain that the registrant will be terminated from the work readiness program ~~unless the registrant has completed the specific tasks and assigned duties. The notice must inform the registrant that~~ *at the end of the month* if the registrant fails without good cause to comply with work readiness requirements ~~more than once every six months, the registrant will be terminated from the work readiness program and disqualified from receiving assistance for one month if it is the registrant's first disqualification within the preceding six months, or for two months if the registrant has been previously disqualified within the preceding six months~~, *and must include the name, location, and telephone number of a person or persons the registrant may contact to discuss the registrant's work readiness compliance obligations.*

(b) ~~If after the initial certification period the county agency determines that a registrant has failed to comply with work readiness requirements, the county agency shall notify the registrant of the determination. Notice must be hand delivered or mailed to the registrant within three days after the agency makes the determination but no later than the date work readiness pay was scheduled to be paid.~~ For a recipient who has failed to provide the county agency with a mailing address, the recipient must be assigned a schedule by which a recipient is to visit the agency to pick up any notices. For a recipient without a mailing address, notices must be deemed delivered on the date of the registrant's next scheduled visit with the county agency. ~~The notification shall be in writing and shall state the facts that support the county agency's determination. For the first time in a six-month period that the registrant has failed without good cause to comply with program requirements, the notification shall inform the registrant that the registrant may lose eligibility for work readiness pay and must specify the particular actions that must be taken by the registrant to achieve compliance and reinstate work readiness payments. The notice must state that the recipient must take the specified actions by a date certain, which must be at least five working days following the date the notification is mailed or delivered to the registrant; must explain the ramifications of the registrant's failure to take the required actions by the specified date; and must advise the registrant that the registrant may request and have a conference with the county agency to discuss the notification. A registrant who fails without good cause to comply with requirements of the program more than once in a six-month period must be notified of termination.~~

Sec. 49. Minnesota Statutes 1990, section 256D.101, subdivision 3, is amended to read:

Subd. 3. [BENEFITS AFTER NOTIFICATION.] Assistance payments otherwise due to the registrant under section 256D.051 may not be paid after the notification required in subdivision 1 has been provided to the registrant unless, before the date stated in the notification, the registrant takes the specified action necessary to achieve compliance ~~or, within five days after the effective date stated in the notice, files an appeal of the grant reduction, suspension, or termination. If, by the required date, the registrant does take the specified action necessary to achieve compliance, both the notification required by subdivision 1 and the notice required by subdivision 2 shall be canceled and all benefits due to the registrant shall be paid promptly. If, by the required date, the registrant files an appeal of the grant termination, benefits otherwise due to the registrant shall be continued pending the outcome of the appeal. An appeal of a proposed termination shall be brought under section 256.045, except that the timelines specified in this section shall apply, notwithstanding the requirements of section 256.045, subdivision 3~~. Appeals of ~~proposed~~ terminations from the work readiness program shall be heard within 30 days of the date that the appeal was filed.

Sec. 50. Minnesota Statutes 1990, section 256D.111, is amended to read:

256D.111 [REGISTRATION FOR WORK; ~~DISQUALIFICATION~~ *TERMINATION*.]

Subd. 5. [RULEMAKING.] The commissioner shall adopt rules and is authorized to adopt emergency rules:

(a) providing for ~~the disqualification~~ *termination* from the receipt of *general assistance or* work readiness assistance for a recipient who has been determined to have failed to comply with work requirements or the requirements of the work readiness program;

(b) providing for the use of vouchers or vendor payments with respect to the family of a ~~disqualified~~ recipient *terminated for failure to comply with requirements of the work readiness program*; and

(c) providing that at the time of the approval of an application for assistance, the county agency gives to the recipient a written notice in plain and easily understood language describing the recipient's job registration, search, and acceptance obligations, and the disqualification that will be imposed for a failure to comply with those obligations.

Sec. 51. Minnesota Statutes 1990, section 256D.36, subdivision 1, is amended to read:

Subdivision 1. [STATE PARTICIPATION.] *(a)* [ELIGIBILITY.] Commencing January 1, 1974, the commissioner shall certify to each county agency the names of all county residents who were eligible for and did receive aid during December, 1973, pursuant to a categorical aid program of old age assistance, aid to the blind, or aid to the disabled. *The amount of supplemental aid for each individual eligible under this section shall be calculated according to the formula in title II, section 212(a) (3) of Public Law Number 93-66, as amended.*

(b) [DIVISION COSTS.] From and after January 1, 1980, until January 1, 1981, the state shall pay 70 percent and the county shall pay 30 percent of the supplemental aid calculated for each county resident certified under this section who is an applicant for or recipient of supplemental security income. After December 31, 1980, the state share of aid paid shall be 85 percent and the county share shall be 15 percent. ~~The amount of supplemental~~

~~aid for each individual eligible under this section shall be calculated according to the formula in title II, section 212 (a) (3) of Public Law Number 93-66, as amended.~~ *Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017.*

Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of county agency expenditures for financial benefits to individuals under this subdivision from January 1, 1991, on. Payment to counties under this subdivision is subject to the provisions of section 256.017.

Sec. 52. Minnesota Statutes 1990, section 256H.02, is amended to read:

256H.02 [DUTIES OF COMMISSIONER.]

The commissioner shall develop standards for county and human services boards to provide child care services to enable eligible families to participate in employment, training, or education programs. Within the limits of available appropriations, the commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. In the rules adopted under this section, county and human services boards shall be authorized to establish policies for payment of child care spaces for absent children, when the payment is required by the child's regular provider. The rules shall not set a maximum number of days for which absence payments can be made, but instead shall direct the county agency to set limits and pay for absences according to the prevailing market practice in the county. County policies for payment of absences shall be subject to the approval of the commissioner. The commissioner shall maximize the use of federal money under the AFDC employment special needs program in section 256.736, subdivision 8, and other programs that provide federal reimbursement for child care services for recipients of aid to families with dependent children who are in education, training, job search, or other activities allowed under those programs. Money appropriated under this section must be coordinated with the AFDC employment special needs program and other programs that provide federal reimbursement for child care services to accomplish this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under ~~the AFDC employment special needs program or other~~ programs that provide federal reimbursement for child care services. The counties shall use the federal money to expand *child care* services ~~to AFDC recipients~~. *The commissioner may adopt rules under chapter 14 to implement and coordinate federal program requirements.*

Sec. 53. Minnesota Statutes 1990, section 256H.03, is amended to read:

256H.03 [BASIC SLIDING FEE PROGRAM.]

Subdivision 1. [~~COUNTIES~~ *ALLOCATION PERIOD*; NOTICE OF ALLOCATION.] When the commissioner notifies county and human service boards of the forms and instructions they are to follow in the development of their biennial community social services plans required under section 256E.08, the commissioner shall also notify county and human services boards of their estimated child care fund program allocation for the two years covered by the plan. By June 1 of each year, the commissioner shall

notify all counties of their final child care fund program allocation.

Subd. 1a. [WAITING LIST.] Each county that receives funds under this section ~~and section 256H.05~~ must keep a written record and report to the commissioner the number of eligible families who have applied for a child care subsidy or have requested child care assistance. Counties shall perform a cursory determination of eligibility when a family requests information about child care assistance. A family that appears to be eligible must be put on a waiting list if funds are not immediately available. The waiting list must identify students in need of child care. When money is available counties shall expedite the processing of student applications during key enrollment periods.

Subd. 2. [ALLOCATION; LIMITATIONS.] *From July 1, 1991, through June 30, 1992,* the commissioner shall allocate the money appropriated under the child care fund for the basic sliding fee program and shall allocate those funds between the metropolitan area, comprising the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, and the area outside the metropolitan area as follows:

(1) 50 percent of the money shall be allocated among the counties on the basis of the number of families below the poverty level, as determined from the most recent census or special census; and

(2) 50 percent of the money shall be allocated among the counties on the basis of the counties' portion of the AFDC caseload for the preceding state fiscal year.

If, under the preceding formula, either the seven-county metropolitan area consisting of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties or the area consisting of counties outside the seven-county metropolitan area is allocated more than 55 percent of the basic sliding fee funds, each county's allocation in that area shall be proportionally reduced until the total for the area is no more than 55 percent of the basic sliding fee funds. The amount of the allocations proportionally reduced shall be used to proportionally increase each county's allocation in the other area.

Subd. 2a. [ELIGIBLE RECIPIENTS.] Families that meet the eligibility requirements under sections 256H.10, except AFDC recipients and transition year families, and 256H.11 are eligible for child care assistance under the basic sliding fee program. From July 1, 1990, to June 30, 1991, a county may not accept new applications for the basic sliding fee program unless the county can demonstrate that its state money expenditures for the basic sliding fee program for this period will not exceed 95 percent of the county's allocation of state money for the fiscal year ending June 30, 1990. As basic sliding fee program money becomes available to serve new families, eligible families whose benefits were terminated during the fiscal year ending June 30, 1990, for reasons other than loss of eligibility shall be reinstated. Families enrolled in the basic sliding fee program as of July 1, 1990, shall be continued until they are no longer eligible. Counties shall make vendor payments to the child care provider or pay the parent directly for eligible child care expenses on a reimbursement basis.

Subd. 2b. [FUNDING PRIORITY.] (a) First priority for child care assistance under the basic sliding fee program must be given to eligible non-AFDC families who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue

employment or to pursue education leading to employment. Within this priority, the following subpriorities must be used:

(1) child care needs of minor parents;

(2) child care needs of parents under 21 years of age; and

(3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to ~~all other~~ parents who ~~are eligible for the basic sliding fee program~~ *have completed their AFDC transition year.*

Subd. 3. [REVIEW OF USE OF FUNDS; REALLOCATION.] After each quarter, the commissioner shall review the use of basic sliding fee program ~~and AFDC child care program~~ allocations by county. The commissioner may reallocate unexpended or unencumbered money among those counties who have expended their full allocation. Any unexpended money from the first year of the biennium may be carried forward to the second year of the biennium.

Subd. 4. [ALLOCATION FORMULA.] *Beginning July 1, 1992, the basic sliding fee funds shall be allocated according to the following formula:*

(a) One-half of the funds shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the 12-month period ending on December 31 of the preceding state fiscal year.

(b) One-fourth of the funds shall be allocated based on the number of children under age 13 in each county who are enrolled in general assistance medical care, medical assistance, and the children's health plan on July 1, of each year.

(c) One-fourth of the funds shall be allocated based on the number of children under age 13 who reside in each county, from the most recent estimates of the state demographer.

Subd. 5. [FORMULA LIMITATION.] *The amounts computed under subdivision 4 shall be subject to the following limitation. No county shall be allocated an amount less than its guaranteed floor as provided in subdivision 6. If the amount allocated to a county under subdivision 4 would be less that its guaranteed floor, the shortage shall be recovered proportionally from all counties which would be allocated more than their guaranteed floor.*

Subd. 6. [GUARANTEED FLOOR.] *(a) Each county's guaranteed floor shall equal the lesser of:*

(1) the county's original allocation in the preceding state fiscal year; or

(2) 110 percent of the county's basic sliding fee child care program state earnings for the 12-month period ending on December 31 of the preceding state fiscal year. For purposes of this clause, "state earnings" means the reported nonfederal share of direct child care expenditures adjusted for the 15 percent required county match and seven percent administration limit.

(b) When the amount of funds available for allocation is less than the amount available in the previous year, each county's previous year allocation shall be reduced in proportion to the reduction in the statewide funding, for the purpose of establishing the guaranteed floor.

Sec. 54. [256H.035] [FEDERAL AT-RISK CHILD CARE PROGRAM.]

Subdivision 1. [COMMISSIONER TO ADMINISTER PROGRAM.] *The commissioner of human services is authorized and directed to receive, administer, and expend funds available under the at-risk child care program under Public Law Number 101-508 (1).*

Subd. 2. [RULEMAKING AUTHORITY.] *The commissioner may adopt rules under chapter 14 to administer the at-risk child care program.*

Sec. 55. Minnesota Statutes 1990, section 256H.05, is amended to read:

256H.05 [AFDC CHILD CARE PROGRAM.]

Subd. 1b. [ELIGIBLE RECIPIENTS.] Families eligible for guaranteed child care assistance under the AFDC child care program are:

(1) persons receiving services under section 256.736;

(2) AFDC recipients who are employed; ~~and~~

(3) persons who are members of transition year families under section 256H.01, subdivision 16*; and*

(4) members of the control group for the STRIDE evaluation conducted by the Manpower Demonstration Research Corporation.

Subd. 1c. [~~FUNDING~~ *WAITING LIST* PRIORITY.] AFDC recipients must be put on a waiting list for the basic sliding fee program when they leave AFDC due to their earned income.

Subd. 2. [COOPERATION WITH OTHER PROGRAMS.] The county shall develop cooperative agreements with the employment and training service provider for coordination of child care funding with employment, training, and education programs for all AFDC recipients who receive services under section 256.736. The cooperative agreement shall specify that individuals receiving employment, training, and education services under an employability plan from the employment and training service provider shall be guaranteed child care assistance from the county responsible for the current employability development plan.

Subd. 3. [CONTRACTS; OTHER USES ALLOWED.] Counties may contract for administration of the program or may arrange for or contract for child care funds to be used by other appropriate programs, in accordance with this section and as permitted by federal law and regulations.

Subd. 5. [FEDERAL REIMBURSEMENT.] Counties shall maximize their federal reimbursement under Public Law Number 100-485 or other federal reimbursement programs for money spent for persons ~~listed in this section~~ *eligible under this chapter*. The commissioner shall allocate any federal earnings to the county to be used to expand child care services under ~~these sections~~ *this chapter*.

Sec. 56. [256H.055] [FEDERAL CHILD CARE AND DEVELOPMENT BLOCK GRANT.]

Subdivision 1. [COMMISSIONER TO ADMINISTER BLOCK GRANT.] *The commissioner of human services is authorized and directed to receive, administer, and expend child care funds available under the child care and development block grant authorized under Public Number 101-508 (2).*

Subd. 2. [RULEMAKING AUTHORITY.] *The commissioner may adopt rules under chapter 14 to administer the child care development block grant program.*

Sec. 57. Minnesota Statutes 1990, section 256H.08, is amended to read:

256H.08 [USE OF MONEY.]

Money for persons listed in sections 256H.03, subdivision 2a, and 256H.05, subdivision 1b, shall be used to reduce the costs of child care for students, including the costs of child care for students while employed if enrolled in an eligible education program at the same time and making satisfactory progress towards completion of the program. Counties may not limit the duration of child care subsidies for a person in an employment or educational program, except when the person is found to be ineligible under the child care fund eligibility standards. Any limitation must be based on a person's employability plan in the case of an AFDC recipient, and county policies included in the child care allocation plan. Time limitations for child care assistance, as specified in Minnesota Rules, parts 9565.5000 to 9565.5200, do not apply to basic or remedial educational programs needed to prepare for post-secondary education or employment. These programs include: high school, general equivalency diploma, and English as a second language. Programs exempt from this time limit must not run concurrently with a post-secondary program. Financially eligible students who have received child care assistance for one academic year shall be provided child care assistance in the following academic year if funds allocated under sections 256H.03 and 256H.05 are available. If an AFDC recipient who is receiving AFDC child care assistance under this chapter moves to another county ~~as authorized in their employability plan~~, continues to participate in educational or training programs authorized in their employability development plans, and continues to be eligible for AFDC child care assistance under this chapter, the AFDC caretaker must receive continued child care assistance from the county responsible for their current employability development plan, without interruption.

Sec. 58. Minnesota Statutes 1990, section 256H.15, subdivision 1, is amended to read:

Subdivision 1. [SUBSIDY RESTRICTIONS.] (a) Until June 30, 1991, the maximum child care rate is determined under this paragraph. The county board may limit the subsidy allowed by setting a maximum on the provider child care rate that the county shall subsidize. The maximum rate set by any county shall not be lower than 110 percent or higher than 125 percent of the median rate in that county for like care arrangements for all types of care, including special needs and handicapped care, as determined by the commissioner. If the county sets a maximum rate, it must pay the provider's rate for each child receiving a subsidy, up to the maximum rate set by the county. If a county does not set a maximum provider rate, it shall pay the provider's rate for every child in care. The maximum state payment is 125 percent of the median provider rate. If the county has not set a maximum provider rate and the provider rate is greater than 125 percent of the median provider rate in the county, the county shall pay the amount in excess of 125 percent of the median provider rate from county funding sources. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care, including special needs and handicapped care.

(b) Effective July 1, 1991, the maximum rate paid for child care assistance

under the child care fund is the maximum rate eligible for federal reimbursement except ~~as~~ *that a provider receiving reimbursement under paragraph (a) as of January 1, 1991, shall be paid at a rate no less than the rate of reimbursement received under that paragraph. A rate which includes a provider bonus paid under subdivision 2 or a special needs rate paid under subdivision 3 may be in excess of the maximum rate* allowed under *this* subdivision ~~2~~. *The department of human services shall monitor the effect of this paragraph on provider rates.* The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care, including special needs and handicapped care.

(c) When the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family copayment fee.

Sec. 59. Minnesota Statutes 1990, section 256H.15, subdivision 2, is amended to read:

Subd. 2. [PROVIDER RATE BONUS FOR ACCREDITATION.] Currently accredited child care centers shall be paid a ten percent bonus above the maximum rate established in subdivision 1, up to the actual provider rate. A family day care provider shall be paid a ten percent bonus above the maximum rate established in subdivision 1, if the provider holds a current early childhood development credential approved by the commissioner, up to the actual provider rate. *For purposes of this subdivision, "accredited" means accredited by the National Association for the Education of Young Children.*

Sec. 60. Minnesota Statutes 1990, section 256H.15, is amended by adding a subdivision to read:

Subd. 4. [RATES CHARGED TO PUBLICLY SUBSIDIZED FAMILIES.] *Child care providers receiving reimbursement under chapter 256H may not charge a rate to clients receiving assistance under chapter 256H that is higher than the private, full-paying client rate.*

Sec. 61. Minnesota Statutes 1990, section 256H.18, is amended to read:

256H.18 [ADMINISTRATIVE EXPENSES.]

~~A county may not use more than~~ *The commissioner shall use up to* seven percent of ~~its allocation~~ *the state funds appropriated for the Basic Sliding Fee program for payments to counties* for administrative expenses ~~under the basic sliding fee program~~. *The commissioner shall use up to ten percent of federal funds for payments to counties for administrative expenses.*

Sec. 62. [256H.195] [MINNESOTA EARLY CHILDHOOD CARE AND EDUCATION COUNCIL.]

Subdivision 1. [ESTABLISHMENT; MEMBERS.] *The Minnesota early childhood care and education council shall consist of 19 members appointed by the governor. Members must represent the following groups and organizations: parents, family child care providers, child care center providers, private foundations, corporate executives, small business owners, and public school districts. The council membership also includes the commissioners of human services, jobs and training, education, and health; a representative of the higher education coordinating board; a representative of the Minnesota headstart association; representatives of two Minnesota counties; three members from child care resource and referral programs, one of whom*

shall be from a county-operated resource and referral, one of whom shall be from a rural location, and one of whom shall be from the metropolitan area; and a community group representative. The governor shall consult with the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226, representing the communities of color, to ensure that membership of the council is representative of all racial minority groups. In addition to the 19 members appointed by the governor, two members of the senate shall be appointed by the president of the senate and two members of the house of representatives shall be appointed by the speaker of the house to serve as ex officio members of the council. Membership terms, compensation, and removal of members are governed by section 15.059, except that the council shall not expire as required by that section.

Subd. 2. [EXECUTIVE DIRECTOR; STAFF.] *The council shall select an executive director of the council by a vote of a majority of all council members. The executive director is in the unclassified service and shall provide administrative support for the council and provide administrative leadership to implement council mandates, policies, and objectives. The executive director shall employ and direct other staff.*

Subd. 3. [DUTIES AND POWERS.] *The council has the following duties and powers:*

(1) develop a biennial plan for early childhood care and education in the state;

(2) take a leadership role in developing its recommendations in conjunction with the recommendations of other state agencies on the state budget for early childhood care and education;

(3) apply for and receive state money and public and private grant money;

(4) participate in and facilitate the development of interagency agreements on early childhood care and education issues;

(5) review state agency policies on early childhood care and education issues so that they do not conflict;

(6) advocate for an effective and coordinated early childhood care and education system with state agencies and programs;

(7) study the need for child care funding for special populations whose needs are not being met by current programs;

(8) ensure that the early childhood care and education system reflects community diversity;

(9) be responsible for advocating policies and funding for early childhood care and education; and

(10) provide a report to the legislature on January 1 of every odd-numbered year, containing a description of the activities and the work plan of the council and any legislative recommendations developed by the council.

Sec. 63. [256H.196] [REGIONAL CHILD CARE RESOURCE AND REFERRAL PROGRAMS.]

Subdivision 1. [ESTABLISHMENT.] *Existing child care resource and referral programs shall become the regional child care resource and referral programs provided they are in compliance with other provisions of this chapter.*

Subd. 2. [DUTIES.] *The regional resource and referral program shall have the duties specified in section 256H.20. In addition, the regional program shall be responsible for establishing new or collaborating with existing community-based committees such as interagency early intervention committees or neighborhood groups to advocate for child care needs in the community as well as serve as important local resources for children and their families.*

Sec. 64. Minnesota Statutes 1990, section 256H.20, subdivision 3a, is amended to read:

Subd. 3a. [GRANT REQUIREMENTS AND PRIORITY.] Priority for awarding resource and referral grants shall be given in the following order:

(1) start up resource and referral programs in areas of the state where they do not exist; and

(2) improve resource and referral programs.

Resource and referral programs shall meet the following requirements:

(a) Each program shall identify all existing child care services through information provided by all relevant public and private agencies in the areas of service, and shall develop a resource file of the services which shall be maintained and updated at least quarterly. These services must include family day care homes; public and private day care programs; full-time and part-time programs; infant, preschool, and extended care programs; and programs for school age children.

The resource file must include: the type of program, hours of program service, ages of children served, fees, location of the program, eligibility requirements for enrollment, special needs services, and transportation available to the program. The file may also include program information and special program features.

(b) Each *resource and referral* program shall establish a referral process which responds to parental need for information and which fully recognizes confidentiality rights of parents. The referral process must afford parents maximum access to all referral information. This access must include telephone referral available for no less than 20 hours per week.

Each child care resource and referral agency shall publicize its services through popular media sources, agencies, employers, and other appropriate methods.

(c) Each *resource and referral* program shall maintain ongoing documentation of requests for service. All child care resource and referral agencies must maintain documentation of the number of calls and contacts to the child care information and referral agency or component. A *resource and referral* program shall collect and maintain the following information:

(1) ages of children served;

(2) time category of child care request for each child;

(3) special time category, such as nights, weekends, and swing shift; and

(4) reason that the child care is needed.

(d) Each *resource and referral* program shall make available the following information as an educational aid to parents:

(1) information on aspects of evaluating the quality and suitability of

child care services, including licensing regulation, financial assistance available, child abuse reporting procedures, appropriate child development information;

(2) information on available parent, early childhood, and family education programs in the community.

(e) On or after one year of operation a *resource and referral* program shall provide technical assistance to employers and existing and potential providers of all types of child care services. This assistance shall include:

(1) information on all aspects of initiating new child care services including licensing, zoning, program and budget development, and assistance in finding information from other sources;

(2) information and resources which help existing child care providers to maximize their ability to serve the children and parents of their community;

(3) dissemination of information on current public issues affecting the local and state delivery of child care services;

(4) facilitation of communication between existing child care providers and child-related services in the community served;

(5) recruitment of licensed providers; and

(6) options, and the benefits available to employers utilizing the various options, to expand child care services to employees.

Services prescribed by this section must be designed to maximize parental choice in the selection of child care and to facilitate the maintenance and development of child care services and resources.

(f) Child care resource and referral information must be provided to all persons requesting services and to all types of child care providers and employers.

(g) Public or private entities may apply to the commissioner for funding. ~~The maximum amount of money which may be awarded to any entity for the provision of service under this subdivision is $60,000 per year.~~ A local match of up to 25 percent is required.

Subd. 4. [APPLICATION; RULES.] Applicants for grants under subdivision 1 shall apply on a form provided by the commissioner. Applications for grants using funds received by the state pursuant to subdivision 2 shall include assurances that federal requirements have been met. The commissioner may adopt ~~emergency rules and shall adopt permanent~~ rules *as necessary* to implement this section.

Sec. 65. Minnesota Statutes 1990, section 256H.21, subdivision 10, is amended to read:

Subd. 10. [RESOURCE AND REFERRAL PROGRAM.] "Resource and referral program" means a program that provides information to parents, including referrals and coordination of community child care resources for parents and public or private providers of care. *It also means the agency with the duties specified in sections 256H.196 and 256H.20.* Services may include parent education, technical assistance for providers, staff development programs, and referrals to social services.

Sec. 66. Minnesota Statutes 1990, section 256H.22, subdivision 2, is

amended to read:

Subd. 2. [DISTRIBUTION OF FUNDS.] (a) The commissioner shall allocate grant money appropriated for child care service development among the development regions designated by the governor under section 462.385, as follows:

(1) 50 percent of the child care service development grant appropriation shall be allocated to the metropolitan economic development region; and

(2) 50 percent of the child care service development grant appropriation shall be allocated to economic development regions other than the metropolitan economic development region.

(b) The following formulas shall be used to allocate grant appropriations among the economic development regions:

(1) 50 percent of the funds shall be allocated in proportion to the ratio of children under 12 years of age in each economic development region to the total number of children under 12 years of age in all economic development regions; and

(2) 50 percent of the funds shall be allocated in proportion to the ratio of children under 12 years of age in each economic development region to the number of licensed child care spaces currently available in each economic development region.

(c) Out of the amount allocated for each economic development region, the commissioner shall award grants based on the recommendation of the grant review advisory task force. In addition, the commissioner shall award no more than 75 percent of the money either to child care facilities for the purpose of facility improvement or interim financing or to child care workers for staff training expenses.

(d) Any funds unobligated may be used by the commissioner to award grants to proposals that received funding recommendations by the advisory task force but were not awarded due to insufficient funds.

(e) The commissioner may allocate grants under this section for a two-year period and may carry forward funds from the first year as necessary.

Sec. 67. Minnesota Statutes 1990, section 256H.22, is amended by adding a subdivision to read:

Subd. 3a. [DISTRIBUTION OF FUNDS FOR CHILD CARE RESOURCE AND REFERRAL PROGRAMS.] *The commissioner shall allocate funds appropriated for child care resource and referral services considering the following factors for each economic development region served by the child care resource and referral agency:*

(1) the number of children under 13 years of age needing child care in the service area;

(2) the geographic area served by the agency;

(3) the ratio of children under 13 years of age needing care to the number of licensed spaces in the service area;

(4) the number of licensed child care providers and extended day school age child care programs in the service area; and

(5) other related factors determined by the commissioner.

Sec. 68. [256H.225] [ASSISTANCE TO CHILD CARE CENTERS AND PROVIDERS.]

The commissioner shall work with the early childhood care and education council and with the resource and referral programs to develop tools to assist child care centers and family child care providers to obtain accreditation and certification and to achieve improved pay for child care workers.

Sec. 69. Minnesota Statutes 1990, section 257.57, subdivision 2, is amended to read:

Subd. 2. The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d) ~~or~~, (e), *or (f)*, or the nonexistence of the father and child relationship presumed under clause (d) of that subdivision; ~~or~~

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (e) only if the action is brought within three years after the date of the execution of the declaration; *or*

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (f), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided the blood test results.

Sec. 70. Minnesota Statutes 1990, section 260.165, is amended by adding a subdivision to read:

Subd. 3. [NOTICE TO PARENT OR CUSTODIAN.] *Whenever a peace officer takes a child into custody for shelter care placement pursuant to subdivision 1; section 260.135, subdivision 5; or section 260.145, the officer shall give the parent or custodian of the child a list of names, addresses, and telephone numbers of social service agencies that offer child welfare services. If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian. The list shall be prepared by the commissioner of human services. The commissioner shall prepare lists for each county and provide each county with copies of the list without charge. The list shall be reviewed annually by the commissioner and updated if it is no longer accurate. Neither the commissioner nor any peace officer or the officer's employer shall be liable to any person for mistakes or omissions in the list. The list does not constitute a promise that any agency listed will in fact assist the parent or custodian.*

Sec. 71. Minnesota Statutes 1990, section 270A.04, subdivision 2, is amended to read:

Subd. 2. Any debt owed to a claimant agency shall be submitted by the

agency for collection under the procedure established by sections 270A.01 to 270A.12 unless (a) an alternative means of collection is pending and the debtor is complying with the terms of alternative means of collection, *except that this limitation does not apply to debts owed resulting from a default in payment of child support or maintenance,* (b) the collection attempt would result in a loss of federal funds, or (c) the agency is unable to supply the department with the necessary identifying information required by subdivision 3 or rules promulgated by the commissioner, or (d) the debt is barred by section 541.05.

Sec. 72. Minnesota Statutes 1990, section 270A.08, subdivision 2, is amended to read:

Subd. 2. (a) This written notice shall clearly and with specificity set forth the basis for the claim to the refund including the name of the benefit program involved if the debt arises from a public assistance grant and the dates on which the debt was incurred and, further, shall advise the debtor of the claimant agency's intention to request setoff of the refund against the debt.

(b) The notice will also advise the debtor that any debt incurred more than six years from the date of the notice to the commissioner under section 270A.07, *except for debts owed resulting from a default in payment of child support or maintenance,* must not be setoff against a refund and will advise the debtor of the right to contest the validity of the claim at a hearing. The debtor must assert this right by written request to the claimant agency, which request the agency must receive within 45 days of the mailing date of the original notice or of the corrected notice, as required by subdivision 1. If the debtor has not received the notice, the 45 days shall not commence until the debtor has received actual notice. The debtor shall have the burden of showing no notice and shall be entitled to a hearing on the issue of notice as well as on the merits.

Sec. 73. Minnesota Statutes 1990, section 393.07, subdivision 10, is amended to read:

Subd. 10. [FEDERAL FOOD STAMP PROGRAM.] (a) The county welfare board shall establish and administer the food stamp program pursuant to rules of the commissioner of human services, the supervision of the commissioner as specified in section 256.01, and all federal laws and regulations. The commissioner of human services shall monitor food stamp program delivery on an ongoing basis to ensure that each county complies with federal laws and regulations. Program requirements to be monitored include, but are not limited to, number of applications, number of approvals, number of cases pending, length of time required to process each application and deliver benefits, number of applicants eligible for expedited issuance, length of time required to process and deliver expedited issuance, number of terminations and reasons for terminations, client profiles by age, household composition and income level and sources, and the use of phone certification and home visits. The commissioner shall determine the county-by-county and statewide participation rate. ~~The commissioner shall report on the monitoring activities on a county-by-county basis in a report presented to the legislature by July 1 each year. This monitoring activity shall be separate from the management evaluation survey sample required under federal regulations.~~

(b) On July 1 of each year, the commissioner of human services shall

determine a statewide and county-by-county food stamp program participation rate. The commissioner may designate a different agency to administer the food stamp program in a county if the agency administering the program fails to increase the food stamp program participation rate among families or eligible individuals, or comply with all federal laws and regulations governing the food stamp program. The commissioner shall review agency performance annually to determine compliance with this paragraph.

(c) A person who commits any of the following acts has violated section 256.98 and is subject to both the criminal and civil penalties provided under that section:

(1) Obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, or intentional concealment of a material fact, food stamps to which the person is not entitled or in an amount greater than that to which that person is entitled; or

(2) Presents or causes to be presented, coupons for payment or redemption knowing them to have been received, transferred or used in a manner contrary to existing state or federal law; or

(3) Willfully uses or transfers food stamp coupons or authorization to purchase cards in any manner contrary to existing state or federal law.

Sec. 74. Minnesota Statutes 1990, section 393.07, subdivision 10a, is amended to read:

Subd. 10a. [EXPEDITED ISSUANCE OF FOOD STAMPS.] The commissioner of human services shall continually monitor the expedited issuance of food stamp benefits to ensure that each county complies with federal regulations and that households eligible for expedited issuance of food stamps are identified, processed, and certified within the time frames prescribed in federal regulations. ~~By July 1 each year the commissioner of human services shall present a report to the governor and the legislature regarding its monitoring of expedited issuance and the degree of compliance with federal regulations on a county by county basis.~~

County food stamp offices shall screen and issue food stamps to applicants on the day of application. Applicants who meet the federal criteria for expedited issuance and have an immediate need for food assistance shall receive either:

(1) a manual Authorization to Participate (ATP) card; or

(2) the immediate issuance of food stamp coupons.

The local food stamp agency shall conspicuously post in each food stamp office a notice of the availability of and the procedure for applying for expedited issuance and verbally advise each applicant of the availability of the expedited process.

Sec. 75. Minnesota Statutes 1990, section 518.551, subdivision 5, is amended to read:

Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children or applies for it subsequent to the commencement of the proceeding. After receipt of the notice, the court shall set child support as provided in this subdivision.

The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support ~~agreement~~ *stipulation* of the parties if each party is represented by independent counsel, unless the ~~agreement is not in the interest of justice~~ *stipulation does not meet the conditions of paragraph (h)*. In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in paragraph (b) and any departure therefrom.

The court shall derive a specific dollar amount by multiplying the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
$400 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
$401 - 500	14%	17%	20%	22%	24%	26%	28%
$501 - 550	15%	18%	21%	24%	26%	28%	30%
$551 - 600	16%	19%	22%	25%	28%	30%	32%
$601 - 650	17%	21%	24%	27%	29%	32%	34%
$651 - 700	18%	22%	25%	28%	31%	34%	36%
$701 - 750	19%	23%	27%	30%	33%	36%	38%
$751 - 800	20%	24%	28%	31%	35%	38%	40%
$801 - 850	21%	25%	29%	33%	36%	40%	42%
$851 - 900	22%	27%	31%	34%	38%	41%	44%
$901 - 950	23%	28%	32%	36%	40%	43%	46%
$951 - 1000	24%	29%	34%	38%	41%	45%	48%
$1001- 4000	25%	30%	35%	39%	43%	47%	50%

Guidelines for support for an obligor with a monthly income of $4,001 or more shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income of $4,000.

Net Income defined as:

Total monthly income less

*(i) Federal Income Tax
*(ii) State Income Tax
(iii) Social Security Deductions
(iv) Reasonable Pension Deductions
(v) Union Dues
(vi) Cost of Dependent Health Insurance Coverage
(vii) Cost of Individual or Group Health/Hospitalization Coverage or an Amount for Actual Medical Expenses

*Standard Deductions apply- use of tax tables recommended

(viii) A Child Support or Maintenance Order that is Currently Being Paid.

"Net income" does not include:

(1) the income of the obligor's spouse, but does include in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses; or

(2) compensation received by a party for employment in excess of a 40-hour work week, provided that:

~~(a)~~ *(i)* support is nonetheless ordered in an amount at least equal to the guidelines amount based on income not excluded under this clause; and

~~(b)~~ *(ii)* the party demonstrates, and the court finds, that:

~~(i)~~ *(A)* the excess employment began after the filing of the petition for dissolution;

~~(ii)~~ *(B)* the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

~~(iii)~~ *(C)* the excess employment is voluntary and not a condition of employment;

~~(iv)~~ *(D)* the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

~~(v)~~ *(E)* the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

(b) In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support:

(1) all earnings, income, and resources of the parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of paragraph (a), clause (2)~~(b)~~ *(ii)*;

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children to be supported;

(3) the standards of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

(4) the amount of the aid to families with dependent children grant for the child or children;

(5) which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it; and

(6) the parents' debts as provided in paragraph (c).

(c) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.74;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of

income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

(d) Any schedule prepared under paragraph (c), clause (3), shall contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

(e) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the court. Nothing in this section shall be construed to prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

(f) Where payment of debt is ordered pursuant to this section, the payment shall be ordered to be in the nature of child support.

~~(d)~~ *(g)* Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.

~~(e) The above guidelines are binding in each case unless the court makes express findings of fact as to the reason for departure below or above the guidelines.~~ *(h) The guidelines in this subdivision are a rebuttable presumption and shall be used in all cases when establishing or modifying child support. If the court does not deviate from the guidelines, the court shall make written findings concerning the amount of the obligor's income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the determination of child support. If the court deviates from the guidelines, the court shall make written findings giving the reasons for the deviation and shall specifically address the criteria in paragraph (b) and how the deviation serves the best interest of the child. The provisions of this paragraph apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court shall review stipulations presented to it for conformity to the guidelines and the court is not required to conduct a hearing, but the parties shall provide the documentation of earnings required under subdivision 5b.*

Sec. 76. Minnesota Statutes 1990, section 518.551, is amended by adding a subdivision to read:

Subd. 5b. [DETERMINATION OF INCOME.] *(a) The parties shall timely serve and file documentation of earnings and income. When there is a prehearing conference, the court must receive the documentation of income at least ten days prior to the prehearing conference. Documentation of earnings and income also includes, but is not limited to, pay stubs for the most recent three months, employer statements, or statement of receipts and expenses if self-employed. Documentation of earnings and income also includes copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, unemployment compensation statements, workers' compensation statements, and all other documents evidencing income as*

received that provide verification of income over a longer period.

(b) If a parent under the jurisdiction of the court does not appear at a court hearing after proper notice of the time and place of the hearing, the court shall set income for that parent based on credible evidence before the court or in accordance with paragraph (c). Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota department of jobs and training under section 268.121.

(c) If the court finds that a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of imputed income. A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that the unemployment or underemployment: (1) is temporary and will ultimately lead to an increase in income; or (2) represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child. Imputed income means the estimated earning ability of a parent based on the parent's prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the parent's qualifications. If the court is unable to determine or estimate the earning ability of a parent, the court may calculate child support based on full-time employment of 40 hours per week at the federal minimum wage or the Minnesota minimum wage, whichever is higher. If a parent is physically or mentally incapacitated, it shall be presumed that the parent is not voluntarily unemployed or underemployed.

Sec. 77. Minnesota Statutes 1990, section 518.551, is amended by adding a subdivision to read:

Subd. 5c. [CHILD SUPPORT GUIDELINES TO BE REVIEWED EVERY FOUR YEARS.] *No later than 1994 and every four years after that, the department of human services shall conduct a review of the child support guidelines.*

Sec. 78. Minnesota Statutes 1990, section 518.551, is amended by adding a subdivision to read:

Subd. 12. [OCCUPATIONAL LICENSE SUSPENSION.] *Upon petition of an obligee or public agency responsible for child support enforcement, if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 and the obligor is in arrears in court-ordered child support payments, the court may direct the licensing board to conduct a hearing under section 214.101 concerning suspension of the obligor's license. If the obligor is a licensed attorney, the court may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.*

Sec. 79. Minnesota Statutes 1990, section 518.64, is amended to read:

518.64 [MODIFICATION OF ORDERS OR DECREES.]

Subdivision 1. After an order for maintenance or support money, temporary or permanent, or for the appointment of trustees to receive property awarded as maintenance or support money, the court may from time to time, on ~~petition~~ *motion* of either of the parties, *a copy of which is served on the*

public authority responsible for child support enforcement if payments are made through it, or on ~~petition~~ *motion* of the public authority responsible for support enforcement, modify the order respecting the amount of maintenance or support money, and the payment of it, and also respecting the appropriation and payment of the principal and income of property held in trust, and may make an order respecting these matters which it might have made in the original proceeding, except as herein otherwise provided.

Subd. 2. [MODIFICATION.] (a) The terms of ~~a decree~~ *an order* respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party *or the child or children that are the subject of these proceedings*; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair.

The terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least $50 per month higher or lower than the current support order.

(b) On a motion for modification of maintenance, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall ~~take into consideration the needs of the children~~ *apply section 518.551, subdivision 5,* and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(c) A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party *and on the public authority if public assistance is being furnished or the county attorney is the attorney of record.* However, modification may be applied to an earlier period if the

court makes express findings that the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability ~~or~~, a material misrepresentation of another party, *or fraud upon the court* and that the party seeking modification, when no longer precluded, promptly served a motion.

(d) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

Subd. 3. Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

Subd. 4. Unless otherwise agreed in writing or expressly provided in the ~~decree~~ *order*, provisions for the support of a child are terminated by emancipation of the child but not by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump sum payment, to the extent just and appropriate in the circumstances.

Subd. 5. [FORM.] The department of human services shall prepare and make available to courts, obligors and persons to whom child support is owed a form to be submitted by the obligor or the person to whom child support is owed in support of a motion for a modification of an order ~~pursuant to this section or section 256.87~~ *for support or maintenance*. The rulemaking provisions of chapter 14 shall not apply to the preparation of the form.

Subd. 6. [EXPEDITED PROCEDURE.] *(a) The public authority may seek a modification of the child support order in accordance with the rules of civil procedure or under the expedited procedures in this subdivision.*

(b) The public authority may serve the following documents upon the obligor either by certified mail or in the manner provided for service of a summons under the rules of civil procedure:

(i) a notice of its application for modification of the obligor's support order stating the amount and effective date of the proposed modification which date shall be no sooner than 30 days from the date of service;

(ii) an affidavit setting out the basis for the modification under subdivision 2, including evidence of the current income of the parties;

(iii) any other documents the public authority intends to file with the court in support of the modification;

(iv) the proposed order;

(v) notice to the obligor that if the obligor fails to move the court and request a hearing on the issue of modification of the support order within 30 days of service of the notice of application for modification, the public authority will likely obtain an order, ex parte, modifying the support order;

and

(vi) an explanation to the obligor of how a hearing can be requested, together with a motion for review form that the obligor can complete and file with the court to request a hearing.

(c) If the obligor moves the court for a hearing, any modification must be stayed until the court has had the opportunity to determine the issue. Any modification ordered by the court is effective on the date set out in the notice of application for modification, but no earlier than 30 days following the date the obligor was served.

(d) If the obligor fails to move the court for hearing within 30 days of service of the notice, the public authority shall file with the court a copy of the notice served on the obligor as well as all documents served on the obligor, proof of service, and a proposed order modifying support.

(e) If, following judicial review, the court determines that the procedures provided for in this subdivision have been followed and the requested modification is appropriate, the order shall be signed ex parte and entered.

(f) Failure of the court to enter an order under this subdivision does not prejudice the right of the public authority or either party to seek modification in accordance with the rules of civil procedure.

(g) The supreme court shall develop standard forms for the notice of application of modification of the support order, the supporting affidavit, the obligor's responsive motion, and proposed order granting the modification.

Sec. 80. Minnesota Statutes 1990, section 609.52, is amended by adding a subdivision to read:

Subd. 4. [WRONGFULLY OBTAINED PUBLIC ASSISTANCE; CONSIDERATION OF DISQUALIFICATION.] *When determining the sentence for a person convicted of theft by wrongfully obtaining public assistance, as defined in section 256.98, subdivision 1, the court shall consider the fact that, under section 256.98, subdivision 8, the person will be disqualified from receiving public assistance as a result of the person's conviction.*

Sec. 81. [STUDY.]

The commissioner of human services shall monitor the families who are unable to get child care subsidies through the basic sliding fee program after completing their year of transition child care and shall report findings to the legislature by January 1, 1993. The report shall include, but not be limited to, the following data on these families: the total number losing child care and the counties in which they live, the length of time for each family to reach the top of the waiting list, the number of families returning to AFDC while they are waiting for child care, and, if available, the type of child care arrangements made by families who lost child care subsidies.

Sec. 82. [REPEALERS; PLAN.]

Subdivision 1. [FAMILY INVESTMENT PLAN.] *Minnesota Statutes 1990, sections 256.032, subdivisions 5 and 9; 256.035, subdivisions 6 and 7; and 256.036, subdivision 10, are repealed.*

Subd. 2. [GENERAL ASSISTANCE WORK READINESS.] *Minnesota Statutes 1990, sections 256D.051, subdivisions 1b, 3c, and 16; 256D.09, subdivision 4; and 256D.101, subdivision 2, are repealed.*

Subd. 3. [CHILD CARE.] *Minnesota Statutes 1990, sections 256H.25 and 256H.26; and Laws 1989, chapter 282, article 5, section 130, are repealed.*

Sec. 83. [INSTRUCTION TO THE REVISOR.]

In the next edition of Minnesota Statutes, the revisor of statutes shall renumber Minnesota Statutes, section 256.035, subdivision 4, as Minnesota Statutes, section 256.033, subdivision 1a.

Sec. 84. [FUNDS ALLOCATION; FEDERAL CHILD CARE FUNDS.]

The commissioner shall consult with and consider the recommendations of the early childhood care and education council for the use of federal funds received for child care purposes. After public hearing on the matter, the commissioner shall develop a state plan for expenditure of the federal funds, to include allocation of federal funds for the Minnesota early childhood care and education council for the biennium ending June 30, 1993. Legislative hearings on the provisions of this section and sections 17; 32, subdivision 2b; 47 to 49; 52 to 55; 58; 59; 70; and 71 constitute a public hearing as required by this section and by federal law.

Sec. 85. [EFFECTIVE DATES.]

Subdivision 1. [MINNESOTA FAMILY INVESTMENT PLAN.] *Sections 12 to 21; 82, subdivision 1; and 83 are effective July 1, 1991, only for purposes of planning and securing federal waivers. Actual implementation of the program is delayed until specifically authorized during the biennium beginning July 1, 1993.*

Subd. 2. [PUBLIC ASSISTANCE FRAUD.] *Sections 26 and 80 are effective July 1, 1991, and apply to assistance wrongfully obtained after that date. Sections 27, subdivision 2; and 29 are effective the day following final enactment.*

Subd. 3. [OTHER ASSISTANCE PROVISIONS.] *Sections 6 to 10, 22 to 25, 30, 31, and 51 are effective the day after final enactment, except as indicated in section 9.*

Subd. 4. [CHILD SUPPORT.] *Sections 4 and 78 are effective May 1, 1992. Sections 75 and 77 are effective June 1, 1991. Sections 1 to 3 are effective January 1, 1992.*

ARTICLE 6

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES

Section 1. Minnesota Statutes 1990, section 245.461, subdivision 3, is amended to read:

Subd. 3. [REPORT.] By February 15, 1988, and annually after that until February 15, ~~1990~~ *1994*, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.461 to 245.486 and on additional resources needed to further implement those sections.

Sec. 2. Minnesota Statutes 1990, section 245.461, is amended by adding a subdivision to read:

Subd. 5. [FUNDING FROM THE FEDERAL GOVERNMENT AND OTHER SOURCES.] *The commissioner shall seek and apply for federal and other nonstate, nonlocal government funding for the mental health*

services specified in sections 245.461 to 245.486, in order to maximize nonstate, nonlocal dollars for these services.

Sec. 3. Minnesota Statutes 1990, section 245.462, subdivision 6, is amended to read:

Subd. 6. [COMMUNITY SUPPORT SERVICES PROGRAM.] "Community support services program" means services, other than inpatient or residential treatment services, provided or coordinated by an identified program and staff under the clinical supervision of a mental health professional designed to help adults with serious and persistent mental illness to function and remain in the community. A community support services program includes:

(1) client outreach,

(2) medication monitoring,

(3) assistance in independent living skills,

(4) development of employability and work-related opportunities,

(5) crisis assistance,

(6) psychosocial rehabilitation,

(7) help in applying for government benefits, and

(8) ~~the development, identification, and monitoring of living arrangements~~ *housing support services.*

The community support services program must be coordinated with the case management services specified in section 245.4711.

Sec. 4. Minnesota Statutes 1990, section 245.462, subdivision 18, is amended to read:

Subd. 18. [MENTAL HEALTH PROFESSIONAL.] "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist *in adult psychiatric and mental health nursing* by the American nurses association *or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness*;

(2) in clinical social work: a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields: a person with a master's degree from an accredited

college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Sec. 5. Minnesota Statutes 1990, section 245.4711, is amended by adding a subdivision to read:

Subd. 9. [REVISION OF RULES.] *(a) The commissioner, by July 1, 1992, shall revise existing rules governing case management services, in order to:*

(1) make improvements in rule flexibility;

(2) establish a comprehensive coordination of services;

(3) require case managers to arrange for standardized assessments of side effects related to the administration of psychotropic medication;

(4) establish a reasonable caseload limit for case managers;

(5) provide reimbursement for transportation costs for case managers; and

(6) review the eligibility criteria for case management services covered by medical assistance.

(b) Until rule amendments are adopted under paragraph (a), in-county travel by case managers is reimbursable under the medical assistance program subject to the six-hour limit on case management services.

Sec. 6. Minnesota Statutes 1990, section 245.472, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC REQUIREMENTS.] Providers of residential services must be licensed under applicable rules adopted by the commissioner and must be clinically supervised by a mental health professional. Persons employed in facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, in the capacity of program director as of July 1, 1987, in accordance with Minnesota Rules, parts 9520.0500 to 9520.0690, may be allowed to continue providing clinical supervision within a facility ~~until July 1, 1991~~, provided they continue to be employed as a program director in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

Sec. 7. Minnesota Statutes 1990, section 245.472, is amended by adding a subdivision to read:

Subd. 4. [ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.] *No later than January 1, 1992, the county board shall ensure that placement decisions for residential services are based on the clinical needs of the adult. The county board shall ensure that each entity under contract with the county to provide residential treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. All contracts for the provision of residential services must include provisions guaranteeing clients the right to appeal under section 245.477 and to be advised of their appeal rights.*

Sec. 8. Minnesota Statutes 1990, section 245.473, is amended by adding a subdivision to read:

Subd. 3. [ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.] *No later than January 1, 1992, the county board shall ensure that placement decisions for acute care inpatient services are based on the clinical needs of the adult. The county board shall ensure that each entity under contract with the county to provide acute care hospital treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. All contracts for the provision of acute care hospital inpatient treatment services must include provisions guaranteeing clients the right to appeal under section 245.477 and to be advised of their appeal rights.*

Sec. 9. Minnesota Statutes 1990, section 245.473, is amended by adding a subdivision to read:

Subd. 4. [INDIVIDUAL PLACEMENT AGREEMENT.] *Except for services reimbursed under chapters 256B and 256D, the county board shall enter into an individual placement agreement with a provider of acute care hospital inpatient treatment services to an adult eligible for services under this section. The agreement must specify the payment rate and the terms and conditions of county payment for the placement.*

Sec. 10. Minnesota Statutes 1990, section 245.484, is amended to read:

245.484 [RULES.]

The commissioner shall adopt emergency rules to govern implementation of case management services for eligible children in section 245.4881 and professional home-based family treatment services for medical assistance eligible children, in section 245.4884, subdivision 3, by January 1, 1992, and must adopt permanent rules by January 1, 1993.

The commissioner shall adopt permanent rules as necessary to carry out sections 245.461 to 245.486 and ~~Laws 1989, chapter 282, article 4, sections 1 to 53~~ *245.487 to 245.4887. The commissioner shall reassign agency staff as necessary to meet this deadline.*

Sec. 11. Minnesota Statutes 1990, section 245.487, subdivision 4, is amended to read:

Subd. 4. [IMPLEMENTATION.] (a) The commissioner shall begin implementing sections 245.487 to 245.4887 by February 15, 1990, and shall fully implement sections 245.487 to 245.4887 by ~~January~~ *July* 1, ~~1992~~ *1993*.

(b) Annually until February 15, ~~1992~~ *1994*, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.487 to 245.4887 and on additional resources needed to further implement those sections. *The report shall include information on county and state progress in identifying the needs of cultural and racial minorities and in using special mental health consultants to meet these needs.*

Sec. 12. Minnesota Statutes 1990, section 245.487, is amended by adding a subdivision to read:

Subd. 6. [FUNDING FROM THE FEDERAL GOVERNMENT AND OTHER SOURCES.] *The commissioner shall seek and apply for federal and other nonstate, nonlocal government funding for mental health services*

specified in sections 245.487 to 245.4887, in order to maximize nonstate, nonlocal dollars for these services.

Sec. 13. Minnesota Statutes 1990, section 245.4871, subdivision 27, is amended to read:

Subd. 27. [MENTAL HEALTH PROFESSIONAL.] "Mental health professional" means a person providing clinical services in the diagnosis and treatment of children's emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:

(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in *child and adolescent* psychiatric or mental health nursing by the American nurses association *or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness*;

(2) in clinical social work, the mental health professional must be a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders;

(3) in psychology, the mental health professional must be a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental disorders;

(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields, the mental health professional must be a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of emotional disturbances.

Sec. 14. Minnesota Statutes 1990, section 245.4871, subdivision 31, is amended to read:

Subd. 31. [PROFESSIONAL HOME-BASED FAMILY TREATMENT.] "Professional home-based family treatment" means intensive mental health services provided to children *because of an emotional disturbance* (1) who are at risk of out-of-home placement; (2) who are in out-of-home placement; or (3) who are returning from out-of-home placement ~~because of an emotional disturbance~~. Services are provided to the child and the child's family primarily in the child's home environment ~~or other location~~. *Services may also be provided in the child's school, child care setting, or other community setting* appropriate to the child. ~~Examples of appropriate locations include, but are not limited to, the child's school, day care center, home, and any other living arrangement of the child.~~ Services must be provided on an individual family basis, must be child-oriented and family-oriented, and

must be designed *using information from diagnostic and functional assessments* to meet the specific mental health needs of the child and the child's family. *Examples of* services ~~include family and~~ *are: (1)* individual therapy ~~and~~; *(2)* family *therapy; (3) client outreach; (4) assistance in developing individual* living skills ~~training and~~; *(5) assistance in developing parenting skills necessary to address the needs of the child; (6) assistance with leisure and recreational services; (7) crisis assistance, including crisis respite care and arranging for crisis placement; and (8) assistance in locating respite and child care. Services* must be coordinated with other ~~service providers~~ *services provided to the child and family.*

Sec. 15. Minnesota Statutes 1990, section 245.4871, is amended by adding a subdivision to read:

Subd. 33a. [SPECIAL MENTAL HEALTH CONSULTANT.] *"Special mental health consultant" is a mental health practitioner or professional with special expertise in treating children from a particular cultural or racial minority group.*

Sec. 16. Minnesota Statutes 1990, section 245.4873, subdivision 6, is amended to read:

Subd. 6. [PRIORITIES.] By January 1, 1992, the commissioner shall require that each of the treatment services and management activities described in sections 245.487 to 245.4887 be developed for children with emotional disturbances within available resources based on the following ranked priorities. *The commissioner shall reassign agency staff and use consultants as necessary to meet this deadline*:

(1) the provision of locally available mental health emergency services;

(2) the provision of locally available mental health services to all children with severe emotional disturbance;

(3) the provision of early identification and intervention services to children who are at risk of needing or who need mental health services;

(4) the provision of specialized mental health services regionally available to meet the special needs of all children with severe emotional disturbance, and all children with emotional disturbances;

(5) the provision of locally available services to children with emotional disturbances; and

(6) the provision of education and preventive mental health services.

Sec. 17. Minnesota Statutes 1990, section 245.4874, is amended to read:

245.4874 [DUTIES OF COUNTY BOARD.]

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local children's mental health service proposal required under section 245.4887, and approved by the commissioner. The county board must:

(1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4887;

(2) assure that parents and providers in the county receive information about how to gain access to services provided according to sections 245.487 to 245.4887;

(3) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children and the cost effectiveness of their delivery;

(4) assure that mental health services delivered according to sections 245.487 to 245.4887 are delivered expeditiously and are appropriate to the child's diagnostic assessment and individual treatment plan;

(5) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;

(6) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;

(7) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

(8) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4887;

(9) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871; ~~and~~

(10) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age; *and*

(11) assure that special mental health consultants are used as necessary to assist the county board in assessing and providing appropriate treatment for children of cultural or racial minority heritage.

Sec. 18. Minnesota Statutes 1990, section 245.4881, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF CASE MANAGEMENT SERVICES.]

(a) By ~~July~~ *April* 1, ~~1991~~ *1992*, the county board shall provide case management services for each child with severe emotional disturbance who is a resident of the county and the child's family who request or consent to the services. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.4871, subdivision 4.

(b) *Except as permitted by law and the commissioner under demonstration projects,* case management services provided to children with severe emotional disturbance eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.

Sec. 19. Minnesota Statutes 1990, section 245.4882, is amended by adding a subdivision to read:

Subd. 4. [ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.] *No later than January 1, 1992, the county board shall ensure that*

placement decisions for residential treatment services are based on the clinical needs of the child. The county board shall ensure that each entity under contract to provide residential treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. The county board shall ensure that, at least ten days prior to discharge, the operator of the residential treatment facility shall provide written notification of the discharge to the child's parent or caretaker, the local education agency in which the child is enrolled, and the receiving education agency to which the child will be transferred upon discharge. When the child has an individual education plan, the notice shall include a copy of the individual education plan. All contracts for the provision of residential services must include provisions guaranteeing clients the right to appeal under section 245.4886 and to be advised of their appeal rights.

Sec. 20. Minnesota Statutes 1990, section 245.4882, is amended by adding a subdivision to read:

Subd. 5. [SPECIALIZED RESIDENTIAL TREATMENT SERVICES.] *The commissioner of human services shall establish or contract for specialized residential treatment services for children. The services shall be designed for children with emotional disturbance who exhibit violent or destructive behavior and for whom local treatment services are not feasible due to the small number of children statewide who need the services and the specialized nature of the services required. The services shall be located in community settings. If no appropriate services are available in Minnesota or within the geographical area in which the residents of the county normally do business, the commissioner is responsible for 50 percent of the nonfederal costs of out-of-state treatment of children for whom no appropriate resources are available in Minnesota. Counties are eligible to receive enhanced state funding under this section only if they have established juvenile screening teams under section 260.151, subdivision 3.*

Sec. 21. Minnesota Statutes 1990, section 245.4882, is amended by adding a subdivision to read:

Subd. 6. [ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.] *No later than January 1, 1992, the county board shall ensure that placement decisions for acute care hospital inpatient treatment services are based on the clinical needs of the child and, if appropriate, the child's family. The county board shall ensure that each entity under contract with the county to provide acute care hospital treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts should specify the specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. All contracts for the provision of acute care hospital inpatient treatment services must include provisions guaranteeing clients the right to appeal under section 245.4886 and to be advised of their appeal rights.*

Sec. 22. Minnesota Statutes 1990, section 245.4884, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF FAMILY COMMUNITY SUPPORT SERVICES.] By July 1, 1991, county boards must provide or contract for sufficient family community support services within the county to meet the

needs of each child with severe emotional disturbance who resides in the county and the child's family. Children or their parents may be required to pay a fee in accordance with section 245.481.

Family community support services must be designed to improve the ability of children with severe emotional disturbance to:

(1) ~~handle~~ *manage* basic activities of daily living;

(2) ~~improve functioning~~ *function appropriately* in *home,* school, *and community* settings;

(3) participate in leisure time or community youth activities;

(4) set goals and plans;

(5) reside with the family in the community;

(6) participate in after-school and summer activities;

(7) make a smooth transition among mental health *and education* services provided to children; and

(8) make a smooth transition into the adult mental health system as appropriate.

In addition, family community support services must be designed to improve overall family functioning if clinically appropriate to the child's needs, and to reduce the need for and use of placements more intensive, costly, or restrictive both in the number of admissions and lengths of stay than indicated by the child's diagnostic assessment.

Sec. 23. Minnesota Statutes 1990, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. [SCREENING REQUIRED.] The county board shall, ~~upon~~ *prior to* admission, *except in the case of emergency admission,* screen all children ~~admitted~~ *referred* for treatment of severe emotional disturbance to a residential treatment facility~~, an acute care hospital,~~ or informally admitted to a regional treatment center if public funds are used to pay for the services. *The county board shall also screen all children admitted to an acute care hospital for treatment of severe emotional disturbance if public funds other than reimbursement under chapters 256B and 256D are used to pay for the services.* If a child is admitted to a residential treatment facility or acute care hospital for emergency treatment ~~of emotional disturbance~~ or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within ~~five~~ *three* working days of admission. Screening shall determine whether the proposed treatment:

(1) is necessary;

(2) is appropriate to the child's individual treatment needs;

(3) cannot be effectively provided in the child's home; and

(4) provides a length of stay as short as possible consistent with the individual child's need.

Screening shall include both a diagnostic assessment and a functional assessment which evaluates family, school, and community living situations. If a diagnostic assessment or functional assessment has been completed by a mental health professional within 180 days, a new diagnostic or functional

assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the screening process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether or not these services are available and accessible to the child and family.

During the screening process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services *and family community support services* and that an individual family community support plan is being developed by the case manager, if assigned.

Screening shall be in compliance with section 256E.07 or 257.071, whichever applies. Wherever possible, the parent shall be consulted in the screening process, unless clinically inappropriate.

The screening process, and placement decision, *and recommendations for mental health services* must be documented in the child's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to ~~(5)~~ *(4)*.

Sec. 24. Minnesota Statutes 1990, section 245.4885, subdivision 2, is amended to read:

Subd. 2. [QUALIFICATIONS.] No later than July 1, 1991, screening of children for residential and inpatient services must be conducted by a mental health professional. *Where appropriate and available, special mental health consultants must participate in the screening.* Mental health professionals providing screening for inpatient and residential services must not be financially affiliated with any acute care inpatient hospital, residential treatment facility, or regional treatment center. The commissioner may waive this requirement for mental health professional participation after July 1, 1991, if the county documents that:

(1) mental health professionals or mental health practitioners are unavailable to provide this service; and

(2) services are provided by a designated person with training in human services who receives clinical supervision from a mental health professional.

Sec. 25. Minnesota Statutes 1990, section 245.4885, is amended by adding a subdivision to read:

Subd. 3a. [SUMMARY DATA COLLECTION.] *The county board shall annually collect summary information on the number of children screened, the age and racial or ethnic background of the children, the presenting problem, and the screening recommendations. The county shall include information on the degree to which these recommendations are followed and the reasons for not following recommendations. Summary data shall be available to the public and shall be used by the county board and local children's advisory council to identify needed service development.*

Sec. 26. [245.4886] [CHILDREN'S COMMUNITY-BASED MENTAL HEALTH FUND.]

Subdivision 1. [STATEWIDE PROGRAM; ESTABLISHMENT.] *The commissioner shall establish a statewide program to assist counties in providing services to children with severe emotional disturbance as defined in section 245.4871, subdivision 15, and their families. Services must be designed to help each child to function and remain with the child's family in the community. The commissioner shall make grants to counties to establish, operate, or contract with private providers to provide the following services in the following order of priority when these cannot be reimbursed under section 256B.0625:*

(1) family community support services including crisis placement and crisis respite care as specified in section 245.4871, subdivision 17;

(2) case management services as specified in section 245.4871, subdivision 3;

(3) day treatment services as specified in section 245.4871, subdivision 10;

(4) professional home-based family treatment as specified in section 245.4871, subdivision 31; and

(5) therapeutic support of foster care as specified in section 245.4871, subdivision 34.

Funding appropriated beginning July 1, 1991, must be used by county boards to provide family community support services and case management services. Additional services shall be provided in the order of priority as identified in this subdivision.

Subd. 2. [GRANT APPLICATION AND REPORTING REQUIREMENTS.] *To apply for a grant a county board shall submit an application and budget for the use of the money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner. In awarding grants, the commissioner shall give priority to those counties whose applications indicate plans to collaborate in the development, funding, and delivery of services with other agencies in the local system of care. The commissioner may adopt emergency and permanent rules to govern grant applications, approval of applications, allocation of grants, and maintenance of financial statements by grant recipients and may establish grant requirements for the fiscal year ending June 30, 1992, without adopting rules. The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The commissioner shall require collection of data and periodic reports which the commissioner deems necessary to demonstrate the effectiveness of each service in realizing the stated purpose as specified for family community support in section 245.4884, subdivision 1; therapeutic support of foster care in section 245.4884, subdivision 4; professional home-based family treatment in section 245.4884, subdivision 3; day treatment in section 245.4884, subdivision 2; and case management in section 245.4881.*

Sec. 27. Minnesota Statutes 1990, section 245.697, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] A state advisory council on mental health is created. The council must have 30 members appointed by the governor

in accordance with federal requirements. The council must be composed of:

(1) the assistant commissioner of mental health for the department of human services;

(2) a representative of the department of human services responsible for the medical assistance program;

(3) one member of each of the four core mental health professional disciplines (psychiatry, psychology, social work, nursing);

(4) one representative from each of the following advocacy groups: mental health association of Minnesota, Minnesota alliance for the mentally ill, and Minnesota mental health law project;

(5) providers of mental health services;

(6) consumers of mental health services;

(7) family members of persons with mental illnesses;

(8) legislators;

(9) social service agency directors;

(10) county commissioners; and

(11) other members reflecting a broad range of community interests, as the United States Secretary of Health and Human Services may prescribe by regulation or as may be selected by the governor.

The council shall select a chair. Terms, compensation, and removal of members and filling of vacancies are governed by section 15.059. The council does not expire as provided in section 15.059. *The commissioner of human services shall provide staff support and supplies to the council.*

Sec. 28. Minnesota Statutes 1990, section 246.18, subdivision 4, is amended to read:

Subd. 4. [COLLECTIONS DEPOSITED IN MEDICAL ASSISTANCE ACCOUNT.] Except as provided in ~~subdivision~~ *subdivisions 2 and 5*, all receipts from collection efforts for the regional treatment centers, state nursing homes, and other state facilities as defined in section 246.50, subdivision 3, must be deposited in the medical assistance account and are appropriated for that purpose. The commissioner shall ensure that the departmental financial reporting systems and internal accounting procedures comply with federal standards for reimbursement for program and administrative expenditures and fulfill the purpose of this paragraph.

Sec. 29. Minnesota Statutes 1990, section 246.18, is amended by adding a subdivision to read:

Subd. 5. [FUNDED DEPRECIATION ACCOUNTS FOR STATE-OPERATED, COMMUNITY-BASED PROGRAMS.] *Separate interest-bearing funded depreciation accounts shall be established in the state treasury for state-operated, community-based programs meeting the definition of a facility in Minnesota Rules, part 9553.0020, subpart 19, or a vendor in section 252.41, subdivision 9. As payments for state-operated community-based services are received by the commissioner, the portion of the payment rate representing allowable depreciation expense and the capital debt reduction allowance shall be deposited in the state treasury and credited to the separate interest-bearing accounts as dedicated receipts with unused funds carried*

over to the next fiscal year. Funds within these funded depreciation accounts are appropriated to the commissioner of human services for the purchase or replacement of capital assets or payment of capitalized repairs for each respective program. These accounts will satisfy the requirements of Minnesota Rules, part 9553.0060, subparts 1, item E, and 5.

Sec. 30. Minnesota Statutes 1990, section 251.011, subdivision 3, is amended to read:

Subd. 3. [AH-GWAH-CHING ~~NURSING HOME~~ *CENTER.*] When tuberculosis treatment is discontinued at Ah-Gwah-Ching that facility may be used by the commissioner of human services for the care of geriatric patients, and shall be known as the Ah-Gwah-Ching ~~Nursing Home~~ *Center.*

Sec. 31. Minnesota Statutes 1990, section 251.011, subdivision 4a, is amended to read:

Subd. 4a. [NURSING HOME BEDS AT REGIONAL TREATMENT CENTERS.] The commissioner shall operate the following number of nursing home beds at regional treatment centers in addition to current capacity: at Brainerd, 105 beds; at Cambridge, 70 beds; and at Fergus Falls, 85 beds. The commissioner may operate nursing home beds at other regional treatment centers as necessary to provide an appropriate level of care for persons served at those centers. *The commissioner shall develop the regional treatment center nursing home beds authorized in the worksheets of the house appropriations and senate finance committees. The commissioner shall finance the purchase or construction of the nursing home beds with the Minnesota housing finance agency. The commissioner shall make payments through the department of administration to the Minnesota housing finance agency in repayment of mortgage loans granted for the purposes of this section.*

Sec. 32. Minnesota Statutes 1990, section 252.27, subdivision 1a, is amended to read:

Subd. 1a. [DEFINITIONS.] A person has a "related condition" if that person has a severe, chronic disability that ~~is~~ *meets all of the following conditions:* (a) *is* attributable to cerebral palsy, epilepsy, autism, Prader-Willi syndrome, or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation ~~or~~ *and* requires treatment or services similar to those required for persons with mental retardation; (b) *is manifested before the person reaches 22 years of age; (c)* is likely to continue indefinitely; and ~~(c)~~ *(d)* results in substantial functional limitations in three or more of the following areas of major life activity: *(1)* self-care, *(2)* understanding and use of language, *(3)* learning, *(4)* mobility, *(5)* self-direction, ~~or~~ *(6)* capacity for independent living. For the purposes of this section, a child has an "emotional handicap" if the child has a psychiatric or other emotional disorder which substantially impairs the child's mental health and requires 24-hour treatment or supervision.

Sec. 33. Minnesota Statutes 1990, section 252.27, subdivision 2a, is amended to read:

Subd. 2a. [CONTRIBUTION AMOUNT.] (a) The natural or adoptive parents of a minor child, including a child determined eligible for medical assistance without consideration of parental income, must contribute monthly to the cost of services, unless the child is married or has been

married, parental rights have been terminated, or the child's adoption is subsidized according to section 259.40 or through title IV-E of the Social Security Act.

(b) The parental contribution ~~equals the following percentage of that portion of~~ *shall be computed by applying to* the *adjusted gross* income of the natural or adoptive parents that exceeds 200 percent of the federal poverty guidelines for the applicable household size, *the following schedule of rates*:

~~Adjusted Gross Income~~	~~Percentage contribution exceeding 200 percent of poverty~~
~~Under $49,999~~	~~10~~
~~$50,000 to $59,999~~	~~12~~
~~$60,000 to $74,999~~	~~14~~
~~$75,000 or more~~	~~15~~

(1) on the amount of adjusted gross income over 200 percent of poverty, but not over $50,000, ten percent;

(2) on the amount of adjusted gross income over 200 percent of poverty and over $50,000 but not over $60,000, 12 percent;

(3) on the amount of adjusted gross income over 200 percent of poverty, and over $60,000 but not over $75,000, 14 percent; and

(4) on all adjusted gross income amounts over 200 percent of poverty, and over $75,000, 15 percent.

If the child lives with the parent, the parental contribution is reduced by $200. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.

(c) The household size to be used in determining the amount of contribution under paragraph (b) includes natural and adoptive parents and their dependents under age 21, including the child receiving services. Adjustments in the contribution amount due to annual changes in the federal poverty guidelines shall be implemented on the first day of July following publication of the changes.

(d) For purposes of paragraph (b), "income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form.

(e) The contribution shall be explained in writing to the parents at the time eligibility for services is being determined. The contribution shall be made on a monthly basis effective with the first month in which the child receives services. Annually upon redetermination or at termination of eligibility, if the contribution exceeded the cost of services provided, the local agency or the state shall reimburse that excess amount to the parents, either by direct reimbursement if the parent is no longer required to pay a contribution, or by a reduction in or waiver of parental fees until the excess amount is exhausted.

(f) The monthly contribution amount must be reviewed at least every 12 months; when there is a change in household size; and when there is a loss of or gain in income from one month to another in excess of ten percent. The local agency shall mail a written notice 30 days in advance of the

effective date of a change in the contribution amount. A decrease in the contribution amount is effective in the month that the parent verifies a reduction in income or change in household size.

(g) Parents of a minor child who do not live with each other shall each pay the contribution required under paragraph (a), except that a court-ordered child support payment actually paid on behalf of the child receiving services shall be deducted from the contribution of the parent making the payment.

(h) The contribution under paragraph (b) shall be increased by an additional five percent if the local agency determines that insurance coverage is available but not obtained for the child. For purposes of this section, "available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income. For purposes of this section, insurance means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

Parents who have more than one child receiving services shall not be required to pay more than the amount for the child with the highest expenditures. There shall be no resource contribution from the parents. The parent shall not be required to pay a contribution in excess of the cost of the services provided to the child, not counting payments made to school districts for education-related services. Notice of an increase in fee payment must be given at least 30 days before the increased fee is due.

Sec. 34. Minnesota Statutes 1990, section 252.275, is amended to read:

252.275 [SEMI-INDEPENDENT LIVING SERVICES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.]

Subdivision 1. [PROGRAM.] The commissioner of human services shall establish a statewide program to ~~assist counties in reducing the utilization of intermediate care services in state hospitals and in community residential facilities, including nursing homes,~~ *provide support* for persons with mental retardation or related conditions *to live as independently as possible in the community. An objective of the program is to reduce unnecessary use of intermediate care facilities for persons with mental retardation or related conditions and home and community-based services.* The commissioner shall ~~make grants to~~ *reimburse* county boards ~~to establish, operate, or contract~~ for the provision of semi-independent living services licensed by the commissioner pursuant to sections 245A.01 to 245A.16 and 252.28, *and for the provision of one-time living allowances to secure and furnish a home for a person who will receive semi-independent living services under this section, if other public funds are not available for the allowance.*

For the purposes of this section, "semi-independent living services" means training and assistance in managing money, preparing meals, shopping, maintaining personal appearance and hygiene, and other activities which are needed to maintain and improve an adult with mental retardation or a related condition's capability to live in the community. Eligible persons must be age 18 or older, must need less than a 24-hour plan of care, and must be unable to function independently without semi-independent living services.

Semi-independent living services costs and one-time living allowance costs may be paid directly by the county, or may be paid by the recipient

with a voucher or cash issued by the county.

Subd. 1a. [SERVICE REQUIREMENTS.] *The methods, materials, and settings used to provide semi-independent living services to a person must be designed to:*

(1) increase the person's independence in performing tasks and activities by teaching skills that reduce dependence on caregivers;

(2) provide training in an environment where the skill being taught is typically used;

(3) increase the person's opportunities to interact with nondisabled individuals who are not paid caregivers;

(4) increase the person's opportunities to use community resources and participate in community activities, including recreational, cultural, and educational resources, stores, restaurants, religious services, and public transportation;

(5) increase the person's opportunities to develop decision-making skills and to make informed choices in all aspects of daily living, including:

(i) selection of service providers;

(ii) goals and methods;

(iii) location and decor of residence;

(iv) roommates;

(v) daily routines;

(vi) leisure activities; and

(vii) personal possessions;

(6) provide daily schedules, routines, environments and interactions similar to those of nondisabled individuals of the same chronological age; and

(7) comply with section 245.825, subdivision 1.

~~Subd. 2. [APPLICATION; CRITERIA.] To apply for a grant, a county board shall submit an application and budget for use of grant money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets or portions thereof are approved by the commissioner.~~

Subd. 3. [REIMBURSEMENT.] ~~On or before September 1 of each year, the commissioner shall allocate available funds to the counties which have approved plans and budgets. The commissioner shall disburse the funds on a quarterly basis during the fiscal year to reimburse counties for costs incurred in providing services to individual clients in accordance with the approved plans and budgets.~~ *Counties shall be reimbursed for all expenditures made pursuant to subdivision 1 at a rate of 70 percent, up to the allocation determined pursuant to subdivisions 4, 4a, and 4b. However, the commissioner shall not reimburse costs of services for any person if the costs exceed the state share of the average medical assistance costs for services provided by intermediate care facilities for a person with mental retardation or a related condition for the same fiscal year, and shall not reimburse costs of a one-time living allowance for any person if the costs exceed $1,500 in a state fiscal year. For the biennium ending June 30, 1993, the commissioner shall not reimburse costs in excess of the 85th percentile of hourly service*

costs based upon the cost information supplied to the legislature in the proposed budget for the biennium. The commissioner may make payments to each county in quarterly installments. The commissioner may certify an advance of up to 25 percent of the allocation. Subsequent payments shall be made on a reimbursement basis for reported expenditures and may be adjusted for anticipated spending patterns.

Subd. 4. [FORMULA.] ~~From the appropriations made available for this program, the commissioner shall allocate grants under this section to finance up to 95 percent of each county's approved budget for semi-independent living services for persons with mental retardation or related conditions. The commissioner shall not approve budgeted costs for services for any person which exceed the state share of the average medical assistance costs for services provided by intermediate care facilities for a person with mental retardation or a related condition for the same fiscal year.~~ *Effective January 1, 1992, the commissioner shall allocate funds on a calendar year basis. For calendar year 1992, funds shall be allocated based on each county's portion of the statewide reimbursement received under this section for state fiscal year 1991. For subsequent calendar years, funds shall be allocated based on each county's portion of the statewide expenditures eligible for reimbursement under this section during the 12 months ending on June 30 of the preceding calendar year.*

If the legislature appropriates funds for special purposes, the commissioner may allocate the funds based on proposals submitted by the counties to the commissioner in a format prescribed by the commissioner. Nothing in this ~~subdivision~~ *section* prevents a county from using other funds to pay for additional costs of semi-independent living services.

~~As of July 1, 1987, the commissioner shall allocate funds and reimburse county costs for persons approved for funding. The commissioner shall proportionally allocate funds to counties based on the approved budgeted costs for persons approved for funding. The commissioner shall adjust county grants based on actual approved expenditures and shall reallocate funds to the extent necessary. The commissioner may set aside up to two percent of the appropriations to fund county demonstration projects that improve the efficiency and effectiveness of semi-independent living services.~~

Subd. 4a. [FORMULA LIMITATION.] *For calendar year 1993 and all subsequent years, the amounts computed pursuant to subdivision 4 shall be subject to the following limitation: no county shall be allocated an amount less than its guaranteed floor as provided in subdivision 4b. If the amount allocated to any county pursuant to subdivision 4 would be less than its guaranteed floor, the shortage shall be recovered proportionally from all counties which would be allocated more than their guaranteed floor.*

Subd. 4b. [GUARANTEED FLOOR.] *Each county with an original allocation for the preceding year that is equal to or less than the guaranteed floor minimum index shall have a guaranteed floor equal to its original allocation for the preceding year. Each county with an original allocation for the preceding year that is greater than the guaranteed floor minimum index shall have a guaranteed floor equal to the lesser of clause (1) or (2):*

(1) the county's original allocation for the preceding year; or

(2) 70 percent of the county's reported expenditures eligible for reimbursement during the 12 months ending on June 30 of the preceding calendar year.

For calendar year 1993, the guaranteed floor minimum index shall be $20,000. For each subsequent year, the index shall be adjusted by the projected change in the average value in the United States Department of Labor Bureau of Labor Statistics consumer price index (all urban) for that year.

When the amount of funds available for allocation is less than the amount available in the previous year, each county's previous year allocation shall be reduced in proportion to the reduction in the statewide funding, to establish each county's guaranteed floor.

Subd. 4c. [REVIEW OF FUNDS; REALLOCATION.] *After each quarter, the commissioner shall review county program expenditures. The commissioner may reallocate unexpended money at any time among those counties which have earned their full allocation.*

Subd. 5. [DISPLACED HOSPITAL WORKERS.] Providers of semi-independent living services shall make reasonable efforts to hire qualified employees of ~~state hospital~~ *regional treatment center* mental retardation units who have been displaced by reorganization, closure, or consolidation of ~~state hospital~~ *regional treatment center* mental retardation units.

Subd. 6. [RULES.] The commissioner ~~shall~~ *may* adopt emergency and permanent rules in accordance with chapter 14 to govern ~~grant applications, criteria for approval of applications,~~ allocation ~~of grants, and maintenance of program and financial statements by grant recipients~~, *reimbursement, and compliance*.

Subd. 7. [REPORTS.] The commissioner shall specify requirements for reports, including quarterly fiscal *and annual program* reports, according to section 256.01, subdivision 2, paragraph (17).

Subd. 8. [USE OF FEDERAL FUNDS.] The commissioner shall *make every reasonable effort to* maximize the use of federal funds for semi-independent living services.

Subd. 9. [COMPLIANCE.] *If a county board or provider under contract with a county board to provide semi-independent living services does not comply with this section and the rules adopted by the commissioner of human services under this section, including the reporting requirements, the commissioner may recover, suspend, or withhold payments.*

Sec. 35. Minnesota Statutes 1990, section 252.28, subdivision 1, is amended to read:

Subdivision 1. [DETERMINATIONS; BIENNIAL REDETERMINATIONS.] In conjunction with the appropriate county boards, the commissioner of human services shall determine, and shall redetermine biennially, the need, location, size, and program of public and private residential *services* and day ~~care facilities and~~ *training and habilitation* services for ~~children and adults~~ *persons* with mental retardation or related conditions. *This subdivision does not apply to semi-independent living services and residential-based habilitation services provided to four or fewer persons at a single site funded as home and community-based services.*

Sec. 36. Minnesota Statutes 1990, section 252.28, subdivision 3, is amended to read:

Subd. 3. [LICENSING DETERMINATIONS.] (1) No new license shall be granted pursuant to this section when the issuance of the license would

substantially contribute to an excessive concentration of community residential facilities within any town, municipality or county of the state.

(2) In determining whether a license shall be issued pursuant to this subdivision, the commissioner of human services shall specifically consider the population, size, land use plan, availability of community services and the number and size of existing public and private community residential facilities in the town, municipality or county in which a licensee seeks to operate a residence. Under no circumstances may the commissioner newly license any facility pursuant to this section except as provided in section 245A.11. The commissioner of human services shall establish uniform rules to implement the provisions of this subdivision.

(3) Licenses for community facilities and services shall be issued pursuant to section 245.821.

(4) No new license shall be granted for a residential program that provides home and community-based waivered services to more than four individuals at a site, except as authorized by the commissioner for emergency situations that would result in the placement of individuals into regional treatment centers. Such licenses shall not exceed 24 months.

(5) The commissioner shall not approve a determination of need application that requests that an existing residential program license under Minnesota Rules, parts 9525.0215 to 9525.0355 be modified in a manner that would result in the issuance of two or more licenses for the same residential program at the same location.

Sec. 37. Minnesota Statutes 1990, section 252.28, is amended by adding a subdivision to read:

Subd. 5. [APPEALS.] *A county may appeal a determination of need, size, location, or program according to chapter 14. Notice of appeals must be provided to the commissioner within 30 days after the receipt of the commissioner's determination.*

Sec. 38. [252.293] [EMERGENCY RELOCATIONS.]

Subdivision 1. [EMERGENCY TRANSFERS.] *In emergency situations, the commissioner of human services may order the relocation of existing intermediate care facility for persons with mental retardation or related conditions beds, transfer residents, and establish an interim payment rate under the procedures contained in Minnesota Rules, part 9553.0075, for up to two years, as necessary to ensure the replacement of the original services for the residents. The payment rate must be based on projected costs and is subject to settle up. An emergency situation exists when it appears to the commissioner of human services that the health, safety, or welfare of residents may be in jeopardy due to imminent or actual loss of use of the physical plant or damage to the physical plant making it temporarily or permanently uninhabitable. The subsequent rate for a facility providing services for the same resident following the temporary emergency situation must be based upon the costs incurred during the interim period if the residents are permanently placed in the same facility. If the residents need to be relocated for permanent placements, the temporary emergency location must close and the procedures for establishing rates for newly constructed or newly established facilities must be followed. This provision regarding emergency situations does not apply to facilities placed in receivership by the commissioner of human services under section 245A.12 or 245A.13, or facilities that have rates set under section 252.292, subdivision*

4, or to relocations of residents to existing facilities.

Subd. 2. [APPROVAL OF TEMPORARY LOCATIONS.] *The commissioner of human services shall notify the commissioner of health of the existence of the emergency and the decision to order the relocation of residents. This notice shall also identify the temporary location or locations selected by the commissioner of human services for the relocation of the residents. Notwithstanding the provisions of section 252.291, the commissioner of health may license and certify the temporary location or locations as an intermediate care facility for persons with mental retardation or related conditions if the location complies with the applicable state rules and federal regulations. The facility from which the residents were relocated shall not be used to house residents until the commissioner of human services authorizes the return of residents to the facility and the commissioner of health verifies that the facility complies with the applicable state and federal regulations. If the temporary location closes under the provisions of subdivision 1, the license and certification of the temporary location is voided. The voiding of the license and certification shall not be considered as a suspension, revocation, or nonrenewal of the license or as an involuntary decertification of the facility.*

Sec. 39. Minnesota Statutes 1990, section 252.32, is amended to read:

252.32 [FAMILY ~~SUBSIDY~~ *SUPPORT* PROGRAM.]

Subdivision 1. [PROGRAM ESTABLISHED~~; APPLICATION~~.] *In accordance with state policy established in section 256F.01 that all children are entitled to live in families that offer safe, nurturing, permanent relationships, and that public services be directed toward preventing the unnecessary separation of children from their families, and because many families who have children with mental retardation or related conditions have special needs and expenses that other families do not have,* the commissioner of human services shall establish a program to ~~provide subsidies to families to enable them to care for their dependents with handicaps in their own home~~ *assist families who have dependents with mental retardation or related conditions living in their home. The program shall make support grants available to the families.*

Subd. 1a. [SUPPORT GRANTS.] ~~This program~~ *(a) Provision of support grants* must be limited to families *who require support and* whose dependents are under the age of 22 and ~~who are mentally retarded or~~ who have *mental retardation or who have* a related condition and ~~otherwise would require or be eligible for placement in a licensed residential facility as set forth in section 245A.02, subdivision 6~~ *who have been determined by a screening team established under section 256B.092 to require the level of care provided by an intermediate care facility for persons with mental retardation or related conditions. Families who are receiving home and community-based waivered services are not eligible for support grants. Families whose annual adjusted gross income is $60,000 or more are not eligible for support grants except in cases where extreme hardship is demonstrated. Beginning in state fiscal year 1994, the commissioner shall adjust the income ceiling annually to reflect the projected change in the average value in the United States Department of Labor Bureau of Labor Statistics consumer price index (all urban) for that year.*

(b) Support grants may be made available as monthly subsidy grants and lump sum grants.

(c) Support grants may be issued in the form of cash, voucher, and direct county payment to a vendor.

(d) Applications for the ~~subsidy~~ *support grant* shall be made by the county social service agency to the department of human services. The application shall specify the needs of the family, *the form of the grant requested by the family,* and how the ~~subsidy will be used~~ *family intends to use the support grant and recommendations of the county.*

(e) Families who were receiving subsidies on the date of implementation of the $60,000 income limit in paragraph (a) continue to be eligible for a family support grant until December 31, 1991, if all other eligibility criteria are met. After December 31, 1991, these families are eligible for a grant in the amount of one-half the grant they would otherwise receive, for as long as they remain eligible under other eligibility criteria.

Subd. 2. [INDIVIDUAL SERVICE PLAN.] *Before a support grant is issued,* an individual service plan for the dependent *as required by section 256E.08 and the rules adopted thereunder, or an individual service plan as requested by the family and defined in 256B.092,* shall be developed by the county social service agency and agreed upon by the parents. A transitional plan shall be developed for the dependent when the dependent turns age 17 in order to assure an orderly transition to other services when the family terminates services from this program and to assure that an application is made for supplemental security income and other benefits.

Subd. 3. [~~SUBSIDY~~ AMOUNT *OF SUPPORT GRANT*; USE.] ~~Subsidy~~ *Support grant* amounts shall be determined by the commissioner of human services. ~~The subsidy may be used to cover the costs of special equipment, special clothing or diets, related transportation, therapy, medications, respite care, medical care, diagnostic assessments, modifications to the home and vehicle, and other services or items that assist the family and dependent.~~ *Each service and item purchased with a support grant must:*

(1) be over and above the normal costs of caring for the dependent if the dependent did not have a disability;

(2) be directly attributable to the dependent's disabling condition; and

(3) enable the family to delay or prevent the out-of-home placement of the dependent.

The design and delivery of services and items purchased under this section must suit the dependent's chronological age and be provided in the least restrictive environment possible, consistent with the needs identified in the individual service plan.

Items and services purchased with support grants must be those for which there are no other public or private funds available to the family. Fees assessed to parents for health or human services that are funded by federal, state, or county dollars are not reimbursable through this program.

The maximum monthly amount shall be $250 *per eligible dependent, or $3,000 per eligible dependent per state fiscal year, within the limits of available funds. During fiscal year 1992 and 1993, the maximum monthly grant awarded to families who are eligible for medical assistance shall be $200, except in cases where extreme hardship is demonstrated.* The commissioner may consider the ~~child's~~ *dependent's* supplemental security income in determining the amount of the ~~subsidy~~ *support grant.* A variance may be granted by the commissioner to exceed ~~$250~~ *$3,000 per state fiscal year*

per eligible dependent for emergency circumstances in cases where exceptional resources of the family are required to meet the health, welfare-safety needs of the child~~, for a period not to exceed 90 days per fiscal year~~. The commissioner may set aside ~~one~~ *up to five* percent of the appropriation to fund emergency situations.

Subd. 3a. [REPORTS AND REIMBURSEMENT.] *The commissioner shall specify requirements for quarterly fiscal and annual program reports according to section 256.01, subdivision 2, paragraph (17). Program reports shall include data which will enable the commissioner to evaluate program effectiveness and to audit compliance. The commissioner shall reimburse county costs on a quarterly basis.*

Subd. 3b. [FEDERAL FUNDS.] *The commissioner and the counties shall make every reasonable effort to maximize the use of federal funds for family supports.*

Subd. 3c. [COUNTY BOARD RESPONSIBILITIES.] *County boards receiving funds under this section shall:*

(1) determine the needs of families for services in accordance with section 256B.092 or 256E.08 and any rules adopted under those sections;

(2) determine the eligibility of all persons proposed for program participation;

(3) recommend for approval all items and services to be reimbursed and inform families of the commissioner's approval decision;

(4) issue support grants directly to, or on behalf of, eligible families;

(5) inform recipients of their right to appeal under subdivision 3e;

(6) submit quarterly financial reports under subdivision 3b; and

(7) coordinate services with other programs offered by the county.

Subd. 3d. [APPEALS.] *The denial, suspension, or termination of services under this program may be appealed by a recipient or application under section 256.045, subdivision 3.*

Subd. 4. [RULEMAKING.] The commissioner shall amend permanent rules to govern ~~subsidy~~ *grant* applications *under this section*, criteria for approval, and other areas necessary to implement this program.

Subd. 5. [COMPLIANCE.] *If a county board or grantee does not comply with this section and the rules adopted by the commissioner of human services, the commissioner may recover, suspend, or withhold payments.*

Sec. 40. Minnesota Statutes 1990, section 252.46, is amended by adding a subdivision to read:

Subd. 15. [FOR-PROFIT ORGANIZATIONS.] *Notwithstanding the requirement in section 252.41, subdivision 9, that vendors be nonprofit entities, the commissioner may approve up to 15 for-profit individuals, corporations, partnerships, voluntary associations, or other organizations to provide day training and habilitation services for the purposes of studying the impacts that for-profit vendors have on the delivery, quality, and costs of day training and habilitation services.*

Sec. 41. Minnesota Statutes 1990, section 252.50, subdivision 2, is amended to read:

Subd. 2. [AUTHORIZATION TO BUILD OR PURCHASE.] Within the limits of available appropriations, the commissioner may build, purchase, or lease suitable buildings for state-operated, community-based programs. *The commissioner must develop the state-operated community residential facilities authorized in the worksheets of the house appropriations and senate finance committees. The commissioner shall finance the purchase or construction of state-operated, community-based facilities with the Minnesota housing finance agency. The commissioner shall make payments through the department of administration to the Minnesota housing finance agency in repayment of mortgage loans granted for the purposes of this section.* Programs must be adaptable to the needs of persons with mental retardation or related conditions and residential programs must be homelike.

Sec. 42. Minnesota Statutes 1990, section 253.015, subdivision 2, is amended to read:

Subd. 2. [PLAN FOR NEEDED REGIONAL TREATMENT CENTER SERVICES.] (a) By January 30, 1990, the commissioner shall develop and submit to the legislature a plan to implement a program for persons in southeastern Minnesota who are mentally ill.

(b) By January 1, 1990, the commissioner shall develop a plan to establish a comprehensive brain injury treatment program at the Faribault regional center site to meet the needs of people with brain injuries in Minnesota. The program shall provide post-acute, community integration and family support services for people with brain injuries which have resulted in behavior, cognitive, emotional, communicative and mobility impairments or deficits. The plan shall include development of a brain injury residential unit, a functional evaluation outpatient clinic and an adaptive equipment center within the outpatient clinic. Health care services already available at the regional center or from the Faribault community must be utilized, and the plan shall include provisions and cost estimates for capital improvements, staff retraining, and program start-up costs.

(c) By January 1, 1990, the commissioner shall develop a plan to establish 35 auxiliary beds at Brainerd regional treatment center for the Minnesota security hospital. *The commissioner shall develop secure beds for mentally ill persons as authorized in the worksheets of the house appropriations and senate finance committees. The commissioner shall finance the purchase or construction of these beds with the Minnesota housing finance agency. The commissioner shall make payments through the department of administration to the Minnesota housing finance agency in repayment of mortgage loans granted for the purposes of this section.*

Sec. 43. Minnesota Statutes 1990, section 253C.01, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] As used in this section, "residential program" means (1) a ~~freestanding primary treatment program or~~ hospital-based primary treatment program that provides residential treatment to ~~chemically dependent or mentally ill~~ minors *with emotional disturbance as defined by the comprehensive children's mental health act in sections 245.487 to 245.4888*, or (2) a facility licensed by the state *under Minnesota Rules, parts 9545.0900 to 9545.1090*, to provide services ~~for emotionally disturbed~~ *to* minors on a 24-hour basis.

Sec. 44. Minnesota Statutes 1990, section 253C.01, subdivision 2, is amended to read:

Subd. 2. [~~ANNUAL REPORT~~ *INFORMATION* REQUIRED.] Beginning June 1, 1986, each residential program shall collect the information listed in this subdivision. Each residential program shall ~~file a report no later than December 31, 1986, containing the information collected as of that date. Thereafter, each residential program shall prepare an annual report for the year ending June 30 of each year and file the report no later than December 31 of each year. Hospital-based primary treatment programs shall file the report with the commissioner of health~~ *provide the required information annually on a date to be determined by the commissioner of human services.* All ~~other~~ residential programs shall ~~file the~~ report ~~with~~ *to* the commissioner of human services. The *summary* reports *on each program* are public data and must contain at least the following information for the period covered by the report:

(1) number of minors admitted to the program;

(2) number of minors discharged from the program;

(3) ~~primary diagnoses of each admitted minor~~ *number of minors served during the reporting period*;

(4) number of minors who remained in residence for less than 30 days;

(5) number of minors who remained in residence for between 30 and 60 days;

(6) number of minors who remained in residence for more than 60 days;

(7) average length of stay of minors in the program;

(8) number of minors who have received psychotropic medications *as part of treatment in the program*;

(9) age, race, and sex of each minor *admitted to the program*;

(10) ~~copy of written notices, forms, and other procedures being used to advise minors and their parents of their rights;~~

~~(11)~~ number of minors admitted ~~or presently in residence~~ who have previously had residential treatment;

~~(12)~~ *(11)* number of minors *discharged* who are on private pay or third-party reimbursement payment and number who are receiving government funds for treatment;

~~(13) criteria for admission and continued stay~~ *(12) the county of residence of discharged minors*;

~~(14)~~ *(13)* number of *admitted* minors whose admission is court-ordered; and

~~(15)~~ *(14)* number of beds on a locked unit and number of beds on an unlocked unit.

~~The information required by this subdivision must be separately stated for chemically dependent, mentally ill, and emotionally disturbed minors as defined by the residential programs.~~

Sec. 45. Minnesota Statutes 1990, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. [MENTAL ILLNESS CASE MANAGEMENT.] To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness *or*

subject to federal approval, children with severe emotional disturbance.

Sec. 46. Minnesota Statutes 1990, section 256B.0641, is amended by adding a subdivision to read:

Subd. 3. [FACILITY IN RECEIVERSHIP.] *Subdivision 2 does not apply to the change of ownership of a facility to a nonrelated organization while the facility to be sold, transferred or reorganized is in receivership under section 245A.12 or 245A.13, and the commissioner during the receivership has not determined the need to place residents of the facility into a newly constructed or newly established facility. Nothing in this subdivision limits the liability of a former owner.*

Sec. 47. Minnesota Statutes 1990, section 256B.092, is amended to read:

256B.092 [CASE MANAGEMENT OF PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.]

Subdivision 1. [COUNTY OF FINANCIAL RESPONSIBILITY; DUTIES.] Before any services shall be rendered to persons with mental retardation or related conditions who are in need of social service and medical assistance, the county of financial responsibility shall conduct *or arrange for* a diagnostic evaluation in order to determine whether the person ~~is~~ *has* or may ~~be mentally retarded~~ *have mental retardation* or has or may have a related condition. *If the county of financial responsibility determines that the person has mental retardation or a related condition, the county shall inform the person of case management services available under this section. Except as provided in subdivision 1g or 4b,* if a ~~client~~ *person* is diagnosed as ~~mentally retarded~~ *having mental retardation* or ~~as having~~ a related condition, ~~that~~ *the* county ~~must~~ *of financial responsibility shall* conduct *or arrange for* a needs assessment, develop *or arrange for* an individual service plan, provide *or arrange for* ongoing case management services at the level identified in the individual service plan, *provide or arrange for case management administration,* and authorize ~~placement for~~ services *identified in the person's individual service plan developed according to subdivision 1b. Diagnostic information, obtained by other providers or agencies, may be used to meet the diagnosis requirements of this section. Nothing in this section shall be construed as requiring: (1) assessment in areas agreed to as unnecessary by the case manager and the person, or the person's legal guardian or conservator, or the parent if the person is a minor, or (2) assessments in areas where there has been a functional assessment completed in the previous 12 months for which the case manager and the person or person's guardian or conservator, or the parent if the person is a minor, agree that further assessment is not necessary. For persons under state guardianship, the case manager shall seek authorization from the public guardianship office for waiving any assessment requirements. Assessments related to health, safety, and protection of the person for the purpose of identifying service type, amount, and frequency or assessments required to authorize services may not be waived.* To the extent possible, for wards of the commissioner the county shall consider the opinions of the parent of the person with mental retardation or a related condition when developing the person's individual service plan. If the county of financial responsibility places a ~~client~~ *person* in another county for services, the placement shall be made in cooperation with the ~~host~~ county ~~of service~~ *where services are provided, according to subdivision 8a,* and arrangements shall be made between the two counties for ongoing social service, including annual reviews of the ~~client's~~ *person's* individual service plan. The ~~host~~ county

where services are provided may not make changes in the *person's* service plan without approval by the county of financial responsibility.

Subd. 1a. [CASE MANAGEMENT *ADMINISTRATION AND* SERVICES.] ~~Case management services are limited to diagnosis, assessment of the individual's service needs, development of an individual service plan, specification of methods for providing services, and the evaluation and monitoring of the services identified in the plan.~~

(a) The administrative functions of case management provided to or arranged for a person include:

(1) intake;

(2) diagnosis;

(3) screening;

(4) service authorization;

(5) review of eligibility for services; and

(6) responding to requests for conciliation conferences and appeals according to section 256.045 made by the person, the person's legal guardian or conservator, or the parent if the person is a minor.

(b) Case management service activities provided to or arranged for a person include:

(1) development of the individual service plan;

(2) informing the individual or the individual's legal guardian or conservator, or parent if the person is a minor, of service options;

(3) assisting the person in the identification of potential providers;

(4) assisting the person to access services;

(5) coordination of services;

(6) evaluation and monitoring of the services identified in the plan; and

(7) annual reviews of service plans.

(c) Case management administration and service activities that are provided to the person with mental retardation or a related condition shall be provided directly by county agencies or under contract.

Subd. 1b. [INDIVIDUAL SERVICE PLAN.] The individual service plan must:

(1) include the results of ~~the diagnosis and~~ *the* assessment *information on the person's need for service, including identification of service needs that will be or that are met by the person's relatives, friends, and others, as well as community services used by the general public;*

(2) identify *the person's preferences for services as stated by the person, the person's legal guardian or conservator, or the parent if the person is a minor;*

(3) identify long- and short-range goals ~~and objectives~~ for the ~~client,~~

~~(3)~~ *person;*

(4) identify specific services *and the amount and frequency of the services* to be provided to the ~~client,~~

~~(4)~~ *person based on assessed needs, preferences, and available resources. The individual service plan shall also specify other services the person needs that are not available;*

(5) identify the need for an ~~habilitation component of the~~ *individual program* plan~~, and~~

~~(5) identify and coordinate methodologies to carry out the goals and objectives.~~ *to be developed by the provider according to the respective state and federal licensing and certification standards, and additional assessments to be completed or arranged by the provider after service initiation;*

(6) identify provider responsibilities to implement and make recommendations for modification to the individual service plan;

(7) include notice of the right to request a conciliation conference or a hearing under section 256.045;

(8) be agreed upon and signed by the person, the person's legal guardian or conservator, or the parent if the person is a minor, and the authorized county representative;

(9) be reviewed by a health professional if the person has overriding medical needs that impact the delivery of services; and

(10) be completed on forms approved by the commissioner, including forms developed for interagency planning such as transition and individual family service plans.

~~Subd. 1c. [FISCAL LIMITATIONS.] Subdivision 1 shall not be construed as requiring expenditure of money not available to county agencies for services to persons with, or who might have, mental retardation or related conditions, except for:~~

~~(1) services specifically required by federal law or state statute such as case management and day training and habilitation services; and~~

~~(2) services identified in the person's individual service plan as services that the county will provide until the person's individual service plan is amended.~~

~~Subd. 1d. [COUNTY REQUIREMENTS.] Before a county denies, reduces, or terminates a service to an individual due to fiscal limitations, the county agency must show that money is not available for services to persons with mental retardation or related conditions and that good faith efforts have been made to identify needs and obtain available funds. The county agency must show this by documenting that the following actions have been taken:~~

~~(1) the county case manager has identified the person's service needs and the actions that will be taken to develop or obtain those services in the person's individual service plan and action that will be taken to prevent abuse or neglect as defined in sections 626.556, subdivision 2, paragraphs (a), (c), and (d), and 626.557, subdivision 2, paragraphs (d) and (e);~~

~~(2) prior to the admission of a person to a regional treatment center program for persons with developmental disabilities, the county agency made efforts to secure community-based alternatives. If these alternatives were rejected in favor of a regional treatment center placement, the county agency must also document the reasons why they were rejected; and~~

~~(3) the county agency has made a request for state funds or new capacity for services to meet the individual's unmet needs, since those needs have~~

~~been identified in the person's individual service plan.~~

Subd. 1e. [COORDINATION, EVALUATION, AND MONITORING OF SERVICES IDENTIFIED IN THE INDIVIDUAL SERVICE PLAN.] *(a) If the individual service plan identifies the need for individual program plans for authorized services, the case manager shall assure that individual program plans are developed by the providers according to clauses (2) to (5). The providers shall assure that the individual program plans:*

(1) are developed according to the respective state and federal licensing and certification requirements;

(2) are designed to achieve the goals of the individual service plan;

(3) are consistent with other aspects of the individual service plan;

(4) assure the health and safety of the person; and

(5) are developed with consistent and coordinated approaches to services among the various service providers.

(b) The case manager shall monitor the provision of services:

(1) to assure that the individual service plan is being followed according to paragraph (a);

(2) to identify any changes or modifications that might be needed in the individual service plan, including changes resulting from recommendations of current service providers;

(3) to determine if the person's legal rights are protected, and if not, notify the person's legal guardian or conservator, or the parent if the person is a minor, protection services, or licensing agencies as appropriate; and

(4) to determine if the person, the person's legal guardian or conservator, or the parent if the person is a minor, is satisfied with the services provided.

(c) If the provider fails to develop or carry out the individual program plan according to paragraph (a), the case manager shall notify the person's legal guardian or conservator, or the parent if the person is a minor, the provider, the respective licensing and certification agencies, and the county board where the services are being provided. In addition, the case manager shall identify other steps needed to assure the person receives the services identified in the individual service plan.

Subd. ~~1e.~~ *1f.* [COUNTY WAITING LIST.] The county agency shall maintain a waiting list of persons with developmental disabilities specifying the services needed but not provided. *This waiting list shall be used by county agencies to assist them in developing needed services or amending their community social services plan as required in section 256E.09, subdivision 1.*

Subd. 1g. [CONDITIONS NOT REQUIRING DEVELOPMENT OF INDIVIDUAL SERVICE PLAN.] *Unless otherwise required by federal law, the county agency is not required to complete an individual service plan as defined in subdivision 1b for:*

(1) persons whose families are requesting respite care as a single service for their family member who resides with them, or whose families are requesting only a family subsidy grant and are not requesting purchase or arrangement of other habilitative or social services; and

(2) persons with mental retardation or related conditions, living independently without authorized services or receiving funding for services at a rehabilitation facility as defined in section 268A.01, subdivision 6, and not in need of or requesting additional services.

Subd. 2. [MEDICAL ASSISTANCE.] To assure quality case management to those ~~county clients~~ *persons* who are eligible for medical assistance, the commissioner shall, upon request ~~by the county board~~:

(a) provide consultation on the case management process;

(b) assist county agencies in the screening and annual reviews of clients *review process* to assure that appropriate levels of service are provided *to persons*;

(c) provide consultation on service planning and development of services with appropriate options;

(d) provide training and technical assistance to county case managers; and

(e) authorize payment for medical assistance services *according to chapter 256B and rules implementing it.*

Subd. 3. [*AUTHORIZATION AND* TERMINATION OF SERVICES.] County agency case managers, under rules of the commissioner, shall authorize and terminate services of community and ~~state hospital~~ *regional treatment center* providers ~~in accordance with~~ *according to* individual service plans. *Services provided to persons with mental retardation or related conditions may only be authorized and terminated by case managers according to (1) rules of the commissioner and (2) the individual service plan as defined in subdivision 1b.* Medical assistance services not needed shall not be authorized by county agencies ~~nor~~ *or* funded by the commissioner. *When purchasing or arranging for unlicensed respite care services for persons with overriding health needs, the county agency shall seek the advice of a health care professional in assessing provider staff training needs and skills necessary to meet the medical needs of the person.*

Subd. 4. [~~ALTERNATIVE~~ HOME AND COMMUNITY-BASED SERVICES *FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.*] The commissioner shall make payments to ~~county boards~~ *approved vendors* participating in the medical assistance program to pay costs of providing ~~alternative~~ home and community-based services, *including case management service activities provided as an approved home and community-based service,* to medical assistance eligible persons with mental retardation or related conditions who have been screened under subdivision 7 *and according to federal requirements. Payments for home and community-based services shall not exceed amounts authorized by the county of financial responsibility. For specifically identified former residents of regional treatment centers and nursing facilities, the commissioner shall be responsible for authorizing payments and payment limits under the appropriate home and community-based service program.* Payment is available under this subdivision only for persons who, if not provided these services, would require the level of care provided in an intermediate care facility for persons with mental retardation or related conditions.

Subd. 4a. [DEMONSTRATION PROJECTS.] *The commissioner may waive state rules governing home and community-based services in order to demonstrate other methods of administering these services and to improve*

efficiency and responsiveness to individual needs of persons with mental retardation or related conditions, notwithstanding section 14.05, subdivision 4. All demonstration projects approved by the commissioner must comply with state laws and federal regulations, must remain within the fiscal limitations of the home and community-based services program for persons with mental retardation or related conditions, and must assure the health and safety of the persons receiving services according to section 256E.08, subdivision 1.

Subd. 4b. [CASE MANAGEMENT FOR PERSONS RECEIVING HOME AND COMMUNITY-BASED SERVICES.] *Persons authorized for and receiving home and community-based services may select from vendors of case management which have provider agreements with the state to provide home and community-based case management service activities. This subdivision becomes effective July 1, 1992, only if the state agency is unable to secure federal approval for limiting choice of case management vendors to the county of financial responsibility.*

Subd. 5. [FEDERAL WAIVERS.] The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation under United States Code, title 42, sections 1396 ~~to 1396p~~ *et seq.*, as amended ~~through December 31, 1987~~, for the provision of services to persons who, in the absence of the services, would need the level of care provided in a ~~state hospital~~ *regional treatment center* or a community intermediate care facility for persons with mental retardation or related conditions. The commissioner may seek amendments to the waivers or apply for additional waivers under United States Code, title 42, sections 1396 ~~to 1396p~~ *et seq.*, as amended ~~through December 31, 1987~~, to contain costs. The commissioner shall ensure that payment for the cost of providing home and community-based alternative services under the federal waiver plan shall not exceed the cost of intermediate care services *including day training and habilitation services* that would have been provided without the waivered services.

Subd. 6. [RULES.] The commissioner shall adopt emergency and permanent rules to establish required controls, documentation, and reporting of services provided in order to assure proper administration of the approved waiver plan, *and to establish policy and procedures to reduce duplicative efforts and unnecessary paperwork on the part of case managers.*

Subd. 7. [SCREENING TEAMS ~~ESTABLISHED~~.] ~~(a) Each county agency shall establish a screening team which, under the direction of the county case manager, shall make an evaluation of need for home and community-based services of persons who are entitled to the level of care provided by an intermediate care facility for persons with mental retardation or related conditions or for whom there is a reasonable indication that they might require the level of care provided by an intermediate care facility.~~ *For persons with mental retardation or a related condition, screening teams shall be established which shall evaluate the need for the level of care provided by residential-based habilitation services, residential services, training and habilitation services, and nursing facility services. The evaluation shall address whether home and community-based services are appropriate for persons who are at risk of placement in an intermediate care facility for persons with mental retardation or related conditions, or for whom there is reasonable indication that they might require this level of care.* The screening team shall make an evaluation of need within 15 working days of the date that the assessment is completed or within 60 working days of a request

for service by a person with mental retardation or related conditions, whichever is the earlier, and within five working days of an emergency admission of ~~an individual~~ *a person* to an intermediate care facility for persons with mental retardation or related conditions. The screening team shall consist of the case manager *for persons with mental retardation or related conditions*, the ~~client~~ *person*, ~~a parent or~~ *the person's legal* guardian *or conservator, or the parent if the person is a minor*, and a qualified mental retardation professional, as defined in the Code of Federal Regulations, title 42, section 483.430, as amended through June 3, 1988. The case manager may also act as the qualified mental retardation professional if the case manager meets the federal definition. County social service agencies may contract with a public or private agency or individual who is not a service provider for the person for the public guardianship representation required by the screening or individual service ~~and habilitation~~ planning process. The contract shall be limited to public guardianship representation for the screening and individual service ~~and habilitation~~ planning activities. The contract shall require compliance with the commissioner's instructions and may be for paid or voluntary services. For ~~individuals~~ *persons* determined to have overriding health care needs, a registered nurse must be designated as either the case manager or the qualified mental retardation professional. The case manager shall consult with the ~~client's~~ *person's* physician, other health professionals or other ~~persons~~ *individuals* as necessary to make this evaluation. The case manager, with the concurrence of the ~~client or the client's~~ *person, the person's* legal ~~representative~~ *guardian or conservator, or the parent if the person is a minor*, may invite other ~~persons~~ *individuals* to attend meetings of the screening team. No member of the screening team shall have any direct or indirect service provider interest in the case. *Nothing in this section shall be construed as requiring the screening team meeting to be separate from the service planning meeting.*

~~(b) In addition to the requirements of paragraph (a), the following conditions apply to the discharge of persons with mental retardation or a related condition from a regional treatment center:~~

~~(1) For a person under public guardianship, at least two weeks prior to each screening team meeting the case manager must notify in writing parents, near relatives, and the ombudsman established under section 245.92 or a designee, and invite them to attend. The notice to parents and near relatives must include: (i) notice of the provisions of section 252A.03, subdivision 4, regarding assistance to persons interested in assuming private guardianship; (ii) notice of the rights of parents and near relatives to object to a proposed discharge by requesting a review as provided in clause (7); and (iii) information about advocacy services available to assist parents and near relatives of persons with mental retardation or related conditions. In the case of an emergency screening meeting, the notice must be provided as far in advance as practicable.~~

~~(2) Prior to the discharge, a screening must be conducted under subdivision 8 and a plan developed under subdivision 1a. For a person under public guardianship, the county shall encourage parents and near relatives to participate in the screening team meeting. The screening team shall consider the opinions of parents and near relatives in making its recommendations. The screening team shall determine that the services outlined in the plan are available in the community before recommending a discharge. The case manager shall provide a copy of the plan to the person, legal representative, parents, near relatives, the ombudsman established under section 245.92, and the protection and advocacy system established under United States Code,~~

~~title 42, section 6042, at least 30 days prior to the date the proposed discharge is to occur. The information provided to parents and near relatives must include notice of the rights of parents and near relatives to object to a proposed discharge by requesting a review as provided in clause (7). If a discharge occurs, the case manager and a staff person from the regional treatment center from which the person was discharged must conduct a monitoring visit as required in Minnesota Rules, part 9525.0115, within 90 days of discharge and provide an evaluation within 15 days of the visit to the person, legal representative, parents, near relatives, ombudsman, and the protection and advocacy system established under United States Code, title 42, section 6042.~~

~~(3) In order for a discharge or transfer from a regional treatment center to be approved, the concurrence of a majority of the screening team members is required. The screening team shall determine that the services outlined in the discharge plan are available and accessible in the community before the person is discharged. The recommendation of the screening team cannot be changed except by subsequent action of the team and is binding on the county and on the commissioner. If the commissioner or the county determines that the decision of the screening team is not in the best interests of the person, the commissioner or the county may seek judicial review of the screening team recommendation. A person or legal representative may appeal under section 256.045, subdivision 3 or 4a.~~

~~(4) For persons who have overriding health care needs or behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, the following additional conditions must be met:~~

~~(i) For a person with overriding health care needs, either a registered nurse or a licensed physician shall review the proposed community services to assure that the medical needs of the person have been planned for adequately. For purposes of this paragraph, "overriding health care needs" means a medical condition that requires daily clinical monitoring by a licensed registered nurse.~~

~~(ii) For a person with behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, a qualified mental retardation professional, as defined in paragraph (a), shall review the proposed community services to assure that the behavioral needs of the person have been planned for adequately. The qualified mental retardation professional must have at least one year of experience in the areas of assessment, planning, implementation, and monitoring of individual habilitation plans that have used behavior intervention techniques.~~

~~(5) No person with mental retardation or a related condition may be discharged from a regional treatment center before an appropriate community placement is available to receive the person.~~

~~(6) Effective July 1, 1991, a resident of a regional treatment center may not be discharged to a community intermediate care facility with a licensed capacity of more than 15 beds. Effective July 1, 1993, a resident of a regional treatment center may not be discharged to a community intermediate care facility with a licensed capacity of more than ten beds.~~

~~(7) If the person, legal representative, parent, or near relative of the person proposed to be discharged from a regional treatment center objects to the proposed discharge, the individual who objects to the discharge may request~~

~~a review under section 256.045, subdivision 4a, and may request reimbursement as allowed under section 256.045. The person must not be transferred from a regional treatment center while a review or appeal is pending. Within 30 days of the request for a review, the local agency shall conduct a conciliation conference and inform the individual who requested the review in writing of the action the local agency plans to take. The conciliation conference must be conducted in a manner consistent with section 256.045, subdivision 4a. A person, legal representative, parent, or near relative of the person proposed to be discharged who is not satisfied with the results of the conciliation conference may submit to the commissioner a written request for a hearing before a state human services referee under section 256.045, subdivision 4a. The person, legal representative, parent, or near relative of the person proposed to be discharged may appeal the order to the district court of the county responsible for furnishing assistance by serving a written copy of a notice of appeal on the commissioner and any adverse party of record within 30 days after the day the commissioner issued the order and by filing the original notice and proof of service with the court administrator of the district court. Judicial review must proceed under section 256.045, subdivisions 7 to 10. For a person under public guardianship, the ombudsman established under section 245.92 may object to a proposed discharge by requesting a review or hearing or by appealing to district court as provided in this clause. The person must not be transferred from a regional treatment center while a conciliation conference or appeal of the discharge is pending.~~

Subd. 8. [SCREENING TEAM DUTIES.] The screening team shall:

(a) review diagnostic data;

(b) review health, social, and developmental assessment data using a uniform screening tool specified by the commissioner;

(c) identify the level of services appropriate to maintain the person in the most normal and least restrictive setting that is consistent with the person's treatment needs;

(d) identify other noninstitutional public assistance or social service that may prevent or delay long-term residential placement;

(e) assess whether a ~~client~~ *person* is in need of long-term residential care;

(f) make recommendations regarding placement and payment for: (1) social service or public assistance support, *or both*, to maintain a ~~client~~ *person* in the ~~client's~~ *person's* own home or other place of residence; (2) training and habilitation service, vocational rehabilitation, and employment training activities; (3) community residential placement; (4) regional treatment center placement; or (5) a home and community-based *service* alternative to community residential placement or ~~state hospital~~ *regional treatment center* placement;

(g) evaluate the availability, location, and quality of the services listed in paragraph (f), including the impact of placement alternatives on the ~~client's~~ *person's* ability to maintain or improve existing patterns of contact and involvement with parents and other family members;

(h) identify the cost implications of recommendations in paragraph (f);

(i) make recommendations to a court as may be needed to assist the court in making ~~commitments~~ *decisions regarding commitment* of ~~mentally retarded~~ persons *with mental retardation*; and

(j) inform ~~clients~~ *the person and the person's legal guardian or conservator, or the parent if the person is a minor,* that appeal may be made to the commissioner pursuant to section 256.045.

Subd. 8a. [COUNTY CONCURRENCE.] *(a) When a person has been screened and authorized for services in an intermediate care facility for persons with mental retardation or related conditions or for home and community-based services for persons with mental retardation or related conditions, the case manager shall assist that person in identifying a service provider who is able to meet the needs of the person according to the person's individual service plan. If the identified service is to be provided in a county other than the county of financial responsibility, the county of financial responsibility shall request concurrence of the county where the person is requesting to receive the identified services. The county of service may refuse to concur if:*

(1) it can demonstrate that the provider is unable to provide the services identified in the person's individual service plan as services that are needed and are to be provided;

(2) in the case of an intermediate care facility for persons with mental retardation or related conditions, there has been no authorization for admission by the admission review team as required in section 256B.0925; or

(3) in the case of home and community-based services for persons with mental retardation or related conditions, the county of service can demonstrate that the prospective provider has failed to substantially comply with the terms of a past contract or has had a prior contract terminated within the last 12 months for failure to provide adequate services, or has received a notice of intent to terminate the contract.

(b) The county of service shall notify the county of financial responsibility of concurrence or refusal to concur no later than 20 working days following receipt of the written request. Unless other mutually acceptable arrangements are made by the involved county agencies, the county of financial responsibility is responsible for costs of social services and the costs associated with the development and maintenance of the placement. The county of service may request that the county of financial responsibility purchase case management services from the county of service or from a contracted provider of case management when the county of financial responsibility is not providing case management as defined in section 256B.092 and rules adopted under that section, unless other mutually acceptable arrangements are made by the involved county agencies. Standards for payment limits under this section may be established by the commissioner. Financial disputes between counties shall be resolved as provided in section 256G.09.

Subd. 9. [REIMBURSEMENT.] Payment *for services* shall not be provided to a service provider for any ~~recipient~~ *person* placed in an intermediate care facility for persons with mental retardation or related conditions prior to the ~~recipient~~ *person* being screened by the screening team. The commissioner shall not deny reimbursement for: (a) ~~an individual~~ *a person* admitted to an intermediate care facility for persons with mental retardation or related conditions who is assessed to need long-term supportive services, if long-term supportive services other than intermediate care are not available in that community; (b) any ~~individual~~ *person* admitted to an intermediate care facility for persons with mental retardation or related conditions under emergency circumstances; (c) any eligible ~~individual~~ *person* placed in the intermediate care facility for persons with mental retardation or related

conditions pending an appeal of the screening team's decision; or (d) any medical assistance recipient when, after full discussion of all appropriate alternatives including those that are expected to be less costly than intermediate care for persons with mental retardation or related conditions, the ~~individual~~ *person* or the ~~individual's~~ *person's* legal ~~representative~~ *guardian or conservator, or the parent if the person is a minor,* insists on intermediate care placement. The screening team shall provide documentation that the most cost effective alternatives available were offered to this individual or the individual's legal ~~representative~~ *guardian or conservator.*

Subd. 10. [ADMISSION OF PERSONS TO AND DISCHARGE OF PERSONS FROM REGIONAL TREATMENT CENTERS.] *(a) Prior to the admission of a person to a regional treatment center program for persons with mental retardation, the case manager shall make efforts to secure community-based alternatives. If these alternatives are rejected by the person, the person's legal guardian or conservator, or the county agency in favor of a regional treatment center placement, the case manager shall document the reasons why the alternatives were rejected.*

(b) When discharge of a person from a regional treatment center to a community-based service is proposed, the case manager shall convene the screening team and in addition to members of the team identified in subdivision 7, the case manager shall invite to the meeting the person's parents and near relatives, and the ombudsman established under section 245.92 if the person is under public guardianship. The meeting shall be convened at a time and place that allows for participation of all team members and invited individuals who choose to attend. The notice of the meeting shall inform the person's parents and near relatives about the screening team process, and their right to request a review if they object to the discharge, and shall provide the names and functions of advocacy organizations, and information relating to assistance available to individuals interested in establishing private guardianships under the provisions of section 252A.03. The screening team meeting shall be conducted according to subdivisions 7 and 8. Discharge of the person shall not go forward without consensus of the screening team.

(c) The results of the screening team meeting and individual service plan developed according to subdivision 1b shall be used by the interdisciplinary team assembled in accordance with Code of Federal Regulations, title 42, section 483.440, to evaluate and make recommended modifications to the individual service plan as proposed. The individual service plan shall specify postplacement monitoring to be done by the case manager according to section 253B.15, subdivision 1a.

(d) Notice of the meeting of the interdisciplinary team assembled in accordance with Code of Federal Regulations, title 42, section 483.440, shall be sent to all team members 15 days prior to the meeting, along with a copy of the proposed individual service plan. The case manager shall request that proposed providers visit the person and observe the person's program at the regional treatment center prior to the discharge. Whenever possible, preplacement visits by the person to proposed service sites should also be scheduled in advance of the meeting. Members of the interdisciplinary team assembled for the purpose of discharge planning shall include but not be limited to the case manager, the person, the person's legal guardian or conservator, parents and near relatives, the person's advocate, representatives of proposed community service providers, representatives of the regional treatment center residential and training and habilitation services,

a registered nurse if the person has overriding medical needs that impact the delivery of services, and a qualified mental retardation professional specializing in behavior management if the person to be discharged has behaviors that may result in injury to self or others. The case manager may also invite other service providers who have expertise in an area related to specific service needs of the person to be discharged.

(e) The interdisciplinary team shall review the proposed plan to assure that it identifies service needs, availability of services, including support services, and the proposed providers' abilities to meet the service needs identified in the person's individual service plan. The interdisciplinary team shall review the most recent licensing reports of the proposed providers and corrective action taken by the proposed provider, if required. The interdisciplinary team shall review the current individual program plans for the person and agree to an interim individual program plan to be followed for the first 30 days in the person's new living arrangement. The interdisciplinary team may suggest revisions to the service plan, and all team suggestions shall be documented. If the person is to be discharged to a community intermediate care facility for persons with mental retardation or related conditions, the team shall give preference to facilities with a licensed capacity of 15 or fewer beds. Thirty days prior to the date of discharge, the case manager shall send a final copy of the service plan to all invited members of the team, the ombudsman, if the person is under public guardianship, and the advocacy system established under United States Code, title 42, section 6042.

(f) No discharge shall take place until disputes are resolved under section 256.045, subdivision 4a, or until a review by the commissioner is completed upon request of the chief executive officer or program director of the regional treatment center, or the county agency. For persons under public guardianship, the ombudsman may request a review or hearing under section 256.045. Notification schedules required under this subdivision may be waived by members of the team when judged urgent and with agreement of the parents or near relatives participating as members of the interdisciplinary team.

Sec. 48. [256B.0925] [ADMISSION REVIEW TEAM FOR ADMISSIONS TO INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.]

Subdivision 1. [DEFINITIONS.] *(a) For purposes of this section, the following terms have the meanings given them in this subdivision.*

(b) "Provider" means a provider of community-based intermediate care facility services for persons with mental retardation or related conditions.

(c) "Facility" means a community-based intermediate care facility for persons with mental retardation or related conditions.

(d) "Person" means a person with mental retardation or related conditions who is applying for admission to an intermediate care facility for persons with mental retardation or related conditions.

Subd. 2. [ADMISSION REVIEW TEAM; RESPONSIBILITIES; COMPOSITION.] *(a) Before a person is admitted to a facility, an admission review team must assure that the provider can meet the needs of the person as identified in the person's individual service plan required under section 256B.092, subdivision 1.*

(b) The admission review team must be assembled pursuant to Code of Federal Regulations, title 42, section 483.440(b)(2). The composition of the admission review team must meet the definition of an interdisciplinary team in Code of Federal Regulations, title 42, section 483.440. In addition, the admission review team must meet any conditions agreed to by the provider and the county where services are to be provided.

(c) The county in which the facility is located may establish an admission review team which includes at least the following:

(1) a qualified mental retardation professional, as defined in Code of Federal Regulations, title 42, section 483.440;

(2) a representative of the county in which the provider is located;

(3) at least one professional representing one of the following professions: nursing, psychology, physical therapy, or occupational therapy; and

(4) a representative of the provider.

If the county in which the facility is located does not establish an admission review team, the provider shall establish a team whose composition meets the definition of an interdisciplinary team in Code of Federal Regulations, title 42, section 483.440. The provider shall invite a representative of the county agency where the facility is located to be a member of the admission review team.

Subd. 3. [FACTORS TO BE CONSIDERED FOR ADMISSION.] *(a) The determination of the team to admit a person to the facility must include, but is not limited to, consideration of the following:*

(1) the preferences of the person and the person's guardian or family for services of an intermediate care facility for persons with mental retardation or related conditions;

(2) the ability of the provider to meet the needs of the person according to the person's individual service plan and the admission criteria established by the provider;

(3) the availability of a bed in the facility and of nonresidential services required by the person as specified in the person's individual service plan; and

(4) the need of the person for the services in the facility to prevent placement of the person in a more restrictive setting.

(b) When there is more than one qualified person applying for admission to the facility, the admission review team shall determine which applicant shall be offered services first, using the criteria established in this subdivision. The admission review team shall document the factors that resulted in the decision to offer services to one qualified person over another. In cases of emergency, a review of the admission by the admission review team must occur within the first 14 days of placement.

Subd. 4. [INFORMATION FROM PROVIDER.] *The provider must establish admission criteria based on the level of service that can be provided to persons seeking admission to that facility and must provide the admission review team with the following information:*

(1) a copy of the admission and level of care criteria adopted by the provider; and

(2) a written description of the services that are available to the person seeking admission, including day services, professional support services, emergency services, available direct care staffing, supervisory and administrative supports, quality assurance systems, and criteria established by the provider for discharging persons from the facility.

Subd. 5. [ESTABLISHMENT OF ADMISSION REVIEW TEAM; NOTICE TO PROVIDER.] *When a county agency decides to establish admission review teams for the intermediate care facilities for persons with mental retardation or related conditions located in the county, the county agency shall notify the providers of the county agency's intent at least 60 days prior to establishing the teams.*

Sec. 49. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2m. [DOWNSIZING OF NURSING FACILITIES THAT ARE INSTITUTIONS FOR MENTAL DISEASE.] *(a) The provisions of this subdivision apply to a nursing facility that is an institution for mental disease and that has less than 23 licensed beds. A nursing facility that meets these conditions may reduce its total number of licensed beds to 16 licensed beds by July 1, 1992, by notifying the commissioner of health of the reduction by April 1, 1992. If the nursing facility elects to reduce its licensed beds to 16, the commissioner of health shall approve that request effective on the date of request.*

(b) The commissioner of human services must be notified by the nursing facility of the reduction in licensed beds by April 4, 1992, and that notice must include a copy of the request for reduction submitted to the commissioner of health.

(c) For the rate year beginning July 1, 1992, the commissioner shall establish the operating cost payment rates for a nursing facility that has reduced its licensed bed capacity under this subdivision by taking into account paragraphs (1) and (2).

(1) The commissioner must reduce the nursing facility's nurse's aide, orderly, and attendant salaries account and the food expense account for the reporting year ending September 30, 1991, by 50 percent of the percentage change in licensed beds.

(2) The commissioner shall adjust the nursing facility's resident days and standardized resident days for the reporting year ending September 30, 1991, as in clauses (i) and (ii).

(i) Resident days shall be the lesser of the nursing facility's actual resident days for that reporting year or 5,840.

(ii) Standardized resident days shall be the lesser of the nursing facility's actual standardized resident days or the nursing facility's case mix score for that reporting year times 5,840.

(d) For the rate year beginning July 1, 1993, the commissioner shall establish the operating cost payment rates for a nursing facility that has reduced its licensed bed capacity under this subdivision by taking into account paragraphs (1) and (2).

(1) The commissioner must reduce the nursing facility's account for the nurse's aide, orderly, and attendant salaries, and its account for food expense for the reporting year ending September 30, 1992, by 37.5 percent of the

percentage change in licensed beds.

(2) The commissioner shall adjust the nursing facility's resident days and standardized resident days for the reporting year ending September 30, 1992, as in clauses (i) and (ii).

(i) Resident days shall be the lesser of the nursing facility's actual resident days for that reporting year or 5,840.

(ii) Standardized resident days shall be the lesser of the nursing facility's actual standardized resident days or the nursing facility's case mix score for that reporting year times 5,840.

(e) If a nursing facility reduces its total number of licensed beds before June 28, 1991, by notifying the commissioner of health by that date, the dates and computations in this subdivision shall be accelerated by one year.

(f) A nursing facility eligible under this subdivision may use the notification date and the date on which the licensed beds are reduced for purposes of applying the provisions in section 256B.431, subdivision 3a, paragraph (d), clause (2).

Sec. 50. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2n. [NEGOTIATED RATE CAP EXEMPTION.] *A nursing facility which requests, after January 1991, that its boarding care beds be decertified from participation in the medical assistance program, is not eligible for the exception to the negotiated rate cap in section 256I.05, subdivision 2, paragraph (c), clause (1).*

Sec. 51. Minnesota Statutes 1990, section 256I.05, is amended by adding a subdivision to read:

Subd. 10. [FOSTER CARE.] *Beginning July 1, 1992, the negotiated rate of a residence licensed as a foster home is limited to the rate set for room and board costs provided the foster home is not the license holder's primary residence, or the license holder is not the primary caregiver to persons receiving services in the negotiated rate residence, and federal funding is available to pay for the cost of other necessary services. For the purpose of this section, room and board costs mean costs of providing food and shelter for eligible persons, and includes the directly identifiable costs of:*

(1) normal and special diet, food preparation and food services;

(2) providing linen, bedding, laundering, and laundry supplies;

(3) housekeeping, including cleaning and lavatory supplies;

(4) maintenance and operation of the residence and grounds, including fuel, utilities, supplies, and equipment;

(5) the allocation of salaries related to these areas; and

(6) the lease or mortgage payment, property tax and insurance, furnishings and appliances.

Sec. 52. Minnesota Statutes 1990, section 462A.02, subdivision 13, is amended to read:

Subd. 13. "Eligible mortgagor" means a nonprofit or cooperative housing corporation~~.~~*; the department of administration for the purpose of developing nursing home beds under section 251.011, community-based programs as*

defined in sections 252.50 and 253.28, or secure beds for mentally ill persons under section 253.015, subdivision 2, paragraph (c); a limited profit entity or a builder as defined by the agency in its rules, which sponsors or constructs residential housing as defined in subdivision 7~~,~~; or a natural person of low or moderate income, except that the return to a limited dividend entity shall not exceed ten percent of the capital contribution of the investors or such lesser percentage as the agency shall establish in its rules~~;~~, provided that residual receipts funds of a limited dividend entity may be used for agency-approved, housing-related investments owned by the limited dividend entity without regard to the limitation on returns. Owners of existing residential housing occupied by renters shall be eligible for rehabilitation loans, only if, as a condition to the issuance of the loan, the owner agrees to conditions established by the agency in its rules relating to rental or other matters that will insure that the housing will be occupied by persons and families of low or moderate income. The agency shall require by rules that the owner give preference to those persons of low or moderate income who occupied the residential housing at the time of application for the loan.

Sec. 53. [DEMONSTRATION PROJECTS.]

The commissioner shall demonstrate the development of family foster care services for persons with developmental disabilities in order to achieve regional treatment center census reduction or to develop alternative placements for persons inappropriately placed in nursing homes. For all persons participating in this demonstration that receive services funded by the enhanced waivered services fund, the costs of waivered services shall not exceed an average of $120 per person per day in fiscal year 1993. The commissioner shall demonstrate a family choice option for 100 persons with developmental disabilities and their families in fiscal year 1992 and for 200 persons and their families in fiscal year 1993. For all persons authorized by the commissioner to receive services under the family choice option, the cost of services funded by the Title XIX home- and community-based waiver are limited to an average of $35 per person per day in fiscal year 1992 with annual cost adjustments as authorized by the legislature.

Sec. 54. [RULE REVISION.]

The commissioner must revise Minnesota Rules, parts 9545.0900 to 9545.1090, which govern facilities that provide residential services for children with emotional handicaps. The rule revisions must be adopted within 12 months of the effective date of this section.

Sec. 55. [JOINT LEGISLATIVE STUDY OF RESIDENTAL PLACEMENT FOR CHILDREN WITH SPECIAL MENTAL HEALTH NEEDS.]

A joint legislative committee composed of members of the house and senate shall hold interim hearings to study the need for specialized residential treatment programs for all children with emotional disturbance, particularly those who exhibit violent or destructive behavior and for whom local treatment programs are not feasible due to the small number of children who need the services and the specialized nature of the services required. The joint committee shall be appointed under the rules of the house and senate and shall be drawn from membership of the health and human services and judiciary committees in both houses, and the house human resources division of appropriations and the health and human services division of the senate finance committee. The committee shall solicit information from representatives of the commissioners of the departments of human services,

corrections, education, and health; from the children's mental health advisory committee; from representatives of mental health advocacy organizations, counties, service providers, the juvenile court system, and other interest groups. The committee shall solicit information on the estimated number of children who need specialized services and the extent to which these children are now being served in other states, and shall make recommendations for action that is needed to develop resources within Minnesota and any cost-containment initiatives necessary for efficient use of these resources. The joint committee shall report back to the full legislature by December 1, 1991, with its findings and recommendations, including recommendations on additional mechanisms by which the commissioner shall approve out-of-state placements of children for whom the commissioner is responsible for payment of a portion of specialized treatment costs.

Sec. 56. [PILOT PROJECT FOR MENTAL HEALTH SERVICES DELIVERY SYSTEM.]

(a) Upon adoption of a resolution by the Dakota county board of commissioners, a pilot project shall be established to design and plan a mental health services delivery system that would reduce the number of commitments to regional treatment centers and improve service delivery to mentally ill persons. Dakota county will provide in-kind staff resources to study the monetary feasibility of implementing the plan, to match the appropriation of grant funds from the legislature.

(b) The pilot project will seek to maximize local community-based living and treatment alternatives for Dakota county residents who have serious and persistent mental illness, and to create a system by which residents committed for treatment pursuant to Minnesota Statutes, chapter 253B, would be committed to community facilities and programs.

(c) The pilot project will offer services that are more accessible and community-based and provide better coordination and linkage to other services and resources in the community or county than those that are currently provided.

(d) The pilot project will be implemented July 1, 1991. The planning process for implementation will continue during the 1992 fiscal year. The planning process will require that new services be developed, existing services be modified, and numerous legislative proposals be developed for presentation to the legislature in 1992.

Sec. 57. [CHILDREN'S MENTAL HEALTH FUNDING.]

Subdivision 1. [STATEWIDE TASK FORCE.] *The commissioner of human services shall convene a task force to study the feasibility of establishing an integrated children's mental health fund. The task force shall consist of mental health professionals, county social services personnel, service providers, advocates, and parents of children who have experienced episodes of emotional disturbance. The task force shall also include representatives of the children's mental health subcommittee of the state advisory council and local coordinating councils established under Minnesota Statutes, sections 245.487 to 245.4887. The task force shall include the commissioners of education, health, and human services; two members of the senate; and two members of the house of representatives. The task force shall examine all possible county, state, and federal sources of funds for children's mental health with a view to designing an integrated children's mental health fund, improving methods of coordinating and maximizing all funding sources,*

and increasing federal funding. Programs to be examined shall include, but not be limited to, the following: medical assistance, title IV-E of the social security act, title XX social service programs, chemical dependency programs, education and special education programs, and, for children with a dual diagnosis, programs for the developmentally disabled. The task force may consult with experts in the field, as necessary. The task force shall make a preliminary report and recommendations on local coordination of funding sources by January 1, 1992, to facilitate the development of local protocols and procedures under subdivision 2. The task force shall submit a final report to the legislature by January 1, 1993, with its findings and recommendations.

Subd. 2. [DEVELOPMENT OF LOCAL PROTOCOLS AND PROCEDURES.] *(a) By January 1, 1992, each local children's mental health coordinating council established under Minnesota Statutes, section 245.4875, subdivision 6, shall establish a task force to develop recommended protocols and procedures that will ensure that the planning, case management, and delivery of services for children with severe emotional disturbance are coordinated and make the most efficient and cost-effective use of available funding. The task force must include, at a minimum, representatives of local school districts and county medical assistance and mental health staff. The protocols and procedures must be designed to:*

(1) ensure that services to children are driven by the children's needs, rather than by the availability or source of funding for services;

(2) ensure that planning for services, case management, service delivery, and payment for services involves coordination of all affected agencies, providers, and funding sources; and

(2) maximize available funding by making full use of all available funding, including medical assistance.

(b) By October 1, 1992, each council shall make recommendations to the statewide task force established under subdivision 1 regarding the feasibility and desirability of methods of consolidating or pooling funding sources to ensure that services are tailored to the specific needs of each child and to allow greater flexibility in paying for services.

(c) By October 1, 1992, each local coordinating council shall report to the commissioner of human services the council's findings and the recommended protocols and procedures. The council shall also recommend legislative changes or rule changes that will improve local coordination and further maximize available funding.

Subd. 3. [FINAL REPORT.] *By February 15, 1993, the commissioner of human services shall provide a report to the legislature that describes the reports and recommendations of the statewide task force under subdivision 1 and of the local coordinating councils under subdivision 2, and provides the commissioner's recommendations for legislation or other needed changes.*

Sec. 58. [INSTRUCTION TO REVISOR.]

Subdivision 1. [RENUMBERING.] *The revisor of statutes shall renumber Minnesota Statutes, section 245.4886 as section 245.4887 and Minnesota Statutes, section 245.4887 as section 245.4888, and shall correct all relevant cross-references in Minnesota Statutes and Minnesota Rules.*

Subd. 2. [INDIVIDUAL HABILITATION PLAN.] *The revisor of statutes shall delete references to "individual habilitation plan" wherever appearing*

in Minnesota Statutes, chapters 252 and 252A, and sections 120.17 and 256.045.

Subd. 3. [INSTRUCTION TO REVISOR.] *In the next edition of Minnesota Statutes, the revisor of statutes is directed to change the words "Ah-Gwah-Ching Nursing Home" wherever they appear to "Ah-Gwah-Ching Center".*

Sec. 59. [REPEALER.]

Subdivision 1. Minnesota Statutes 1990, section 245.476, subdivisions 1, 2, and 3, are repealed.

Subd. 2. Minnesota Statutes 1990, section 252.275, subdivision 2, is repealed effective January 1, 1992.

Sec. 61. [EFFECTIVE DATE.]

Subdivision 1. Sections 5 and 10 are effective the day following final enactment.

Subd. 2. Section 20 is effective July 1, 1993.

Subd. 3. Section 32 is effective January 1, 1992.

Subd. 4. Section 48 is effective September 30, 1991.

ARTICLE 7

ALTERNATIVE CARE/SAIL

Section 1. Minnesota Statutes 1990, section 144A.31, is amended to read:

144A.31 [INTERAGENCY ~~BOARD FOR QUALITY ASSURANCE~~ *LONG-TERM CARE PLANNING COMMITTEE.*]

Subdivision 1. [INTERAGENCY ~~BOARD~~ *LONG-TERM CARE PLANNING COMMITTEE.*] The commissioners of health and human services shall establish, by July 1, 1983, an interagency ~~board~~ *committee* of *managerial* employees of their respective departments who are knowledgeable and employed in the areas of long-term care, geriatric care, *community services for the elderly,* long-term care facility inspection, or quality of care assurance. The number of interagency ~~board~~ *committee* members shall not exceed ~~eight~~ *twelve*; ~~three~~ *four* members each to represent the commissioners of health and human services and one member each to represent the commissioners of state planning ~~and~~, housing finance, *finance, and the chair of the Minnesota board on aging.* ~~The board shall identify long-term care issues requiring coordinated interagency policies and shall conduct analyses, coordinate policy development, and make recommendations to the commissioners for effective implementation of these policies.~~ The commissioner of human services and the commissioner of health or their designees shall annually alternate chairing and convening the ~~board~~ *committee.* The ~~board~~ *committee* may utilize the expertise and time of other individuals employed by ~~either~~ *each* department as needed. The ~~board~~ *committee* may recommend that the commissioners contract for services as needed. The ~~board~~ *committee* shall meet as often as necessary to accomplish its duties, but at least quarterly. The ~~board~~ *committee* shall establish procedures, including public hearings, for allowing regular opportunities for input from ~~residents, nursing homes~~ *consumers of long-term care services, advocates, trade associations, facility administrators, county agency administrators,* and other interested persons.

~~Subd. 2. [INSPECTIONS.] No later than January 1, 1988, the board shall develop and recommend implementation and enforcement of an effective system to ensure quality of care in each nursing home in the state. Quality of care includes evaluating, using the resident's care plan, whether the resident's ability to function is optimized and should not be measured solely by the number or amount of services provided.~~

~~The board shall assist the commissioner of health in developing methods to ensure that inspections and reinspections of nursing homes are conducted with a frequency and in a manner calculated to most effectively and appropriately fulfill its quality assurance responsibilities and achieve the greatest benefit to nursing home residents. The board shall identify and recommend criteria and methods for identifying those nursing homes that present the most serious concerns with respect to resident health, treatment, comfort, safety, and well-being. The commissioner of health shall require a higher frequency and extent of inspections with respect to those nursing homes that present the most serious concerns with respect to resident health, treatment, comfort, safety, and well-being. These concerns include but are not limited to: complaints about care, safety, or rights; situations where previous inspections or reinspections have resulted in correction orders related to care, safety, or rights; instances of frequent change in administration in excess of normal turnover rates; and situations where persons involved in ownership or administration of the nursing home have been convicted of engaging in criminal activity. A nursing home that presents none of these concerns or any other concern or condition recommended by the board and established by the commissioner that poses a risk to resident care, safety, or rights shall be inspected once every two years for compliance with key requirements as determined by the board.~~

~~The board shall develop and recommend to the commissioners mechanisms beyond the inspection process to protect resident care, safety, and rights, including but not limited to coordination with the office of health facility complaints and the nursing home ombudsman program.~~

~~Subd. 3. [METHODS FOR DETERMINING RESIDENT CARE NEEDS.] The board shall develop and recommend to the commissioners definitions for levels of care and methods for determining resident care needs for implementation on July 1, 1985, in order to adjust payments for resident care based on the mix of resident needs in a nursing home. The methods for determining resident care needs shall include assessments of ability to perform activities of daily living and assessments of medical and therapeutic needs.~~

Subd. 2a. [DUTIES.] *The interagency committee shall identify long-term care issues requiring coordinated interagency policies and shall conduct analyses, coordinate policy development, and make recommendations to the commissioners for effective implementation of these policies. The committee shall refine state long-term goals, establish performance indicators, and develop other methods or measures to evaluate program performance, including client outcomes. The committee shall review the effectiveness of programs in meeting their objectives.*

The committee shall also:

(1) facilitate the development of regional and local bodies to plan and coordinate regional and local services;

(2) recommend a single regional or local point of access for persons seeking information on long-term care services;

(3) recommend changes in state funding and administrative policies that are necessary to maximize the use of home and community-based care and that promote the use of the least costly alternative without sacrificing quality of care; and

(4) develop methods of identifying and serving seniors who need minimal services to remain independent but who are likely to develop a need for more extensive services in the absence of these minimal services.

Subd. 2b. [GOALS OF THE COMMITTEE.] *The long-term goals of the committee are:*

(1) to achieve a broad awareness and use of low-cost home care and other residential alternatives to nursing homes;

(2) to develop a statewide system of information and assistance to enable easy access to long-term care services;

(3) to develop sufficient alternatives to nursing homes to serve the increased number of people needing long-term care; and

(4) to maintain the moratorium on new construction of nursing home beds and to lower the percentage of elderly served in institutional settings.

These goals are designed to create a new community-based care paradigm for long-term care in Minnesota in order to maximize independence of the older adult population, and to ensure cost-effective use of financial and human resources.

Subd. 4. [ENFORCEMENT.] The ~~board~~ *committee* shall develop and recommend for implementation effective methods of enforcing quality of care standards. The ~~board~~ *committee* shall develop and monitor, and the commissioner of human services shall implement, a resident relocation plan that instructs a county in which a nursing home or certified boarding care home is located of procedures to ensure that the needs of residents in nursing homes or certified boarding care homes about to be closed are met. The duties of a county under the relocation plan also apply when residents are to be discharged from a nursing home or certified boarding care home as a result of a change in certification, closure, or loss or termination of the facility's medical assistance provider agreement. The resident relocation plans and county duties required in this subdivision apply to the voluntary or involuntary closure, or reduction in services or size of, an intermediate care facility for the mentally retarded. The relocation plan for intermediate care facilities for the mentally retarded must conform to Minnesota Rules, parts 4655.6810 to 4655.6830, 9525.0015 to 9525.0165, and 9546.0010 to 9546.0060, or their successors. The commissioners of health and human services may waive a portion of existing rules that the commissioners determine does not apply to persons with mental retardation or related conditions. The county shall ensure appropriate placement of residents in licensed and certified facilities or other alternative care such as home health care and foster care placement. In preparing for relocation, the ~~board~~ *committee* shall ensure that residents and their families or guardians are involved in planning the relocation.

Subd. 5. [REPORTS.] The ~~board~~ *committee* shall prepare a *biennial* report and the commissioners of health and human services shall deliver this report to the legislature ~~no later than January 15, 1984, on the board's proposals and progress on implementation of the methods required under subdivision 2~~ *beginning January 31, 1993, listing progress, achievements, and current*

goals and objectives. The commissioners shall recommend changes in or additions to legislation necessary or desirable to fulfill their responsibilities. ~~The board shall prepare an annual report and the commissioners shall deliver this report annually to the legislature, beginning in January 1985, on the implementation of the provisions of this section.~~

Subd. 6. [DATA.] The interagency ~~board may~~ *committee shall* have access to data from the commissioners of health, human services, ~~and public safety~~ *housing finance, and state planning* for carrying out its duties under this section. The commissioner of health and the commissioner of human services may each have access to data on persons, including data on vendors of services, from the other to carry out the purposes of this section. If the interagency ~~board~~ *committee*, the commissioner of health, or the commissioner of human services receives data on persons, including data on vendors of services, that is collected, maintained, used or disseminated in an investigation, authorized by statute and relating to enforcement of rules or law, the ~~board~~ *committee* or the commissioner shall not disclose that information except:

(a) pursuant to section 13.05;

(b) pursuant to statute or valid court order; or

(c) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense.

Data described in this subdivision is classified as public data upon its submission to an administrative law judge or court in an administrative or judicial proceeding.

Subd. 7. [LONG-TERM CARE RESEARCH AND DATABASE.] *The interagency long-term care planning committee shall collect and analyze state and national long-term care data and research, including relevant health data and information and research relating to long-term care and social needs, service utilization, costs, and client outcomes. The committee shall make recommendations to state agencies and other public and private agencies for methods of improving coordination of existing data, develop data needed for long-term care research, and promote new research activities. Research and data activities must be designed to:*

(1) improve the validity and reliability of existing data and research information;

(2) identify sources of funding and potential uses of funding sources;

(3) evaluate the effectiveness and client outcomes of existing programs; and

(4) identify and plan for future changes in the number, level, and type of services needed by seniors.

Sec. 2. Minnesota Statutes 1990, section 144A.46, subdivision 4, is amended to read:

Subd. 4. [RELATION TO OTHER REGULATORY PROGRAMS.] In the exercise of the authority granted under sections 144A.43 to 144A.49, the commissioner shall not duplicate or replace standards and requirements imposed under another state regulatory program. The commissioner shall not impose additional training or education requirements upon members of a licensed or registered occupation or profession, except as necessary to address or prevent problems that are unique to the delivery of services in

the home or to enforce and protect the rights of consumers listed in section 144A.44. ~~For home care providers certified under the Medicare program, the state standards must not be inconsistent with the Medicare standards for Medicare services.~~ *The commissioner of health shall not require a home care provider certified under the Medicare program to comply with a rule adopted under section 144A.45 if the home care provider is required to comply with any equivalent federal law or regulation relating to the same subject matter. The commissioner of health shall specify in the rules those provisions that are not applicable to certified home care providers.* To the extent possible, the commissioner shall coordinate the inspections required under sections 144A.45 to 144A.48 with the health facility licensure inspections required under sections 144.50 to 144.58 or 144A.10 when the health care facility is also licensed under the provisions of Laws 1987, chapter 378.

Sec. 3. Minnesota Statutes 1990, section 198.007, is amended to read:

198.007 [QUALITY ASSURANCE.]

The board shall create a utilization review committee for each home comprised of the appropriate professionals employed by or under contract to the home. The committee shall use the case-mix system established under section 144.072 to assess the appropriateness and quality of care and services provided residents of the homes.

The board shall create an admissions committee for each home comprised of the appropriate professionals employed by or under contract to each home and adopt a preadmission screening program~~, such as the one established under section 256B.091,~~ for all applicants for admission to the homes who may require nursing or boarding care, taking into account the eligibility requirements in section 198.022, the admissions criteria established by board rules, and the availability of space in the homes.

Sec. 4. Minnesota Statutes 1990, section 256.025, subdivision 2, is amended to read:

Subd. 2. [COVERED PROGRAMS AND SERVICES.] The procedures in this section govern payment of county agency expenditures for benefits and services distributed under the following programs:

(1) aid to families with dependent children under sections 256.82, subdivision 1, and 256.935, subdivision 1;

(2) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(3) general assistance medical care under section 256D.03, subdivision 6;

(4) general assistance under section 256D.03, subdivision 2;

(5) work readiness under section 256D.03, subdivision 2;

(6) emergency assistance under section 256.871, subdivision 6;

(7) Minnesota supplemental aid under section 256D.36, subdivision 1;

(8) preadmission screening and alternative care grants ~~under section 256B.091~~;

(9) work readiness services under section 256D.051;

(10) case management services under section 256.736, subdivision 13;

(11) general assistance claims processing, medical transportation and related costs; and

(12) medical assistance, medical transportation and related costs.

Sec. 5. Minnesota Statutes 1990, section 256B.0625, subdivision 2, is amended to read:

Subd. 2. [SKILLED AND INTERMEDIATE NURSING CARE.] Medical assistance covers skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 252.41, subdivision 3, for persons with mental retardation or related conditions who are residing in intermediate care facilities for persons with mental retardation or related conditions. Medical assistance must not be used to pay the costs of nursing care provided to a patient in a swing bed as defined in section 144.562, unless (a) the facility in which the swing bed is located is eligible as a sole community provider, as defined in Code of Federal Regulations, title 42, section 412.92, or the facility is a public hospital owned by a governmental entity with 15 or fewer licensed acute care beds; (b) the health care financing administration approves the necessary state plan amendments; (c) the patient was screened as provided ~~in section 256B.091~~ *by law*; (d) the patient no longer requires acute care services; and (e) no nursing home beds are available within 25 miles of the facility. The daily medical assistance payment for nursing care for the patient in the swing bed is the statewide average medical assistance skilled nursing care per diem as computed annually by the commissioner on July 1 of each year.

Sec. 6. Minnesota Statutes 1990, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED PRACTICES.] A nursing home is not eligible to receive medical assistance payments unless it refrains from all of the following:

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective desk audit rate, except under the following circumstances: the nursing home may (1) charge private paying residents a higher rate for a private room, and (2) charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the commissioner. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be available to all residents in all areas of the nursing home and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing home in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing home. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing home that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying resident or the resident's legal representative has a cause of action for civil damages against a nursing home that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments

that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing home may request a hearing to determine the allowed rate or rates at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement by the parties. The administrative law judge shall issue a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

(b) Requiring an applicant for admission to the home, or the guardian or conservator of the applicant, as a condition of admission, to pay any fee or deposit in excess of $100, loan any money to the nursing home, or promise to leave all or part of the applicant's estate to the home.

(c) Requiring any resident of the nursing home to utilize a vendor of health care services who is a licensed physician or pharmacist chosen by the nursing home.

(d) Providing differential treatment on the basis of status with regard to public assistance.

(e) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance or refusal to purchase special services. Admissions discrimination shall include, but is not limited to:

(1) basing admissions decisions upon assurance by the applicant to the nursing home, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing home care costs; and

(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay privately or an applicant's refusal to pay for a special service.

The collection and use by a nursing home of financial information of any applicant pursuant to ~~the~~ *a* preadmission screening program established by ~~section 256B.091~~ *law* shall not raise an inference that the nursing home is utilizing that information for any purpose prohibited by this paragraph.

(f) Requiring any vendor of medical care as defined by section 256B.02, subdivision 7, who is reimbursed by medical assistance under a separate fee schedule, to pay any amount based on utilization or service levels or any portion of the vendor's fee to the nursing home except as payment for renting or leasing space or equipment or purchasing support services from the nursing home as limited by section 256B.433. All agreements must be disclosed to the commissioner upon request of the commissioner. Nursing homes and vendors of ancillary services that are found to be in violation of this provision shall each be subject to an action by the state of Minnesota or any of its subdivisions or agencies for treble civil damages on the portion of the fee in excess of that allowed by this provision and section 256B.433. Damages awarded must include three times the excess payments together with costs and disbursements including reasonable attorney's fees or their equivalent.

(g) Refusing, for more than 24 hours, to accept a resident returning to the same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

The prohibitions set forth in clause (b) shall not apply to a retirement home with more than 325 beds including at least 150 licensed nursing home beds and which:

(1) is owned and operated by an organization tax-exempt under section 290.05, subdivision 1, clause (i); and

(2) accounts for all of the applicant's assets which are required to be assigned to the home so that only expenses for the cost of care of the applicant may be charged against the account; and

(3) agrees in writing at the time of admission to the home to permit the applicant, or the applicant's guardian, or conservator, to examine the records relating to the applicant's account upon request, and to receive an audited statement of the expenditures charged against the applicant's individual account upon request; and

(4) agrees in writing at the time of admission to the home to permit the applicant to withdraw from the home at any time and to receive, upon withdrawal, the balance of the applicant's individual account.

For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing home or boarding care home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing home to correct the violation. The nursing home shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing home by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation and shall remain in effect until the violation is corrected. The nursing home or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

In the event that the commissioner determines that a nursing home is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing home to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing home.

Certified beds in facilities which do not allow medical assistance intake on July 1, 1984, or after shall be deemed to be decertified for purposes of section 144A.071 only.

Sec. 7. [256.9751] [CONGREGATE HOUSING SERVICES PROJECTS.]

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

(a) [CONGREGATE HOUSING.] *"Congregate housing" means federally or locally subsidized housing, designed for the elderly, consisting of private apartments and common areas which can be used for activities and for serving meals.*

(b) [CONGREGATE HOUSING SERVICES PROJECTS.] *"Congregate housing services project" means a project in which services are or could be made available to older persons who live in subsidized housing and which helps delay or prevent nursing home placement. To be considered a congregate housing services project, a project must have: (1) an on-site coordinator, and (2) a plan for providing a minimum of one meal per day, for each elderly participant, seven days a week.*

(c) [ON-SITE COORDINATOR.] *"On-site coordinator" means a person who works on-site in a building or buildings and who serves as a contact for older persons who need services, support, and assistance in order to delay or prevent nursing home placement.*

(d) [CONGREGATE HOUSING SERVICES PROJECT PARTICIPANTS OR PROJECT PARTICIPANTS.] *"Congregate housing services project participants" or "project participants" means elderly persons 60 years old or older, who are currently residents of, or who are applying for residence in housing sites, and who need support services to remain independent.*

Subd. 2. [ADVISORY COMMITTEE.] *An advisory committee shall be appointed to advise the Minnesota board on aging on the development and implementation of the congregate housing services projects. The advisory committee shall review procedures and provide advice and technical assistance to the Minnesota board on aging regarding the grant program established under this section. The advisory committee shall consist of not more than 15 people appointed by the Minnesota board on aging, and shall be comprised of representatives from public and nonprofit service and housing providers and consumers from all areas of the state. Members of the advisory committee shall not be compensated for service.*

Subd. 3. [GRANT PROGRAM.] *The Minnesota board on aging shall establish a congregate housing services grant program which will enable communities to provide on-site coordinators to serve as a contact for older persons who need services and support, and assistance to access services in order to delay or prevent nursing home placement.*

Subd. 4. [USE OF GRANT FUNDS.] *Grant funds shall be used to develop and fund on-site coordinator positions. Grant funds shall not be used to duplicate existing funds, to modify buildings, or to purchase equipment.*

Subd. 5. [GRANT ELIGIBILITY.] *A public or nonprofit agency or housing unit may apply for funds to provide a coordinator for congregate housing services to an identified population of frail elderly persons in a subsidized multiunit apartment building or buildings in a community. The board shall give preference to applicants that meet the requirements of this section, and that have a common dining site. Local match may be required. State money received may also be used to match federal money allocated for congregate housing services. Grants shall be awarded to urban and rural sites.*

Subd. 6. [CRITERIA FOR SELECTION.] *The Minnesota board on aging shall select projects under this section according to the following criteria:*

(1) the extent to which the proposed project assists older persons to age-in-place to prevent or delay nursing home placement;

(2) the extent to which the proposed project identifies the needs of project participants;

(3) the extent to which the proposed project identifies how the on-site coordinator will help meet the needs of project participants;

(4) the extent to which the proposed project assures the availability of one meal a day, seven days a week, for participants in need;

(5) the extent to which the proposed project demonstrates involvement of participants and family members in the project; and

(6) the extent to which the proposed project demonstrates involvement of housing providers and public and private service agencies, including area agencies on aging.

Subd. 7. [GRANT APPLICATIONS.] *The Minnesota board on aging shall request proposals for grants and award grants using the criteria in subdivision 6. Grant applications shall include:*

(1) documentation of the need for congregate services so the residents can remain independent;

(2) a description of the resources, such as social services and health services, that will be available in the community to provide the necessary support services;

(3) a description of the target population, as defined in subdivision 1, paragraph (d);

(4) a performance plan that includes written performance objectives, outcomes, timelines, and the procedure the grantee will use to document and measure success in meeting the objectives; and

(5) letters of support from appropriate public and private agencies and organizations, such as area agencies on aging and county human service departments that demonstrate an intent to work with and coordinate with the agency requesting a grant.

Subd. 8. [REPORT.] *By January 1, 1993, the Minnesota board on aging shall submit a report to the legislature evaluating the programs. The report must document the project costs and outcomes that helped delay or prevent nursing home placement. The report must describe steps taken for quality assurance and must also include recommendations based on the project findings.*

Sec. 8. Minnesota Statutes 1990, section 256B.04, subdivision 16, is amended to read:

Subd. 16. [PERSONAL CARE SERVICES.] (a) ~~The commissioner shall adopt permanent rules to implement, administer, and operate personal care services. The rules must incorporate the standards and requirements adopted by the commissioner of health under section 144A.45 which are applicable to the provision of personal care.~~ *Notwithstanding any contrary language in this paragraph, the commissioner of human services and the commissioner of health shall jointly promulgate rules to be applied to the licensure of personal care services provided under the medical assistance program. The rules shall consider standards for personal care services that are based on the World Institute on Disability's recommendations regarding personal care services. These rules shall at a minimum consider the standards and requirements adopted by the commissioner of health under section 144A.45, which the commissioner of human services determines are applicable to the provision of personal care services, in addition to other standards or modifications which the commissioner of human services determines are appropriate.*

The commissioner of human services shall establish an advisory group

including personal care consumers and providers to provide advice regarding which standards or modifications should be adopted. The advisory group membership must include not less than 15 members, of which at least 60 percent must be consumers of personal care services and representatives of recipients with various disabilities and diagnoses and ages. At least 51 percent of the members of the advisory group must be recipients of personal care.

The commissioner of human services may contract with the commissioner of health to enforce the jointly promulgated licensure rules for personal care service providers.

Prior to final promulgation of the joint rule the commissioner of human services shall report preliminary findings along with any comments of the advisory group and a plan for monitoring and enforcement by the department of health to the legislature by February 15, 1992.

Limits on the extent of personal care services that may be provided to an individual must be based on the cost-effectiveness of the services in relation to the costs of inpatient hospital care, nursing home care, and other available types of care. The rules must provide, at a minimum:

(1) that agencies be selected to contract with or employ and train staff to provide and supervise the provision of personal care services;

(2) that agencies employ or contract with a qualified applicant that a qualified recipient proposes to the agency as the recipient's choice of assistant;

(3) that agencies bill the medical assistance program for a personal care service by a personal care assistant and supervision by the registered nurse supervising the personal care assistant;

(4) that agencies establish a grievance mechanism; and

(5) that agencies have a quality assurance program.

(b) ~~For personal care assistants under contract with an agency under paragraph (a), the provision of training and supervision by the agency does not create an employment relationship.~~ The commissioner may waive the requirement for the provision of personal care services through an agency in a particular county, when there are less than two agencies providing services in that county.

Sec. 9. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

Subd. 6a. [HOME HEALTH SERVICES.] *Home health services are those services specified in Minnesota Rules, part 9505.0290. Medical assistance covers home health services at a recipient's home residence. Medical assistance does not cover home health services at a hospital, nursing facility, intermediate care facility, or a health care facility licensed by the commissioner of health, unless the commissioner of human services has prior authorized skilled nurse visits for less than 90 days for a resident at an intermediate care facility for persons with mental retardation, to prevent an admission to a hospital or nursing facility. Home health services must be provided by a Medicare certified home health agency. All nursing and home health aide services must be provided according to section 256B.0627.*

Sec. 10. Minnesota Statutes 1990, section 256B.0625, subdivision 7, is amended to read:

Subd. 7. [PRIVATE DUTY NURSING.] Medical assistance covers private duty nursing services *in a recipient's home. Recipients who are authorized to receive private duty nursing services in their home may use approved hours outside of the home during hours when normal life activities take them outside of their home and when, without the provision of private duty nursing, their health and safety would be jeopardized. Medical assistance does not cover private duty nursing services at a hospital, nursing facility, intermediate care facility, or a health care facility licensed by the commissioner of health, except as authorized in section 256B.64 for ventilator dependent recipients in hospitals. Total hours of service and payment allowed for services outside the home cannot exceed that which is otherwise allowed in an in-home setting according to section 256B.0627. All private duty nursing services must be provided according to the limits established under section 256B.0627. Private duty nursing services may not be reimbursed if the nurse is the spouse of the recipient or the parent or foster care provider of a recipient who is under age 18, or the recipient's legal guardian.*

Sec. 11. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

Subd. 19a. [PERSONAL CARE SERVICES.] *Medical assistance covers personal care services in a recipient's home. Recipients who can direct their own care, or persons who cannot direct their own care when accompanied by the responsible party, may use approved hours outside the home when normal life activities take them outside the home and when, without the provision of personal care, their health and safety would be jeopardized. Medical assistance does not cover personal care services at a hospital, nursing facility, intermediate care facility or a health care facility licensed by the commissioner of health, except as authorized in section 256B.64 for ventilator dependent recipients in hospitals. Total hours of service and payment allowed for services outside the home cannot exceed that which is otherwise allowed for personal care services in an in-home setting according to section 256B.0627. All personal care services must be provided according to section 256B.0627. Personal care services may not be reimbursed if the personal care assistant is the spouse of the recipient or the parent of a recipient under age 18, the responsible party, the foster care provider of a recipient who cannot direct their own care or the recipient's legal guardian. Parents of adult recipients, adult children of the recipient or adult siblings of the recipient may be reimbursed for personal care services if they are granted a waiver under section 256B.0627. An exception for foster care providers may be made according to section 256B.0627, subdivision 5, paragraph (j).*

Sec. 12. Minnesota Statutes 1990, section 256B.0627, is amended to read:

256B.0627 [COVERED SERVICE; HOME CARE SERVICES.]

Subdivision 1. [DEFINITION.] "Home care services" means a ~~medically necessary~~ health service, *determined by the commissioner as medically necessary,* that is ordered by a physician and documented in a *care* plan ~~of care~~ that is reviewed ~~and revised as medically necessary~~ by the physician at least once every 60 days~~. Home care services include personal care and nursing supervision of personal care services which is reviewed and revised as medically necessary by the physician~~ *for the provision of home health services, or private duty nursing, or* at least once every 365 days *for personal care.* Home care services are provided to the recipient at the recipient's

residence that is a place other than a hospital or long-term care facility *or as specified in section 256B.0625. "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475. "Care plan" means a written description of the services needed which shall include a detailed description of the covered home care services, who is providing the services, frequency of those services, and duration of those services. The care plan shall also include expected outcomes and goals including expected date of goal accomplishment.*

Subd. 2. [SERVICES COVERED.] Home care services covered under this section include:

(1) nursing services *under section 256B.0625, subdivision 6a*;

(2) private duty nursing services *under section 256B.0625, subdivision 7*;

(3) home health aide services *under section 256B.0625, subdivision 6a*;

(4) personal care services *under section 256B.0625, subdivision 19a*; and

(5) nursing supervision of personal care services *under section 256B.0625, subdivision 19a.*

~~Subd. 3. [PRIVATE DUTY NURSING SERVICES; WHO MAY PROVIDE.] Private duty nursing services may be provided by a registered nurse or licensed practical nurse who is not the recipient's spouse, legal guardian, or parent of a minor child.~~

Subd. 4. [PERSONAL CARE SERVICES.] (a) ~~Personal care services may be provided by a qualified individual who is not the recipient's spouse, legal guardian, or parent of a minor child.~~

~~(b)~~ The personal care services that are eligible for payment are the following:

(1) bowel and bladder care;

(2) skin care to maintain the health of the skin;

(3) range of motion exercises;

(4) respiratory assistance;

(5) transfers;

(6) bathing, grooming, and hairwashing necessary for personal hygiene;

(7) turning and positioning;

(8) assistance with furnishing medication that is normally self-administered;

(9) application and maintenance of prosthetics and orthotics;

(10) cleaning medical equipment;

(11) dressing or undressing;

(12) assistance with food, nutrition, and diet activities;

(13) accompanying a recipient to obtain medical diagnosis or treatment;

(14) ~~services provided for the recipient's personal health and safety;~~

~~(15)~~ helping the recipient to complete daily living skills such as personal and oral hygiene and medication schedules;

(15) supervision and observation that are medically necessary because of the recipient's diagnosis or disability; and

(16) incidental household services that are an integral part of a personal care service described in clauses (1) to (15).

~~(c)~~ *(b)* The personal care services that are not eligible for payment are the following:

(1) personal care services that are not in the *care* plan ~~of care~~ developed by the supervising registered nurse in consultation with the personal care assistants and the recipient or ~~family~~ *the responsible party directing the care* of the recipient;

(2) services that are not supervised by the registered nurse;

(3) services provided bv the recipient's spouse, legal guardian, or parent of a minor child;

(4) foster care provider of a recipient who cannot direct their own care, unless prior authorized by the commissioner under paragraph (j);

~~(4)~~ *(5)* sterile procedures; ~~and~~

~~(5)~~ *(6)* injections of fluids into veins, muscles, or skin~~.~~*;*

(7) services provided by parents of adult recipients, adult children, or adult siblings, unless these relatives meet one of the following hardship criteria and the commissioner waives this requirement:

(i) the relative resigns from a part-time or full-time job to provide personal care for the recipient;

(ii) the relative goes from a full-time to a part-time job with less compensation to provide personal care for the recipient;

(iii) the relative takes a leave of absence without pay to provide personal care for the recipient;

(iv) the relative incurs substantial expenses by providing personal care for the recipient; or

(v) because of labor conditions, the relative is needed in order to provide an adequate number of qualified personal care assistants to meet the medical needs of the recipient;

(7) homemaker services that are not an integral part of a personal care services; and

(8) home maintenance, or chore services.

Subd. 5. [LIMITATION ON PAYMENTS.] Medical assistance payments for home care services shall be limited according to ~~paragraphs (a) to (e)~~ *this subdivision*.

(a) [EXEMPTION FROM PAYMENT LIMITATIONS.] The level, or the number of hours or visits of a specific service, of home ~~health~~ care services to a recipient that began before and is continued without increase on or after December 1987, shall be exempt from the payment limitations of this section, as long as the services are medically necessary.

(b) [~~LEVEL I HOME CARE~~ *LIMITS ON SERVICES WITHOUT PRIOR AUTHORIZATION*.] ~~For all new cases after December 1987, medically necessary home care services up to $800 may be provided in a calendar month.~~

~~If the services in the recipient's home care plan will exceed the $800 threshold for 30 days or less, the medically necessary services may be provided.~~ *A recipient may receive the following amounts of home care services during a calendar year:*

(1) a total of 40 home health aide visits, skilled nurse visits, health promotions, or health assessments under section 256B.0625, subdivision 6a; and

(2) a total of ten hours of nursing supervision under section 256B.0625, subdivision 7 or 19a.

(c) [PRIOR AUTHORIZATION; EXCEPTIONS.] *All home care services above the limits in paragraph (b) must receive the commissioner's prior authorization, except when:*

(1) the home care services were required to treat an emergency medical condition that if not immediately treated could cause a recipient serious physical or mental disability, continuation of severe pain, or death. The provider must request retroactive authorization no later than five working days after giving the initial service. The provider must be able to substantiate the emergency by documentation such as reports, notes, and admission or discharge histories;

(2) the home care services were provided on or after the date on which the recipient's eligibility began, but before the date on which the recipient was notified that the case was opened. Authorization will be considered if the request is submitted by the provider within 20 working days of the date the recipient was notified that the case was opened; or

(3) a third party payor for home care services has denied or adjusted a payment. Authorization requests must be submitted by the provider within 20 working days of the notice of denial or adjustment. A copy of the notice must be included with the request.

(d) [RETROACTIVE AUTHORIZATION.] *A request for retroactive authorization under paragraph (c) will be evaluated according to the same criteria applied to prior authorization requests. Implementation of this provision shall begin no later than October 1, 1991, except that recipients who are currently receiving medically necessary services above the limits established under this subdivision may have a reasonable amount of time to arrange for waivered services under section 256B.49 or to establish an alternative living arrangement. All current recipients shall be phased down to the limits established under paragraph (b) on or before April 1, 1992.*

~~(e)~~ *(e)* [~~LEVEL II HOME CARE~~ *ASSESSMENT AND CARE PLAN.*] ~~If the services in the recipient's home care plan exceed $800 for more than 30 days, a public health nurse from the local preadmission screening team shall determine the recipient's maximum level of home care according to this paragraph.~~ *The home care provider shall conduct an assessment and complete a care plan using forms specified by the commissioner. For the recipient to receive, or continue to receive, home care services, the provider must submit evidence necessary for the commissioner to determine the medical necessity of the home care services. The provider shall submit to the commissioner the assessment, the care plan, and other information necessary to determine medical necessity such as diagnostic or testing information, social or medical histories, and hospital or facility discharge summaries.*

~~(1)~~ *(f)* [PRIOR AUTHORIZATION.] The ~~public health nurse from the~~

~~local preadmission screening team shall base the determination of the recipient's maximum level of care on the need and eligibility of the recipient for one of the following placements~~ *commissioner, or the commissioner's designee, shall review the assessment, the care plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a request for prior authorization, authorize home care services as follows:*

~~(i) residential facility for persons with mental retardation or related conditions operated under section 256B.501;~~

~~(ii) inpatient hospital care for a ventilator-dependent recipient. "Ventilator dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to or has been dependent for at least 30 consecutive days; or~~

~~(iii) all other recipients not appropriate for one of the above placements.~~

~~(2) If the recipient is eligible under clause (1)(i), the monthly medical assistance reimbursement for home care services shall not exceed the total monthly statewide average payment rate for residential facilities for children or adults with mental retardation or related conditions as appropriate for the recipient's age and level of self-preservation as determined according to Minnesota Rules, parts 9553.0010 to 9553.0080.~~

(1) [HOME HEALTH SERVICES.] *All home health services provided by a nurse or a home health aide that exceed the limits established in paragraph (b) must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options.*

(2) [PERSONAL CARE SERVICES.] *(i) All personal care services must be prior authorized by the commissioner or the commissioner's designee except for the limits on supervision established in paragraph (b). The amount of personal care services authorized must be based on the recipient's case mix classification according to section 256B.0911, except that a child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity and the amount of assistance needed is similar to the assistance appropriate for a typical child of the same age. Based on medical necessity, the commissioner may authorize:*

(A) up to two times the average number of direct care hours provided in nursing facilities for the recipient's case mix level;

(B) up to three times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs;

(C) up to 60 percent of the average reimbursement rate, as of July 1, 1991, for care provided in a regional treatment center for recipients who have complex behaviors;

(D) up to the amount the commissioner would pay, as of July 1, 1991, for care provided in a regional treatment center for recipients referred to the commissioner by a regional treatment center preadmission evaluation team. For purposes of this clause, home care services means all services provided in the home or community that would be included in the payment to a regional treatment center; or

(E) up to the amount medical assistance would reimburse for facility care

for recipients referred to the commissioner by a preadmission screening team established under section 256B.091 or 256B.092.

(ii) The number of direct care hours shall be determined according to annual cost reports which are submitted to the department by nursing facilities each year. The average number of direct care hours, as established by May 1, shall be incorporated into the home care limits on July 1 each year.

(iii) The case mix level shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the personal care provider on forms specified by the commissioner. The forms shall be a combination of current assessment tools developed under sections 256B.0911 and 256B.501 with an addition for seizure activity that will assess the frequency and severity of seizure activity and with adjustments, additions, and clarifications that are necessary to reflect the needs and conditions of children and nonelderly adults who need home care. The commissioner shall establish these forms and protocols under this section and shall use the advisory group established in section 256B.04, subdivision 16, for consultation in establishing the forms and protocols by October 1, 1991.

(iv) A recipient shall qualify as having complex medical needs if they require:

(A) daily tube feedings;

(B) daily parenteral therapy;

(C) wound or decubiti care;

(D) postural drainage, percussion, nebulizer treatments, suctioning, tracheotomy care, oxygen, mechanical ventilation;

(E) catheterization;

(F) ostomy care; or

(G) other comparable medical conditions or treatments the commissioner determines would otherwise require institutional care.

(v) A recipient shall qualify as having complex behavior if the recipient exhibits on a daily basis the following:

(A) self-injurious behavior;

(B) unusual or repetitive habits;

(C) withdrawal behavior;

(D) hurtful behavior to others;

(E) socially or offensive behavior;

(F) destruction of property; or

(G) a need for constant one-to-one supervision for self-preservation.

(vi) The complex behaviors in clauses (A) to (G) have the meanings developed under section 256B.501.

(3) [PRIVATE DUTY NURSING SERVICES.] *All private duty nursing services shall be prior authorized by the commissioner or the commissioner's designee. Prior authorization for private duty nursing services shall be based on medical necessity and cost-effectiveness when compared with alternative care options. The commissioner may authorize medically necessary private*

duty nursing services when:

(i) the recipient requires more individual and continuous care than can be provided during a nurse visit; or

(ii) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

The commissioner may authorize up to 16 hours per day of private duty nursing services or up to 24 hours per day of private duty nursing services until such time as the commissioner is able to make a determination of eligibility for recipients who are applying for home care services under the community alternative care program developed under section 256B.49, or until it is determined that a health benefit plan is required to pay for medically necessary nursing services. Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section than would otherwise be authorized under section 256B.49.

~~(3)~~ *(4)* [VENTILATOR-DEPENDENT RECIPIENTS.] If the recipient is ~~eligible under clause (1)(ii)~~ *ventilator-dependent*, the monthly medical assistance ~~reimbursement~~ *authorization* for home care services shall not exceed ~~the monthly cost of~~ *what the commissioner would pay for* care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital. *"Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.*

~~(4) If the recipient is not eligible under either clause (1)(i) or (1)(ii), the monthly medical assistance reimbursement for home care services shall not exceed the total monthly statewide average payment for the case mix classification most appropriate to the recipient. The case mix classification is established under section 256B.431.~~

~~(5) The determination of the recipient's maximum level of home care by the public health nurse is called a home care cost assessment. The home care cost assessment must be requested by the home care provider before the end of the first 30 days of provided service and must be conducted by the public health nurse within ten working days following request.~~

~~(6) A home care provider shall request a new home care cost assessment when the needs of the individual have changed enough to require that a revised care plan be implemented that will increase costs beyond what was approved by the previous home care cost assessment and the change is anticipated to last for more than 30 days. The home care provider must request the home care cost assessment before the end of the first 30 days of provided service. Whenever a home care cost assessment is completed, the public health nurse that completes the home care cost assessment, in consultation with the home care provider,~~

(g) [PRIOR AUTHORIZATION; TIME LIMITS.] *The commissioner or the commissioner's designee* shall determine the time period for which a ~~home care cost assessment~~ *prior authorization* shall remain valid. If the recipient continues to require home care services beyond the ~~limited~~ duration of the ~~home care cost assessment~~ *prior authorization*, the home care provider must request a ~~reassessment through the home care cost assessment~~ *new prior authorization through the* process described above. Under no circumstances

shall a ~~home care cost assessment~~ *prior authorization* be valid for more than 12 months.

~~(7) Reimbursement for the home care cost assessment shall be made through the Medicaid administrative authority. The state shall pay the nonfederal share.~~

(h) [APPROVAL OF HOME CARE SERVICES.] *The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to this subdivision, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, the care plan, the recipient's age, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.*

~~(d) [LEVEL III HOME CARE.] If the home care provider determines that the recipient's needs exceed the amount approved for the appropriate level of care as determined in paragraph (c), the home care provider may refer the case to the department for a level III determination. Based on the client needs, physician orders, diagnosis, condition, and plan of care, the department may give prior approval for care that exceeds level II described in paragraph (c). The amount approved shall not exceed the maximum cost for the appropriate level of care as determined in paragraph (c), clause (1), which will be the maximum ICF/MR rate for intermediate care facilities for persons with mental retardation or related conditions, or the maximum nursing home case mix payment, or the highest hospital cost for the state.~~

(i) [PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.] The department has 30 days from receipt of the request to complete the ~~level III determination~~ *prior authorization*, during which time it may approve ~~the higher level while reviewing the case~~ *a temporary level of home care service. Authorization under this authority for a temporary level of home care services is limited to the time specified by the commissioner.*

~~Case reviews or approval of home care services in levels II and III may result in assignment of a case manager.~~

~~(e)~~ *(j)* [PRIOR ~~APPROVAL~~ *AUTHORIZATION* REQUIRED IN FOSTER CARE SETTING.] ~~Any~~ Home care ~~service~~ *services* provided in an adult or child foster care setting must receive prior ~~approval~~ *authorization* by the department *according to the limits established in paragraph (b).*

The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement and administrative rules;

(2) personal care services when the foster care license holder is also the personal care provider or personal care assistant unless the recipient can direct the recipient's own care, or the recipient is referred to the commissioner by a regional treatment center preadmission evaluation team;

(3) personal care services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless the recipient is referred to the commissioner by a regional treatment center preadmission evaluation team;

(4) home care services when the number of foster care residents is greater than four; or

(5) home care services when combined with foster care payments, less the base rate, that exceed the total amount that public funds would pay for the recipient's care in a medical institution.

Subd. 6. [RECOVERY OF EXCESSIVE PAYMENTS.] The commissioner shall seek monetary recovery from providers of payments made for services which exceed the limits established in this section.

Sec. 13. [256B.0628] [PRIOR AUTHORIZATION AND REVIEW OF HOME CARE SERVICES.]

Subdivision 1. [STATE COORDINATION.] *The commissioner shall supervise the coordination of the prior authorization and review of home care services that are reimbursed by medical assistance.*

Subd. 2. [CONTRACTOR DUTIES.] *(a) The commissioner may contract with qualified registered nurses, or qualified agencies, to provide home care prior authorization and review services for medical assistance recipients who are receiving home care services.*

(b) Reimbursement for the prior authorization function shall be made through the medical assistance administrative authority. The state shall pay the nonfederal share. The contractor must:

(1) assess the recipient's individual need for services required to be cared for safely in the community;

(2) ensure that a care plan that meets the recipient's needs is developed by the appropriate agency or individual;

(3) ensure cost-effectiveness of medical assistance home care services;

(4) recommend to the commissioner the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

(5) reassess the recipient's need for and level of home care services at a frequency determined by the commissioner; and

(6) conduct on-site assessments when determined necessary by the commissioner.

(c) In addition, the contractor may be requested by the commissioner to:

(1) review care plans and reimbursement data for utilization of services that exceed community-based standards for home care, inappropriate home care services, home care services that do not meet quality of care standards, or unauthorized services and make appropriate referrals to the commissioner or other appropriate entities based on the findings;

(2) assist the recipient in obtaining services necessary to allow the recipient to remain safely in or return to the community;

(3) coordinate home care services with other medical assistance services under section 256B.0625;

(4) assist the recipient with problems related to the provision of home care services; and

(5) assure the quality of home care services.

(d) For the purposes of this section, "home care services" means medical assistance services defined under section 256B.0625, subdivisions 6a, 7, and 19a.

Sec. 14. [256B.0911] [NURSING HOME PREADMISSION SCREENING.]

Subdivision 1. [PURPOSE AND GOAL.] *The purpose of the preadmission screening program is to prevent or delay certified nursing facility placements by assessing applicants and residents and offering cost-effective alternatives appropriate for the person's needs. Further, the goal of the program is to contain costs associated with unnecessary certified nursing facility admissions. The commissioners of human services and health shall seek to maximize use of available federal and state funds and establish the broadest program possible within the funding available.*

Subd. 2. [PERSONS REQUIRED TO BE SCREENED; EXEMPTIONS.] *All applicants to Medicaid certified nursing facilities must be screened prior to admission, regardless of income, assets, or funding sources, except the following:*

(1) patients who, having entered acute care facilities from certified nursing facilities, are returning to a certified nursing facility;

(2) residents transferred from other certified nursing facilities;

(3) individuals whose length of stay is expected to be 30 days or less based on a physician's certification, if the facility notifies the screening team prior to admission and provides an update to the screening team on the 30th day after admission;

(4) individuals who have a contractual right to have their nursing facility care paid for indefinitely by the veteran's administration; or

(5) individuals who are enrolled in the Ebenezer/Group Health social health maintenance organization project at the time of application to a nursing home; or

(6) individuals who are screened by another state within three months before admission to a certified nursing facility.

Regardless of the exemptions in clauses (2) to (6), persons who have a diagnosis or possible diagnosis of mental illness, mental retardation, or a related condition must be screened before admission unless the admission prior to screening is authorized by the local mental health authority or the local developmental disabilities case manager, or unless authorized by the county agency according to Public Law Number 101-508.

Persons transferred from an acute care facility to a certified nursing facility may be admitted to the nursing facility before screening, if authorized by the county agency; however, the person must be screened within ten working days after the admission.

Other persons who are not applicants to nursing facilities must be screened if a request is made for a screening.

Subd. 3. [PERSONS RESPONSIBLE FOR CONDUCTING THE PREADMISSION SCREENING.] *(a) A local screening team shall be established by the county agency and the county public health nursing service of the local board of health. Each local screening team shall be composed of a social worker and a public health nurse from their respective county*

agencies. Two or more counties may collaborate to establish a joint local screening team or teams.

(b) Both members of the team must conduct the screening. However, individuals who are being transferred from an acute care facility to a certified nursing facility may be screened by only one member of the screening team in consultation with the other member.

(c) In assessing a person's needs, each screening team shall have a physician available for consultation and shall consider the assessment of the individual's attending physician, if any. The individual's physician shall be included on the screening team if the physician chooses to participate. Other personnel may be included on the team as deemed appropriate by the county agencies.

(d) If a person who has been screened must be reassessed to assign a case mix classification because admission to a nursing facility occurs later than the time allowed by rule following the initial screening and assessment, the reassessment may be completed by the public health nurse member of the screening team.

Subd. 4. [RESPONSIBILITIES OF THE COUNTY AGENCY AND THE SCREENING TEAM.] *(a) The county agency shall:*

(1) provide information and education to the general public regarding availability of the preadmission screening program;

(2) accept referrals from individuals, families, human service and health professionals, and hospital and nursing facility personnel;

(3) assess the health, psychological, and social needs of referred individuals and identify services needed to maintain these persons in the least restrictive environments;

(4) determine if the individual screened needs nursing facility level of care;

(5) assess active treatment needs in cooperation with:

(i) a qualified mental health professional for persons with a primary or secondary diagnosis of mental illness; and

(ii) a qualified mental retardation professional for persons with a primary or secondary diagnosis of mental retardation or related conditions. For purposes of this clause, a qualified mental retardation professional must meet the standards for a qualified mental retardation professional in Code of Federal Regulations, title 42, section 483.430;

(6) make recommendations for individuals screened regarding cost-effective community services which are available to the individual;

(7) make recommendations for individuals screened regarding nursing home placement when there are no cost-effective community services available;

(8) develop an individual's community care plan and provide follow-up services as needed; and

(9) prepare and submit reports that may be required by the commissioner of human services.

The county agency may determine in cooperation with the local board of health that the public health nursing agency of the local board of health is

the lead agency which is responsible for all of the activities above except clause (5).

(b) The screening team shall document that the most cost-effective alternatives available were offered to the individual or the individual's legal representative. For purposes of this section, "cost-effective alternatives" means community services and living arrangements that cost the same or less than nursing facility care.

The screening shall be conducted within ten working days after the date of referral or, for those approved for transfer from an acute care facility to a certified nursing facility, within ten working days after admission to the nursing facility. For persons who are eligible for medical assistance or who would be eligible within 180 days of admission to a nursing facility and who are admitted to a nursing facility, the nursing facility must include the screening team or the case manager in the discharge planning process for those individuals who the team has determined have discharge potential. The screening team or the case manager must ensure a smooth transition and follow-up for the individual's return to the community.

Local screening teams shall cooperate with other public and private agencies in the community, in order to offer a variety of cost-effective services to the disabled and elderly. The screening team shall encourage the use of volunteers from families, religious organizations, social clubs, and similar civic and service organizations to provide services.

Subd. 5. [SIMPLIFICATION OF FORMS.] *The commissioner shall minimize the number of forms required in the preadmission screening process and shall limit the screening document to items necessary for care plan approval, reimbursement, program planning, evaluation, and policy development.*

Subd. 6. [REIMBURSEMENT FOR PREADMISSION SCREENING.] *(a) The total screening cost for each county must be paid monthly by certified nursing facilities in the county. The monthly amount to be paid by each nursing facility for each fiscal year must be determined by dividing the county's estimate of the total annual cost of screenings allowed in the county for the following rate year by 12 to determine the monthly cost estimate and allocating the monthly cost estimate to each nursing facility based on the number of licensed beds in the nursing facility.*

(b) The rate allowed for a screening where two team members are present shall be the actual costs up to $195. The rate allowed for a screening where only one team member is present shall be the actual costs up to $117. Annually on July 1, the commissioner shall adjust the rate up to the percentage change forecast in the fourth quarter of the prior calendar year by the Home Health Agency Market Basket of Operating Costs, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc.

(c) The monthly cost estimate for each certified nursing facility must be submitted to the state by the county no later than February 15 of each year for inclusion in the nursing facility's payment rate on the following rate year. The commissioner shall include the reported annual estimated cost of screenings for each nursing facility as an operating cost of that nursing facility in accordance with section 256B.431, subdivision 2b, paragraph (g). The monthly cost estimates approved by the commissioner must be sent to the nursing facility by the county no later than April 15 of each year.

(d) If in more than ten percent of the total number of screenings performed by a county in a fiscal year for all individuals regardless of payment source, the screening timelines were not met because a county was late in screening the individual, the county is solely responsible for paying the cost of those delayed screenings that exceed ten percent.

(e) Notwithstanding section 256B.0641, overpayments attributable to payment of the screening costs under the medical assistance program may not be recovered from a facility.

(f) The commissioner of human services shall amend the Minnesota medical assistance plan to include reimbursement for the local screening teams.

Subd. 7. [REIMBURSEMENT FOR CERTIFIED NURSING FACILITIES.] *Medical assistance reimbursement for nursing facilities shall be authorized for a medical assistance recipient only if a preadmission screening has been conducted or the local county agency has authorized an exemption. Medical assistance reimbursement for nursing facilities shall not be provided for any recipient who the local screening team has determined does not meet the level of care criteria for nursing facility placement.*

An individual has a choice and makes the final decision between nursing facility placement and community placement after the screening team's recommendation. However, the local county mental health authority or the local mental retardation authority under Public Law Numbers 100-203 and 101-508 may prohibit admission to a nursing facility, if the individual does not meet the nursing facility level of care criteria or does need active treatment as defined in Public Law Numbers 100-203 and 101-508.

Appeals from the screening team's recommendation or the county agency's final decision shall be made according to section 256.045, subdivision 3.

Subd. 8. [ADVISORY COMMITTEE.] *The commissioner shall appoint an advisory committee to advise the commissioner on the preadmission screening program, the alternative care program under section 256B.0913, and the home- and community-based services waiver programs for the elderly and the disabled. The advisory committee shall review policies and procedures and provide advice and technical assistance to the commissioner regarding the effectiveness and the efficient administration of the programs. The advisory committee must consist of not more than 20 people appointed by the commissioner and must be comprised of representatives from public agencies, public and private service providers, and consumers from all areas of the state. Members of the advisory committee must not be compensated for service.*

Sec. 15. [256B.0913] [ALTERNATIVE CARE PROGRAM.]

Subdivision 1. [PURPOSE AND GOALS.] *The purpose of the alternative care program is to provide funding for or access to home and community-based services for frail elderly persons, in order to limit nursing facility placements. The program is designed to support frail elderly persons in their desire to remain in the community as independently and as long as possible and to support informal caregivers in their efforts to provide care for frail elderly people. Further, the goals of the program are:*

(1) to contain medical assistance expenditures by providing care in the community at a cost the same or less than nursing facility costs; and

(2) to maintain the moratorium on new construction of nursing home beds.

Subd. 2. [ELIGIBILITY FOR SERVICES.] *Alternative care services are available to all frail older Minnesotans. This includes:*

(1) persons who are receiving medical assistance and served under the medical assistance program or the Medicaid waiver program;

(2) persons who would be eligible for medical assistance within 180 days of admission to a nursing facility and served under subdivisions 4 to 13; and

(3) persons who are paying for their services out-of-pocket.

Subd. 3. [ELIGIBILITY FOR FUNDING FOR SERVICES FOR MEDICAL ASSISTANCE RECIPIENTS.] *Funding for services for persons who are eligible for medical assistance is available under section 256B.0627, governing home care services, or 256B.0915, governing the Medicaid waiver for home and community-based services.*

Subd. 4. [ELIGIBILITY FOR FUNDING FOR SERVICES FOR NONMEDICAL ASSISTANCE RECIPIENTS.] *(a) Funding for services under the alternative care program is available to persons who meet the following criteria:*

(1) the person has been screened by the county screening team or, if previously screened and served under the alternative care program, assessed by the local county social worker or public health nurse;

(2) the person is age 65 or older;

(3) the person would be eligible for medical assistance within 180 days of admission to a nursing facility;

(4) the screening team would recommend nursing facility admission or continued stay for the person if alternative care services were not available;

(5) the person needs services that are not available at that time in the county through other county, state, or federal funding sources; and

(6) the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the statewide average monthly medical assistance payment for nursing facility care at the individual's case mix classification to which the individual would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059.

(b) Individuals who meet the criteria in paragraph (a) and who have been approved for alternative care funding are called 180-day eligible clients.

(c) The statewide average payment for nursing facility care is the statewide average monthly nursing facility rate in effect on July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing facility residents who are age 65 or older and who are medical assistance recipients in the month of March of the previous fiscal year. This monthly limit does not prohibit the 180-day eligible client from paying for additional services needed or desired.

(d) In determining the total costs of alternative care services for one month, the costs of all services funded by the alternative care program, including supplies and equipment, must be included.

(e) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for

medical assistance without a spend-down if the person applied, unless authorized by the commissioner.

(f) Alternative care funding is not available for a person who resides in a licensed nursing home or boarding care home, except for case management services which are being provided in support of the discharge planning process.

Subd. 5. [SERVICES COVERED UNDER ALTERNATIVE CARE.] *(a) Alternative care funding may be used for payment of costs of:*

(1) adult foster care;

(2) adult day care;

(3) home health aide;

(4) homemaker services;

(5) personal care;

(6) case management;

(7) respite care;

(8) assisted living; and

(9) care-related supplies and equipment.

(b) The county agency may use up to ten percent of the annual allocation of alternative care funding for payment of costs of meals delivered to the home, transportation, skilled nursing, chore services, companion services, nutrition services, and training for direct informal caregivers. The commissioner shall determine the impact on alternative care costs of allowing these additional services to be provided and shall report the findings to the legislature by February 15, 1993, including any recommendations regarding provision of the additional services.

(c) The county agency must ensure that the funds are used only to supplement and not supplant services available through other public assistance or services programs.

(d) These services must be provided by a licensed provider, a home health agency certified for reimbursement under Titles XVIII and XIX of the Social Security Act, or by persons or agencies employed by or contracted with the county agency or the public health nursing agency of the local board of health.

(e) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board.

(f) Personal care services may be provided by a personal care provider organization. A county agency may contract with a relative of the client to provide personal care services, but must ensure nursing supervision. Covered personal care services defined in section 256B.0627, subdivision 4, must meet applicable standards in Minnesota Rules, part 9505.0335.

(g) Costs for supplies and equipment that exceed $150 per item per month must have prior approval from the commissioner.

(h) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to two or more alternative care grant clients who reside in the same apartment building of ten or more units. These services may include care coordination, the costs of preparing one

or more nutritionally balanced meals per day, general oversight, and other supportive services which the vendor is licensed to provide according to sections 144A.43 to 144A.49, and which would otherwise be available to individual alternative care grant clients. Reimbursement from the lead agency shall be made to the vendor as a monthly capitated rate negotiated with the county agency. The capitated rate shall not exceed the state share of the average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The capitated rate may not cover rent and direct food costs. A person's eligibility to reside in the building must not be contingent on the person's acceptance or use of the assisted living services. Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.01 to 157.031.

(i) For purposes of this section, companion services are defined as nonmedical care, supervision and oversight, provided to a functionally impaired adult. Companions may assist the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services. The provision of companion services does not entail hands-on medical care. Providers may also perform light housekeeping tasks which are incidental to the care and supervision of the recipient. This service must be approved by the case manager as part of the care plan. Companion services must be provided by individuals or nonprofit organizations who are under contract with the local agency to provide the service. Any person related to the waiver recipient by blood, marriage or adoption cannot be reimbursed under this service. Persons providing companion services will be monitored by the case manager.

(j) For purposes of this section, training for direct informal caregivers is defined as a classroom or home course of instruction which may include: transfer and lifting skills, nutrition, personal and physical cares, home safety in a home environment, stress reduction and management, behavioral management, long-term care decision making, care coordination and family dynamics. The training is provided to an informal unpaid caregiver of a 180-day eligible client which enables the caregiver to deliver care in a home setting with high levels of quality. The training must be approved by the case manager as part of the individual care plan. Individuals, agencies, and educational facilities which provide caregiver training and education will be monitored by the case manager.

Subd. 6. [ALTERNATIVE CARE PROGRAM ADMINISTRATION.] *The alternative care program is administered by the county agency. This agency is the lead agency responsible for the local administration of the alternative care program as described in this section. However, it may contract with the public health nursing service to be the lead agency.*

Subd. 7. [CASE MANAGEMENT.] *The lead agency shall appoint a social worker from the county agency or a registered nurse from the county public health nursing service of the local board of health to be the case manager for any person receiving services funded by the alternative care program. The case manager must ensure the health and safety of the individual client and is responsible for the cost effectiveness of the alternative care individual care plan.*

Subd. 8. [REQUIREMENTS FOR INDIVIDUAL CARE PLAN.] *The case manager shall implement the plan of care for each 180-day eligible*

client and ensure that a client's service needs and eligibility are reassessed at least every six months. The plan shall include any services prescribed by the individual's attending physician as necessary to allow the individual to remain in a community setting. In developing the individual's care plan, the case manager should include the use of volunteers from families and neighbors, religious organizations, social clubs, and civic and service organizations to support the formal home care services. The county shall be held harmless for damages or injuries sustained through the use of volunteers under this subdivision including workers' compensation liability. The lead agency shall provide documentation to the commissioner verifying that the individual's alternative care is not available at that time through any other public assistance or service program. The lead agency shall provide documentation in each individual's plan of care and to the commissioner that the most cost-effective alternatives available have been offered to the individual and that the individual was free to choose among available qualified providers, both public and private.

Subd. 9. [CONTRACTING PROVISIONS FOR PROVIDERS.] *The lead agency shall document to the commissioner that the agency made reasonable efforts to inform potential providers of the anticipated need for services under the alternative care program, including a minimum of 14 days' written advance notice of the opportunity to be selected as a service provider and an annual public meeting with providers to explain and review the criteria for selection. The lead agency shall also document to the commissioner that the agency allowed potential providers an opportunity to be selected to contract with the county agency. Funds reimbursed to counties under this subdivision are subject to audit by the commissioner for fiscal and utilization control.*

The lead agency must select providers for contracts or agreements using the following criteria and other criteria established by the county:

(1) the need for the particular services offered by the provider;

(2) the population to be served, including the number of clients, the length of time services will be provided, and the medical condition of clients;

(3) the geographic area to be served;

(4) quality assurance methods, including appropriate licensure, certification, or standards, and supervision of employees when needed;

(5) rates for each service and unit of service exclusive of county administrative costs;

(6) evaluation of services previously delivered by the provider; and

(7) contract or agreement conditions, including billing requirements, cancellation, and indemnification.

The county must evaluate its own agency services under the criteria established for other providers. The county shall provide a written statement of the reasons for not selecting providers.

Subd. 10. [ALLOCATION FORMULA.] *(a) The alternative care appropriation for fiscal years 1992 and beyond shall cover only 180-day eligible clients.*

(b) Prior to July 1 of each year, the commissioner shall allocate to county agencies the state funds available for alternative care for persons eligible under subdivision 2. The allocation for fiscal year 1992 shall be calculated

using a base that is adjusted to exclude the medical assistance share of alternative care expenditures. The adjusted base is calculated by multiplying each county's allocation for fiscal year 1991 by the percentage of county alternative care expenditures for 180-day eligible clients. The percentage is determined based on expenditures for services rendered in fiscal year 1989 or calendar year 1989, whichever is greater.

(c) If the county expenditures for 180-day eligible clients are 95 percent or more of its adjusted base allocation, the allocation for the next fiscal year is 100 percent of the adjusted base, plus inflation to the extent that inflation is included in the state budget.

(d) If the county expenditures for 180-day eligible clients are less than 95 percent of its adjusted base allocation, the allocation for the next fiscal year is the adjusted base allocation less the amount of unspent funds below the 95 percent level.

(e) For fiscal year 1992 only, a county may receive an increased allocation if annualized service costs for the month of May 1991 for 180-day eligible clients are greater than the allocation otherwise determined. A county may apply for this increase by reporting projected expenditures for May to the commissioner by June 1, 1991. The amount of the allocation may exceed the amount calculated in paragraph (b). The projected expenditures for May must be based on actual 180-day eligible client caseload and the individual cost of clients' care plans. If a county does not report its expenditures for May, the amount in paragraph (c) or (d) shall be used.

(f) Calculations for paragraphs (c) and (d) are to be made as follows: for each county, the determination of expenditures shall be based on payments for services rendered from April 1 through March 31 in the base year, to the extent that claims have been submitted by June 1 of that year.

Subd. 11. [TARGETED FUNDING.] *(a) The purpose of targeted funding is to make additional money available to counties with the greatest need. Targeted funds are not intended to be distributed equitably among all counties, but rather, allocated to those with long-term care strategies that meet state goals.*

(b) The funds available for targeted funding shall be the total appropriation for each fiscal year minus county allocations determined under subdivision 10 as adjusted for any inflation increases provided in appropriations for the biennium.

(c) The commissioner shall allocate targeted funds to counties that demonstrate to the satisfaction of the commissioner that they have developed feasible plans to increase alternative care grant spending. In making targeted funding allocations, the commissioner shall use the following priorities:

(1) counties that received a lower allocation in fiscal year 1991 than in fiscal year 1990. Counties remain in this priority until they have been restored to their fiscal year 1990 level plus inflation;

(2) counties that sustain a base allocation reduction for failure to spend 95 percent of the allocation if they demonstrate that the base reduction should be restored;

(3) counties that propose projects to divert community residents from nursing home placement or convert nursing home residents to community living; and

(4) counties that can otherwise justify program growth by demonstrating the existence of waiting lists, demographically justified needs, or other unmet needs.

(d) Counties that would receive targeted funds according to paragraph (c) must demonstrate to the commissioner's satisfaction that the funds would be appropriately spent by showing how the funds would be used to further the state's alternative care goals as described in subdivision 1, and that the county has the administrative and service delivery capability to use them.

(e) The commissioner shall request applications by June 1 each year, for county agencies to apply for targeted funds. The counties selected for targeted funds shall be notified of the amount of their additional funding by August 1 of each year. Targeted funds allocated to a county agency in one year shall be treated as part of the county's base allocation for that year in determining allocations for subsequent years. No reallocations between counties shall be made.

(f) The allocation for each year after fiscal year 1992 shall be determined using the previous fiscal year's allocation, including any targeted funds, as the base and then applying the criteria under subdivision 10, paragraphs (c), (d), and (f), to the current year's expenditures.

Subd. 12. [CLIENT PREMIUMS.] *(a) A premium is required for all 180-day eligible clients to help pay for the cost of participating in the program.*

(b) The county agency must collect the premium from the client and forward the amounts collected to the commissioner in the manner and at the times prescribed by the commissioner. Money collected must be deposited in the general fund and is appropriated to the commissioner for the alternative care program. The client must supply the county with the client's social security number at the time of application. If a client fails or refuses to pay the premium due, the county shall supply the commissioner with the client's social security number and other information the commissioner requires to collect the premium from the client. The commissioner shall collect unpaid premiums using the revenue recapture act in chapter 270A and other methods available to the commissioner. The commissioner may require counties to inform clients of the collection procedures that may be used by the state if a premium is not paid.

(c) The commissioner shall establish a premium schedule ranging from $25 to $75 per month based on the client's income and assets. The schedule is not subject to chapter 14, but the commissioner shall publish the schedule and any later changes in the State Register and allow a period of 20 working days from the publication date for interested persons to comment before adopting the schedule in final form. The commissioner shall begin to adopt emergency or permanent rules governing client premiums within 30 days after the effective date of this section, including criteria for determining when services to a client must be terminated due to failure to pay a premium. Emergency or permanent rules governing client premiums supersede any schedule adopted under the exemption from chapter 14 in this section.

Subd. 13. [COUNTY ALTERNATIVE CARE BIENNIAL PLAN.] *The commissioner shall establish by rule, in accordance with chapter 14, procedures for the submittal and approval of a biennial county plan for the administration of the alternative care program and the coordination with other planning processes for the older adult. In addition to the procedures in rule, this county biennial plan shall also include:*

(1) information on the administration of the preadmission screening program;

(2) information on the administration of the home and community-based services waivers for the elderly under section 256B.0915, and for the disabled under section 256.49;

(3) an application for targeted funds under subdivision 11; and

(4) an optional notice of intent to apply to participate in the long-term care projects under section 256B.0917.

Subd. 14. [REIMBURSEMENT AND RATE ADJUSTMENTS.] *(a) Reimbursement for expenditures for the alternative care services shall be through the invoice processing procedures of the department's Medicaid management information system (MMIS), only with the approval of the client's case manager. To receive reimbursement, the county or vendor must submit invoices within 120 days following the month of service. The county agency and its vendors under contract shall not be reimbursed for services which exceed the county allocation.*

(b) If a county collects less than 50 percent of the client premiums due under subdivision 12, the commissioner may withhold up to three percent of the county's final alternative care program allocation determined under subdivisions 10 and 11.

(c) Beginning July 1, 1991, the state will reimburse counties, up to the limits of state appropriations, according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who would be eligible for medical assistance within 180 days of admission to a nursing home.

(d) Annually on July 1, the commissioner must adjust the rates allowed for alternative care services by the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set.

Sec. 16. [256B.0915] [MEDICAID WAIVER FOR HOME AND COMMUNITY-BASED SERVICES.]

Subdivision 1. [AUTHORITY.] *The commissioner is authorized to apply for a home and community-based services waiver for the elderly, authorized under section 1915(c) of the Social Security Act, in order to obtain federal financial participation to expand the availability of services for persons who are eligible for medical assistance. The commissioner may apply for additional waivers or pursue other federal financial participation which is advantageous to the state for funding home care services for the frail elderly who are eligible for medical assistance. The provision of waivered services to medical assistance recipients must comply with the criteria approved in the waiver.*

Subd. 2. [SPOUSAL IMPOVERISHMENT POLICIES.] *The commissioner shall seek to amend the federal waiver and the medical assistance state plan to allow spousal impoverishment criteria as authorized in Code of Federal Regulations, title 42, section 435.726(1924), and as implemented in sections 256B.0575, 256B.058, and 256B.059 to be applied to persons*

who are screened and determined to need a nursing facility level of care.

Subd. 3. [LIMITS OF CASES, RATES, REIMBURSEMENT, AND FORECASTING.] *(a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.*

(b) The monthly limit for the cost of waivered services to an individual waiver client shall be the statewide average payment rate of the case mix resident class to which the waiver client would be assigned under medical assistance case mix reimbursement system. The statewide average payment rate is calculated by determining the statewide average monthly nursing home rate effective July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing home residents who are age 65 or older, and who are medical assistance recipients in the month of March of the previous state fiscal year. The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waivered services, including extended medical supplies and equipment; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(c) Medical assistance funding for skilled nursing services, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(d) Expenditures for extended medical supplies and equipment that cost over $150 per month must have the commissioner's prior approval.

(e) Annually on July 1, the commissioner must adjust the rates allowed for services by the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set.

(f) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid management information system (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

(g) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.

Sec. 17. [256B.0917] [SENIORS' AGENDA FOR INDEPENDENT LIVING (SAIL) PROJECTS FOR A NEW LONG-TERM CARE STRATEGY.]

Subdivision 1. [PURPOSE, MISSION, GOALS, AND OBJECTIVES.] *(a) The purpose of implementing seniors' agenda for independent living (SAIL) projects under this section is to demonstrate a new cooperative*

strategy for the long-term care system in the state of Minnesota.

The projects are part of the initial biennial plan for a 20-year strategy. The mission of the 20-year strategy is to create a new community-based care paradigm for long-term care in Minnesota in order to maximize independence of the older adult population, and to ensure cost-effective use of financial and human resources. The goals for the 20-year strategy are to:

(1) achieve a broad awareness and use of low-cost home care and other residential alternatives to nursing homes;

(2) develop a statewide system of information and assistance to enable easy access to long-term care services;

(3) develop sufficient alternatives to nursing homes to serve the increased number of people needing long-term care;

(4) maintain the moratorium on new construction of nursing home beds and to lower the percentage of elderly served in institutional settings; and

(5) build a community-based approach and community commitment to delivering long-term care services for elderly persons in their homes.

(b) The objective for the fiscal years 1992 and 1993 biennial plan is to implement at least four but not more than six projects in anticipation of a statewide program. These projects will begin the process of implementing: (1) a coordinated planning and administrative process; (2) a refocused function of the preadmission screening program; (3) the development of additional home, community, and residential alternatives to nursing homes; (4) a program to support the informal caregivers for elderly persons; (5) programs to strengthen the use of volunteers; and (6) programs to support the building of community commitment to provide long-term care for elderly persons.

This is done in conjunction with an expanded role of the interagency long-term care planning committee as described in section 144A.31. The services offered through these projects will be available to those who have their own funds to pay for services, as well as to persons who are eligible for medical assistance and to persons who are 180-day eligible clients to the extent authorized in this section.

Subd. 2. [DESIGN OF SAIL PROJECTS; LOCAL LONG-TERM CARE COORDINATING TEAM.] *(a) The commissioner of human services shall establish SAIL projects in four to six counties or groups of counties to demonstrate the feasibility and cost-effectiveness of a local long-term care strategy that is consistent with the state's long-term care goals identified in subdivision 1. The commissioner shall publish a notice in the State Register announcing the availability of project funding and giving instructions for making an application. The instructions for the application shall identify the amount of funding available for project components.*

(b) To be selected for the project, a county board, or boards under a joint powers agreement, must establish a long-term care coordinating team consisting of county social service agencies, public health nursing service agencies, local boards of health, and the area agencies on aging in a geographic area which is responsible for:

(1) developing a local long-term care strategy consistent with state goals and objectives;

(2) submitting an application to be selected as a project;

(3) coordinating planning for funds to provide services to elderly persons, including funds received under Title III of the Older Americans Act, Community Social Services Act, Title XX of the Social Security Act and the Local Public Health Act; and

(4) ensuring efficient services provision and nonduplication of funding.

(c) The board, or boards under a joint powers agreement, shall designate a public agency to serve as the lead agency. The lead agency receives and manages the project funds from the state and is responsible for the implementation of the local strategy. If selected as a project, the local long-term care coordinating team must semi-annually evaluate the progress of the local long-term care strategy in meeting state measures of performance and results as established in the contract.

(d) Each member of the local coordinating team must indicate its endorsement of the local strategy. The local long-term care coordinating team may include in its membership other units of government which provide funding for services to the frail elderly. The team must cooperate with consumers and other public and private agencies, including nursing homes, in the geographic area in order to develop and offer a variety of cost-effective services to the elderly and their caregivers.

(e) The board, or boards under a joint powers agreement, shall apply to be selected as a project. If the project is selected, the commissioner of human services shall contract with the lead agency for the project and shall provide additional administrative funds for implementing the provisions of the contract, within the appropriation available for this purpose.

(f) Projects shall be selected according to the following conditions:

(1) No project may be selected unless it demonstrates that:

(i) the objectives of the local project will help to achieve the state's long-term care goals as defined in subdivision 1;

(ii) in the case of a project submitted jointly by several counties, all of the participating counties are contiguous;

(iii) there is a designated local lead agency that is empowered to make contracts with the state and local vendors on behalf of all participants;

(iv) the project proposal demonstrates that the local cooperating agencies have the ability to perform the project as described and that the implementation of the project has a reasonable chance of achieving its objectives;

(v) the project will serve an area that covers at least four counties or contains at least 2,500 persons who are 85 years of age or older, according to the projections of the state demographer or the census if the data is more recent; and

(vi) the local coordinating team documents efforts of cooperation with consumers and other agencies and organizations, both public and private, in planning for service delivery.

(2) If only two projects are selected, at least one of them must be from a metropolitan statistical area as determined by the United States Census Bureau; if three or four projects are selected, at least one but not more than two projects must be from a metropolitan statistical area; and if more than four projects are selected, at least two but not more than three projects must be from a metropolitan statistical area.

(3) Counties or groups of counties that submit a proposal for a project shall be assigned to types defined by institutional utilization rate and population growth rate in the following manner:

(i) Each county or group of counties shall be measured by the utilization rate of nursing homes and boarding care homes and by the projected growth rate of its population aged 85 and over between 1990 and 2000. For the purposes of this section, "utilization rate" means the proportion of the seniors aged 65 or older in the county or group of counties who reside in a licensed nursing home or boarding care home as determined by the most recent census of residents available from the department of health and the population estimates of the state demographer or the census, whichever is more recent. The "projected growth rate" is the rate of change in the county or group of counties of the population group aged 85 or older between 1990 and 2000 according to the projections of the state demographer.

(ii) The institutional utilization rate of a county or group of counties shall be converted to a category by assigning a "high utilization" category if the rate is above the median rate of all counties, and a "low utilization" category otherwise. The projected growth rate of a county or group of counties shall be converted to a category by assigning a score of "high growth" category if the rate is above the median rate of all counties, and a "low growth" category otherwise.

(iii) Types of areas shall be defined by the four combinations of the scores defined in item (ii): type 1 is low utilization - high growth, type 2 is high utilization - high growth, type 3 is high utilization - low growth, and type 4 is low utilization - low growth. Each county or group of counties making a proposal shall be assigned to one of these types.

(4) Projects shall be selected from each of the types in the order that the types are listed in paragraph 3, item (iii), with available funding allocated to projects until it is exhausted, with no more than 30 percent of available funding allocated to any one project. Available funding includes state administrative funds which have been appropriated for screening functions in subdivision 4, paragraph (b), clause (3), and for service developers and incentive grants in subdivision 5.

(5) If more than one county or group of counties within one of the types defined by paragraph (3) proposes a special project that meets all of the other conditions in paragraphs (1) and (2), the project that demonstrates the most cost-effective proposals in terms of the number of nursing home placements that can be expected to be diverted or converted to alternative care services per unit of cost shall be selected.

Subd. 3. [LOCAL LONG-TERM CARE STRATEGY.] *The local long-term care strategy must list performance outcomes and indicators which meet the state's objectives. The local strategy must provide for:*

(1) accessible information, assessment, and preadmission screening activities as described in subdivision 4;

(2) an application for expansion of alternative care targeted funds under section 256B.0913, for serving 180-day eligible clients, including those who are relocated from nursing homes;

(3) the development of additional services such as adult family foster care homes; family adult day care; assisted living projects and congregate housing service projects in apartment buildings; expanded home care services

for evenings and weekends; expanded volunteer services; and caregiver support and respite care projects; and

(4) development and implementation of strategies for advocating, promoting, and developing long-term care insurance and encouraging insurance companies to offer long-term care insurance policies that are affordable and offer a wide range of benefits.

The county or groups of counties selected for the projects shall be required to comply with federal regulations, alternative care funding policies in section 256B.0913, and the federal waiver programs' policies in section 256B.0915. The requirements for preadmission screening as defined in section 256B.0911, subdivisions 1 to 6, are waived for those counties selected as part of a long-term care strategy project. For persons who are eligible for medical assistance or who are 180-day eligible clients and who are screened after nursing facility admission, the nursing facility must include a screener in the discharge planning process for those individuals who the screener has determined have discharge potential. The agency responsible for the screening function in subdivision 4 must ensure a smooth transition and follow-up for the individual's return to the community. Requirements for an access, screening, and assessment function replace the preadmission screening requirements and are defined in subdivision 4. Requirements for the service development and service provision are defined in subdivision 5.

Subd. 4. [ACCESSIBLE INFORMATION, SCREENING, AND ASSESSMENT FUNCTION.] *(a) The projects selected by and under contract with the commissioner shall establish an accessible information, screening, and assessment function for persons who need assistance and information regarding long-term care. This accessible information, screening, and assessment activity shall include information and referral, early intervention, follow-up contacts, telephone triage as defined in paragraph (f), home visits, assessments, preadmission screening, and relocation case management for the frail elderly and their caregivers in the area served by the county or counties. The purpose is to ensure that information and help is provided to elderly persons and their families in a timely fashion, when they are making decisions about long-term care. These functions may be split among various agencies, but must be coordinated by the local long-term care coordinating team.*

(b) Accessible information, screening, and assessment functions shall be reimbursed as follows:

(1) The screenings of all persons entering nursing homes shall be reimbursed by the nursing homes in the counties of the project, through the same policy that is in place in fiscal year 1992 as established in section 256B.0911. The amount a nursing home pays to the county agency is that amount identified and approved in the February 15, 1991, estimated number of screenings and associated expenditures. This amount remains the same for fiscal year 1993;

(2) The level I screenings and the level II assessments required by Public Law Numbers 100-203 and 101-508 (OBRA) for persons with mental illness, mental retardation, or related conditions, are reimbursed through administrative funds with 75 percent federal funds and 25 percent state funds, as allowed by federal regulations and established in the contract; and

(3) Additional state administrative funds shall be available for the access,

screening, and assessment activities that are not reimbursed under clauses (1) and (2). This amount shall not exceed the amount authorized in the guidelines and in instructions for the application and must be within the amount appropriated for this activity.

(c) The amounts available under paragraph (b) are available to the county or counties involved in the project to cover staff salaries and expenses to provide the services in this subdivision. The lead agency shall employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to provide the services listed in this subdivision.

(d) Any information and referral functions funded by other sources, such as Title III of the Older Americans Act and Title XX of the Social Security Act and the Community Social Services Act, shall be considered by the local long-term care coordinating team in establishing this function to avoid duplication and to ensure access to information for persons needing help and information regarding long-term care.

(e) The staffing for the screening and assessment function must include, but is not limited to, a county social worker and a county public health nurse. The social worker and public health nurse are responsible for all assessments that are required to be completed by a professional. However, only one of these professionals is required to be present for the assessment.

(f) All persons entering a Medicaid certified nursing home or boarding care home must be screened through an assessment process, although the decision to conduct a face-to-face interview is left with the county social worker and the county public health nurse. All applicants to nursing homes must be screened and approved for admission by the county social worker or the county public health nurse named by the lead agency or the agencies which are under contract with the lead agency to manage the access, screening, and assessment functions. For applicants who have a diagnosis of mental illness, mental retardation, or a related condition, and are subject to the provisions of Public Law Numbers 100-203 and 101-508, their admission must be approved by the local mental health authority or the local developmental disabilities case manager.

The commissioner shall develop instructions and assessment forms for telephone triage and on-site screenings to ensure that federal regulations and waiver provisions are met.

For purposes of this section, the term "telephone triage" refers to a telephone or face-to-face consultation between health care and social service professionals during which the clients' circumstances are reviewed and the county agency professional sorts the individual into categories: (1) needs no screening, (2) needs an immediate screening, or (3) needs a screening after admission to a nursing home or after a return home. The county agency professional shall authorize admission to a nursing home according to the provisions in section 256B.0911, subdivision 7.

(g) The requirements for case mix assessments by a preadmission screening team may be waived and the nursing home shall complete the case mix assessments which are not conducted by the county public health nurse according to the procedures established under Minnesota Rules, part 9549.0059. The appropriate county or the lead agency is responsible for distributing the quality assurance and review form for all new applicants to nursing homes.

(h) The lead agency or the agencies under contract with the lead agency

which are responsible for the accessible information, screening, and assessment function must complete the forms and reports required by the commissioner as specified in the contract.

Subd. 5. [SERVICE DEVELOPMENT AND SERVICE DELIVERY.] *(a) In addition to the access, screening, and assessment activity, each local strategy may include provisions for the following:*

(1) expansion of alternative care to serve an increased caseload, over the fiscal year 1991 average caseload, of at least 100 persons each year who are assessed prior to nursing home admission and persons who are relocated from nursing homes, which results in a reduction of the medical assistance nursing home caseload;

(2) the addition of a full-time staff person who is responsible to develop the following services and recruit providers as established in the contract:

(i) additional adult family foster care homes;

(ii) family adult day care providers as defined in section 256B.0919, subdivision 2;

(iii) an assisted living program in an apartment;

(iv) a congregate housing service project in a subsidized housing project; and

(v) the expansion of evening and weekend coverage of home care services as deemed necessary by the local strategic plan;

(3) small incentive grants to new adult family care providers for renovations needed to meet licensure requirements;

(4) a plan to apply for a congregate housing service project as identified in section 256.9751, authorized by the Minnesota board on aging, to the extent that funds are available;

(5) a plan to divert new applicants to nursing homes and to relocate a targeted population from nursing homes, using the individual's own resources or the funding available for services;

(6) one or more caregiver support and respite care projects, as described in subdivision 6; and

(7) one or more living-at-home/block nurse projects, as described in subdivisions 7 to 10.

(b) The expansion of alternative care clients under paragraph (a) shall be accomplished with the funds provided under section 256B.0913, and includes the allocation of targeted funds. The funding for all participating counties must be coordinated by the local long-term care coordinating team and must be part of the local long-term care strategy. Each county retains responsibility for reimbursement as defined in section 256B.0913, subdivision 12. All other requirements for the alternative care program must be met unless an exception is provided in this section. The commissioner may establish by contract a reimbursement mechanism for alternative care that does not require invoice processing through the medical assistance management information system (MMIS). The commissioner and local agencies must assure that the same client and reimbursement data is obtained as is available under MMIS.

(c) The administration of these components is the responsibility of the

agencies selected by the local coordinating team and under contract with the local lead agency. However, administrative funds for paragraph (a), clauses (2) to (5), and grant funds for paragraph (a), clauses (6) and (7), shall be granted to the local lead agency. The funding available for each component is based on the plan submitted and the amount negotiated in the contract.

Subd. 6. [STATEWIDE CAREGIVER SUPPORT AND RESPITE CARE RESOURCE CENTER; CAREGIVER SUPPORT AND RESPITE CARE PROJECTS.] *(a) The commissioner shall establish and maintain a statewide resource center for caregiver support and respite care. The resource center shall:*

(1) provide information, technical assistance, and training statewide to county agencies and organizations on direct service models of caregiver support and respite care services;

(2) identify and address issues, concerns, and gaps in the statewide network for caregiver support and respite care;

(3) maintain a statewide caregiver support and respite care directory;

(4) educate caregivers on the availability and use of caregiver and respite care services;

(5) promote and expand caregiver training and support groups using existing networks when possible; and

(6) apply for and manage grants related to caregiver support and respite care.

(b) The commissioner shall establish up to 36 projects to expand the respite care network in the state and to support caregivers in their responsibilities for care. The purpose of each project shall be to:

(1) establish a local coordinated network of volunteer and paid respite workers;

(2) coordinate assignment of respite workers to clients and care receivers and assure the health and safety of the client; and

(3) provide training for caregivers and ensure that support groups are available in the community.

(c) The caregiver support and respite care funds shall be available to the four to six local long-term care strategy projects designated in subdivisions 1 to 5.

(d) The commissioner shall publish a notice in the State Register to solicit proposals from public or private nonprofit agencies for the projects not included in the four to six local long-term care strategy projects defined in subdivision 2. A county agency may, alone or in combination with other county agencies, apply for caregiver support and respite care project funds. A public or nonprofit agency may apply for project funds if the agency has a letter of agreement with the county or counties in which services will be developed, stating the intention of the county or counties to coordinate their activities with the agency requesting a grant.

(e) The commissioner shall select grantees based on the following criteria:

(1) the ability of the proposal to demonstrate need in the area served, as evidenced by a community needs assessment or other demographic data;

(2) the ability of the proposal to clearly describe how the project will achieve the purpose defined in paragraph (b);

(3) the ability of the proposal to reach underserved populations;

(4) the ability of the proposal to demonstrate community commitment to the project, as evidenced by letters of support and cooperation as well as formation of a community task force;

(5) the ability of the proposal to clearly describe the process for recruiting, training, and retraining volunteers; and

(6) the inclusion in the proposal of the plan to promote the project in the community, including outreach to persons needing the services.

(f) Funds for all projects under this subdivision may be used to:

(1) hire a coordinator to develop a coordinated network of volunteer and paid respite care services and assign workers to clients;

(2) recruit and train volunteer providers;

(3) train caregivers;

(4) ensure the development of support groups for caregivers;

(5) advertise the availability of the caregiver support and respite care project; and

(6) purchase equipment to maintain a system of assigning workers to clients.

(g) Project funds may not be used to supplant existing funding sources.

(h) An advisory committee shall be appointed to advise the caregiver support project on the development and implementation of the caregiver support and respite care services projects. The advisory committee shall review procedures and provide advice and technical assistance to the caregiver support project regarding the grant program established under this section.

The advisory committee shall consist of not more than 16 people appointed by the commissioner and shall be comprised of representatives from public and private agencies, service providers and consumers from all areas of the state.

Members of the advisory committee shall not be compensated for service.

Subd. 7. [CONTRACT.] *The commissioner of human services shall execute a contract with an organization experienced in establishing and operating community-based programs that have used the principles listed in subdivision 8, paragraph (b), in order to meet the independent living and health needs of senior citizens aged 65 and over and provide community-based long-term care for senior citizens in their homes. The organization awarded the contract shall:*

(1) assist the commissioner in developing criteria for and in awarding grants to establish community-based organizations that will implement living-at-home/block nurse programs throughout the state;

(2) assist the commissioner in awarding grants to enable current living-at-home/block nurse programs to implement the combined living-at-home/block nurse program model;

(3) serve as a state technical assistance center to assist and coordinate the living-at-home/block nurse programs established; and

(4) develop the implementation plan required by subdivision 10.

Subd. 8. [LIVING-AT-HOME/BLOCK NURSE PROGRAM GRANT.] *(a) The commissioner, in cooperation with the organization awarded the contract under subdivision 7, shall develop and administer a grant program to establish seven to ten community-based organizations that will implement living-at-home/block nurse programs that are designed to enable senior citizens to live as independently as possible in their homes and in their communities. Up to seven of the programs must be in counties outside the seven-county metropolitan area. The living-at-home/block nurse program funds shall be available to the four to six SAIL projects established under this section. Nonprofit organizations and units of local government are eligible to apply for grants to establish the community organizations that will implement living-at-home/block nurse programs. In awarding grants, the commissioner shall give preference to nonprofit organizations and units of local government from communities that:*

(1) have high nursing home occupancy rates;

(2) have a shortage of health care professionals; and

(3) meet other criteria established by the commissioner, in consultation with the organization under contract.

(b) Grant applicants must also meet the following criteria:

(1) the local community demonstrates a readiness to establish a community model of care, including the formation of a board of directors, advisory committee, or similar group, of which at least two-thirds is comprised of community citizens interested in community-based care for older persons;

(2) the program has sponsorship by a credible, representative organization within the community;

(3) the program has defined specific geographic boundaries and defined its organization, staffing and coordination/delivery of services;

(4) the program demonstrates a team approach to coordination and care, ensuring that the older adult participants, their families, the formal and informal providers are all part of the effort to plan and provide services; and

(5) the program provides assurances that all community resources and funding will be coordinated and that other funding sources will be maximized, including a person's own resources.

(c) Grant applicants must provide a minimum of five percent of total estimated development costs from local community funding. Grants shall be awarded for two-year periods, and the base amount shall not exceed $40,000 per applicant for the grant period. The commissioner, in consultation with the organization under contract, may increase the grant amount for applicants from communities that have socioeconomic characteristics that indicate a higher level of need for development assistance.

(d) Each living-at-home/block nurse program shall be designed by representatives of the communities being served to ensure that the program addresses the specific needs of the community residents. The programs must be designed to:

(1) incorporate the basic community, organizational, and service delivery principles of the living-at-home/block nurse program model;

(2) provide senior citizens with registered nurse directed assessment, provision and coordination of health and personal care services on a sliding fee basis as an alternative to expensive nursing home care;

(3) provide information, support services, homemaking services, counseling, and training for the client and family caregivers;

(4) encourage the development and use of respite care, caregiver support, and in-home support programs, such as adult foster care and in-home adult day care;

(5) encourage neighborhood residents and local organizations to collaborate in meeting the needs of senior citizens in their communities;

(6) recruit, train, and direct the use of volunteers to provide informal services and other appropriate support to senior citizens and their caregivers; and

(7) provide coordination and management of formal and informal services to senior citizens and their families using less expensive alternatives.

Subd. 9. [STATE TECHNICAL ASSISTANCE CENTER.] *The organization under contract shall be the state technical assistance center to provide orientation and technical assistance, and to coordinate the living-at-home/block nurse programs established. The state resource center shall:*

(1) provide communities with criteria in planning and designing their living-at-home/block nurse programs;

(2) provide general orientation and technical assistance to communities who desire to establish living-at-home/block nurse programs;

(3) provide ongoing analysis and data collection of existing and newly established living-at-home/block nurse programs and provide data to the organization performing the independent assessment; and

(4) serve as the living-at-home/block nurse programs' liaison to the legislature and other state agencies.

Subd. 10. [IMPLEMENTATION PLAN.] *The organization under contract shall develop a plan that specifies a strategy for implementing living-at-home/block nurse programs statewide. The plan must also analyze the data collected by the state technical assistance center and describe the effectiveness of services provided by living-at-home/block nurse programs, including the program's impact on acute care costs. The organization shall report to the commissioner of human services and to the legislature by January 1, 1993.*

Subd. 11. [EVALUATION AND EXPANSION.] *The commissioner shall evaluate the success of the projects against the objective stated in subdivision 1, paragraph (b), and recommend to the legislature the continuation or expansion of the long-term care strategy by February 15, 1993.*

Subd. 12. [PUBLIC AWARENESS CAMPAIGN.] *The commissioner, with assistance from the commissioner of health and with the advice of the long-term care planning committee, shall contract for a public awareness campaign to educate the general public, seniors, consumers, caregivers, and professionals about the aging process, the long-term care system, and alternatives available including alternative care and residential alternatives.*

Particular emphasis will be given to informing consumers on how to access the alternatives and obtain information on the long-term care system. The commissioner shall pursue the development of new names for preadmission screening, alternative care, and foster care.

Sec. 18. [256B.0919] [ADULT FOSTER CARE AND FAMILY ADULT DAY CARE.]

Subdivision 1. [ADULT FOSTER CARE LICENSURE CAPACITY.] *Notwithstanding contrary provisions of the human services licensing act and rules adopted under it, an adult foster care license holder may care for five adults age 60 years or older who do not have serious and persistent mental illness or a developmental disability. The license holder under this section shall not be a corporate business which operates more than two facilities.*

Subd. 2. [ADULT FOSTER CARE; FAMILY ADULT DAY CARE.] *An adult foster care license holder who is not providing care to persons with serious and persistent mental illness or developmental disabilities may also provide family adult day care for adults age 60 years or older who do not have serious and persistent mental illness or a developmental disability. The maximum combined license capacity for adult foster care and family adult day care is five adults. A separate license is not required to provide family adult day care under this subdivision. Foster care homes providing services to five adults shall not be subject to licensure by the commissioner of health under the provisions of chapter 144, 144A, 157, or any other law requiring facility licensure by the commissioner of health.*

Subd. 3. [COUNTY CERTIFICATION OF PERSONS PROVIDING ADULT FOSTER CARE TO RELATED PERSONS.] *A person exempt from licensure under section 245A.03, subdivision 2, who provides adult foster care to a related individual age 65 and older, and who meets the requirements in Minnesota Rules, parts 9555.5105 to 9555.6265, may be certified by the county to provide adult foster care. A person certified by the county to provide adult foster care may be reimbursed for services provided and eligible for funding under sections 256B.0913 and 256B.0915, if the relative would suffer a financial hardship as a result of providing care. For purposes of this subdivision, financial hardship refers to a situation in which a relative incurs a substantial reduction in income because he or she resigns from a full-time job or takes a leave of absence without pay from a full-time job to care for the client.*

Sec. 19. Minnesota Statutes 1990, section 256B.093, is amended to read:

256B.093 [SERVICES FOR PERSONS WITH *TRAUMATIC* BRAIN INJURIES.]

Subdivision 1. [STATE COORDINATOR.] The commissioner of human services shall designate a full-time position within the long-term care management division of the department of human services to supervise and coordinate services for persons with *traumatic* brain injuries.

An advisory committee shall be established to provide recommendations to the department regarding program and service needs of persons with traumatic brain injuries.

Subd. 2. [ELIGIBILITY.] The commissioner may contract with qualified agencies or ~~persons~~ *employ staff* to provide *statewide* case management services to medical assistance recipients who are at risk of institutionalization and ~~meet one of the following criteria:~~

~~(a) The person has a~~ *who have traumatic* brain injury.

~~(b) The person is receiving home care services or is in an institution and has a discharge plan requiring the provision of home care services and meets one of the following criteria:~~

~~(1) the person suffers from a brain abnormality or degenerative brain disease resulting in significant destruction of brain tissue and loss of brain function that requires extensive services over an extended period of time;~~

~~(2) the person is unable to direct the person's own care;~~

~~(3) the person has medical home care costs that exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;~~

~~(4) the person is eligible for medical assistance under the option for certain disabled children in section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA);~~

~~(5) the person receives home care from two or more providers who are unable to effectively coordinate the services; or~~

~~(6) the person has received or will receive home care services for longer than six months.~~

Subd. 3. [CASE MANAGEMENT DUTIES.] The department shall fund ~~the~~ case management ~~contracts~~ *under this subdivision* using medical assistance administrative funds. ~~The contractor must~~ *Case management duties include:*

(1) ~~assess~~ *assessing* the person's individual needs for services required to prevent institutionalization;

(2) ~~assure~~ *ensuring* that a care plan that ~~meets~~ *addresses* the person's needs is developed, *implemented, and monitored on an ongoing basis* by the appropriate agency or individual;

(3) ~~assist~~ *assisting* the person in obtaining services necessary to allow the person to remain in the community;

(4) ~~coordinate~~ *coordinating* home care services with other medical assistance services under section 256B.0625;

(5) ~~assure cost effectiveness of~~ *ensuring appropriate, accessible, and cost-effective* medical assistance services;

(6) ~~make recommendations~~ *recommending* to the commissioner ~~on~~ the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

(7) ~~assist~~ *assisting* the person with problems related to the provision of home care services;

(8) ~~assure~~ *ensuring* the quality of home care services; ~~and~~

(9) ~~reassess~~ *reassessing* the person's need for and level of home care services at a frequency determined by the commissioner*; and*

(10) recommending to the commissioner the approval or denial of medical assistance funds for out-of-state placements for traumatic brain injury services.

Subd. 4. [DEFINITIONS.] For purposes of this section, the following

definitions apply:

(a) "*Traumatic* brain injury" means a sudden insult or damage to the brain or its coverings, not of a degenerative *or congenital* nature. The insult or damage may produce an altered state of consciousness ~~or~~ *and may result in* a decrease in ~~mental,~~ cognitive, behavioral, *emotional*, or physical functioning resulting in partial or total disability.

(b) "Home care services" means medical assistance home care services defined under section 256B.0625, subdivisions ~~6~~ *6a*, 7, and ~~19~~ *19a*.

Sec. 20. Minnesota Statutes 1990, section 256B.64, is amended to read:

256B.64 [ATTENDANTS TO VENTILATOR-DEPENDENT RECIPIENTS.]

A ventilator-dependent recipient of medical assistance who has been receiving the services of a private duty nurse or personal care assistant in the recipient's home may continue to have a private duty nurse or personal care assistant present upon admission to a hospital licensed under chapter 144. The personal care assistant or private duty nurse shall perform only the services of communicator or interpreter for the ventilator-dependent patient during a transition period of up to 120 hours to assure adequate training of the hospital staff to communicate with the patient and to understand the unique comfort, safety, and personal care needs of the patient. The personal care assistant or private duty nurse may offer nonbinding advice to the health care professionals in charge of the ventilator-dependent patient's care and treatment on matters pertaining to the comfort and safety of the patient. ~~After the 120 hour transition period, an assessment may be made by the ventilator-dependent patient, the attending physician, and the patient's primary care nurse to determine whether continued services of communicator or interpreter for the patient by the private duty nurse or personal care assistant are necessary and appropriate for the patient's needs. If continued service is necessary and appropriate, the physician must certify this need to the commissioner of human services in order for payments to continue.~~ *Within 36 hours of the end of the 120-hour transition period, an assessment may be made by the ventilator-dependent recipient, the attending physician, and the hospital staff caring for the recipient. If the persons making the assessment determine that additional communicator or interpreter services are medically necessary, the hospital must contact the commissioner 24 hours prior to the end of the 120-hour transition period and submit the assessment information to the commissioner. The commissioner shall review the request and determine if it is medically necessary to continue the interpreter services or if the hospital staff has had sufficient opportunity to adequately determine the needs of the patient. The commissioner shall determine if continued service is necessary and appropriate and whether or not payments shall continue. The commissioner may not authorize services beyond the limits of the available appropriations for this section.* The commissioner may adopt rules necessary to implement this section. Reimbursement under this section must be at the payment rate and in a manner consistent with the payment rate and manner used in reimbursing these providers for home care services for the ventilator-dependent recipient under the medical assistance program.

Sec. 21. Minnesota Statutes 1990, section 256D.44, is amended by adding a subdivision to read:

Subd. 7. [RATE LIMITATION; WAIVERED SERVICES ELIGIBILITY.]

If a current negotiated rate for a foster care placement is for an individual who is eligible for the home and community-based services waiver for the elderly, the negotiated rate must include only the room and board portion of the rate. The room and board portion of the negotiated rate is an amount equal to the difference between the medical assistance income limit for a single disabled or aged adult minus the amount of the medical assistance personal needs allowance for persons residing in a nursing facility.

Sec. 22. Minnesota Statutes 1990, section 273.1398, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) In this section, the terms defined in this subdivision have the meanings given them.

(b) "Unique taxing jurisdiction" means the geographic area subject to the same set of local tax rates.

(c) "Gross tax capacity" means the product of the gross class rates and estimated market values. "Total gross tax capacity" means the gross tax capacities for all property within the unique taxing jurisdiction. The total gross tax capacity used shall be reduced by the sum of (1) the unique taxing jurisdiction's gross tax capacity of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02, subdivision 8, in which the unique taxing jurisdiction is located, (2) the gross tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, and (3) the gross tax capacity of transmission lines deducted from a local government's total gross tax capacity under section 273.425. Gross tax capacity cannot be less than zero.

(d) "Net tax capacity" means the product of (i) the appropriate net class rates for the year in which the aid is payable, except that for aids payable in 1991 the class rate applied to class 3 utility real and personal property shall be 5.38 percent; the class rate applied to class 4c property and that portion of class 3 property with an actual net class rate of 2.3 percent shall be 2.4 percent; the class rates applied to class 2a agricultural homestead property excluding the house, garage, and one acre shall be .4 percent for the first $100,000 of value reduced by the value of the house, garage, and one acre, 1.3 percent for the remaining value of the first 320 acres, and 1.7 percent for the remaining value of any acreage in excess of 320 acres; the class rate applied to class 2b property shall be 1.7 percent; the class rate applied to class 1b property shall be .4 percent; and the class rate for the portion of class 1 property and the house, garage, and one acre portion of class 2a property with a market value in excess of $100,000 shall be 3.0 percent, and (ii) estimated market values for the assessment two years prior to that in which aid is payable. The reclassification of mobile home parks as class 4c shall not be considered in determining net tax capacity for purposes of this paragraph for aids payable in 1991 or 1992. The reclassification of fraternity and sorority houses as class 4c shall not be considered in determining net tax capacity for purposes of this paragraph for aids payable in 1991. "Total net tax capacity" means the net tax capacities for all property within the unique taxing jurisdiction. The total net tax capacity used shall be reduced by the sum of (1) the unique taxing jurisdiction's net tax capacity of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02,

subdivision 8, in which the unique taxing jurisdiction is located, (2) the net tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, and (3) the net tax capacity of transmission lines deducted from a local government's total net tax capacity under section 273.425. For purposes of determining the net tax capacity of property referred to in clauses (1) and (2), the net tax capacity shall be multiplied by the ratio of the highest class rate for class 3a property for taxes payable in the year in which the aid is payable to the highest class rate for class 3a property in the prior year. Net tax capacity cannot be less than zero.

(e) "Previous net tax capacity" means the product of the appropriate net class rates for the year previous to the year in which the aid is payable, and estimated market values for the assessment two years prior to that in which aid is payable. "Total previous net tax capacity" means the previous net tax capacities for all property within the unique taxing jurisdiction. The total previous net tax capacity shall be reduced by the sum of (1) the unique taxing jurisdiction's previous net tax capacity of commercial-industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02, subdivision 8, in which the unique taxing jurisdiction is located, (2) the previous net tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, and (3) the previous net tax capacity of transmission lines deducted from a local government's total net tax capacity under section 273.425. Previous net tax capacity cannot be less than zero.

(f) "Equalized market values" are market values that have been equalized by dividing the assessor's estimated market value for the second year prior to that in which the aid is payable by the assessment sales ratios determined by class in the assessment sales ratio study conducted by the department of revenue pursuant to section 124.2131 in the second year prior to that in which the aid is payable. The equalized market values shall equal the unequalized market values divided by the assessment sales ratio.

(g) "1989 local tax rate" means the quotient derived by dividing the gross taxes levied within a unique taxing jurisdiction for taxes payable in 1989 by the gross tax capacity of the unique taxing jurisdiction for taxes payable in 1989. For computation of the local tax rate for aid payable in 1991 and subsequent years, gross taxes for taxes payable in 1989 exclude equalized levies as defined in subdivision 2a. For purposes of computation of the local tax rate only, gross taxes shall not be adjusted by inflation or household growth.

(h) "Current local tax rate" means the quotient derived by dividing the taxes levied within a unique taxing jurisdiction for taxes payable in the year prior to that for which aids are being calculated by the net tax capacity of the unique taxing jurisdiction.

(i) For purposes of calculating the homestead and agricultural credit aid authorized pursuant to subdivision 2, the "subtraction factor" is the product of (i) a unique taxing jurisdiction's 1989 local tax rate; (ii) its total net tax capacity; and (iii) 0.9767.

(j) For purposes of calculating and allocating homestead and agricultural credit aid authorized pursuant to subdivision 2 and the disparity reduction aid authorized in subdivision 3, "gross taxes levied on all properties," "gross taxes," or "taxes levied" means the total taxes levied on all properties

except that levied on the captured value of tax increment districts as defined in section 469.177, subdivision 2, and that levied on the portion of commercial industrial properties' assessed value or gross tax capacity, as defined in section 473F.02, subdivision 3, subject to the areawide tax as provided in section 473F.08, subdivision 6, in a unique taxing jurisdiction. Gross taxes levied on all properties or gross taxes are before reduction by any credits for taxes payable in 1989. "Gross taxes" are before any reduction for disparity reduction aid but "taxes levied" are after any reduction for disparity reduction aid. Gross taxes levied or taxes levied cannot be less than zero.

For homestead and agricultural credit aid payable in 1991, "gross taxes" or "gross taxes levied on all properties" shall mean gross taxes payable in 1989, excluding actual amounts levied for the purposes listed in subdivision 2a, multiplied by the cost-of-living adjustment factor and the household adjustment factor.

"Taxes levied" excludes actual amounts levied for purposes listed in subdivision 2a.

(k) "Human services aids" means:

(1) aid to families with dependent children under sections 256.82, subdivision 1, and 256.935, subdivision 1;

(2) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(3) general assistance medical care under section 256D.03, subdivision 6;

(4) general assistance under section 256D.03, subdivision 2;

(5) work readiness under section 256D.03, subdivision 2;

(6) emergency assistance under section 256.871, subdivision 6;

(7) Minnesota supplemental aid under section 256D.36, subdivision 1;

(8) preadmission screening and alternative care grants ~~under section 256B.091~~;

(9) work readiness services under section 256D.051;

(10) case management services under section 256.736, subdivision 13;

(11) general assistance claims processing, medical transportation and related costs; and

(12) medical assistance, medical transportation and related costs.

(l) "Cost-of-living adjustment factor" means the greater of one or one plus the percentage increase in the consumer price index minus .36 percent. In no case may the cost of living adjustment factor exceed 1.0394.

(m) The percentage increase in the consumer price index means the percentage, if any, by which:

(1) the consumer price index for the calendar year preceding that in which aid is payable, exceeds

(2) the consumer price index for calendar year 1989.

(n) "Consumer price index for any calendar year" means the average of the consumer price index as of the close of the 12-month period ending on

May 31 of such calendar year.

(o) "Consumer price index" means the last consumer price index for all-urban consumers published by the department of labor. For purposes of the preceding sentence, the revision of the consumer price index which is most consistent with the consumer price index for calendar year 1989 shall be used.

(p) "Household adjustment factor" means the number of households for the second most recent year preceding that in which the aids are payable divided by the number of households for the third most recent year. The household adjustment factor cannot be less than one.

(q) "Growth adjustment factor" means the household adjustment factor in the case of counties, cities, and towns. In the case of school districts the growth adjustment factor means the average daily membership of the school district under section 124.17, subdivision 2, for the school year ending in the second most recent year preceding that in which the aids are payable divided by the average daily membership for the third most recent year. In the case of special taxing districts, the growth adjustment factor equals one. The growth adjustment factor cannot be less than one.

(r) "Homestead and agricultural credit base" means the previous year's certified homestead and agricultural credit aid determined under subdivision 2 plus, for aid payable in 1992, fiscal disparity homestead and agricultural credit aid under subdivision 2b.

(s) "Net tax capacity adjustment" means (1) the total previous net tax capacity minus the total net tax capacity, multiplied by (2) the unique taxing jurisdiction's current local tax rate. The net tax capacity adjustment cannot be less than zero.

(t) "Fiscal disparity adjustment" means the difference between (1) a taxing jurisdiction's fiscal disparity distribution levy under section 473F.08, subdivision 3, clause (a), for taxes payable in the year prior to that for which aids are being calculated, and (2) the same distribution levy multiplied by the ratio of the highest class rate for class 3 property for taxes payable in the year prior to that for which aids are being calculated to the highest class rate for class 3 property for taxes payable in the second prior year to that for which aids are being calculated. In the case of school districts, the fiscal disparity distribution levy shall exclude that part of the levy attributable to equalized school levies as defined in subdivision 2a.

Sec. 23. Laws 1988, chapter 689, article 2, section 256, subdivision 1, is amended to read:

Subdivision 1. [SELECTION OF PROJECTS.] The commissioner of human services shall establish pilot projects to demonstrate the feasibility and cost-effectiveness of alternatives to nursing home care that involve providing coordinated alternative care grant services for all eligible residents in an identified apartment building or complex or other congregate residential setting. The commissioner shall solicit proposals from counties and shall select up to four counties to participate, including at least one metropolitan county and one county in greater Minnesota. The commissioner shall select counties for participation based on the extent to which a proposed project is likely to:

(1) meet the needs of low-income, frail elderly;

(2) enable clients to live as independently as possible;

(3) result in cost-savings by reducing the per person cost of alternative care grant services through the efficiencies of coordinated services; and

(4) facilitate the discharge of elderly persons from nursing homes to less restrictive settings or delay their entry into nursing homes.

Participating counties shall use existing alternative care grant allocations to pay for pilot project services. The counties must contract with a medical assistance-certified home care agency to coordinate and deliver services and must demonstrate to the commissioner that quality assurance and auditing systems have been established. Notwithstanding Minnesota Statutes, section ~~256B.091~~ *256B.0913*, and rules of the commissioner of human services relating to the alternative care ~~grants~~ program, the commissioner may authorize pilot projects to use *a monthly* pre-capitated ~~rates~~ *rate up to 75 percent of the statewide average monthly nursing facility payment rate as defined in Minnesota Statutes, section 256B.0913*; to provide expanded services such as chore services, activities, and meal planning, preparation, and serving; and to waive freedom of choice of vendor to the extent necessary to allow one vendor to provide services to all eligible persons in a residence or building. The commissioner may apply for a waiver of federal requirements as necessary to implement the pilot projects.

Sec. 24. [HOME CARE; INFLATION.]

Subdivision 1. [ALTERNATIVE CARE PROGRAM.] *Notwithstanding Minnesota Statutes, section 256B.0913, subdivision 14, no percentage inflation increase may be provided for the fiscal year ending June 30, 1992. An increase of three percent must be provided for the fiscal year ending June 30, 1993.*

Subd. 2. [MEDICAL ASSISTANCE HOME CARE; INFLATION.] *Notwithstanding Minnesota Statutes, section 256B.0915, subdivision 3, no percentage inflation increase may be provided for the fiscal year ending June 30, 1993.*

Sec. 25. [REVISOR INSTRUCTIONS.]

Subdivision 1. In the next edition of Minnesota Statutes, the revisor shall delete the terms "board for quality assurance" and insert "long-term care planning committee" where found in Minnesota Statutes, sections 144A.071, subdivision 3; 144A.073, subdivision 3; 246.023; and 256B.431, subdivision 2d.

Subd. 2. In the next edition of Minnesota Statutes, the revisor shall delete the term "board" or "board's" and insert the term "committee" or "committee's" as appropriate and where found in Minnesota Statutes, section 144A.073, subdivisions 2 and 3.

Subd. 3. In the next edition of Minnesota Statutes, the revisor of statutes shall change the words "interagency board for quality assurance" to "interagency long-term care planning committee" or "interagency board" to "interagency committee" or "board" to "committee," as appropriate, wherever they appear in Minnesota Statutes. The revisor of statutes is also directed to change the citation "256B.091" wherever it appears in Minnesota Statutes to "256B.0911."

Sec. 26. [REPEALER.]

Minnesota Statutes 1990, sections 144A.31, subdivisions 2 and 3; 256B.0625, subdivisions 6 and 19; 256B.0627, subdivision 3; 256B.091;

256B.431, subdivision 6; and 256B.71, subdivision 5, are repealed.

ARTICLE 8

CRIMINAL JUSTICE

Section 1. Minnesota Statutes 1990, section 3.98, subdivision 1, is amended to read:

Subdivision 1. The head or chief administrative officer of each department or agency of the state government, *including the supreme court*, shall prepare a fiscal note at the request of the chair of the standing committee to which a bill has been referred, or the chair of the house appropriations committee, or the chair of the senate committee on finance.

For purposes of this subdivision, "supreme court" includes all agencies, committees, and commissions supervised or appointed by the state supreme court or the state court administrator.

Sec. 2. Minnesota Statutes 1990, section 3.982, is amended to read:

3.982 [FISCAL NOTES FOR STATE-MANDATED ACTIONS.]

When a bill is introduced and referred to a standing committee, the commissioner of finance shall determine whether the bill proposes a new or expanded mandate on a political subdivision, *a district court, or the public defense system*. If the commissioner determines that a new or expanded mandate is proposed, the commissioner shall direct the appropriate department or agency of state government to prepare a fiscal note identifying the projected fiscal impact of the bill on state government and on the affected ~~political subdivisions~~ *entity*. The commissioner of finance shall be responsible for coordinating the fiscal note process, for assuring the accuracy and completeness of the note, and for ensuring that fiscal notes are prepared, delivered, and updated as provided in this section. The fiscal note shall categorize mandates as program or nonprogram mandates and shall include estimates of the levy impacts of the mandates. To the extent that the bill would impose new fiscal obligations ~~on political subdivisions~~, the note shall indicate the efforts made to reduce those obligations, including consultations made with representatives of the ~~political subdivisions~~ *affected entities*. Chairs of legislative committees receiving bills on rereferrals from other legislative committees may request that fiscal notes be amended to reflect amendments made to the bills by prior committee action. Preparation of the fiscal notes required in this section shall be consistent with section 3.98. The commissioner of finance shall periodically report to and consult with the legislative commission on planning and fiscal policy on the issuance of the notes.

Sec. 3. Minnesota Statutes 1990, section 171.29, subdivision 2, is amended to read:

Subd. 2. (a) A person whose drivers license has been revoked as provided in subdivision 1, except under section 169.121 or 169.123, shall pay a $30 fee before the person's drivers license is reinstated.

(b) A person whose drivers license has been revoked as provided in subdivision 1 under section 169.121 or 169.123 shall pay a ~~$200~~ *$250* fee before the person's drivers license is reinstated to be credited as follows:

(1) ~~25~~ *20* percent shall be credited to the trunk highway fund;

(2) ~~50~~ *55* percent shall be credited ~~to a separate account to be known as~~

~~the county probation reimbursement account. Money in this account may be appropriated to the commissioner of corrections for the costs that counties assume under Laws 1959, chapter 698, of providing probation and parole services to wards of the commissioner of corrections. This money is provided in addition to any money which the counties currently receive under section 260.311, subdivision 5~~ *the general fund*;

(3) ~~ten~~ *eight* percent shall be credited to a separate account to be known as the bureau of criminal apprehension account. Money in this account may be appropriated to the commissioner of public safety and shall be divided as follows: eight percent for laboratory costs; two percent for carrying out the provisions of section 299C.065;

(4) ~~15~~ *12* percent shall be credited to a separate account to be known as the alcohol-impaired driver education account. Money in the account may be appropriated to the commissioner of education for grants to develop alcohol-impaired driver education programs in elementary, secondary, and post-secondary schools. The state board of education shall establish guidelines for the distribution of the grants. *At least $70,000 must be awarded in grants to local school districts.* Each year the commissioner may use $100,000 to administer the grant program and other traffic safety education programs*; and*

(5) five percent shall be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. $100,000 is annually appropriated from the account to the commissioner of human services for traumatic brain injury case management services. The remaining money in the account is annually appropriated to the commissioner of health to establish and maintain the traumatic brain injury and spinal cord injury registry created in section 144.662 and to reimburse the commissioner of jobs and training for the reasonable cost of services provided under section 268A.03, clause (o).

Sec. 4. Minnesota Statutes 1990, section 241.022, is amended to read:

241.022 [GRANTS-IN-AID TO COUNTIES FOR *ADULT* DETENTION FACILITIES *AND PROGRAMS*.]

Subdivision 1. [AUTHORIZATION TO MAKE *FACILITY* GRANTS.] *(a) The commissioner of corrections may, out of money appropriated for the purposes of this section, make grants to counties or groups of counties* for the purpose of assisting *those* counties to construct or rehabilitate local *adult* detention facilities and to assist *counties or* groups of counties in the construction or rehabilitation of regional jails and lockups, work houses, or work farms, and detention and treatment facilities for adult offenders~~, youthful offenders, and delinquent children, and to aid such~~.

Subd. 2. [AUTHORIZATION TO MAKE PROGRAM GRANTS.] *The commissioner of corrections may, out of money appropriated for the purposes of this section, make grants to counties or groups of counties for the purpose of assisting those* counties ~~in developing and maintaining~~ *to develop and maintain* adequate programs and personnel for the education, training, treatment and rehabilitation of persons admitted to ~~such institutions, the commissioner of corrections is hereby authorized and empowered, out of any money appropriated for the purposes of this section, to make grants to such counties~~ *the facilities described in subdivision 1. Eligible programs also include, but are not limited to, alternatives to detention or incarceration programs containing home detention components.*

Subd. 3. [FEDERAL FUNDS.] The commissioner may also receive grants of funds from the federal government or any other lawful source for the ~~purpose of this section, and such~~ *purposes of subdivisions 1 and 2. These* funds are ~~hereby~~ appropriated annually to the commissioner.

Subd. ~~2.~~ *4.* [MINIMUM STANDARDS *FOR FACILITIES.*] The commissioner shall establish minimum standards for the construction, rehabilitation, size, area to be served, training and treatment programs, *and* staff qualifications~~, and projected annual operating costs of~~ *in adult* facilities to be rehabilitated or constructed. Compliance with these standards ~~shall constitute~~ *constitutes* a minimum requirement for the granting of assistance as provided by this section.

Subd. ~~3.~~ *5.* [APPLICATION FOR *FACILITY* GRANTS.] ~~Any~~ *(a) A* county or group of counties operating any of the *adult* facilities described in subdivision 1 or desiring to construct and operate or to rehabilitate existing facilities may apply for assistance under this section by submitting to the commissioner of corrections for approval its plans, specifications, budget, program for training and treatment, and staffing pattern, including personnel qualifications. The commissioner may recommend ~~such~~ changes or modifications as the commissioner ~~deems~~ *considers* necessary to effect substantial compliance with the standards provided in subdivision ~~2~~ *4*. When the commissioner has determined that ~~any~~ *a* county or group of counties has substantially complied with the minimum standards, or is making satisfactory progress toward ~~such~~ compliance, the commissioner may pay to ~~such~~ *the county or groups of* counties an amount not ~~to exceed~~ *more than* 50 percent of the cost of construction or rehabilitation of the facilities described in this section~~, and~~.

(b) In the case of improvement of *a* program and continued operation of ~~any~~ *a* program in ~~a~~ *an adult* regional facility as described in subdivision ~~1~~ *2*, the commissioner may pay to the governing board of ~~such~~ *the* facility a sum not ~~to exceed~~ *more than* $1,800 per year for each adult bed ~~and $3,200 per year for each juvenile bed as approved in the submitted plans and specifications~~.

Subd. ~~4.~~ *6.* [INSPECTION.] The commissioner shall inspect at least annually each *adult* facility covered by this section and review its projected annual operating costs to insure continued compliance with minimum standards, and may withhold funds for noncompliance.

Subd. ~~5.~~ *7.* [LIMITATION OF GRANTS TO FUTURE PROJECTS.] Completion and acceptance of new construction or rehabilitation of existing facilities must occur after ~~June 5, 1971~~ *July 1, 1991*, to enable a county or group of counties to receive any sums provided by this section.

~~This section shall apply only for those projects where a specific appropriation has been made.~~

Sec. 5. [241.0221] [JUVENILE DETENTION SERVICES SUBSIDY PROGRAM.]

Subdivision 1. [DEFINITIONS.] *The definitions in this subdivision apply to this section.*

(a) "Commissioner" means the commissioner of corrections.

(b) "Local detention facility" means a county or multicounty facility that

detains or confines preadjudicated or adjudicated delinquent and nondelinquent offenders, including offenders defined in section 260.015, subdivisions 21, 22, and 23.

(c) "Twenty-four-hour temporary holdover facility" means a physically restricting or a physically unrestricting facility used for up to 24 hours, excluding weekends and holidays, for the care of one or more children who are being detained under chapter 260.

(d) "Twenty-four-hour temporary holdover facility operational subsidy" means a subsidy in an amount not to exceed $7 per hour for wages for staff supervision services provided to a delinquent child held within a 24-hour temporary holdover facility.

(e) "Eight-day temporary holdover facility" means a physically restricting and unrestricting facility of not more than eight beds, two of which must be capable of being physically restricting. The maximum period that a child can be detained under chapter 260 in this facility is eight days, excluding weekends and holidays.

(f) "Eight-day temporary holdover facility operational subsidy" means a subsidy in an amount not to exceed 50 percent of the annual actual operating costs of the facility and not to exceed $100,000, whichever is less.

(g) "Secure juvenile detention center" means a physically restricting facility licensed under Minnesota Rules, chapter 2930, and used for the temporary care of a delinquent child being detained under chapter 260.

(h) "Alternative detention programs" include, but are not limited to, home detention services, transportation services, including programs designed to return runaway children to their legal place of residence, custody detention services, training subsidy programs, and administrative services.

(i) "Secure juvenile detention center subsidy" means the $1,200 per bed subsidy authorized under subdivisions 2 and 5, paragraph (b).

(j) "Transportation service" means transportation of a child who is being detained under chapter 260, including costs of wages, mileage and meal expenses, and costs for transporting and returning delinquent children who have absconded from their legal place of residence.

(k) "Home detention service" means:

(1) supervision of children who are residing at their legal place of residence and who are being detained under chapter 260 and includes costs incurred for wages, mileage, and expenses associated with supervision;

(2) a training subsidy used to pay for expenses incurred in training home detention staff; and

(3) electronic surveillance program costs incurred in electronic monitoring of children who are being detained at home or at their legal place of residence under chapter 260.

(l) "Custody detention service" means secure and nonsecure detention per diem costs for a child who is being detained under chapter 260.

(m) "Training subsidy" means a subsidy associated with training required staff to implement temporary holdover facility programs, transportation services, and home detention services.

(n) "Administrative services" means administering, coordinating, and

implementing the 24-hour temporary holdover facilities, juvenile detention alternative programs involving transportation, home detention, and custody detention services.

(o) "Administrative start-up subsidy" means a subsidy associated with services rendered to get a 24-hour temporary holdover facility established and operating as required and not to exceed $2,000 per facility.

Subd. 2. [AUTHORIZATION TO MAKE SUBSIDIES TO COUNTIES.] *The commissioner may, out of money appropriated for the purposes of this section, subsidize counties or groups of counties to assist in:*

(a) construction or rehabilitation of local detention facilities; and

(b) developing or maintaining adequate local detention facility operations or alternative detention programs.

Subd. 3. [FEDERAL FUNDS.] *The commissioner may also receive funds from the federal government or any other lawful source for the purposes of subdivision 2.*

Subd. 4. [MINIMUM STANDARDS.] *(a) The commissioner shall establish, under chapter 14, minimum standards for the construction or rehabilitation of all local detention facilities and their operations by July 1, 1993. Interim standards developed by the commissioner may be used until that time.*

(b) The commissioner shall establish requirements for alternative detention program subsidies and the maximum amount of funding each eligible participating county can receive. These subsidy requirements are not subject to chapter 14 procedures. Compliance with requirements established by the commissioner constitutes a minimum requirement for the granting of subsidy funding.

Subd. 5. [APPLICATION FOR SUBSIDY FUNDING.] *(a) A county or group of counties operating or desiring to operate any of the facilities defined in subdivision 1 may apply for facility construction or rehabilitation subsidy funds. Applications must be submitted in a format provided by the commissioner. Subsidy funds granted are contingent on approval of plans and budget proposals submitted. The commissioner may recommend changes or modifications as the commissioner considers necessary to effect substantial compliance with the standards established in subdivision 4. When the commissioner has determined that a county or group of counties has substantially complied with the minimum standards, or is making satisfactory progress toward compliance, the commissioner may pay to the county or counties an amount not more than 50 percent of the costs of construction or rehabilitation of the facility or facilities for which a subsidy has been granted, with the following exceptions:*

(1) a 24-hour nonsecure temporary holdover facility may receive a one-time payment of up to a maximum of $3,000 per facility for construction or rehabilitation purposes and furnishings;

(2) a 24-hour secure temporary holdover facility may receive a one-time payment of up to a maximum of $10,000 per facility for construction or rehabilitation purposes and furnishings; and

(3) an eight-day temporary holdover facility may receive a one-time payment of up to a maximum of $10,000 per bed for no more than eight beds for construction or rehabilitation purposes and furnishings.

(b) A county or group of counties operating a secure juvenile detention center may apply for secure juvenile detention center subsidy funds. The commissioner may pay to the governing board of a local secure juvenile detention center a sum not more than $1,200 per year for each secure juvenile bed as approved in the submitted plans and specifications. These subsidy funds must be expended for alternative juvenile detention programs felt to be appropriate by the local governing board. The $1,200 per bed, per year subsidy shall be known as the secure juvenile detention center subsidy.

(c) A county or group of counties operating an eight-day temporary holdover facility may apply for an operational subsidy in an amount not to exceed 50 percent of the facility's approved operational budget. Reimbursement would occur based upon actual expenditures and compliance with standards and requirements established in subdivision 4 and could not exceed $100,000 per year, per facility.

(d) The commissioner may also pay to a county or group of counties a subsidy for alternative detention programs. Subsidies may cover costs for:

(1) home detention services;

(2) transportation services;

(3) custody detention services;

(4) training; and

(5) local administrative services.

(e) Counties operating a juvenile eight-day temporary holdover facility or a secure juvenile detention center are not eligible to receive a subsidy for alternative detention programs described in paragraph (d).

(f) The commissioner may pay to counties desiring to operate a secure or nonsecure 24-hour temporary holdover facility a one-time administrative start-up subsidy of $2,000 for staff services rendered for development and coordination purposes.

Subd. 6. [APPLICATION REVIEW PROCESS FOR SUBSIDY FUNDS.] *To qualify for a subsidy, a county or group of counties must enter into a memorandum of agreement with the commissioner agreeing to comply with the minimum standards and requirements established by the commissioner under subdivision 4. The memorandum of agreement is not subject to the contract approval procedures of the commissioner of administration or chapter 16B. The commissioner shall provide forms and instructions for submission of subsidy applications.*

The commissioner shall require a county or group of counties to document in its application that it is requesting subsidy funds for the least restrictive alternative appropriate to the county or counties detention needs. The commissioner shall evaluate applications and grant subsidies for local detention facilities and alternative detention programs described in this section in a manner consistent with the minimum standards and requirements established by the commissioner in subdivision 4 and within the limit appropriations made available by law.

Subd. 7. [INSPECTION.] *The commissioner shall inspect each local detention facility covered by this section in accordance with requirements set forth in section 241.021 to ensure continued compliance with minimum standards and requirements established by the commissioner in subdivision*

4 and may withhold funds for noncompliance.

Subd. 8. [LIMITATION OF SUBSIDIES.] *Funds for the purposes of subdivision 5, paragraph (a), are available only for construction projects begun after July 1, 1991.*

Sec. 6. Minnesota Statutes 1990, section 244.16, is amended to read:

244.16 [DAY-FINES.]

Subdivision 1. [MODEL SYSTEM.] ~~By June 1, 1991,~~ The sentencing guidelines commission shall develop a model day-fine system. ~~Each judicial district must adopt either the model system or its own day-fine system by January 1, 1992.~~ *The commission shall report its model system to the legislature by February 1, 1993. Upon request of a judicial district, the commission may establish one pilot project for the development of a day-fine system.*

Subd. 2. [COMPONENTS.] A day-fine system adopted under this section must provide for a two-step sentencing procedure for those receiving a fine as part of a probationary felony, *gross misdemeanor, or misdemeanor* sentence. In the first step, the court determines how many punishment points a person will receive, taking into account the severity of the offense and the criminal history of the offender. The second step is to multiply the punishment points by a factor that accounts for the offender's financial circumstances. The goal of the system is to provide a fine that is proportional to the seriousness of the offense and largely equal in impact among offenders with different financial circumstances. The system may provide for community service in lieu of fines for offenders whose means are so limited that the payment of a fine would be unlikely.

Sec. 7. Minnesota Statutes 1990, section 254A.17, subdivision 3, is amended to read:

Subd. 3. [STATEWIDE DETOXIFICATION TRANSPORTATION PROGRAM.] The commissioner shall provide grants to counties, Indian reservations, other nonprofit agencies, or local detoxification programs for provision of transportation of intoxicated individuals to detoxification programs. *Funds shall be allocated among counties annually in proportion to each county's average number of detoxification admissions for the prior two years, except that no county shall receive less than $400. Unless a county has approved a grant of funds under this section, the commissioner shall make quarterly payments of detoxification funds to a county only after receiving an invoice describing the number of persons transported and the cost of transportation services for the previous quarter.*

Sec. 8. Minnesota Statutes 1990, section 299A.21, subdivision 6, is amended to read:

Subd. 6. [COMMISSIONER.] "Commissioner" means the commissioner of ~~public safety~~ *human services.*

Sec. 9. Minnesota Statutes 1990, section 299A.23, subdivision 2, is amended to read:

Subd. 2. [ADVISORY COUNCIL.] An advisory council of 18 members is established under section 15.059. The commissioners of ~~human services~~ *public safety*, health, education, and corrections shall each appoint one member. The subcommittee on committees of the senate and the speaker of the house of representatives shall each appoint two members of their

respective bodies, one from each caucus. The governor shall appoint an additional ten members who shall demonstrate knowledge in the area of child abuse and shall represent the demographic and geographic composition of the state, and to the extent possible, represent the following groups: local government, parents, racial and ethnic minority communities, the religious community, professional providers of child abuse prevention and treatment services, and volunteers in child abuse prevention and treatment services. The council shall advise and assist the commissioner in carrying out sections 299A.20 to 299A.26. The council does not expire as provided by section 15.059, subdivision 5.

Sec. 10. Minnesota Statutes 1990, section 299A.27, is amended to read:

299A.27 [ANNUAL APPROPRIATION.]

All earnings from trust fund assets, all sums received under section 299A.26, and 60 percent of the amount collected under section 144.226, subdivision 3 are appropriated annually from the children's trust fund for the prevention of child abuse to the commissioner of ~~public safety~~ *human services* to carry out sections 299A.20 to 299A.26. In fiscal year 1987 only, the first $75,000 collected under section 144.226, subdivision 3 is appropriated from the children's trust fund for the prevention of child abuse to the commissioner of ~~public safety~~ *human services* to carry out sections 299A.20 to 299A.26.

Sec. 11. Minnesota Statutes 1990, section 401.13, is amended to read:

401.13 [CHARGES MADE TO COUNTIES.]

Each participating county will be charged a sum equal to the per diem cost of confinement of those juveniles committed to the commissioner after August 1, 1973, and confined in a state correctional facility. Provided, however, that the amount charged a participating county for the costs of confinement shall not exceed the amount of subsidy to which the county is eligible~~, and provided further that the counties of commitment shall also pay the per diem herein provided for all persons convicted of a felony for which the penalty provided by law does not exceed five years and confined in a state correctional facility prior to January 1, 1981. A county or group of counties participating in the community corrections act may not be charged for any per diem cost of confinement for adults sentenced to the commissioner of corrections for crimes committed on or after January 1, 1981~~. The commissioner shall annually determine costs ~~and deduct them from the subsidy due and payable to the respective participating counties,~~ making necessary adjustments to reflect the actual costs of confinement. However, in no case shall the percentage increase in the amount charged to the counties exceed the percentage by which the appropriation for the purposes of sections 401.01 to 401.16 was increased over the preceding biennium. *The commissioner of corrections shall bill the counties and deposit the receipts from the counties in the general fund.* All charges shall be a charge upon the county of commitment.

Sec. 12. Minnesota Statutes 1990, section 471.705, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise expressly provided by statute, all meetings, including executive sessions, of any state agency, board, commission or department when required or permitted by law to transact public business in a meeting, and the governing body of any school district however organized, unorganized territory, county, city, town, or other public body,

and of any committee, subcommittee, board, department or commission thereof, shall be open to the public, except meetings of ~~the board of pardons and~~ the commissioner of corrections. The votes of the members of such state agency, board, commission or department or of such governing body, committee, subcommittee, board, department or commission on any action taken in a meeting herein required to be open to the public shall be recorded in a journal kept for that purpose, which journal shall be open to the public during all normal business hours where such records are kept. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute. This section shall not apply to any state agency, board, or commission when exercising quasi-judicial functions involving disciplinary proceedings.

Sec. 13. Minnesota Statutes 1990, section 631.425, subdivision 3, is amended to read:

Subd. 3. [CONTINUATION OF EMPLOYMENT.] If the person committed under this section has been regularly employed, the sheriff shall arrange for a continuation of the employment insofar as possible without interruption. If the person is not employed, the ~~sheriff or any~~ *court may designate a* suitable person or agency ~~designated by the court shall make every effort~~ *to make reasonable efforts* to secure some suitable employment for that person. An inmate employed under this section must be paid a fair and reasonable wage for work performed and must work at fair and reasonable hours per day and per week.

Sec. 14. Minnesota Statutes 1990, section 631.425, subdivision 7, is amended to read:

Subd. 7. [VIOLATION OF SENTENCE; PROCEDURE.] If the inmate violates a condition of work release relating to conduct, custody, or employment, the ~~inmate must be returned to the court. The court then (1) may require that the balance of the inmate's sentence be spent in actual confinement, (2) may cancel any earned reduction of the inmate's term, and (3) may find~~ *correctional facility administrator may require that the inmate spend the balance of the inmate's sentence in actual confinement. The facility administrator shall give the inmate an opportunity to be heard before implementing this decision. On appeal by the inmate within seven days, the court must review the facility administrator's decision and, in its review, may (1) uphold or reverse the decision; and (2) order additional sanctions for the work release violation, including canceling any earned reduction in the inmate's term and finding* the inmate in contempt of court.

Sec. 15. Minnesota Statutes 1990, section 638.04, is amended to read:

638.04 [MEETINGS.]

The board of pardons shall hold meetings at least twice each year *and shall hold a meeting whenever it takes formal action on an application for a pardon or commutation of sentence. All board meetings shall be open to the public as provided in section 471.705.*

The victim of an applicant's crime has a right to submit an oral or written statement at the meeting. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the application for a pardon or commutation should be granted or denied. In addition, any law enforcement agency may submit an oral or written statement at the meeting, giving its recommendation on whether the application should be granted or denied. The board must consider the

victim's and the law enforcement agency's statement when making its decision on the application.

Sec. 16. Minnesota Statutes 1990, section 638.05, is amended to read:

638.05 [APPLICATION FOR PARDON.]

Every application for a pardon or commutation of sentence shall be in writing, addressed to the board of pardons, signed by the convict or some one in the convict's behalf, shall state concisely the grounds upon which the pardon or commutation is sought, and in addition shall contain the following facts:

(1) The name under which the convict was indicted, and every alias by which known;

(2) The date and terms of sentence, and the names of the offense for which it was imposed;

(3) The name of the trial judge and the county attorney who participated in the trial of the convict, together with that of the county of trial;

(4) A succinct statement of the evidence adduced at the trial, with the endorsement of the judge or county attorney who tried the case that the same is substantially correct; if such statement and endorsement are not furnished, the reason thereof shall be stated;

(5) The age, birthplace, parentage, and occupation and residence of the convict during five years immediately preceding conviction;

(6) A statement of other arrests, indictments, and convictions, if any, of the convict.

Every application for a pardon or commutation of sentence shall contain a statement by the applicant consenting to the disclosure to the board of any private data concerning the applicant contained in the application or in any other record relating to the grounds on which the pardon or commutation is sought.

Sec. 17. Minnesota Statutes 1990, section 638.06, is amended to read:

638.06 [ACTION ON APPLICATION.]

Every such application shall be filed with the clerk of the board of pardons. If an application for a pardon or commutation has been once heard and denied on the merits, no subsequent application shall be filed without the consent of two members of the board endorsed thereon. The clerk shall, immediately on receipt of any application, mail notice thereof, and of the time and place of hearing thereon, to the judge of the court wherein the applicant was tried and sentenced, and to the prosecuting attorney who prosecuted the applicant, or a successor in office~~; provided, pardons or commutations of sentence of persons committed to a county jail or workhouse may be granted by the board without notice~~. *The clerk shall also make all reasonable efforts to locate any victim of the applicant's crime. The clerk shall mail notice of the application and the time and place of the hearing to any victim who is located. This notice shall specifically inform the victim of the victim's right to be present at the hearing and to submit an oral or written statement to the board as provided in section 638.04.*

Sec. 18. Minnesota Statutes 1990, section 643.29, subdivision 1, is amended to read:

Subdivision 1. ["GOOD CONDUCT" ALLOWANCE.] Any person sentenced for a term to any county jail, workhouse, or correctional work farm, *whether the term is part of an executed sentence or is imposed as a condition of probation*, shall, *when sentenced to serve ten days or more*, diminish the term of the sentence ~~five days~~ *one day* for each ~~month~~ *two days served*, commencing on the day of arrival, during which the person has not violated any rule or discipline of the place wherein the person is incarcerated and, if required to labor, has labored with diligence and fidelity.

Sec. 19. Laws 1989, chapter 290, article 1, section 3, subdivision 2, is amended to read:

Subd. 2. Correctional Institutions	14,470,000	16,519,000

Of this amount $5,713,000 in fiscal year 1990 and $9,337,000 in fiscal year 1991 are to pay operating costs of the facility at Faribault. The department's complement is increased by up to 245 positions in both years of the biennium.

Of this amount $1,957,000 is to pay startup costs associated with conversion of portions of the regional treatment center at Faribault to a medium-security correctional facility.

Of this amount, $63,000 in fiscal year 1990 and $332,000 in fiscal year 1991 are to establish and operate two additional sex offender programs within state correctional facilities. The department's complement is increased by one position in 1990 and up to eight positions in 1991.

Any unexpended money in the fiscal year 1990 appropriation for conversion and operation of the facility at Faribault is available in fiscal year 1991.

During the biennium ending June 30, 1991, the commissioner shall give preference in recruiting, training, and hiring to employees of the department of human services whose positions are eliminated by implementation of the regional treatment center restructuring plan when filling correctional facility positions located on regional treatment center campuses.

Agreements between the commissioner of corrections and the commissioner of human services concerning operation of a correctional facility on a campus of a regional treatment center shall include provisions for operation of the kitchen and laundry facilities by the commissioner of human services. The department of human services shall operate the kitchen and laundry facilities until the department of human services has completed its restructuring plan at the regional treatment center.

~~Rogers Hall at Faribault regional treatment center may be used by the department of human services for developmentally disabled persons and may not be used by the department of corrections until the legislature specifically authorizes another use for the building.~~

The commissioner may enter into agreements with the appropriate officials of any state, political subdivision, or the United States, for housing prisoners in Minnesota correctional facilities. Money received under the agreements is appropriated to the commissioner for correctional purposes.

Sec. 20. [CRIMINAL JUSTICE RESOURCE MANAGEMENT.]

Subdivision 1. [CRIMINAL JUSTICE RESOURCE MANAGEMENT PLAN.] *By January 1, 1993, the judges of each judicial district shall complete a final written criminal justice resource management plan to implement the goal of ensuring the fair and economical use of the criminal justice system resources within the district and the continued effective implementation of the district's case management plan. Each criminal justice resource management plan must address the following issues:*

(1) the relationship of the judicial district's case management plan to its use of the correctional resources within the judicial district;

(2) the role of individual judicial discretion in the use of the resources within the district. In addressing this issue, the plan shall make specific reference to the data and information submitted in the reports of the supreme court gender fairness and racial bias task forces and shall specifically provide for implementation of the findings of the task forces;

(3) the use of pretrial evaluation, bail, pretrial detention, and pretrial supervision and counseling;

(4) the use of criminal justice diversion programs;

(5) the role and use of intermediate sanctions such as community service, economic sanctions such as fines or day-fine programs, and sentencing to service programs;

(6) the presentence investigation process and the posttrial probation supervision process;

(7) the housing of various categories of nonviolent offenders;

(8) the adequacy of sharing of correctional resources between counties contained within multicounty judicial districts;

(9) the role of new correctional technologies such as electronic home monitoring or auto ignition interlocking devices;

(10) the use of treatment alternatives involving chemical dependency, sex offender treatment, and other psychological services; and

(11) the adequacy of existing correctional facilities and the possible need for a new correctional facility.

Subd. 2. [PRINCIPLES; ASSISTANCE.] *By September 1, 1991, the sentencing guidelines commission shall develop principles to guide judicial*

districts in developing judicial district resource management plans. The commission shall provide technical assistance in developing the plans to districts that request assistance.

Subd. 3. [REVIEW OF JUDICIAL DISTRICT RESOURCE MANAGEMENT PLAN.] *(a) Each judicial district shall submit its preliminary criminal justice resource management plan to the conference of chief judges by July 1, 1992. The conference shall review the plan and make recommendations it deems appropriate. Specifically, the conference shall address the adequacy and use of the sharing of correctional resources among judicial districts.*

(b) A copy of the final draft of each judicial district's criminal justice resource management plan, along with the conference of chief judges' recommendations for changes in rules, criminal procedure, and statutes, must be filed with the chairs of the judiciary committees in the house of representatives and the senate by February 1, 1993.

Sec. 21. [TASK FORCE ON CORRECTIONS CROWDING.]

Subdivision 1. [MEMBERSHIP.] *(a) The commissioner of corrections shall establish a task force on corrections crowding. The commissioner of corrections shall appoint 12 members, including representatives from among local government officials, law enforcement, the judiciary, local corrections, business and industry, experts in juvenile and criminal justice, the public, the state planning agency, the sentencing guidelines commission, the department of finance, and the department of corrections.*

Subd. 2. [DUTIES.] *The task force on corrections crowding shall examine the short- and long-range demand for correctional services and facilities and prepare a ten-year plan that fashions a corrections system for the 1990s. The task force shall:*

(1) examine the relationship, interdependence, financing, and functions of the state and local correctional systems;

(2) review the entire system including felonies, gross misdemeanors, and misdemeanors;

(3) address the need for juvenile and adult, male and female correctional services and facilities;

(4) review the community corrections act and its funding formula;

(5) examine the increase of mentally ill correctional clients;

(6) recommend an equitable and effective solution for the short-term prison offender;

(7) examine the state's approach to pretrial detention, housing of various categories of nonviolent offenders, prerelease counseling, and postrelease supervision; and

(8) conduct informational forums across the state to solicit ideas and concerns regarding corrections crowding.

Subd. 3. [REPORT.] *The task force shall make an interim report to the governor and the legislature by January 1, 1992. The task force shall complete its examination of these matters and make a final report to the governor and legislature by January 1, 1993.*

Sec. 22. [METROPOLITAN AREA CORRECTIONS REPORT.]

The county correctional administrators of the metropolitan area, as defined in Minnesota Statutes, section 473.121, shall report to the legislature by January 1, 1992, concerning the steps taken by those counties to:

(1) alleviate correctional crowding; and

(2) speed the processing of offenders through the system.

Sec. 23. [EMPLOYMENT AND EDUCATION PILOT PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] *A pilot program is established to provide adolescents with opportunities for gaining a high school diploma, exploring occupations, evaluating vocational options, receiving career and life skills counseling, developing and pursuing personal goals, and participating in community-based projects. Two pilot projects shall be funded under the program and shall be targeted for young people as defined in Laws 1990, chapter 562, article 4, section 12, between the ages of 14 and 18 who, because of a lack of personal resources and skills, need assistance in setting and realizing education and employment goals and in becoming contributing members of their community.*

Subd. 2. [ELIGIBILITY.] *(a) An applicant for a pilot project grant must be a (1) school district, (2) education district, (3) group of districts cooperating for a particular purpose, or (4) eligible program under contract with a school district to provide educational services in the high school graduation incentives program under Minnesota Statutes, section 126.22. To meet the requirement in paragraph (b), clause (1), an applicant may apply jointly with a provider of an employment and training program administered through the department of jobs and training.*

(b) To be eligible for a pilot project grant, an applicant must meet all of the following criteria:

(1) have operated or must be applying jointly with an entity which has operated a youth employment program serving targeted young people, administered through the department of jobs and training, for at least two years before applying for the grant;

(2) have operated a specialized or nontraditional education program designed to meet the needs of targeted young people, for at least two years before applying for the grant;

(3) develop a plan to identify and assess the knowledge, skills, and aptitudes of targeted young people under subdivision 1; and

(4) must use the results of the assessment to provide appropriate education and employment opportunities to targeted young people that promote a sense of self-sufficiency, self-esteem, and community.

Subd. 3. [APPLICATION PROCESS.] *To obtain a pilot project grant under this section, an applicant must submit an application to the commissioner of jobs and training in the form and manner prescribed by the commissioner after consultation with the commissioner of education. The application must describe how the applicant will assist targeted young people to set useful education and employment goals, secure meaningful employment, and lead productive lives within their community. The applicant must also indicate what resources will be available to continue the program if it is found to be effective. The commissioner may require additional information from an applicant.*

Subd. 4. [REVIEWING APPLICATIONS.] *When reviewing applications,*

the commissioner shall determine whether all the requirements in subdivisions 2 and 3 are met. The commissioner, in consultation with the commissioner of education, shall, at a minimum, consider the following when reviewing applications:

(1) the education and employment activities proposed for the program;

(2) the demonstrated effectiveness of the applicant or joint applicants as a provider of similar services to targeted young people;

(3) the attraction and use of other resources including federal and state education funding, federal and state employment training funding, local and private funding, and targeted jobs tax credits in funding the proposed programs;

(4) the availability of both the education and employment components of the program on a year-round basis; and

(5) diversity in the geographic location and delivery mechanism of the proposed programs.

Subd. 5. [GRANT AWARDS.] *The commissioner may award up to two pilot project grants, one in the seven-county metropolitan area and one in outstate Minnesota. Up to ten percent of the Minnesota youth program slots in the service delivery areas of the successful grantees shall be made available for the purposes of this section.*

Subd. 6. [PRELIMINARY REPORT.] *The commissioner shall provide a preliminary report on the employment and education projects to the education and judiciary committees of the legislature no later than February 1, 1992. The report shall describe the projects which have been funded and shall include any preliminary information on the implementation and results of the projects.*

Sec. 24. [TRANSFER OF CHILDREN'S TRUST FUND TO DEPARTMENT OF HUMAN SERVICES.]

Subdivision 1. [COMMISSIONER OF HUMAN SERVICES.] *All powers and duties imposed on the commissioner of public safety relating to the children's trust fund for the prevention of child abuse under Minnesota Statutes, sections 299A.20 to 299A.27 are transferred to and imposed on the commissioner of human services.*

Subd. 2. [TRANSFER OF POWER.] *The provisions of Minnesota Statutes, section 15.039, apply to the transfer of power and duties of the commissioner of public safety imposed by Minnesota Statutes, sections 299A.20 to 299A.27 to the commissioner of human services.*

Subd. 3. [ADVISORY COUNCIL.] *On transfer of powers and duties to the commissioner of human services, the members of the advisory board established under Minnesota Statutes, section 299A.23, subdivision 2, shall continue to serve the remainder of their terms. Upon completion of their terms, the new appointing authority may appoint successors as provided by law.*

Sec. 25. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall renumber each section of Minnesota Statutes specified in column A with the number set forth in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

Column A	*Column B*
299A.20	*257.80*
299A.21	*257.801*
299A.22	*257.802*
299A.23	*257.803*
299A.24	*257.804*
299A.25	*257.805*
299A.26	*257.806*
299A.27	*257.807*

Sec. 26. [EFFECTIVE DATE.]

Sections 13 and 14 are effective August 1, 1991, and apply to sentences imposed after that date.

ARTICLE 9

HOUSING

Section 1. Minnesota Statutes 1990, section 116C.04, is amended by adding a subdivision to read:

Subd. 11. The environmental quality board shall coordinate the implementation of an interagency compliance with existing state and federal lead regulations and report to the legislature by January 31, 1992, on the changes in programs needed to comply.

Sec. 2. Minnesota Statutes 1990, section 144.871, subdivision 2, is amended to read:

Subd. 2. [ABATEMENT.] "Abatement" means removal or encapsulation of paint, bare soil, dust, drinking water, or other materials that are ~~sources~~ *readily accessible and pose an immediate threat* of actual lead exposure to people. The abatement rules to be adopted under section 144.878, subdivision 2, shall apply as described in section 144.874.

Sec. 3. Minnesota Statutes 1990, section 144.871, subdivision 7, is amended to read:

Subd. 7. [ENCAPSULATION.] "Encapsulation" means covering, sealing, *painting, resurfacing to make smooth before repainting,* or containment of a source of lead ~~exposure to people~~.

Sec. 4. [144.8721] [LEAD-RELATED CONTRACTS FOR FISCAL YEARS 1992 AND 1993.]

For fiscal years 1992 and 1993, the commissioner shall conduct, or contract with boards of health to conduct, assessments to determine sources of lead contamination in the residences of children and pregnant women whose blood levels exceed ten micrograms per deciliter. For fiscal years 1992 and 1993, the commissioner shall also provide, or contract with boards of health to provide, education on ways of reducing the danger of lead contamination.

Sec. 5. Minnesota Statutes 1990, section 144.873, subdivision 1, is amended to read:

Subdivision 1. [REPORT REQUIRED.] Medical laboratories performing blood lead analyses must report to the commissioner confirmed blood lead results of at least five micrograms per deciliter. Boards of health must report to the commissioner the results of analyses from residential samples of

paint, bare soil, dust, and drinking water that show lead in concentrations greater than or equal to the lead standards adopted by permanent rule under section 144.878~~, subdivision 2, paragraphs (a) and (c)~~. The commissioner shall require other related information from medical laboratories and boards of health as may be needed to monitor and evaluate blood lead levels in the public, including the date of the test and the address of the patient.

Sec. 6. Minnesota Statutes 1990, section 144.874, subdivision 1, is amended to read:

Subdivision 1. [RESIDENCE ASSESSMENT.] (a) A board of health must conduct a timely assessment of a residence to determine sources of lead exposure if:

(1) a pregnant woman in the residence is identified as having a blood lead level of at least ten micrograms of lead per deciliter of whole blood; or

(2) a child in the residence is identified as having an elevated blood lead level. If a child regularly spends several hours per day at another residence, such as a residential child care facility, the board of health must also assess the other residence.

(b) The board of health must conduct the residential assessment according to rules adopted by the commissioner according to section 144.878~~, subdivision 1~~.

Sec. 7. Minnesota Statutes 1990, section 144.874, subdivision 2, is amended to read:

Subd. 2. [RESIDENTIAL LEAD ASSESSMENT GUIDE.] (a) The commissioner of health shall develop *or purchase* a residential lead assessment guide that enables parents to assess the possible lead sources present and that suggests actions.

(b) A board of health must provide the residential lead assessment guide to:

(1) parents of children who are identified as having blood lead levels of at least ten micrograms per deciliter; and

(2) property owners and occupants who are issued housing code orders requiring disruption of lead sources.

(c) A board of health must provide the residential lead assessment guide on request to owners or tenants of residential property within the jurisdiction of the board of health.

Sec. 8. Minnesota Statutes 1990, section 144.874, subdivision 3, is amended to read:

Subd. 3. [ABATEMENT ORDERS.] A board of health must order a property owner to perform abatement on a lead source that exceeds a standard adopted according to section 144.878~~, subdivision 2, paragraph (a),~~ at the residence of a child with an elevated blood lead level or a pregnant woman with a blood lead level of at least ten micrograms per deciliter. Abatement orders must require that any source of damage, such as leaking roofs, plumbing, and windows, must be repaired or replaced, as needed, to prevent damage to lead-containing interior surfaces. With each abatement order, the board of health must provide a residential lead abatement guide. The guide must be developed *or purchased* by the commissioner and must

provide information on safe abatement and disposal methods, sources of equipment, and telephone numbers for additional information to enable the property owner to either perform the abatement or to intelligently select an abatement contractor.

Sec. 9. Minnesota Statutes 1990, section 144.874, is amended by adding a subdivision to read:

Subd. 8. [AUTHORITY OF COMMISSIONER.] *The commissioner may carry out the duties assigned to boards of health in subdivisions 1 to 6.*

Sec. 10. Minnesota Statutes 1990, section 144.874, is amended by adding a subdivision to read:

Subd. 9. [PRIMARY PREVENTION.] *Although children who are found to already have elevated blood lead levels must have the highest priority for intervention, the commissioner shall pursue primary prevention of lead poisoning within the limits of appropriations.*

Sec. 11. Minnesota Statutes 1990, section 144.874, is amended by adding a subdivision to read:

Subd. 10. [REGISTERED CONTRACTORS.] *State-subsidized lead abatement shall be conducted by registered lead abatement contractors.*

Sec. 12. Minnesota Statutes 1990, section 144.874, is amended by adding a subdivision to read:

Subd. 11. [VOLUNTARY ABATEMENT.] *The commissioner shall enforce the rules under section 144.878 in cases of voluntary lead abatement.*

Sec. 13. Minnesota Statutes 1990, section 144.874, is amended by adding a subdivision to read:

Subd. 12. [ENFORCEMENT REPORT.] *The commissioner shall examine compliance with Minnesota's existing lead standards and rules and report to the legislature by January 15, 1992, on an evaluation of current levels of compliance, the need for any additional enforcement procedures, recommendations on developing a method to enforce compliance with lead standards and cost estimates for any proposed enforcement procedure.*

Sec. 14. Minnesota Statutes 1990, section 268.39, is amended to read:

268.39 [LIFE SKILLS AND EMPLOYMENT GRANTS.]

The commissioner may provide grants to organizations for the development and administration of life skills and employment plans for homeless individuals that reside in residential units constructed or rehabilitated under section 462A.05, subdivision ~~29~~ *20*. Grants awarded under this section may also be used for the management of these residential units. The organizations that receive grants under this section must coordinate their efforts with organizations that receive grants under section 462A.05, subdivision ~~29~~ *20*.

A life skills and employment plan must be developed for each tenant residing in a dwelling that receives funding under section 462A.05, subdivision ~~29~~ *20*. The plan may include preapprentice and apprenticeship training in the area of housing rehabilitation. If preapprentice and apprenticeship training is part of a plan, the organization must consult with labor organizations experienced in working with apprenticeship programs. The completion or compliance with the individual life skills and employment plan must be required for a tenant to remain in a unit constructed or rehabilitated under section 462A.05, subdivision ~~29~~ *20*.

The application for a grant under this section must include a plan that must provide for:

(1) training for tenants in areas such as cleaning and maintenance, payment of rent, and roommate skills, and

(2) tenant selection and rental policies that ensure rental of units to people who are homeless if applicable.

The applicant must provide a proposed occupancy contract if applicable, the name and address of the rental agent if applicable, and other information the commissioner considers necessary with the application.

The commissioner may adopt permanent rules to administer this grant program.

Sec. 15. Minnesota Statutes 1990, section 462A.03, subdivision 10, is amended to read:

Subd. 10. "Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin ~~or~~, sex, *or status with respect to guardianship or conservatorship,* determined by the agency to require such assistance as is made available by sections 462A.01 to 462A.24 on account of personal or family income not sufficient to afford adequate housing. In making such determination the agency shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs, (b) the size of the family, (c) the cost and condition of housing facilities available, (d) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing. In the case of federally subsidized mortgages with respect to which income limits have been established by any agency of the federal government having jurisdiction thereover for the purpose of defining eligibility of low and moderate income families, the limits so established shall govern under the provision of sections 462A.01 to 462A.24. In all other cases income limits for the purpose of defining low or moderate income persons shall be established by the agency by emergency or permanent rules.

Sec. 16. Minnesota Statutes 1990, section 462A.03, subdivision 13, is amended to read:

Subd. 13. "Eligible mortgagor" means a nonprofit or cooperative housing corporation, *the department of administration for the purpose of developing community-based programs as defined in sections 252.50 and 253.28,* limited profit entity or a builder as defined by the agency in its rules, which sponsors or constructs residential housing as defined in subdivision 7, or a natural person of low or moderate income, except that the return to a limited dividend entity shall not exceed ten percent of the capital contribution of the investors or such lesser percentage as the agency shall establish in its rules; provided that residual receipts funds of a limited dividend entity may be used for agency-approved, housing-related investments owned by the limited dividend entity without regard to the limitation on returns. Owners of existing residential housing occupied by renters shall be eligible for rehabilitation loans, only if, as a condition to the issuance of the loan, the owner agrees to conditions established by the agency in its rules relating to rental or other matters that will insure that the housing will be occupied by persons and families of low or moderate income. The agency shall require by rules that the owner give preference to those persons of low or moderate

income who occupied the residential housing at the time of application for the loan.

Sec. 17. Minnesota Statutes 1990, section 462A.03, subdivision 16, is amended to read:

Subd. 16. "Mentally ill person" ~~shall have the meaning prescribed by section 253B.02, subdivision 13~~ *means a person with a mental illness, an adult with an acute mental illness, or a person with a serious and persistent mental illness, as prescribed by section 245.462, subdivision 20.*

Sec. 18. Minnesota Statutes 1990, section 462A.03, is amended by adding a subdivision to read:

Subd. 22. [NONPROFIT ORGANIZATION.] *"Nonprofit organization" means a housing and redevelopment authority established under sections 469.001 to 469.047, or other law, or a partnership, joint venture, corporation, or association which is established for a purpose not involving pecuniary gain to the members, partners, or shareholders; pays no dividends or other pecuniary remuneration to the members, partners, or shareholders; and in the case of a private nonprofit corporation, is established under chapter 317A and is in compliance with chapter 317A. A nonprofit organization does not include a limited dividend entity.*

Sec. 19. Minnesota Statutes 1990, section 462A.05, subdivision 14, is amended to read:

Subd. 14. [REHABILITATION LOANS.] It may agree to purchase, make, or otherwise participate in the making, and may enter into commitments for the purchase, making, or participation in the making, of eligible loans for rehabilitation to persons and families of low and moderate income, and to owners of existing residential housing for occupancy by such persons and families, for the rehabilitation of existing residential housing owned by them. The loans may be insured or uninsured and may be made with security, or may be unsecured, as the agency deems advisable. The loans may be in addition to or in combination with long-term eligible mortgage loans under subdivision 3. They may be made in amounts sufficient to refinance existing indebtedness secured by the property, if refinancing is determined by the agency to be necessary to permit the owner to meet the owner's housing cost without expending an unreasonable portion of the owner's income thereon. No loan for rehabilitation shall be made unless the agency determines that the loan will be used primarily to make the housing more desirable to live in, to increase the market value of the housing, for compliance with state, county or municipal building, housing maintenance, fire, health or similar codes and standards applicable to housing, or to accomplish energy conservation related improvements. In unincorporated areas and municipalities not having codes and standards, the agency may, solely for the purpose of administering the provisions of this chapter, establish codes and standards. *Except for accessibility improvements under subdivision 14d,* no loan for rehabilitation of any property shall be made in an amount which, with all other existing indebtedness secured by the property, would exceed its market value, as determined by the agency. No loan under this subdivision shall be denied solely because the loan will not be used for placing the residential housing in full compliance with all state, county, or municipal building, housing maintenance, fire, health, or similar codes and standards applicable to housing. Rehabilitation loans shall be made only when the agency determines that financing is not otherwise available, in whole or in part, from private lenders upon equivalent terms and

conditions.

Sec. 20. Minnesota Statutes 1990, section 462A.05, is amended by adding a subdivision to read:

Subd. 14d. [ACCESSIBILITY LOAN PROGRAM.] *Rehabilitation loans authorized under subdivision 14 may be made to eligible persons and families whose income does not exceed the maximum income limits allowable under section 143(f) of the Internal Revenue Code of 1986, as amended through June 30, 1991.*

A person or family is eligible to receive an accessibility loan under the following conditions:

(1) the borrower or a member of the borrower's family requires a level of care provided in a hospital, skilled nursing facility, or intermediate care facility for persons with mental retardation or related conditions;

(2) home care is appropriate; and

(3) the improvement will enable the borrower or a member of the borrower's family to reside in the housing.

Sec. 21. Minnesota Statutes 1990, section 462A.05, is amended by adding a subdivision to read:

Subd. 15c. [RESIDENTIAL LEAD ABATEMENT.] *It may make or purchase loans or grants for the abatement of hazardous levels of lead paint in residential buildings and lead contaminated soil on the property of residential buildings occupied by low- and moderate-income persons. Hazardous levels are as determined by the department of health or the pollution control agency. The agency must establish grant criteria for a residential lead paint and lead contaminated soil abatement program, including the terms of loans and grants under this section, a maximum amount for loans or grants, eligible owners, eligible contractors, and eligible buildings. The agency may make grants to cities, local units of government, registered lead abatement contractors, and nonprofit organizations for the purpose of administering a residential lead paint and contaminated lead soil abatement program. No loan or grant may be made for lead paint abatement for a multifamily building which contains substantial housing maintenance code violations unless the violations are being corrected in conjunction with receipt of the loan or grant under this section. The agency must establish standards for the relocation of families where necessary and the payment of relocation expenses. To the extent possible, the agency must coordinate loans and grants under this section with existing housing programs.*

The agency, in consultation with the department of health, shall report to the legislature by January 1993 on the costs and benefits of subsidized lead abatement and the extent of the childhood lead exposure problem. The agency shall review the effectiveness of its existing loan and grant programs in providing funds for residential lead abatement and report to the legislature with examples, case studies and recommendations.

Sec. 22. Minnesota Statutes 1990, section 462A.05, subdivision 20, is amended to read:

Subd. 20. [SPECIAL NEEDS HOUSING FOR HOMELESS PERSONS.] *(a)* The agency may make loans or grants to ~~for profit, limited dividend, or nonprofit sponsors, as defined by the agency,~~ *eligible mortgagors* for *the acquisition, rehabilitation, and construction of* residential housing to be

used ~~to provide~~ *for the following purposes:*

(1) temporary or transitional housing ~~to low- and moderate-income~~ *for low-income* persons and families having an immediate need for temporary or transitional housing as a result of natural disaster, resettlement, condemnation, displacement, lack of habitable housing, or other cause *as* defined by the agency. *Loans or grants for residential housing for migrant farmworkers may be made under this paragraph. Residential housing for migrant farmworkers must contain cooking, sleeping, bathroom facilities, and hot and cold running water in the same structure;*

(2) housing to be used by low-income persons living alone; and

(3) housing for homeless individuals and families.

(b) Housing under this subdivision must be for low-income families and individuals.

(c) The agency may make planning grants to nonprofit organizations to develop coordinated training and housing programs for homeless adults.

(d) Loans or grants ~~pursuant to~~ *under* this subdivision ~~shall~~ *must* not be used for residential care facilities ~~or~~, for facilities that provide housing available for occupancy on less than a 24-hour continuous basis, *or for any residential housing that requires occupants to accept board as well as lodging.* ~~To the extent possible, a sponsor shall combine the loan or grant with other funds obtained from public and private sources. In making loans or grants, the agency shall determine the circumstances under which and the terms and conditions under which all or any portion thereof will be repaid and the appropriate security should repayment be required.~~

(e) Loans or grants under this subdivision must not exceed 50 percent of the development costs. Donated property may be used to satisfy the match requirement.

(f) All occupants of permanent housing financed under this subdivision must be offered a written lease that complies with section 325G.31, offers the occupants the option to renew, and prohibits eviction of an occupant without good cause.

(g) Priority must be given to viable proposals with the total lowest cost per person served.

(h) The selection criteria for the program must include the following: the extent to which proposals use donated, leased, abandoned, or empty dwellings owned by a public entity or property being sold by the Resolution Trust Corporation or the Department of Housing and Urban Development; and the extent to which applicants consulted with advocates for the homeless, representatives from neighborhood groups, and representatives from labor organizations in preparing the proposal.

Sec. 23. Minnesota Statutes 1990, section 462A.05, is amended by adding a subdivision to read:

Subd. 20a. [SPECIAL NEEDS HOUSING FOR CHEMICALLY DEPENDENT ADULTS.] *(a) The agency may make loans or grants to for-profit, limited-dividend, or nonprofit sponsors, as defined by the agency, for residential housing to be used to provide temporary or transitional housing to low- and moderate-income persons and families having an immediate need for temporary or transitional housing as a result of natural disaster, resettlement, condemnation, displacement, lack of habitable housing, or other*

cause defined by the agency.

(b) Loans or grants for housing for chronic chemically dependent adults may be made under this subdivision. Housing for chronic chemically dependent adults must satisfy the following conditions:

(1) be certified by the department of health or the city as a board and lodging facility or single residence occupancy housing;

(2) meet all applicable health, building, fire safety, and zoning requirements;

(3) be located in an area significantly distant from the present location of county detoxification service sites;

(4) make available the services of trained personnel to appraise each client before or upon admission and to provide information about medical, job training, and chemical dependency services as necessary;

(5) provide on-site security designed to assure the health and safety of clients, staff, and neighborhood residents; and

(6) operate with the guidance of a neighborhood-based board.

Priority for loans and grants made under this paragraph must be given to proposals that address the needs of the Native American population and veterans of military services for this type of housing.

(c) Loans or grants pursuant to this subdivision must not be used for facilities that provide housing available for occupancy on less than a 24-hour continuous basis. To the extent possible, a sponsor shall combine the loan or grant with other funds obtained from public and private sources. In making loans or grants, the agency shall determine the circumstances, terms, and conditions under which all or any portion of the loan or grant will be repaid and the appropriate security should repayment be required.

Sec. 24. Minnesota Statutes 1990, section 462A.05, is amended by adding a subdivision to read:

Subd. 36. [LEASE-PURCHASE HOUSING.] *The agency may make grants or loans to nonprofit organizations, local government units, Indian tribes, and Indian tribal organizations to finance the acquisition, improvement, rehabilitation, and lease-purchase of existing housing for persons of low and moderate income. A person or family is eligible to participate in a lease-purchase agreement if the person's or family's income does not exceed 60 percent of the greater of (1) state median income, or (2) area or county median income. The lease agreement must provide for a portion of the lease payment to be escrowed as a down payment on the housing. A property containing two or fewer dwelling units is eligible for financing under the lease-purchase housing program. A loan made under this subdivision must be repaid to the agency upon sale of the housing. The agency may only make grants or loans under this subdivision from funds specifically appropriated by the legislature for that purpose.*

Sec. 25. Minnesota Statutes 1990, section 462A.05, is amended by adding a subdivision to read:

Subd. 37. [BLIGHTED RESIDENTIAL PROPERTY ACQUISITION AND REHABILITATION; NEIGHBORHOOD LAND TRUST.] *The agency may make grants to cities for the purpose of acquisition and demolition of blighted residential property and gap financing for the rehabilitation of*

blighted residential property or construction of new housing on the property. Gap financing is financing for the difference between the cost of the improvement of the blighted property, including acquisition, demolition, rehabilitation, and construction, and the market value of the property upon sale. Grants under this section must be used for households with income less than or equal to the county or area median income as determined by the United States Department of Housing and Urban Development. Cities may use the grants to establish revolving loan funds and provide loans and grants to eligible mortgagors for the acquisition, demolition, redevelopment, and rehabilitation of blighted residential property located in a neighborhood designated by the city for neighborhood preservation. The city may determine the terms and conditions of the loans and grants. The agency may make grants or loans to nonprofit organizations for the purpose of organizing or funding neighborhood land trust projects. The projects must assure the long-term affordability of neighborhood housing by maintaining ownership of the land through a neighborhood land trust.

Sec. 26. Minnesota Statutes 1990, section 462A.08, subdivision 2, is amended to read:

Subd. 2. The agency from time to time may issue bonds or notes for the purpose of refunding any bonds or notes of the agency then outstanding, *or, with the consent of the original issuer, any bonds or notes then outstanding issued by an issuer other than the agency for the purpose of making or purchasing loans for single family housing or multifamily housing developments*, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the redemption date next succeeding the date of delivery of such refunding bonds or notes. The proceeds of any such refunding bonds or notes may, in the discretion of the agency, be applied to the purchase or payment at maturity of the bonds or notes to be refunded, or to the redemption of such outstanding bonds or notes on the redemption date next succeeding the date of delivery of such refunding bonds or notes and may, pending such application, be placed in escrow to be applied to such purchase, retirement, or redemption. Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations issued or guaranteed by the state or the United States or by any agency or instrumentality thereof, or in certificates of deposit or time deposits secured in such manner as the agency shall determine, maturing at such time or times as shall be appropriate to assure the prompt payment of the principal of and interest and redemption premiums, if any, on the bonds or notes to be refunded. The income earned or realized on any such investment may also be applied to the payment of the bonds or notes to be refunded. After the terms of the escrow have been fully satisfied, any balance of such proceeds and investment income may be returned to the agency for use by it in any lawful manner. All refunding bonds or notes issued under the provisions of this subdivision shall be issued and secured in the manner provided by resolution of the agency. *If bonds or notes are issued by the agency to refund bonds or notes issued by an issuer other than the agency, as authorized by this subdivision, the agency and said issuer may enter into such agreements as they may deem appropriate to facilitate such transaction.*

Sec. 27. [462A.205] [RENT ASSISTANCE FOR FAMILY STABILIZATION DEMONSTRATION PROJECT.]

Subdivision 1. [FAMILY STABILIZATION DEMONSTRATION PROJECT.] *The agency, in consultation with the department of human services,*

may establish a rent assistance for family stabilization demonstration project. The purpose of the project is to provide rental assistance to families who, at the time of initial eligibility for rental assistance under this section, were receiving public assistance, and had a caretaker parent participating in a self-sufficiency program and at least one minor child. The demonstration project is limited to counties with high average housing costs. The program must offer two options: a voucher option and a project-based voucher option. The funds may be distributed on a request for proposal basis.

Subd. 2. [DEFINITIONS.] *For the purposes of this section, the following terms have the meaning given them.*

(a) "Caretaker parent" means a parent, relative caretaker, or minor caretaker as defined by the aid to families with dependent children program, sections 256.72 to 256.87.

(b) "Counties with high average housing costs" means counties whose average federal section 8 fair market rents as determined by the Department of Housing and Urban Development are in the highest one-third of average rents in the state.

(c) "Designated rental property" is rental property (1) that is made available by a self-sufficiency program for use by participating families and meets federal section 8 existing quality standards, or (2) that has received federal, state, or local rental rehabilitation assistance since January 1, 1987, and meets federal section 8 existing housing quality standards.

(d) "Gross family income" for a family receiving rental assistance under this section means the gross amount of the wages, salaries, social security payments, pensions, workers' compensation, unemployment compensation, public assistance payments, alimony, child support, and income from assets received by the family.

(e) "Local housing agency" means the agency of local government responsible for administering the Department of Housing and Urban Development's section 8 existing voucher and certificate program.

(f) "Public assistance" means aid to families with dependent children, family general assistance, or family work readiness.

(g) "Self-sufficiency program" means a program operated by a certified employment and training service provider as defined in section 256.736, subdivision 1a, paragraph (e), an employability program administered by a community action agency, or courses of study at an accredited institution of higher education pursued with at least half-time student status.

Subd. 3. [LOCAL HOUSING AGENCY.] *The agency may contract with a local housing agency to administer the rent assistance under this section. The local housing agency must be paid an administrative fee. The administrative fee is equal to the greater of ten percent of the amount of the subsidy or $15 per unit per month.*

Subd. 4. [AMOUNT AND PAYMENT OF RENT ASSISTANCE.] *(a) This subdivision applies to both the voucher option and the project-based voucher option.*

(b) Within the limits of available appropriations, eligible families may receive monthly rent assistance for a 36-month period starting with the month the family first receives rent assistance under this section. The amount of the family's portion of the rental payment is equal to at least 30 percent

of gross income.

(c) The rent assistance must be paid by the local housing agency to the property owner.

(d) Subject to the limitations in (e), the amount of rent assistance is the difference between the rent and the family's portion of the rental payment.

(e) In no case:

(1) may the amount of monthly rent assistance be more than $200;

(2) may the owner receive more rent for assisted units than for comparable unassisted units; nor

(3) may the amount of monthly rent assistance be more than the difference between the family's portion of the rental payment and the fair market rent for the unit as determined by the Department of Housing and Urban Development.

Subd. 5. [VOUCHER OPTION.] *At least one-half of the appropriated funds must be made available for a voucher option. Under the voucher option, the Minnesota housing finance agency, in consultation with the department of human services, will award a number of vouchers to self-sufficiency program administrators for participating families. Families may use the voucher for any rental housing that is certified by the local housing agency as meeting section 8 existing housing quality standards.*

Subd. 6. [PROJECT-BASED VOUCHER OPTION.] *A portion of the appropriated funds must be made available for a project-based voucher option. Under the project-based voucher option, the Minnesota housing finance agency, in consultation with the department of human services, will award a number of vouchers to self-sufficiency program administrators for participating families who live in designated rental property that is certified by a local housing agency as meeting section 8 existing housing quality standards. The Minnesota housing finance agency and local housing agencies must work with self-sufficiency program administrators to identify rental property that has received rental rehabilitation assistance since January 1, 1987. The agency may set aside a portion of the funds to be used in connection with rental rehabilitation projects which will be completed by July 1, 1992.*

Subd. 7. [PROPERTY OWNER.] *In order to receive rent assistance payments, the property owner must enter into a standard lease agreement with the family which includes a clause providing for good cause evictions only. Otherwise, the lease may be any standard lease agreement. The agency and local housing agencies must make model lease agreements available to participating families and property owners.*

Sec. 28. Minnesota Statutes 1990, section 462A.21, subdivision 4k, is amended to read:

Subd. 4k. [HOUSING DEVELOPMENT FUND.] The agency may make grants for residential housing for low-income persons under section 462A.05, subdivision ~~28~~ *20*, and may pay the costs and expenses for the development and operation of the program.

Sec. 29. Minnesota Statutes 1990, section 462A.21, subdivision 12a, is amended to read:

Subd. 12a. [PROGRAM MONEY TRANSFER.] Grants authorized under section 462A.05, ~~subdivisions 20, 28, and 29~~ *subdivision 20*, may be made

only with specific appropriations by the legislature, but unencumbered balances of money appropriated for the purpose of loans or grants for agency programs under these subdivisions may be transferred between programs created by these subdivisions or in accordance with section 462A.20, subdivision 3.

Sec. 30. Minnesota Statutes 1990, section 462A.21, subdivision 14, is amended to read:

Subd. 14. It may make housing grants for homeless individuals as provided in section 462A.05, subdivision ~~29~~ *20*, and may pay the costs and expenses for the development and operation of the program.

Sec. 31. Minnesota Statutes 1990, section 462A.21, is amended by adding a subdivision to read:

Subd. 16. [RESIDENTIAL LEAD PAINT AND LEAD CONTAMINATED SOIL ABATEMENT.] *It may make loans or grants for the purpose of the abatement of hazardous levels of lead paint in residential buildings and lead contaminated soil under section 462A.05, subdivision 15c, and may pay the costs and expenses necessary and incidental to the development and operation of the program.*

Sec. 32. Minnesota Statutes 1990, section 462A.22, subdivision 9, is amended to read:

Subd. 9. [BIENNIAL REPORT.] The agency shall also submit a biennial report of its activities~~, projected activities,~~ *and* receipts, and ~~expenditures~~ *a plan* for the next biennium, to the governor and the legislature on or before ~~January~~ *February* 15 in each odd-numbered year. The report shall include the distribution of money under each agency program by county, except for counties containing a city of the first class, where the distribution shall be reported by municipality.

In addition, the report shall include the cost to the agency of the issuance of its bonds for each issue in the biennium, along with comparable information for other state housing finance agencies.

Sec. 33. Minnesota Statutes 1990, section 462A.222, subdivision 3, is amended to read:

Subd. 3. [ALLOCATION PROCEDURE.] (a) Projects will be awarded tax credits in three competitive rounds on an annual basis. The date for applications for each round must be determined by the agency. No allocating agency may award tax credits prior to the application dates established by the agency.

(b) Each allocating agency must meet the requirements of section 42(m) of the Internal Revenue Code of 1986, as amended through December 31, 1989, for the allocation of tax credits and the selection of projects.

(c) For applications submitted for the first round, an allocating agency may allocate tax credits only to the following types of projects:

(1) single-room occupancy projects which are affordable by households whose income does not exceed 30 percent of the median income;

(2) family housing projects in which at least 75 percent of the units contain two or more bedrooms and at least one-third of the 75 percent contain three or more bedrooms;

(3) projects in which ~~at least 50 percent~~ *a percentage* of the units are ~~for~~

~~mentally ill, mentally retarded, drug dependent, developmentally disabled, or physically handicapped~~ *set aside and rented to* persons*:*

(i) with a serious and persistent mental illness as defined in section 245.462, subdivision 20, paragraph (c);

(ii) with a developmental disability as defined in United States Code, title 42, section 6001, paragraph (5), as amended through December 31, 1990;

(iii) who have been assessed as drug dependent persons as defined in section 254A.02, subdivision 5, and are receiving or will receive care and treatment services provided by an approved treatment program as defined in section 254A.02, subdivision 2;

(iv) with a brain injury as defined in section 256B.093, subdivision 4, paragraph (a); or

(v) with physical disabilities if at least 50 percent of the units are accessible as provided under Minnesota Rules, chapter 1340;

(4) projects which preserve existing subsidized housing which is subject to prepayment if the use of tax credits is necessary to prevent conversion to market rate use; or

(5) projects financed by the Farmers Home Administration which meet statewide distribution goals.

(d) Before the date for applications for the second round, the allocating agencies other than the agency shall return all uncommitted and unallocated tax credits to the pool from which they were allocated, along with copies of any allocation or commitment. In the second round, the agency shall allocate the remaining credits from the regional pools to projects from the respective regions.

(e) In the third round, all unallocated tax credits must be transferred to a unified pool for allocation by the agency on a statewide basis.

(f) Unused portions of the state ceiling for low-income housing tax credits reserved to cities and counties for allocation may be returned at any time to the agency for allocation.

Sec. 34. [462A.30] [HOUSING CAPITAL RESERVE PROGRAM.]

Subdivision 1. [PROGRAM AUTHORIZATION.] *The agency may establish the housing capital reserve program for the purposes of encouraging private financial institutions to participate in the preservation or rehabilitation of the existing housing stock and providing single-family home ownership and affordable rental housing opportunities. The agency may enter agreements with cities for city financial participation in the housing capital reserve program.*

Subd. 2. [STATEWIDE HOUSING RESERVE FUND.] *The agency may establish a statewide housing reserve fund consisting of agency and city funds for the purpose of securing housing rehabilitation loans and housing purchase-rehabilitation loans. Loans from the reserve fund may be sold on the secondary market. The agency or city may issue appropriate debt capital instruments, including taxable or tax-exempt bonds, secured by the reserve fund. The agency may use the reserve fund to secure the debt instruments or for credit enhancement purposes. Proceeds may be used to make housing rehabilitation loans and housing purchase-rehabilitation loans. The reserve fund may be used to provide additional security for loans provided by public*

agencies and private lenders to finance the preservation and rehabilitation of existing housing stock and provide affordable rental housing opportunities.

Subd. 3. [ELIGIBLE LOANS.] *Rehabilitation loans made and pooled under this section may consist of both single and multifamily housing rehabilitation loans. Purchase-rehabilitation loans may be made and pooled for the purpose of single-family housing.*

Sec. 35. Minnesota Statutes 1990, section 474A.048, subdivision 2, is amended to read:

Subd. 2. [LIMITATION; ORIGINATION PERIOD.] During the first ten months of an origination period, the Minnesota housing finance agency or a city may make loans financed with proceeds of mortgage bonds for the purchase of existing housing. Loans financed with the proceeds of mortgage bonds for new housing in the metropolitan area may be made during the first ten months of an origination period only if at least one of the following conditions is met:

(1) the new housing is located in a redevelopment area and is replacing a structurally substandard structure or structures;

(2) the new housing is located on a parcel purchased by the city or conveyed to the city under section 282.01, subdivision 1; ~~or~~

(3) the new housing is part of a housing affordability initiative, other than those financed with the proceeds from the sale of bonds, in which federal, state, or local assistance is used to substantially improve the terms of the financing or to substantially write down the purchase price of the new housing~~.~~*; or*

(4) the new housing is accessible housing and the borrower or a member of the borrower's family is a person with a disability. For the purposes of this clause, "accessible housing" means a dwelling unit with the modifications necessary to enable a person with a disability to function in a residential setting. "A person with a disability" means a person who has a permanent physical condition which is not correctable and which substantially reduces the person's ability to function in a residential setting. A person with a physical condition which does not require the use of a device to increase mobility must be deemed a person with a disability upon written certification of a licensed physician that the physical condition substantially limits the person's ability to function in a residential setting.

Upon expiration of the first ten-month period, the agency or a city may make loans financed with the proceeds of mortgage bonds for the purchase of new and existing housing.

Sec. 36. Laws 1987, chapter 404, section 28, subdivision 1, is amended to read:

Subdivision 1. Total Appropriation	$9,526,700	$9,526,700

Approved complement - 129

Spending limit on cost of general administration of agency programs:

1988	1989
$6,235,000	$6,547,000

This appropriation is for transfer to the housing

development fund for the programs specified.

$150,000 the first year and $150,000 the second year are for home sharing programs under Minnesota Statutes, section 462A.05, subdivision 24.

$990,000 the first year and $990,000 the second year are for home ownership assistance under Minnesota Statutes, section 462A.21, subdivision 8.

$2,225,000 the first year and $2,225,000 the second year are for home ownership, home improvement, and multifamily bond leveraging interest rate write-downs under Minnesota Statutes, sections 462A.21, subdivisions 4b and 8a.

$1,885,000 the first year and $1,885,000 the second year are for tribal Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 14, of which $125,000 the first year and $125,000 the second year are for *either* a demonstration program to make off-reservation loans in combination with bond proceeds from the agency *or other mortgage financing approved by the agency, or a home improvement loan program approved by the agency. Home improvement loans under Minnesota Statutes, section 462A.07, subdivision 14, may be made without regard to household income*.

$235,000 the first year and $235,000 the second year are for urban Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 15, to be distributed by the agency without regard to any allocation formula.

$3,716,700 the first year and $3,716,700 the second year are for housing rehabilitation and accessibility loans under Minnesota Statutes, sections 462A.05, subdivisions 14a and 15a.

$500,000 is appropriated to the housing development fund created in section 462A.20 for grants for residential housing for low income persons living alone. The agency may pay the costs and expenses for the development and operation of this program out of this appropriation.

$75,000 the first year and $75,000 the second year are for temporary housing programs under Minnesota Statutes, section 462A.05, subdivision 20.

Sec. 37. Laws 1989, chapter 335, article 1,

section 27, subdivision 1, as amended by Laws 1990, chapter 429, section 9, is amended to read:

Subdivision 1. Total Appropriation	12,583,000	12,584,000

Approved Complement - 134

Spending limit on cost of general administration of agency programs:

1990	1991
$7,130,000	$7,560,000

This appropriation is for transfer to the housing development fund for the programs specified.

$225,000 the first year and $225,000 the second year are for housing programs for the elderly under Minnesota Statutes, section 462A.05, subdivision 24.

$2,115,000 the first year and $2,115,000 the second year are for home ownership assistance under Minnesota Statutes, section 462A.21, subdivision 8.

$1,887,000 the first year and $1,887,000 the second year are for tribal Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 14, of which $125,000 the first year and $125,000 the second year are for *either* a demonstration program to make off-reservation loans in combination with bond proceeds from *the agency* or other mortgage financing approved by the agency, *or a home improvement loan program approved by the agency. Home improvement loans under Minnesota Statutes, section 462A.07, subdivision 14, may be made without regard to household income.*

$233,000 the first year and $233,000 the second year are for urban Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 15, to be distributed by the agency without regard to any allocation formula.

$4,842,000 the first year and $4,842,000 the second year are for housing rehabilitation and accessibility loans under Minnesota Statutes, section 462A.05, subdivisions 14a and 15a.

$569,000 the first year and $569,000 the second year are for temporary housing programs under Minnesota Statutes, sections 462A.05, subdivision 20; and 462A.21.

Notwithstanding any law to the contrary, in the event that the housing finance agency assumes

servicing responsibility for its home improvement loans, energy loans, and rehabilitation loans, the agency may apply for an increase in its complement and administrative cost ceiling through the regular legislative advisory commission process.

Sec. 38. [REPEALER.]

Minnesota Statutes 1990, section 462A.05, subdivisions 28 and 29, are repealed.

Sec. 39. [EFFECTIVE DATE.]

Sections 22 and 26 are effective the day following final enactment.

ARTICLE 10

WORKERS' COMPENSATION REHABILITATION PROGRAM

Section 1. [VOCATIONAL REHABILITATION.]

The responsibilities of the workers' compensation program of the rehabilitation services division of the department of jobs and training are transferred to the department of labor and industry pursuant to Minnesota Statutes, section 15.039. The transferred employees shall constitute the vocational rehabilitation unit of the department of labor and industry.

Sec. 2. Minnesota Statutes 1990, section 176.104, subdivision 1, is amended to read:

Subdivision 1. [DISPUTE.] If there exists a dispute regarding medical causation or whether an injury arose out of and in the course and scope of employment and an employee has been disabled for the requisite time under section 176.102, subdivision 4, prior to determination of liability, the employee shall be referred by the commissioner to the ~~division of~~ *department's* vocational rehabilitation *unit* which shall provide rehabilitation consultation if appropriate. The services provided by the ~~division of~~ *department's* vocational rehabilitation *unit* and the scope and term of the rehabilitation are governed by section 176.102 and rules adopted pursuant to that section. Rehabilitation costs and services under this subdivision shall be monitored by the commissioner.

Sec. 3. Minnesota Statutes 1990, section 268A.03, is amended to read:

268A.03 [POWERS AND DUTIES.]

The commissioner shall:

(a) certify the rehabilitation facilities to offer extended employment programs, grant funds to the extended employment programs, and perform the duties as specified in section 268A.09;

(b) provide vocational rehabilitation services to persons with disabilities in accordance with the state plan for vocational rehabilitation. These services include but are not limited to: diagnostic and related services incidental to determination of eligibility for services to be provided, including medical diagnosis and vocational diagnosis; vocational counseling, training and instruction, including personal adjustment training; physical restoration, including corrective surgery, therapeutic treatment, hospitalization and

prosthetic and orthotic devices, all of which shall be obtained from appropriate established agencies; transportation; occupational and business licenses or permits, customary tools and equipment; maintenance; books, supplies, and training materials; initial stocks and supplies; placement; on-the-job skill training and time-limited postemployment services leading to supported employment; acquisition of vending stands or other equipment, initial stocks and supplies for small business enterprises; supervision and management of small business enterprises, merchandising programs, or services rendered by severely disabled persons. Persons with a disability are entitled to free choice of vendor for any medical, dental, prosthetic, or orthotic services provided under this paragraph;

(c) expend funds and provide technical assistance for the establishment, improvement, maintenance, or extension of public and other nonprofit rehabilitation facilities or centers;

(d) ~~formulate plans of cooperation with the commissioner of labor and industry for providing services to workers covered under the workers' compensation act;~~

~~(e)~~ maintain a contractual or regulatory relationship with the United States as authorized by the Social Security Act, as amended. Under this relationship, the state will undertake to make determinations referred to in those public laws with respect to all individuals in Minnesota, or with respect to a class or classes of individuals in this state that is designated in the agreement at the state's request. It is the purpose of this relationship to permit the citizens of this state to obtain all benefits available under federal law;

~~(f)~~ *(e)* provide an in-service training program for division of rehabilitation services employees by paying for its direct costs with state and federal funds;

~~(g)~~ *(f)* conduct research and demonstration projects; provide training and instruction, including establishment and maintenance of research fellowships and traineeships, along with all necessary stipends and allowances; disseminate information to persons with a disability and the general public; and provide technical assistance relating to vocational rehabilitation and independent living;

~~(h)~~ *(g)* receive and disburse pursuant to law money and gifts available from governmental and private sources including, but not limited to, the federal Department of Education and the Social Security Administration, for the purpose of vocational rehabilitation or independent living~~. Money received from workers' compensation carriers for vocational rehabilitation services to injured workers must be deposited in the general fund~~;

~~(i)~~ *(h)* design all state plans for vocational rehabilitation or independent living services required as a condition to the receipt and disbursement of any money available from the federal government;

~~(j)~~ *(i)* cooperate with other public or private agencies or organizations for the purpose of vocational rehabilitation or independent living. Money received from school districts, governmental subdivisions, mental health centers or boards, and private nonprofit organizations is appropriated to the commissioner for conducting joint or cooperative vocational rehabilitation or independent living programs;

~~(k)~~ *(j)* enter into contractual arrangements with instrumentalities of federal, state, or local government and with private individuals, organizations, agencies, or facilities with respect to providing vocational rehabilitation or independent living services;

~~(l)~~ *(k)* take other actions required by state and federal legislation relating to vocational rehabilitation, independent living, and disability determination programs;

~~(m)~~ *(l)* hire staff and arrange services and facilities necessary to perform the duties and powers specified in this section; and

~~(n)~~ *(m)* adopt, amend, suspend, or repeal rules necessary to implement or make specific programs that the commissioner by sections 268A.01 to 268A.10 is empowered to administer.

Sec. 4. [REPEALER.]

Minnesota Statutes 1990, section 268A.05, subdivision 2, is repealed.

Sec. 5. [EFFECTIVE DATE.]

This article is effective July 1, 1991."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for human services, jobs and training, corrections, health, human rights, housing finance, and other purposes with certain conditions; amending Minnesota Statutes 1990, sections 3.922, subdivisions 3 and 8; 3.9223, subdivision 1; 3.9225, subdivision 1; 3.9226, subdivision 1; 3.98, subdivision 1; 3.982; 13.46, subdivision 2; 15.46; 103I.235; 116C.04, by adding a subdivision; 136A.121, subdivision 2; 136A.162; 144.335, subdivision 1; 144.871, subdivisions 2 and 7; 144.873, subdivision 1; 144.874, subdivisions 1, 2, 3, and by adding subdivisions; 144A.071, subdivision 3, and by adding a subdivision; 144A.10, subdivision 4; 144A.31; 144A.46, subdivisions 1 and 4; 144A.49; 144A.51, subdivision 5; 144A.53, subdivision 1; 145.924; 145.925, by adding a subdivision; 148B.01, subdivision 7; 148B.03; 148B.04, subdivisions 3 and 4; 148B.05, subdivision 1; 148B.06, subdivisions 1 and 3; 148B.07; 148B.08; 148B.12; 148B.13; 148B.17; 148B.18, subdivision 10; 148B.23, subdivision 1; 148B.33, subdivision 1; 148B.38, subdivision 3; 157.031, subdivisions 2, 3, 4, and 9; 171.29, subdivision 2; 176.104, subdivision 1; 198.007; 214.04, subdivision 3; 237.70, subdivision 7; 241.022; 244.16; 245.461, subdivision 3, and by adding a subdivision; 245.462, subdivisions 6 and 18; 245.465; 245.4711, by adding a subdivision; 245.472, subdivision 2, and by adding a subdivision; 245.473, by adding subdivisions; 245.484; 245.487, subdivision 4, and by adding a subdivision; 245.4871, subdivisions 27, 31, and by adding a subdivision; 245.4873, subdivision 6; 245.4874; 245.4881, subdivision 1; 245.4882, by adding subdivisions; 245.4884, subdivision 1; 245.4885, subdivisions 1, 2, and by adding a subdivision; 245.697, subdivision 1; 246.18, subdivision 4, and by adding a subdivision; 246.23; 246.64, subdivision 3; 251.011, subdivisions 3 and 4a; 252.24, by adding a subdivision; 252.27, subdivisions 1a and 2a; 252.275; 252.28, subdivisions 1, 3, and by adding a subdivision; 252.32; 252.46, subdivisions 3, 6, 14, and by adding a subdivision; 252.478, subdivisions 1 and 3; 252.50, subdivision 2; 253.015, subdivision 2; 253C.01, subdivisions 1 and 2; 254A.17, subdivision 3; 254B.04, subdivision 1; 254B.05, by adding a subdivision; 256.01, subdivisions 2, 11, and by adding a subdivision; 256.025, subdivisions 1, 2, 3, and 4; 256.031; 256.032;

256.033; 256.034; 256.035; 256.036, subdivisions 1, 2, 4, and 5; 256.045, subdivision 10; 256.482, subdivision 1; 256.736, subdivision 3a; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256.936, by adding a subdivision; 256.9365, subdivisions 1 and 3; 256.9685, subdivision 1; 256.9686, subdivisions 1 and 6; 256.969, subdivisions 1, 2, 2c, 3a, and 6a; 256.9695, subdivision 1; 256.98, by adding a subdivision; 256.983; 256B.031, subdivision 4, and by adding a subdivision; 256B.04, subdivision 16; 256B.055, subdivisions 10 and 12; 256B.057, subdivisions 1, 2, 3, 4, and by adding a subdivision; 256B.0575; 256B.0625, subdivisions 2, 4, 7, 13, 17, 19, 20, 24, 25, 28, 30, and by adding subdivisions; 256B.0627; 256B.064, subdivision 2; 256B.0641, by adding a subdivision; 256B.08, by adding a subdivision; 256B.092; 256B.093; 256B.19, subdivision 1, and by adding subdivisions; 256B.431, subdivisions 2l, 3e, 3f, and by adding subdivisions; 256B.48, subdivision 1; 256B.49, by adding a subdivision; 256B.491, by adding a subdivision; 256B.50, subdivision 1d; 256B.501, subdivisions 8, 11, and by adding a subdivision; 256B.64; 256C.24, subdivision 2; 256C.25; 256D.03, subdivisions 2, 2a, 3, and 4; 256D.05, subdivisions 1, 2, 6, and by adding a subdivision; 256D.051, subdivisions 1, 1a, 2, 3, 3a, 6, and 8; 256D.052, subdivisions 3 and 4; 256D.06, subdivision 1b; 256D.07; 256D.10; 256D.101, subdivisions 1 and 3; 256D.111; 256D.36, subdivision 1; 256D.44, by adding a subdivision; 256E.01; 256E.02; 256E.03, subdivision 5; 256E.04; 256E.05; 256E.06; 256E.07, subdivisions 1, 2, and 3; 256H.02; 256H.03; 256H.05; 256H.08; 256H.15, subdivisions 1, 2, and by adding a subdivision; 256H.18; 256H.20, subdivision 3a; 256H.21, subdivision 10; 256H.22, subdivision 2, and by adding a subdivision; 256I.04, by adding a subdivision; 256I.05, subdivision 2, and by adding subdivisions; 257.071, subdivision 1a; 257.352, subdivision 2; 257.57, subdivision 2; 260.165, by adding a subdivision; 261.035; 268.022, subdivision 2; 268.39; 268.914; 268.975, subdivision 3, and by adding a subdivision; 268.977; 268.98; 268A.03; 268A.06, by adding a subdivision; 270A.04, subdivision 2; 270A.08, subdivision 2; 273.1398, subdivision 1; 299A.21, subdivision 6; 299A.23, subdivision 2; 299A.27; 393.07, subdivisions 10 and 10a; 401.13; 462A.02, subdivision 13; 462A.03, subdivisions 10, 13, 16, and by adding a subdivision; 462A.05, subdivisions 14, 20, and by adding subdivisions; 462A.08, subdivision 2; 462A.21, subdivisions 4k, 12a, 14, and by adding a subdivision; 462A.22, subdivision 9; 462A.222, subdivision 3; 471.705, subdivision 1; 474A.048, subdivision 2; 518.551, subdivision 5, and by adding subdivisions; 518.64; 609.52, by adding a subdivision; 631.425, subdivisions 3 and 7; 638.04; 638.05; 638.06; 643.29, subdivision 1; Laws 1987, chapter 404, section 28, subdivision 1; Laws 1988, chapter 689, article 2, section 256, subdivision 1; Laws 1989, chapters 290, article 1, section 3, subdivision 2; and 335, article 1, section 27, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapters 144; 148B; 214; 241; 245; 252; 256; 256B; 256D; 256H; 257; 462A; proposing coding for new law as Minnesota Statutes, chapter 144B; repealing Minnesota Statutes 1990, sections 144A.31, subdivisions 2 and 3; 148B.01, subdivisions 2, 5, and 6; 148B.02; 148B.16; 148B.171; 148B.40; 148B.41; 148B.42; 148B.43; 148B.44; 148B.45; 148B.46; 148B.47; 148B.48; 157.031, subdivision 5; 245.476, subdivisions 1, 2, and 3; 246.18, subdivisions 3 and 3a; 252.275, subdivision 2; 256.032, subdivisions 5 and 9; 256.035, subdivisions 6 and 7; 256.036, subdivision 10; 256B.0625, subdivisions 6 and 19; 256B.0627, subdivision 3; 256B.091; 256B.431, subdivision 6; 256B.71, subdivision 5; 256D.051, subdivisions 1b, 3c, and 16; 256D.09, subdivision 4; 256D.101, subdivision 2; 256H.25; 256H.26;

268A.05, subdivision 2; 462A.05, subdivisions 28 and 29; and Laws 1990, chapter 568, article 6, section 4."

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

House Conferees: (Signed) Lee Greenfield, Peter Rodosovich, Bob Anderson, Mary Murphy, Gloria Segal

Senate Conferees: (Signed) Don Samuelson, Earl W. Renneke, Allan H. Spear, Linda Berglin, Sam G. Solon

Mr. Samuelson moved that the foregoing recommendations and Conference Committee Report on H.F. No. 719 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. 719 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 7, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, D.J.	Moe, R.D.	Renneke
Beckman	Dicklich	Johnson, J.B.	Mondale	Riveness
Benson, J.E.	Finn	Knaak	Morse	Sams
Berg	Flynn	Kroening	Neuville	Samuelson
Berglin	Frank	Langseth	Novak	Solon
Bertram	Frederickson, D.J.	Larson	Pappas	Spear
Chmielewski	Frederickson, D.R.	Lessard	Piper	Storm
Cohen	Halberg	Luther	Pogemiller	Stumpf
Dahl	Hottinger	Marty	Price	Traub
Davis	Hughes	McGowan	Ranum	Vickerman
Day	Johnson, D.E.	Merriam	Reichgott	Waldorf

Those who voted in the negative were:

Belanger	Gustafson	Mehrkens	Olson	Pariseau
Brataas	Johnston			

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1535 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1535

A bill for an act relating to public administration; appropriating money for education and related purposes to the higher education coordinating board, state board of technical colleges, state board for community colleges, state university board, University of Minnesota, higher education board, and the Mayo medical foundation, with certain conditions; creating the higher education board; merging the state university, community college, and technical college systems; amending Minnesota Statutes 1990, sections 15A.081, subdivision 7b; 135A.03, subdivision 3; 135A.05; 136.11, subdivisions 3, 5, and by adding a subdivision; 136.142, subdivision 1, and

by adding a subdivision; 136A.121, subdivision 10, and by adding subdivisions; 136A.233, subdivision 3; 179A.10, subdivision 2; and 298.28, subdivisions 4, 7, 10, 11, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 135A; 136; 136A; 136E; and 298; repealing Minnesota Statutes 1990, section 136A.05, subdivision 2.

May 20, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1535, 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. 1535 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. HIGHER EDUCATION APPROPRIATIONS

The sums in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or other named fund, to the agencies and for the purposes specified in this article. The listing of an amount under the figure "1992" or "1993" in this article indicates that the amount is appropriated to be available for the fiscal year ending June 30, 1992, or June 30, 1993, respectively. "The first year" is fiscal year 1992. "The second year" is fiscal year 1993. "The biennium" is fiscal years 1992 and 1993.

SUMMARY BY FUND

	1992	1993	TOTAL
General	$ 994,500,000	$ 991,000,000	$1,985,500,000

SUMMARY BY AGENCY - ALL FUNDS

	1992	1993	TOTAL
Higher Education Coordinating Board	97,669,000	93,494,000	191,163,000
State Board for Technical Colleges	165,466,000	165,061,000	330,527,000
State Board for Community Colleges	99,486,000	100,747,000	200,233,000
State University Board	183,134,000	179,666,000	362,800,000
Board of Regents of the University of Minnesota	446,760,000	451,076,000	897,836,000
Mayo Medical Foundation	985,000	956,000	1,941,000
Higher Education Board	1,000,000	0	1,000,000

	APPROPRIATIONS Available for the Year Ending June 30 1992	1993
Sec. 2. HIGHER EDUCATION COORDINATING BOARD		
Subdivision 1. Total Appropriation	97,669,000	93,494,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Agency Administration

3,324,000 3,317,000

$75,000 each year is available for grants to initiate regional coordination of telecommunications in the delivery of instructional programs. The higher education coordinating board shall award the grants to Southwest State University, St. Cloud Technical College, and the University of Minnesota at Crookston to coordinate the development and operation of a cooperative arrangement with other post-secondary institutions and school districts in its geographic region. The arrangements shall provide for shared classes, avoidance of program duplication, facilitate transfer of credits, and other purposes. The grant recipients must match the state grant. The coordinating board shall establish procedures for the grant applications. The coordinating board shall report on the grants to the 1993 legislature and disseminate results to educational institutions.

Each public post-secondary system shall review the number of hours that faculty devote each week to student services, teaching, preparation, research, community services, and other functions. Each system shall provide the information in a coordinated format to the higher education coordinating board which shall summarize the information and review and comment on it. The coordinating board shall provide the information to the education, finance, and appropriations committees by January 15, 1993.

The higher education coordinating board shall coordinate the development and operation of a statewide post-secondary graduate follow-up reporting system that will help students and prospective students make informed educational and occupational decisions. The public

post-secondary state governing boards and private post-secondary colleges and occupational and technical institutions that enroll recipients of state financial aid grants are responsible for the implementation and maintenance of the system. The coordinating board shall develop appropriate reporting procedures and mechanisms; assemble, interpret, and publish annually the information that will be provided to consumers; and develop an audit program. The system shall be based on the employment experience and further education of graduates. The system shall also include information on all sub-baccalaureate occupational programs and all programs that lead to an occupation requiring certification, licensure, or testing for entry. The first phase of the system must include all sub-baccalaureate occupational programs.

$58,000 in the second year is for membership in the Midwest Higher Education Compact. The appropriation for this membership is in place of the appropriation for membership in the Western Interstate Commission on Higher Education.

$300,000 is for child care innovation grants.

Subd. 3. Average Cost Funding Task Force

The average cost funding task force shall review and refine uniform definitions of terms that are related to funding, including: extension, continuing education, continuous enrollment, campuses, centers, sites, on-campus, off-campus, credit, noncredit, degree and nondegree, remedial, and college level. The task force shall then examine: changes in full-year equivalent enrollment since the enactment of average cost funding; the distribution of students in credit and noncredit programs and in degree and nondegree programs; other sources of funding for students and academic programs; and the changes in enrollment and cost among the average cost funding cells. The department of finance shall assist each higher education system in implementing the definitions of enrollment so that they comply with these in making their calculations. The task force shall report its findings and recommendations to the education divisions of the appropriations and finance committees by February 1, 1992.

Subd. 4. State Grants

80,643,000 78,050,000

If the appropriation in this subdivision for either year is insufficient, the appropriation for the other year is available for it.

This appropriation contains money for increasing living allowances for state grants to $3,750 for the first year and $4,033 for the second year.

The HECB may use up to $250,000 of the appropriation in each year to provide grants for Minnesota resident students participating in the Akita program. Grants must be awarded on the same basis as other state grants, except that the cost of attendance shall be adjusted to incorporate the state university tuition level and the Akita fee level. An individual grant must not exceed the state grant maximum award for a student at a four-year private college.

$2,500,000 each year is for child care grants. For the biennium, the board may determine a reasonable percentage of the appropriation to be used for the administrative costs of the agency.

The HECB shall review the use of the grants to dislocated rural workers to determine whether the grants are efficiently managed, and whether they provide for educational opportunities that would not otherwise be available. The board shall report on the findings for the future of this program to the education divisions of the appropriations and finance committees by January 15, 1992.

Subd. 5. Interstate Tuition Reciprocity

6,625,000 5,050,000

If the appropriation in this subdivision for either year is insufficient, the appropriation for the other year is available to meet reciprocity contract obligations.

Subd. 6. State Work Study

5,869,000 5,869,000

Subd. 7. Income Contingent Loans

The HECB shall administer an income contingent loan repayment program to assist graduates of Minnesota schools in medicine, dentistry, pharmacy, chiropractic medicine, public health, and veterinary medicine, and Minnesota residents graduating from optometry and osteopathy programs. During the

biennium, applicant data collected by the higher education coordinating board for this program may be disclosed to a consumer credit reporting agency under the same conditions as apply to the supplemental loan program according to Minnesota Statutes, section 136A.162.

Subd. 8. Minitex Library Program

1,208,000 1,208,000

Subd. 9. Balances Forward

An unencumbered balance in the first year under a subdivision in this section does not cancel but is available for the second year.

Subd. 10. Transfers

The higher education coordinating board may transfer unencumbered balances from the appropriations in this section to the state grant appropriation and the interstate tuition reciprocity appropriation. Before the transfer, the higher education coordinating board shall consult with the chairs of the house appropriations and senate finance committees.

Sec. 3. STATE BOARD OF TECHNICAL COLLEGES

Subdivision 1. Total Appropriation $165,466,000 $165,061,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Instructional Expenditures

The legislature estimates that instructional expenditures will be $224,454,000 the first year and $226,179,000 the second year.

The maximum full-year equivalent enrollment for the purpose of calculating the state share of instructional cost in the 1993 biennial budget document shall be 32,420. Any enrollment exceeding this number shall be supported by tuition revenue only.

In each year, the board may spend no more than $34,553,000 from all sources for extension programs. The legislature intends that this money be used primarily to support occupational programs, particularly those from which credits may be transferred to continuous enrollment programs. In the next biennium, the legislature must consider the recommendation of the average cost funding task force under section 2, subdivision 3 when setting the general

fund appropriation for extension. This money is intended to cover all direct and indirect costs associated with extension. The state board shall report on its fully allocated expenditures by February 1 of each year of the biennium.

The legislature intends that at least $8,430,000 in each year be spent for instructional equipment.

$525,000 in each year is for library development and acquisitions.

Subd. 3. Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $2,092,000 the first year and $1,546,000 the second year.

$1,057,000 the first year and $511,000 the second year are for debt service payments to school districts for technical college buildings financed with district bonds issued before January 1, 1979.

Subd. 4. Federal Funds

For fiscal year 1992, the state board shall allocate 12.75 percent of the federal funds received from the Carl D. Perkins Vocational and Applied Technology Education Act of 1990, to the state board of education for the purpose of supporting secondary vocational technical education programs and services. The state board for technical colleges and the state board of education must establish a process for allocating the Carl D. Perkins funds in future years and report that process to the education, appropriations, and finance committees. The number of students in special populations served at each education level must be considered in developing the process.

Subd. 5. State Council on Vocational Technical Education

$99,000 in each year must be allocated by the state board to the state council on vocational education.

Subd. 6. Moorhead Technical College

Independent school district No. 152, Moorhead Technical College, may spend up to $350,000 to construct classroom and related space for farm business, small business, and other management programs at Moorhead Technical College. The expenditure must be made entirely from local money.

Subd. 7. Northeast Metro Technical

College

Intermediate school district No. 916, Northeast Metro Technical College, may spend up to $325,500 to construct a media center and to make electrical and mechanical renovations at Northeast Metro Technical College. The expenditure must be made entirely from local money.

Subd. 8. Dakota County Technical College

Intermediate school district No. 917, Dakota County Technical College, may spend up to $399,000 to construct additional classroom and related space at Dakota County Technical College. The expenditure must be made entirely from local money.

Subd. 9. Detroit Lakes Technical College

The commissioner of finance shall give priority to the Detroit Lakes Technical College building project authorized by Laws 1990, chapter 610, article 1, section 2, subdivision 7.

Sec. 4. STATE BOARD FOR COMMUNITY COLLEGES

Subdivision 1. Total Appropriation	99,486,000	100,747,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Instructional Expenditures

The legislature estimates that instructional expenditures will be $135,188,000 the first year and $137,864,000 the second year.

This appropriation includes $2,771,000 the first year and $2,704,000 the second year for increased enrollments. This is a nonrecurring appropriation and will not be included when calculating the base for the 1993-1995 biennial budget. This appropriation is based on estimated enrollments of 34,490 in 1992 and 35,540 in 1993.

The maximum full-year equivalent enrollment for the purpose of calculating the state share of instructional cost in the 1993 biennial budget document shall be 35,540. Any enrollment exceeding this number shall be supported by tuition revenue only.

$907,570 in each year is for library acquisitions.

The legislature intends that at least $2,288,000 be spent each year for instructional equipment.

The community college system shall develop and implement a plan that results in equity in funding between the center at Cambridge and other colleges of similar size. This appropriation includes $50,000 each year to begin the implementation.

Subd. 3. Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $14,585,000 the first year and $14,585,000 the second year.

Sec. 5. STATE UNIVERSITY BOARD

Subdivision 1. Total Appropriation	$183,134,000	$179,666,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Instructional Expenditures

The legislature estimates that instructional expenditures will be $250,201,000 the first year and $248,917,000 the second year.

The legislature estimates that $150,000 each year will be spent at Mankato State University for payment of a lease for the Warren Street Building. This is the final and nonrecurring appropriation for this purpose.

Notwithstanding Minnesota Statutes, section 136.09, subdivision 3, or other law to the contrary, during the biennium neither the state university board nor the state university campuses shall plan or develop doctoral level programs or degrees until after they have received the recommendation of the house and senate committees on education, finance, and appropriations.

The maximum full-year equivalent enrollment for the purpose of calculating the state share of instructional cost in the 1993 biennial budget document shall be 53,065. Any enrollment exceeding this number shall be supported by tuition revenue only.

$2,613,000 in each year is for library acquisitions.

The legislature intends that at least $6,331,000 each year be spent for instructional equipment.

Subd. 3. Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $14,359,000 the first year and $14,359,000 the second year.

Subd. 4. Campus Initiatives

The state university board may begin implementation of its quality education plans through campus initiatives that enhance the quality of student and institutional performances. The state university board may internally allocate up to $250,000 for the biennium to provide funding for these initiatives. The board shall evaluate the results of the initiatives and report its findings to the education divisions of the appropriations and finance committees by January 15, 1993.

Subd. 5. St. Cloud State

The St. Cloud State University Foundation may provide money for the design and construction of an addition to the existing business education building located on the St. Cloud State University campus. The state board shall repay the loan with interest at a rate not to exceed the rate the state would pay on its bonds issued for the same purpose.

Notwithstanding Minnesota Statutes, chapter 94, the state university board may enter into an agreement with the city of St. Cloud to exchange parcels of land. The conveyances must be made for no monetary consideration and by quitclaim deed in a form approved by the attorney general. Before the conveyances, the state university board and the city of St. Cloud shall enter an agreement on temporary easements on the parcels of land to be exchanged.

Subd. 6. Mankato State

The $3,720,000 appropriated by Laws 1990, chapter 610, article 1, section 4, subdivision 3, paragraph (a), to provide for heating plant rehabilitation at Mankato State University, may be used to fund the heating plant rehabilitation at the university for an estimated cost of $2,220,000. The remaining $1,500,000 of the appropriation must be used to install a campus chilled water system at the heating plant. The existing heating plant must be expanded to accommodate the rehabilitation and the chilled water system.

Sec. 6. BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA

Subdivision 1. Total Appropriation	446,760,000	451,076,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Operations and Maintenance	365,863,000	370,179,000

On December 1 each year the president of the University of Minnesota shall report to the senate finance and house appropriations committees and the commissioner of finance any receipts for the previous fiscal year in excess of the estimates on which these appropriations are based, the sources of these receipts, the purposes for which any excess receipts were spent, and the accounts to which the receipts were transferred. The total estimated receipts are $134,754,000 for the first year and $134,453,000 for the second year.

(a) Instructional Expenditures

The legislature estimates that instructional expenditures will be $374,145,000 the first year and $378,160,000 the second year.

The regular session enrollment projected for this appropriation is 32,550 full-year equivalent undergraduate students for the first year and 31,600 for the second year. For the biennium ending June 30, 1993, tuition income resulting from students in excess of the projections reduces the general fund appropriation by a like dollar amount. The university shall submit progress reports on the attainment of the anticipated enrollments. If the university attains these enrollment goals, the calculation for the average cost funding formula must not reduce the budget base.

This appropriation includes $25,000 for the China Center to provide student services.

The president of the University of Minnesota shall report to the education divisions of the senate finance and house appropriations committees by January 15, 1992, on the merits, feasibility, and current status of University of Minnesota undergraduate and graduate students pursuing study abroad in programs where the language of instruction is other than English. The president shall propose a timetable and funding arrangement for reaching the goal of a comparable number of Minnesota students pursuing overseas study where the language of instruction is other than English

as there are foreign students studying at the University of Minnesota whose primary language is not English.

The board of regents is requested to continue the dental hygienist program at the University of Minnesota at Duluth at the current funding level until another public post-secondary board agrees to operate the program.

$4,135,100 in each year is for library acquisitions.

The legislature intends that at least $7,036,000 each year be spent for instructional equipment.

(b) Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $126,472,000 in the first year and $126,473,000 in the second year.

Indirect cost recovery money retained during the biennium by the University of Minnesota must be used exclusively for the direct support of research or the financing of support activities directly contributing to the receipt of indirect cost recovery money. It may be used for debt retirement for research-related buildings. It may not be used for teaching or service.

The legislature anticipates that $200,000 each year will be allocated to the Hormel Institute.

Subd. 3. Special Appropriation	85,192,000	85,192,000

The amounts expended for each program in the four categories of special appropriations shall be separately identified in the 1993 biennial budget document.

(a) Agriculture and Extension Service

44,593,000	44,593,000

This appropriation is for the Agriculture Research and Minnesota Extension Service.

Any salary increases granted by the university to personnel paid from the Minnesota Extension appropriation must not result in a reduction of the county portion of the salary payments.

During the biennium, the university shall maintain an advisory council system for each experiment station. The advisory councils must be broadly representative of range of size and income distribution of farms and agribusinesses and must not disproportionately represent those from the upper half of the size

and income distributions.

(b) Health Sciences

17,392,000 17,392,000

This appropriation is for Indigent Patients (County Papers), Rural Physicians Associates Program, Medical Research, Special Hospitals Service and Educational Offset, the Veterinary Diagnostic Laboratory, Institute for Human Genetics, and the Biomedical Engineering Center.

(c) Institute of Technology

3,605,000 3,605,000

This appropriation is for the Minnesota Mining and Mineral Resources Research Institute, the Geological Survey, Underground Space Center, Talented Youth Mathematics Program, Microelectronics and Information Science Center, and the Productivity Center.

(d) System Specials

19,602,000 19,602,000

This appropriation is for Fellowships for Minority and Disadvantaged Students, General Research, Intercollegiate Athletics, Student Loans Matching Money, Industrial Relations Education, Natural Resources Research Institute, Sea Grant College Program, Biological Process Technology Institute, Supercomputer Institute, Center for Urban and Regional Affairs, Museum of Natural History, and the Humphrey Exhibit.

This appropriation includes money to improve the programs and resources available to women and to ensure that campuses are in compliance with Title IX of the Educational Amendment Act of 1972 and Minnesota Statutes, section 126.21. The women's athletic program shall be funded by the formula allowance or a minimum of $65,000 per campus per year. Each campus will receive the greater of the two calculations.

Of this appropriation, no less than the following amounts must be allocated to each campus:

Duluth	$551,600	$551,600
Morris	$ 66,100	$ 66,100
Crookston	$ 65,000	$ 65,000
Waseca	$ 65,000	

Subd. 4. Base Reduction (4,295,000) (4,295,000)

The appropriations in subdivision 2, paragraph

(b), for noninstructional expenditures and in subdivision 3 for special appropriations shall be reduced $4,295,000 in each year.

Sec. 7. MAYO MEDICAL FOUNDATION

Subdivision 1. Total Appropriation 985,000 956,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Medical School

711,000 682,000

The state of Minnesota shall pay a capitation of $9,875 per year for each student who is a resident of Minnesota.

This appropriation provides capitation for 20 Minnesota residents in each of the four classes at Mayo Medical School. The appropriation may be transferred between years of the biennium to accommodate enrollment fluctuations.

The legislature intends that during the biennium the Mayo foundation use the capitation money to increase the number of doctors practicing in rural areas in need of doctors as identified by the higher education coordinating board.

Subd. 3. Family Practice and Graduate Residency Program

274,000 274,000

The state of Minnesota shall pay a capitation of $15,222 each year for a maximum of 18 students each year.

Sec. 8. POST-SECONDARY SYSTEMS

In preparing budget requests for the 1993-1995 biennium, the commissioner of finance shall make the same categories of base level adjustments, when reasonable and equitable, to the budgets of higher education systems as to the budgets of state agencies. The amounts and the purposes must be delineated in the 1993 biennial budget document.

Each governing board must apply budget reductions to central administration in at least the same proportion as they apply them to instructional expenditures.

Sec. 9. HIGHER EDUCATION BOARD 1,000,000

$1,000,000 is appropriated for the biennium

to the higher education board created in article 9 of this act. The appropriation in this section is available immediately.

ARTICLE 2

COORDINATION AND QUALITY INITIATIVES

Section 1. [135A.052] [POST-SECONDARY MISSIONS.]

Subdivision 1. [STATEMENT OF MISSIONS.] *The legislature recognizes each public post-secondary system to have a distinctive mission within the overall provision of public higher education in the state and a responsibility to cooperate with the other systems. These missions are as follows:*

(1) the technical college system shall offer vocational training and education to prepare students for skilled occupations that do not require a baccalaureate degree;

(2) the community college system shall offer lower division instruction in academic programs, occupational programs in which all credits earned will be accepted for transfer to a baccalaureate degree in the same field of study, and remedial studies, for students transferring to baccalaureate institutions and for those seeking associate degrees;

(3) the state university system shall offer undergraduate and graduate instruction through the master's degree, including specialist certificates, in the liberal arts and sciences and professional education; and

(4) the University of Minnesota shall offer undergraduate, graduate, and professional instruction through the doctoral degree, and shall be the primary state supported academic agency for research and extension services.

Subd. 2. [IMPLEMENTATION.] *Each post-secondary system shall review and redesign its programs and courses in accordance with the mission stated in subdivision 1, unless exceptional geographic or financial circumstances exist that necessitate retaining a program that is beyond a system's mission. The higher education advisory council shall review program offerings within each system to determine whether existing program offerings that are inconsistent with the stated mission have been eliminated or transferred. The council shall also review any exceptional circumstances cited as a justification for retaining programs that are beyond a system's mission.*

Subd. 3. [COORDINATION.] *The higher education coordinating board shall oversee the implementation of the transfer and elimination of programs. The board shall ensure that duplicate and inappropriate programs are identified and that changes are made in a timely manner.*

Sec. 2. [135A.061] [INTERSYSTEM COUNCIL.]

An intersystem council is established to improve communications among post-secondary systems on relevant policy issues. The council is composed of officers or other representatives of each public post-secondary governing board and of the higher education coordinating board. The council shall determine its meeting times but shall meet at least twice each year. Members shall report on discussions and actions of the council to their respective governing boards. The council shall determine its agenda from issues that affect more than one system. These may include: transfer of credit, efficiency of campus and system operations, duplication of programs and courses, mission delineation, cooperative arrangements, academic quality initiatives, and the effects of a system's proposed plans on the other systems. The

council shall notify the chairs of the education, appropriations, and finance committees of the legislature in advance of its meetings.

Sec. 3. [135A.50] [JOINT ADMINISTRATIVE APPOINTMENTS.]

Subdivision 1. [APPOINTMENTS.] *To improve the efficient delivery of services to students and to reduce unnecessary administrative expenditures, each technical college and community college, located in the same or nearby communities, as provided in Laws 1983, chapter 258, section 64, subdivision 1, except those in which both of the cooperating institutions had a full-year equivalent enrollment or average daily membership of at least 1,600 in fiscal year 1989, must consolidate all personnel at the level of presidents, vice presidents, deans, and other managers in academic support programs in community colleges and all personnel in similar positions at technical colleges in the fiscal year immediately following the pilot programs. This consolidation of personnel is not intended to apply to instructional staff. Personnel involved in the consolidated functions are joint employees of the state board of technical colleges and the state board for community colleges.*

Subd. 2. [PILOT PROGRAMS.] *Notwithstanding any law to the contrary, the state board of technical colleges and the state board for community colleges shall implement pilot programs of administrative consolidation at two locations no later than the 1992-1993 academic year. The boards shall try to begin implementation for the 1991-1992 academic year. The boards shall seek presidents willing to allow their campuses to participate voluntarily. If no president volunteers, the boards shall jointly designate sites.*

Subd. 3. [PROCEDURES.] *The community college and technical college systems shall develop necessary plans to implement subdivision 1 at all applicable sites. The systems shall determine necessary statutory changes and changes in system procedures and rules, analyze particular problems that develop during the pilot projects, and shall estimate the cost savings that the administrative consolidations will produce annually. As part of the plan, the systems shall report their progress in developing the plans by February 1, 1992.*

Sec. 4. Minnesota Statutes 1990, section 136A.04, subdivision 1, is amended to read:

Subdivision 1. The higher education coordinating board shall:

(1) continuously study and analyze all phases and aspects of higher education, both public and private, and develop necessary plans and programs to meet present and future needs of the people of the state;

(2) continuously engage in long-range planning for the needs of higher education and, if necessary, cooperatively engage in planning with neighboring states and agencies of the federal government;

(3) act as successor to any committee or commission previously authorized to engage in exercising any of the powers and duties prescribed by sections 136A.01 to 136A.07;

(4) review, approve or disapprove, ~~make recommendations,~~ and identify priorities with respect to all proposals for new, additional, or changes in existing programs ~~or large-scale or permanent sites~~ of instruction to be established in or offered by public post-secondary institutions and~~, with respect to programs only,~~ private post-secondary institutions. ~~The board shall forward its recommendations on sites to the chairs of the house appropriations and senate finance committees.~~ The board shall also periodically review

existing programs ~~and recommend discontinuing or modifying any existing program~~. *For public post-secondary institutions, the board shall approve or disapprove continuation or modification of existing programs. For private post-secondary institutions, the board shall recommend continuation or modification of existing programs.*

Before a public post-secondary program can be offered at a site other than that for which it was approved originally, the program must be resubmitted for approval. When reviewing a ~~site or~~ program, the board shall consider whether it is unnecessary, a needless duplication, beyond the capability of the system or institution considering its resources, or beyond the scope of the system or institutional mission;

(5) ~~develop in cooperation with the post-secondary systems, house appropriations committee, senate finance committee, and the departments of administration and finance, a compatible budgetary reporting format designed to provide data of a nature to facilitate systematic review of the budget submissions of the public post-secondary institutions, which includes the relating of dollars to program output;~~ *review, approve or disapprove, and identify priorities with respect to all proposals for new, additional, or changes in existing large-scale or permanent sites of instruction to be established in or offered by public post-secondary institutions. The board shall forward its decisions on sites to the chairs of the house appropriations and senate finance committees. Private post-secondary institutions must give reasonable notice to the board prior to making binding decisions to establish a site or center, and are requested to participate in this site approval process. When reviewing a site, the board shall consider whether it is unnecessary, a needless duplication, beyond the capability of the system or institution considering its resources, or beyond the scope of the system or institutional mission;*

(6) ~~review budget requests, including plans for construction or acquisition of facilities, of the public post-secondary institutions for the purpose of relating present resources and higher educational programs to the state's present and long-range needs; and conduct a continuous analysis of the financing of post-secondary institutions and systems, including the assessments as to the extent to which the expenditures and accomplishments are consistent with legislative intent;~~

~~(7)~~ obtain from private post-secondary institutions receiving state funds a report on their use of those funds;

~~(8) continuously monitor and study~~ *(7) coordinate the development and implementation of transfer agreements by the systems that ensure* the transferability of credits between Minnesota post-secondary institutions, earned for equal and relevant work at those institutions, the degree to which credits earned at one institution are accepted at full value by the other institutions, and the policies of these institutions concerning the placement of these transferred credits on transcripts; and

~~(9)~~ *(8)* prescribe policies, procedures, and rules necessary to administer the programs under its supervision.

Sec. 5. [136C.71] [TECHNICAL COLLEGE DISTRICTS.]

Subdivision 1. [ASSIGNMENT.] *The state board shall create at least nine but not more than 15 technical college districts. All portions of the state shall be assigned to a district by the state board, except that intermediate districts as defined in section 136C.02, school districts in cities of*

the first class, and school districts operating technical colleges where the college had an average daily membership in fiscal year 1989 of at least 1,500 in continuous programs, may vote to not be assigned. The state board must make the district designations by December 15, 1991.

Subd. 2. [OPERATION.] *The formation and operation of technical college districts shall be as provided in sections 136C.60 to 136C.69.*

Sec. 6. [TASK FORCE ON POST-SECONDARY FUNDING FORMULA.]

Subdivision 1. [MEMBERSHIP.] *A task force on post-secondary funding is established. The task force shall consist of 15 members as follows: two members of the house of representatives and one citizen member to be appointed by the speaker, two members of the senate and one citizen member to be appointed by the subcommittee on committees of the committee of rules and administration, the head of each public post-secondary system, a representative of the private college council, the commissioner of finance, two citizen members to be appointed by the governor; and one student to be appointed by the student advisory council. The task force shall elect a chair and other officers as it deems necessary.*

Members of the task force shall be compensated as provided in Minnesota Statutes, section 15.059, subdivision 6.

Subd. 2. [CHARGE.] *The task force shall be charged with developing an alternative funding formula for post-secondary education. The formula shall create incentives for quality post-secondary education while maintaining access for students. The task force must develop a formula that can be funded within the projected constraints of the state budget in the coming decade.*

Subd. 3. [REPORT.] *The task force shall report its recommendations to the appropriations and finance committees of the legislature by September 1, 1992.*

Subd. 4. [EXPIRATION.] *The task force shall expire on June 30, 1993.*

Sec. 7. [QUALITY INCENTIVES.]

Subdivision 1. [LEGISLATIVE INTENT.] *In order to encourage a better match between student abilities and needs and system mission and strengths, and to promote better opportunities for student success and enhanced instructional quality, the legislature intends to provide funding for improvements in rates of student retention, graduation, and transfer from two- to four-year systems.*

Subd. 2. [PROPOSALS.] *By September 15, 1991, each public post-secondary system shall propose to the education divisions of the appropriations and finance committees (1) mechanisms to increase its quality in these areas, and (2) methods by which the increases may be measured.*

Sec. 8. [CREDIT TRANSFER.]

By September 15, 1991, the higher education advisory council shall resolve differences and inconsistencies within and among the post-secondary systems relating to educationally sound transfer of credit policies, including system policies on the award of credits, transferability of general education components, use of tests for determining credit or proficiency, development of a transfer curriculum to satisfy lower division requirements, and provision and use of appeals processes. Each system also shall review and update its

existing credit transfer policy. The post-secondary systems shall devise and implement procedures for exchanging information that documents the performance and progress of individual students who transfer between systems. The legislature intends that credit transfer policies provide for the broadest and most simple mechanisms that are feasible while protecting the academic quality of institutions and programs.

Sec. 9. [EFFECTIVE DATE.]

Sections 3, 5, 7, and 8 are effective the day following final enactment.

ARTICLE 3

ENROLLMENT, FUNDING, AND MANAGEMENT

Section 1. Minnesota Statutes 1990, section 135A.03, is amended by adding a subdivision to read:

Subd. 1a. [APPROPRIATIONS FOR CERTAIN ENROLLMENTS.] *The state share of the cost of instruction shall be 32 percent for the following categories:*

(1) enrollment in credit bearing courses at an off campus site or center, except those courses at Cambridge and Fond du Lac centers; the Arrowhead and Rochester 2 + 2 programs; those offered through telecommunications; those offered by the technical colleges; and those offered as part of a joint degree program; and

(2) enrollment of students who are concurrently enrolled in a secondary school and for whom the institution is receiving any compensation under the post-secondary enrollment options act.

Sec. 2. Minnesota Statutes 1990, section 135A.03, subdivision 3, is amended to read:

Subd. 3. [DETERMINATION OF STUDENT ENROLLMENT.] Student enrollment shall be the full-year equivalent or average daily membership enrollment in each instructional category in the fiscal year two years before the fiscal year for which the appropriations are being made, *except as provided in subdivision 3a*. Student enrollment for the purpose of calculating appropriations for the second year of the biennium may be estimated on the basis of the latest enrollment data available. Student enrollment shall include students enrolled in courses that award credit or otherwise satisfy any of the requirements of an academic or vocational program.

Sec. 3. Minnesota Statutes 1990, section 135A.03, is amended by adding a subdivision to read:

Subd. 3a. [EXCLUSIONS FROM ENROLLMENT.] *Student enrollment for the purposes of average cost funding shall not include:*

(1) any undergraduate students who do not meet the residency criteria established under subdivision 7;

(2) enrollment in extension at the technical colleges; and

(3) students enrolled in recreational or leisure-time activity courses, except for those students enrolled in a degree-granting program for whom the credits would apply toward a baccalaureate degree.

Sec. 4. Minnesota Statutes 1990, section 135A.03, is amended by adding a subdivision to read:

Subd. 7. [RESIDENCY RESTRICTIONS.] *In calculating student enrollment for appropriations, only the following may be included:*

(1) students who resided in the state for at least one calendar year prior to applying for admission;

(2) Minnesota residents who can demonstrate that they were temporarily absent from the state without establishing residency elsewhere; and

(3) residents of other states who are attending a Minnesota institution under a tuition reciprocity agreement.

Sec. 5. Minnesota Statutes 1990, section 135A.05, is amended to read:

135A.05 [TASK FORCE.]

The executive director of the Minnesota higher education coordinating board shall administer a task force on average cost funding. The task force shall include representation from each of the public systems of post-secondary education, post-secondary students, the education division of the house appropriations committee, the education ~~subcommittee~~ *division* of the senate finance committee, *and* the office of the commissioner of finance~~, the office of state auditor, and the uniform financial accounting and reporting advisory council~~. The task force shall be convened and chaired by the executive director or a designee and staffed by the higher education coordinating board. *The task force shall be convened at least annually.* The task force shall review and make recommendations on the definition of instructional cost in all four systems, the method of calculating average cost for funding purposes, the method used to assign programs to the proper level of cost at each level of instruction, the adequacy of the accounting data for defining instructional cost in a uniform manner, and the biennial budget format to be used by the four systems in submitting their biennial budget requests. The task force shall submit a report on these matters to the legislature by December 1 of each odd-numbered year. The task force expires June 30, 1993.

Sec. 6. [135A.131] [LOCAL ASSESSMENT.]

Each public post-secondary governing board may pay when due any assessment by a local unit of government that is less than five percent of the board's appropriation for repair and replacement.

Sec. 7. Minnesota Statutes 1990, section 136.11, subdivision 3, is amended to read:

Subd. 3. [UNIVERSITY ACTIVITY FUND.] The state university board shall establish in each university a fund to be known as the university activity fund. The purpose of this fund shall be to provide for the administration of university activities designed for student recreational, social, welfare, and educational pursuits supplemental to the regular curricular offerings. The university activity fund shall encompass accounts for student activities, authorized university agencies, authorized auxiliary enterprises, ~~and~~ student loans, *gifts and endowments*, and in addition such other accounts as the board may prescribe.

Sec. 8. Minnesota Statutes 1990, section 136.11, is amended by adding a subdivision to read:

Subd. 3a. [SYSTEMWIDE ADMINISTRATIVE FUND.] *The chancellor may establish a fund within the system office for systemwide management of employee retirement funds, contracts, student equipment purchases, and*

receipt and transfer of foreign program funds.

Sec. 9. Minnesota Statutes 1990, section 136.11, subdivision 5, is amended to read:

Subd. 5. [ADMINISTRATION OF ACTIVITY FUND MONEYS.] The state university board independent of other authority and notwithstanding chapters 16A and 16B, shall administer the money collected for the university activities fund *and the systemwide administrative fund*. All university activity fund money collected shall be retained by the president of each state university to be administered under the rules of the state university board by the presidents of the respective universities subject to audit of the legislative auditor.

Sec. 10. Minnesota Statutes 1990, section 136.142, subdivision 1, is amended to read:

Subdivision 1. The state university board may receive and accept on behalf of the state and for the benefit of any state university any gift, bequest, devise, or endowment which any person, firm, corporation, or association may make to the board by will, deed, gift, or otherwise for the purpose of the university activity funds. The state university board may use any money heretofore given it or any of the universities under its jurisdiction by any person, firm, corporation, or association by will, deed, gift, devise, or endowment for the purpose of providing money for any aspect of the university activity funds, provided that such use of such money is not inconsistent with the terms and conditions under which the money was received by the board or a university under its jurisdiction. Gifts, bequests, devises, or endowments heretofore or hereafter so received are hereby appropriated to the board for the purposes stated. Gifts, bequests, devises or endowments of real property shall be reviewed by the chairs of the Minnesota house of representatives appropriations and the Minnesota senate finance committees ~~who shall give~~ *for* their recommendations ~~to the legislative advisory commission. The legislative advisory commission shall then recommend to the board~~ *about* whether or not the property should be accepted. The ~~recommendation of the committee shall be~~ *recommendations are* advisory only. Failure or refusal ~~of the commission~~ to make a recommendation promptly shall be deemed a negative recommendation. All taxes and special assessments constituting a lien on any real property received and accepted by the board under this section shall be paid in full before title is transferred to the state. All other moneys deposited in the university activity funds are hereby appropriated to the board for use in the respective universities where collected.

Sec. 11. [136.172] [LITIGATION AWARDS.]

Notwithstanding any law to the contrary, the state university board may keep money received from successful litigation by or against the board. Awards made to the state or the board resulting from litigation against or by the board must be kept by the board to the credit of the account from which the litigation was originally funded. An award that exceeds the costs incurred in the litigation shall be used by the board for repair or replacement projects. The board shall report on any awards it receives as part of its biennial budget request.

Sec. 12. [136.653] [STUDENT HOUSING MANAGEMENT.]

The state board for community colleges may contract with student housing facility owners or on-site management firms to assist in the operation,

control, and management of the facility.

Sec. 13. Laws 1990, chapter 591, article 3, section 10, is amended to read:

Sec. 10. [CONDITIONS.]

(a) The state university board, the state board for community colleges, the state board of vocational technical education, and their respective campuses must not enter into new long-term lease arrangements, significantly increase the course offerings at off-campus sites, enter any 2 + 2 arrangements, or significantly increase staffing levels for off-campus sites between the effective date of this section and the end of the ~~1990-1991~~ *1992-1993* academic year. A current long-term lease may be renewed if it expires during this period. The board of regents is requested to abide by these conditions until the end of the ~~1990-1991~~ *1992-1993* academic year.

(b) This section does not apply to actions of Metropolitan State University that are part of its plan to consolidate its sites in the seven-county metropolitan area. The state university board shall consult with the chairs of the house appropriations and senate finance committees in carrying out its plans. For purposes of this paragraph, "plan to consolidate" does not include entering into any 2 + 2 arrangements.

Sec. 14. [PROGRAM TRANSFER.]

The higher education coordinating board, in consultation with the state governing boards of the community colleges, technical colleges, and University of Minnesota, shall develop and begin to implement a plan for transferring courses and programs currently offered by the community college system in Duluth, where there is sufficient student need to warrant continuation of the course or program. Where appropriate, occupational programs shall be transferred to the technical college system; academic and remedial courses shall be transferred to the Fond du Lac center or to the continuing education and extension program at the University of Minnesota, Duluth. In developing the plan, the higher education coordinating board shall consider duplication of services, including courses provided through the Duluth school district. The board shall report the plan to the education divisions of the appropriations and finance committees by February 1, 1992.

Sec. 15. [HECB RECOMMENDATIONS TO LEGISLATURE.]

By January 15, 1993, the higher education coordinating board shall present to the education committees of the legislature recommendations for linking funding of post-secondary education systems to achievement of the system plans and missions that are required under Minnesota Statutes, section 135A.06, and to achievement by students of system and institution learner outcomes.

Sec. 16. [EFFECTIVE DATE.]

Sections 5 and 14 are effective the day following final enactment.

ARTICLE 4

IRON RANGE HIGHER EDUCATION

Section 1. [298.2214] [IRON RANGE HIGHER EDUCATION.]

Subdivision 1. [CREATION OF COMMITTEE; PURPOSE.] *A committee*

is created to advise the commissioner of iron range resources and rehabilitation on providing higher education programs in the taconite tax relief area defined in section 273.134. The committee is subject to section 15.059.

Subd. 2. [MEMBERSHIP.] *The members of the committee shall consist of:*

(1) one member appointed by the governor;

(2) one member appointed by the president of the University of Minnesota;

(3) two members appointed by the commissioner of iron range resources and rehabilitation; and

(4) the commissioner of iron range resources and rehabilitation.

Subd. 3. [ADVISORY FUNCTION.] *The committee shall advise the commissioner regarding development of a contract with the state university system. The contract would require the system to provide courses within the taconite tax relief area.*

Subd. 4. [CONTRACT.] *The commissioner shall prepare a contract as described in subdivision 3 and submit it to the committee for review and recommendations for approval, disapproval, or modifications. At the conclusion of the review process, the commissioner shall enter into a contract with the state university system to provide the services.*

Subd. 5. [HECB AND SYSTEM APPROVAL.] *A program may not be offered under a contract executed according to this section unless it is approved by the higher education coordinating board and the board of the system offering the program.*

Sec. 2. Minnesota Statutes 1990, section 298.28, subdivision 4, is amended to read:

Subd. 4. [SCHOOL DISTRICTS.] (a) 27.5 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c).

(b) 5.5 cents per taxable ton must be distributed to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 22 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts in which the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted net tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted net tax capacity per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections 298.018; 298.23 to 298.28, exclusive of any amount

received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; or any law imposing a tax on severed mineral values that is less than the amount of its levy reduction under section 275.125, subdivision 9, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) On July 15, in years prior to 1988, an amount equal to the increase derived by increasing the amount determined by paragraph (c) in the same proportion as the increase in the steel mill products index over the base year of 1977 as provided in section 298.24, subdivision 1, clause (a), shall be distributed to any school district described in paragraph (c) where a levy increase pursuant to section 124A.03, subdivision 2, is authorized by referendum, according to the following formula. On July 15, 1988, the increase over the amount established for 1987 shall be determined as if there had been an increase in the tax rate under section 298.24, subdivision 1, paragraph (b), according to the increase in the implicit price deflator. On July 15, 1989, ~~and subsequent years~~ *1990, and 1991*, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1, paragraph (a). *In 1992 and 1993, the amount distributed per ton shall be the same as that determined for distribution in 1991. In 1994, the amount distributed per ton shall be equal to the amount per ton distributed in 1991 increased in the same proportion as the increase between the fourth quarter of 1988 and the fourth quarter of 1992 in the implicit price deflator as defined in section 298.24, subdivision 1. On July 15, 1995, and subsequent years, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1.* Each district shall receive the product of:

(i) $175 times the pupil units identified in section 124.17, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of 1.8 percent times the district's taxable net tax capacity in the second previous year; times

(ii) the lesser of:

(A) one, or

(B) the ratio of the amount certified pursuant to section 124A.03, subdivision 2, in the previous year, to the product of 1.8 percent times the district's taxable net tax capacity in the second previous year.

If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of $175 per pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce general education aid which the district receives pursuant to section 124A.23 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

Each district receiving money according to this paragraph shall reserve

$25 times the number of pupil units in the district. It may use the money only for outcome-based learning programs that enhance the academic quality of the district's curriculum. The programs must be approved by the commissioner of education.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

Sec. 3. Minnesota Statutes 1990, section 298.28, subdivision 7, is amended to read:

Subd. 7. [IRON RANGE RESOURCES AND REHABILITATION BOARD.] Three cents per taxable ton shall be paid to the iron range resources and rehabilitation board for the purposes of section 298.22. The amount determined in this subdivision shall be increased in 1981 and subsequent years prior to 1988 in the same proportion as the increase in the steel mill products index as provided in section 298.24, subdivision 1, and shall be increased in 1989 ~~and subsequent years~~, *1990, and 1991* according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1. *In 1992 and 1993, the amount distributed per ton shall be the same as the amount distributed per ton in 1991. In 1994, the amount distributed shall be the distribution per ton for 1991 increased in the same proportion as the increase between the fourth quarter of 1988 and the fourth quarter of 1992 in the implicit price deflator as defined in section 298.24, subdivision 1. That amount shall be increased in 1995 and subsequent years in the same proportion as the increase in the implicit price deflator as provided in section 298.24, subdivision 1.* The amount distributed in 1988 shall be increased according to the increase that would have occurred in the rate of tax under section 298.24 if the rate had been adjusted according to the implicit price deflator for 1987 production. The amount distributed pursuant to this subdivision shall be expended within or for the benefit of a tax relief area defined in section 273.134. No part of the fund provided in this subdivision may be used to provide loans for the operation of private business unless the loan is approved by the governor and the legislative advisory commission.

Sec. 4. Minnesota Statutes 1990, section 298.28, subdivision 10, is amended to read:

Subd. 10. [INCREASE.] The amounts determined under subdivisions 6, paragraph (a), and 9 shall be increased in 1979 and subsequent years prior to 1988 in the same proportion as the increase in the steel mill products index as provided in section 298.24, subdivision 1. The amount distributed in 1988 shall be increased according to the increase that would have occurred in the rate of tax under section 298.24 if the rate had been adjusted according to the implicit price deflator for 1987 production. Those amounts shall be increased in 1989 ~~and subsequent years~~, *1990, and 1991* in the same proportion as the increase in the implicit price deflator as provided in section 298.24, subdivision 1. *In 1992 and 1993, the amounts determined under subdivisions 6, paragraph (a), and 9, shall be the distribution per ton determined for distribution in 1991. In 1994, the amounts determined under subdivisions 6, paragraph (a), and 9, shall be the distribution per ton determined for distribution in 1991 increased in the same proportion as the increase between the fourth quarter of 1988 and the fourth quarter of 1992 in the implicit price deflator as defined in section 298.24, subdivision 1. Those amounts shall be increased in 1995 and subsequent years in the same proportion as the increase in the implicit price deflator as provided in section*

298.24, subdivision 1.

The distributions per ton determined under subdivisions 5, paragraphs (b) and (d), and 6, paragraphs (b) and (c) for distribution in 1988 and subsequent years shall be the distribution per ton determined for distribution in 1987.

Sec. 5. Minnesota Statutes 1990, section 298.28, is amended by adding a subdivision to read:

Subd. 10a. [HIGHER EDUCATION FUNDING.] *In 1992 and 1993, the amount of tax attributable to the rate increase under section 298.24, subdivision 1, paragraph (b), since production year 1990, shall be paid to the commissioner of iron range resources and rehabilitation to be used to pay the cost of providing higher education services in the taconite tax relief area under the contract provided for in section 1.*

Sec. 6. Minnesota Statutes 1990, section 298.28, subdivision 11, is amended to read:

Subd. 11. [REMAINDER.] (a) The proceeds of the tax imposed by section 298.24 which remain after the distributions and payments in subdivisions 2 to ~~10~~ *10a*, as certified by the commissioner of revenue, and paragraphs (b) and (c) have been made, together with interest earned on all money distributed under this section prior to distribution, shall be divided between the taconite environmental protection fund created in section 298.223 and the northeast Minnesota economic protection trust fund created in section 298.292 as follows: Two-thirds to the taconite environmental protection fund and one-third to the northeast Minnesota economic protection trust fund. The proceeds shall be placed in the respective special accounts.

(b) There shall be distributed to each city, town, school district, and county the amount that it received under section 294.26 in calendar year 1977; provided, however, that the amount distributed in 1981 to the unorganized territory number 2 of Lake county and the town of Beaver Bay based on the between-terminal trackage of Erie Mining Company will be distributed in 1982 and subsequent years to the unorganized territory number 2 of Lake county and the towns of Beaver Bay and Stony River based on the miles of track of Erie Mining Company in each taxing district.

(c) There shall be distributed to the iron range resources and rehabilitation board the amounts it received in 1977 under section 298.22. The amount distributed under this paragraph shall be expended within or for the benefit of the tax relief area defined in section 273.134.

ARTICLE 5

CONSERVATION STUDY

Section 1. [CONSERVATION AREA STUDY.]

$25,000 is appropriated from the consolidated account created under Minnesota Statutes, section 84A.51, subdivision 1, after the distribution to counties under Minnesota Statutes, section 84A.51, subdivision 3, to the commissioner of natural resources for a contract with the natural resources research institute for the study described in this section. The natural resources research institute shall conduct a study of the conservation areas subject to Minnesota Statutes, chapter 84A, and address the following subjects:

(1) land use and ownership in counties with conservation areas;

(2) county and township services provided for utilization of conservation areas and the costs of those services;

(3) actual utilization of conservation areas for public hunting and game management and opportunities for improvement;

(4) forestry management of conservation areas and opportunities for improvement and joint county management;

(5) criteria for and efficiencies of private ownership of conservation areas;

(6) opportunities for increased revenue from conservation areas;

(7) water resource utilization and costs for conservation areas; and

(8) fiscal impacts on counties and townships resulting from conservation areas.

The natural resources research institute shall utilize existing studies and information provided by the state, counties, and other organizations. The agencies of the state and counties shall cooperate with the natural resource research institute and provide information requested to the extent possible. The natural resources research institute shall establish and consult with an advisory committee made up of residents of counties where conservation lands are located, conservation groups, and the department of natural resources. A draft report shall be prepared and submitted to the commissioner of natural resources and counties with conservation areas by December 1, 1991, for comments within 30 days after receipt. A final report shall be submitted to the legislative commission on Minnesota resources, the commissioner of natural resources, the counties with conservation lands, and the legislature by January 15, 1992.

ARTICLE 6

PEACE OFFICER TRAINING

Section 1. Minnesota Statutes 1990, section 626.84, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

(a) "Board" means the board of peace officer standards and training.

(b) "Director" means the executive director of the board.

(c) "Peace officer" means an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota state patrol, agents of the division of gambling enforcement, and state conservation officers.

(d) "Constable" has the meaning assigned to it in section 367.40.

(e) "Deputy constable" has the meaning assigned to it in section 367.40.

(f) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active

duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency. The limitation on the average number of hours in which the services of a part-time peace officer may be utilized shall not apply to a part-time peace officer who has formally notified the board pursuant to rules adopted by the board of the part-time peace officer's intention to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to sections 626.843, subdivision 1, clause (g), and 626.845, subdivision 1, clause (g).

(g) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

(h) "Law enforcement agency" means a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state.

(i) "Professional peace officer education" means a post-secondary degree program, or a nondegree program for persons who already have a college degree, that is offered by a college or university in Minnesota, designed for persons seeking licensure as a peace officer, and approved by the board.

Sec. 2. [626.856] [SCHOOL OF LAW ENFORCEMENT.]

By July 1, 1992, the state university system shall develop a school of law enforcement in the metropolitan area, as defined in section 473.121, subdivision 2, whose mission is to advance the profession of law enforcement. The school may offer professional peace officer education, graduate degree programs, and peace officer continuing education programs, and may conduct applied research.

Sec. 3. [626.857] [ADVISORY COUNCIL.]

An advisory council of no more than 12 members is established consisting of law enforcement faculty and administrators, peace officers, police chiefs, sheriffs, and citizens. The state university board, the community college board, and the technical college board shall each appoint four members. The advisory council shall meet at least once each year to advise the post-secondary systems regarding professional peace officer education. The advisory council shall include women and members of minority groups. The advisory council shall expire on June 30, 1993.

Sec. 4. [TASK FORCE.]

Subdivision 1. [CREATION.] *A task force is created to improve the quality and delivery of law enforcement education, and to more clearly define the mission of each post-secondary system in this delivery. The task force shall consist of a representative of the community college system, the technical college system, the state university system, private colleges offering professional peace officer education, the higher education coordinating board, and the advisory council established in section 3. The executive director of the peace officer standards and training board shall chair the task force.*

Subd. 2. [ACTIONS.] *By January 1, 1992, the task force shall develop*

and implement actions to:

(1) recruit and retain women and minorities in professional peace officer education;

(2) increase the amount of general education in the professional peace officer education program for associate degrees, to allow for maximum credit transfer from community colleges and technical colleges; and

(3) provide information to students enrolling in professional peace officer education concerning transferability of credits and the peace officer licensing process, and develop a form that the students must sign that acknowledges receipt of the information.

Subd. 3. [PLAN FOR PILOT PROJECT.] *The task force shall develop a plan for a pilot project for an integrated peace officer education program in the metropolitan area to be implemented by the beginning of the 1992-1993 academic year. The pilot shall provide for the needs of students seeking associate and baccalaureate degrees. It shall include general education and integrated professional peace officer education which is appropriately managed and located. Upon appointment by the state university board, the director of the school of law enforcement shall serve as the coordinator of the pilot project and shall work with the task force in developing and implementing the pilot.*

Subd. 4. [REPORTS.] *The task force shall report on its actions and its progress in developing its plans by February 1, 1992, to the higher education policy and funding divisions of the legislature.*

Sec. 5. [REPEALER.]

Minnesota Statutes 1990, section 626.86, is repealed.

ARTICLE 7

ACADEMIC EXCELLENCE SCHOLARSHIP

Section 1. [135A.30] [MINNESOTA ACADEMIC EXCELLENCE SCHOLARSHIP.]

Subdivision 1. [CREATION.] *The Minnesota academic excellence scholarship program is created to reward students who have demonstrated outstanding ability, achievement, and potential in one of the following subjects: English/creative writing, fine arts, foreign language, math, science, or social science.*

Subd. 2. [ELIGIBILITY.] *To be eligible to receive a scholarship under this section, a student must:*

(1) graduate from a Minnesota public or nonpublic high school in the academic year in which the scholarship is awarded;

(2) successfully complete a college preparatory curriculum and demonstrate outstanding ability, achievement, and potential in one of the specified subjects;

(3) be admitted to enroll full time in a nonsectarian, baccalaureate degree-granting program at the University of Minnesota or at a Minnesota state university, or at a Minnesota private, baccalaureate degree-granting college or university; and

(4) pursue studies in the subject for which the award is made.

Subd. 3. [SELECTION OF RECIPIENTS.] *The governing board of an eligible institution shall determine, in consultation with its campuses, application dates and procedures, criteria to be considered, and methods of selecting students to receive scholarships. A campus, with the approval of its governing board, may award a scholarship in any of the specified fields of study (1) in which the campus offers a program that is of the quality and rigor to meet the needs of the talented student, and (2) that is pertinent to the mission of the campus.*

Subd. 4. [AMOUNT OF SCHOLARSHIP.] *The amount of the scholarship must be (1) at public institutions, the cost of tuition and fees for full-time attendance for one academic year, or (2) at private institutions, an amount equal to the lesser of the actual tuition and fees charged by the institution or the tuition and fees in comparable public institutions. Scholarships awarded under this section must not be considered in determining a student's financial need as provided in section 136A.101, subdivision 5.*

Subd. 5. [RENEWALS.] *The scholarship shall be renewed yearly, for up to three additional academic years, if the student:*

(1) maintains full-time enrollment with a grade point average of at least 3.0 on a four point scale;

(2) pursues studies and continues to demonstrate outstanding ability, achievement, and potential in the field for which the award was made; and

(3) is achieving satisfactory progress toward a degree.

Subd. 6. [NUMBER OF AWARDS.] *The number of scholarships awarded each year shall be determined by the amount of contributions received under subdivision 8 plus the money available in the scholarship account, as provided in section 168.129, subdivision 6, that is credited to a post-secondary institution or system through sales of its license plates. The number of new awards must be determined after subtracting the actual and projected amount necessary for renewals.*

Subd. 7. [DISTRIBUTION AMONG CAMPUSES.] *Post-secondary systems with more than one campus shall allocate at least three-fourths of the revenue available from the sale of license plates to the campuses to which the revenue is attributable. The governing board annually shall determine the distribution of the remaining portion among the campuses, after consideration of special needs or circumstances.*

Subd. 8. [ADDITIONAL CONTRIBUTIONS.] *A post-secondary system or campus may accept contributions, beyond those raised through the sale of license plates, to supplement the campus fund for academic excellence scholarships.*

Sec. 2. [168.129] [SPECIAL COLLEGIATE LICENSE PLATES.]

Subdivision 1. [GENERAL REQUIREMENTS AND PROCEDURES.] *The commissioner of public safety shall issue special collegiate license plates to an applicant who:*

(1) is an owner or joint owner of a passenger automobile, pickup truck, or van;

(2) pays a fee determined by the commissioner to cover the costs of handling and manufacturing the plates;

(3) pays the registration tax required under section 168.12;

(4) pays the fees required under this chapter;

(5) contributes at least $100 to the scholarship account established in subdivision 6; and

(6) complies with laws and rules governing registration and licensing of vehicles and drivers.

Subd. 2. [DESIGN.] *After consultation with each participating college, university or post-secondary system, the commissioner shall design the special collegiate plates.*

In consultation with the commissioner, a participating college or university annually shall indicate the anticipated number of plates needed. Plates will be produced when the commissioner has received at least 200 applications.

Subd. 3. [NO REFUND.] *Contributions under this section must not be refunded.*

Subd. 4. [PLATE TRANSFERS.] *Notwithstanding section 168.12, subdivision 1, on payment of a transfer fee of $5, plates issued under this section may be transferred to another passenger vehicle, pickup, or van owned or jointly owned by the person to whom the special plates were issued.*

Subd. 5. [FEES CREDITED.] *The fees collected under this section must be deposited in the state treasury and credited to the highway user tax distribution fund. Fees collected under this section do not include the contributions collected for the scholarship account.*

Subd. 6. [SCHOLARSHIP ACCOUNT.] *A scholarship account is created in the state treasury. Except for one percent that may be retained by the commissioner of public safety for administrative costs, all contributions received under this section must be deposited by the commissioner in the scholarship account. Money in the scholarship account is appropriated to the governing board of the institution to which it is attributable, as provided in subdivision 7.*

Subd. 7. [RECORD.] *The commissioner shall maintain a record of the number of license plates issued for each post-secondary institution or system in order to determine the amount of scholarship funds available to that institution or system.*

Sec. 3. [GOVERNING BOARD DUTIES.]

The board of regents of the University of Minnesota, the state university board, and the governing boards of eligible private colleges and universities are requested to cooperate with the higher education coordinating board, the Minnesota academic excellence foundation, public and nonpublic Minnesota high schools, and school districts to publicize the availability of the scholarships and to identify qualified students.

Sec. 4. [EFFECTIVE DATES.]

Section 1 is effective for high school graduates beginning in the 1991-1992 school year. Section 2 is effective for vehicle registrations after June 30, 1991.

ARTICLE 8

FINANCIAL AID

Section 1. Minnesota Statutes 1990, section 136A.101, subdivision 7, is amended to read:

Subd. 7. *Until June 30, 1993,* "student" means a person who is enrolled at least half time~~, as defined by the board,~~ in a program or course of study that applies to a degree, diploma, or certificate, except that for purposes of section 136A.132, student may include a person enrolled *for at least three credits per quarter or semester, or the equivalent, but* less than half time.

Beginning July 1, 1993, "student" means a person who is enrolled for at least three credits per quarter or semester, or the equivalent, in a program or course of study that applies to a degree, diploma, or certificate.

Sec. 2. Minnesota Statutes 1990, section 136A.101, is amended by adding a subdivision to read:

Subd. 7a. "Full time" means enrollment in a minimum of 15 credits per quarter or semester, or the equivalent.

Sec. 3. Minnesota Statutes 1990, section 136A.101, is amended by adding a subdivision to read:

Subd. 7b. "Half time" means enrollment in a minimum of eight credits per quarter or semester, or the equivalent.

Sec. 4. Minnesota Statutes 1990, section 136A.101, subdivision 8, is amended to read:

Subd. 8. "Resident student" means a student who meets one of the following conditions:

(1) an independent student who has resided in Minnesota for purposes other than post-secondary education for at least 12 months;

(2) a dependent student whose parent or legal guardian resides in Minnesota at the time the student applies;

(3) a student who graduated from a Minnesota high school, *unless the student is a resident of a bordering state attending a Minnesota high school*; or

(4) a student who, after residing in the state for a minimum of one year, earned a high school equivalency certificate in Minnesota.

Sec. 5. Minnesota Statutes 1990, section 136A.101, is amended by adding a subdivision to read:

Subd. 10. "Satisfactory academic progress" means that at the end of a student's second academic year of attendance at an institution:

(1) The student has at least a cumulative grade point average of C or its equivalent, or academic standing consistent with its graduation requirements; or

(2) The student's failure to have at least a cumulative grade point average of C or its equivalent, or academic standing consistent with its graduation requirements, was caused by (a) the death of a relative of the student; (b) an injury or illness of the student; or (c) other special circumstances.

Sec. 6. Minnesota Statutes 1990, section 136A.121, subdivision 6, is amended to read:

Subd. 6. [COST OF ATTENDANCE.] The cost of attendance consists of allowances specified by the board for room and board and miscellaneous expenses, and

(1) for public institutions, tuition and fees charged by the institution; or

(2) for private institutions, an allowance for tuition and fees equal to the lesser of the actual tuition and fees charged by the institution, or the instructional costs per full-year equivalent student in comparable public institutions.

For students attending less than full time, the board shall prorate the cost of attendance.

Sec. 7. Minnesota Statutes 1990, section 136A.121, subdivision 11, is amended to read:

Subd. 11. [RENEWAL CONDITIONS.] Each grant is renewable, contingent on continued residency in Minnesota, satisfactory academic ~~standing~~ *progress*, recommendation of the eligible institution currently attended, and evidence of continued need.

Sec. 8. Minnesota Statutes 1990, section 136A.121, subdivision 16, is amended to read:

Subd. 16. [HOW APPLIED; ORDER.] Grants awarded under sections ~~136A.095 to 136A.131~~ *136A.121 and 136A.132 to 136A.1354* must be applied to educational costs in the following order: tuition, fees, books, supplies, and other expenses. Unpaid portions of the awards revert to the grant account.

Sec. 9. Minnesota Statutes 1990, section 136A.125, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE STUDENTS.] An applicant is eligible for a child care grant if the applicant:

(1) is a resident of the state of Minnesota;

(2) has a child 12 years of age or younger, or 14 years of age or younger who is handicapped as defined in section 120.03, and who is receiving or will receive care on a regular basis from a licensed or legal, nonlicensed caregiver;

(3) is within the sliding fee scale income guidelines set under section 256H.10, subdivision 2, as determined by a standardized financial aid needs analysis in accordance with the board's policies and rules, but is not a recipient of aid to families with dependent children;

(4) has not earned a baccalaureate degree and has been enrolled full time less than eight semesters, 12 quarters, or the equivalent;

(5) is pursuing a nonsectarian program or course of study that applies to an undergraduate degree, diploma, or certificate;

(6) is enrolled at least half time in an eligible institution; and

(7) is in good academic standing and making satisfactory *academic* progress~~, as determined by the institution~~.

Sec. 10. Minnesota Statutes 1990, section 136A.125, subdivision 3, is amended to read:

Subd. 3. [ELIGIBLE INSTITUTION.] A Minnesota public post-secondary institution or a private, ~~residential, two-year or four-year, liberal arts,~~ *baccalaureate* degree granting college or university located in Minnesota is eligible to receive child care funds from the board and disburse them to

eligible students.

Sec. 11. Minnesota Statutes 1990, section 136A.125, subdivision 4, is amended to read:

Subd. 4. [AMOUNT AND LENGTH OF GRANTS.] The amount of a child care grant must be based on:

(1) the financial need of the applicant;

(2) the number of the applicant's children; and

(3) the cost of the child care,

as determined by the institution in accordance with board policies and rules. The amount of the grant must cover the cost of child care for all eligible children for the full number of hours of education per week and may cover up to 20 hours per week of employment for which child care is needed. The grant must be awarded for one academic year. *The minimum financial stipend is $100.*

Sec. 12. Minnesota Statutes 1990, section 136A.125, is amended by adding a subdivision to read:

Subd. 4a. [RATES CHARGED.] *Child care providers may not charge students receiving grants under this section a rate that is higher than the rate charged to private paying clients.*

Sec. 13. Minnesota Statutes 1990, section 136A.125, subdivision 6, is amended to read:

Subd. 6. [YEARLY ALLOCATIONS TO INSTITUTIONS.] The board shall base yearly allocations on the need for ~~and use of the~~ funds ~~in the last academic year, and other~~ *using* relevant factors as determined by the board in consultation with the institutions. *Up to five percent of the allocation, as determined by the board, may be used for an institution's administrative expenses related to the child care grant program. Any money designated, but not used, for this purpose must be reallocated to child care grants.*

Sec. 14. [136A.1311] [CASH FLOW.]

The higher education coordinating board may ask the commissioner of finance to lend general fund money to the grant account to ease cash flow difficulties. The higher education coordinating board must first certify to the commissioner that there will be adequate refunds to the account to repay the loan. The commissioner shall use the refunds to make repayment to the general fund of the full amount loaned. Money necessary to meet cash flow difficulties in the state grant program is appropriated to the commissioner of finance for loans to the higher education coordinating board.

Sec. 15. Minnesota Statutes 1990, section 136A.132, subdivision 3, is amended to read:

Subd. 3. [STUDENT ELIGIBILITY.] An applicant is eligible to be considered for a part-time student grant if the applicant:

(1) is a resident of the state of Minnesota;

(2) is an undergraduate student who has not earned a baccalaureate degree;

(3) is pursuing a program or course of study that applies to a degree, diploma, or certificate;

(4) is attending an eligible institution either less than half time ~~as defined by the board,~~ or as a new or returning student enrolled at least half time but less than full time ~~as defined by the board~~; and

(5) is not in default, as defined by the board, of any federal or state student educational loan.

Sec. 16. Minnesota Statutes 1990, section 136A.132, subdivision 5, is amended to read:

Subd. 5. [AMOUNT.] The amount of any part-time student grant award must be based on the need of the applicant determined by the institution in accordance with policies and rules established by the higher education coordinating board. *The minimum financial stipend is $100.*

Sec. 17. Minnesota Statutes 1990, section 136A.132, subdivision 6, is amended to read:

Subd. 6. [LENGTH OF AWARD.] Part-time student grants must be awarded for a single term as defined by the institution in accordance with guidelines and policies of the higher education coordinating board. Awards are not renewable, but the recipient of an award may apply for additional awards for subsequent terms *contingent on continued eligibility, need, and satisfactory academic progress.*

A new or returning student enrolled at least half time but less than full time~~, as defined by the board,~~ and pursuing a program or course of study that applies to a degree, diploma, or certificate is eligible for an award for only one term.

Sec. 18. Minnesota Statutes 1990, section 136A.1352, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The higher education coordinating board shall provide grants to students who are entering or enrolled in registered nurse or licensed practical nurse programs, who have no previous nursing training or education, and who agree to practice in a designated rural area, *as defined by the board.*

Sec. 19. Minnesota Statutes 1990, section 136A.1353, subdivision 4, is amended to read:

Subd. 4. [RESPONSIBILITIES OF THE HIGHER EDUCATION COORDINATING BOARD.] The higher education coordinating board shall distribute funds each year to the schools, colleges, or programs of nursing applying to participate in the nursing grant program based on the last academic year's enrollment of students in educational programs that would lead to licensure as a ~~licensed practical~~ *registered* nurse. Money not used by a recipient nursing program must be returned to the higher education coordinating board for redistribution under this section. The board shall establish an application process for interested schools, colleges, or programs of nursing. Initial applications are due by January 1, 1991, and by January 1 of each later year. By March 1, 1991, and by March 1 of each later year, the board shall notify each applicant school, college, or program of nursing of its approximate allocation of funds in order to allow the school, college, or program to determine the number of students that can be supported by the allocation. The board shall distribute funds to the schools, colleges, or programs of nursing by August 1, 1991, and by August 1 of each later year.

Sec. 20. Minnesota Statutes 1990, section 136A.1355, subdivision 1, is

amended to read:

Subdivision 1. [CREATION OF ACCOUNT.] A rural physician education account is established. The higher education coordinating board shall use money from the account to establish a loan forgiveness program for medical students agreeing to practice in designated rural areas, *as defined by the board.*

Sec. 21. Minnesota Statutes 1990, section 136A.233, subdivision 3, is amended to read:

Subd. 3. [PAYMENTS.] Work-study payments shall be made to eligible students by post-secondary institutions as provided in this subdivision.

(a) Students shall be selected for participation in the program by the post-secondary institution on the basis of student financial need.

(b) No eligible student shall be employed under the state work-study program while not a full-time student; provided, with the approval of the institution, a full-time student who becomes a part-time student during an academic year may continue to be employed under the state work-study program for the remainder of the academic year.

(c) Students will be paid for hours actually worked and the maximum hourly rate of pay shall not exceed the maximum hourly rate of pay permitted under the federal college work-study program.

(d) Minimum pay rates will be determined by an applicable federal or state law.

(e) ~~Not less than 20 percent of the compensation paid to the student under the state work-study program shall be paid by the eligible employer~~ *An eligible employer shall pay at least 30 percent of the student's compensation.*

(f) Each post-secondary institution receiving ~~funds~~ *money* for state work-study grants shall make a reasonable effort to place work-study students in employment with eligible employers outside the institution.

(g) The percent of the institution's work-study allocation provided to graduate students shall not exceed the percent of graduate student enrollment at the participating institution.

Sec. 22. Minnesota Statutes 1990, section 299A.45, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] Following certification under section 299A.44 and compliance with this section and rules of the commissioner of public safety and the higher education coordinating board, dependent children less than 23 years of age and the surviving spouse of a public safety officer killed in the line of duty on or after January 1, 1973, are eligible to receive educational benefits under this section. To qualify for an award, they must be enrolled in undergraduate degree or certificate programs after June 30, 1990, at ~~a~~ *an eligible* Minnesota ~~public post-secondary~~ institution ~~or a private, residential, two-year or four-year, liberal arts, degree granting college or university located in Minnesota~~ *as provided in section 136A.101, subdivision 4.* Persons who have received a baccalaureate degree or have been enrolled full time or the equivalent of eight semesters or 12 quarters, whichever occurs first, are no longer eligible.

Sec. 23. [CHILD CARE INNOVATION GRANTS.]

Subdivision 1. [PROGRAM.] *The higher education coordinating board*

shall establish a grant program to encourage innovative approaches in providing or financing child care services to post-secondary students.

Subd. 2. [QUALIFICATIONS.] *Grants may be awarded to the governing board of a post-secondary system, to a specific college campus or organization, or to a private, nonprofit organization. No grant may exceed $25,000.*

Subd. 3. [APPLICATIONS.] *The board shall determine procedures to solicit and evaluate proposals and to award grants. The board must consider the way in which a proposal would aid students needing child care, considering the limited funds available for the state child care grant program. The grants may also fund programs to assure that child care funding and delivery is part of a student's overall package of support services.*

The board must not award a grant unless the proposal demonstrates a strong likelihood that the value of the services to be generated as a result of the grant substantially exceeds the amount of the grant.

Subd. 4. [REPORT.] *The higher education coordinating board shall report to the appropriations and finance committees on its distribution of the grants by February 1, 1992. The board shall evaluate the projects and make its final report by January 1, 1993.*

Sec. 24. [REPEALER.]

Subdivision 1. Minnesota Statutes 1990, section 136A.1351, is repealed.

Subd. 2. Minnesota Statutes 1990, section 136A.132, is repealed.

Sec. 25. [EFFECTIVE DATE.]

Section 23 is effective the day following final enactment. Sections 1 to 3, 6, and 15 are effective July 1, 1992. Section 24, subdivision 2, is effective July 1, 1993.

ARTICLE 9

HIGHER EDUCATION BOARD

Section 1. Minnesota Statutes 1990, section 15A.081, subdivision 7b, is amended to read:

Subd. 7b. [HIGHER EDUCATION OFFICERS.] The *higher education board,* state university board, the state board for community colleges, the state board of technical colleges, and the higher education coordinating board shall set the salary rates for, respectively, *the chancellor of the higher education system,* the chancellor of the state universities, the chancellor of the community colleges, the state director of vocational technical education, and the executive director of the higher education coordinating board. The respective board shall submit the proposed salary increase to the legislative commission on employee relations for approval, modification, or rejection in the manner provided in section 43A.18, subdivision 2. Salary rates for the positions specified in this subdivision may not exceed 95 percent of the salary of the governor under section 15A.082, subdivision 3. In deciding whether to recommend a salary increase, the governing board shall consider the performance of the chancellor or director, including the chancellor's or director's progress toward attaining affirmative action goals.

Sec. 2. [136E.01] [HIGHER EDUCATION BOARD.]

Subdivision 1. [MEMBERSHIP.] *The higher education board, referred*

to in sections 2 to 6 as "the board," consists of 13 members appointed by the governor with the advice and consent of the senate. At least one member of the board must be a resident of each congressional district. One member must be a student or have graduated from an institution governed by the board within one year of the date of appointment. The remaining members must be appointed to represent the state at large.

Subd. 2. [TERM; COMPENSATION; REMOVAL; VACANCIES.] *The compensation, removal of members, and filling of vacancies on the board are as provided in section 15.0575. Members are appointed for a term of six years, except that the term of the student member is two years. Terms end on June 30.*

Subd. 3. [BOARD ADMINISTRATION.] *The board shall elect a chair and other officers as it may desire. It shall determine its meeting dates and places.*

Sec. 3. [136E.02] [HIGHER EDUCATION BOARD CANDIDATE ADVISORY COUNCIL.]

Subdivision 1. [PURPOSE.] *A higher education board candidate advisory council shall assist the governor in determining criteria for, and identifying and recruiting qualified candidates for, membership on the higher education board.*

Subd. 2. [MEMBERSHIP.] *The advisory council consists of 24 members. Twelve members are appointed by the subcommittee on committees of the committee on rules and administration of the senate. Twelve members are appointed by the speaker of the house of representatives. No more than one-third of the members appointed by each appointing authority may be current or former legislators. No more than two-thirds of the members appointed by each appointing authority may belong to the same political party; however, political activity or affiliation is not required for the appointment of a member. Geographical representation must be taken into consideration when making appointments. Section 15.0575 governs the advisory council, except that the members must be appointed to six-year terms.*

Subd. 3. [DUTIES.] *The advisory council shall:*

(1) develop a statement of the selection criteria to be applied and a description of the responsibilities and duties of a member of the higher education board and shall distribute this to potential candidates; and

(2) for each position on the board, identify and recruit qualified candidates for the board, based on the background and experience of the candidates, and their potential for discharging the responsibilities of a member of the board.

Subd. 4. [RECOMMENDATIONS.] *The advisory council shall recommend at least two and not more than four candidates for each seat. By January 2 of each even-numbered year, the advisory council shall submit its recommendations to the governor. The governor is not bound by these recommendations.*

Subd. 5. [SUPPORT SERVICES.] *The legislative coordinating commission shall provide administrative and support services for the advisory council.*

Sec. 4. [136E.03] [MISSION.]

The mission of the board is to provide programs of study that meet the

needs of students for occupational, general, baccalaureate, and graduate education. The board shall develop administrative arrangements that make possible the efficient use of the facilities and staff of the former technical colleges, community colleges, and state universities for providing these several different programs of study, so that students may have the benefit of improved and broader course offerings, ease of transfer among schools and programs, integrated course credit, coordinated degree programs, and coordinated financial aid. In carrying out the merger of the three separate systems, the board shall control administrative costs by eliminating duplicative administrative positions and course offerings.

Sec. 5. [136E.04] [POWERS AND DUTIES.]

Subdivision 1. [GENERAL AUTHORITY.] *The board shall manage, supervise, and control the former technical colleges, community colleges, and state universities and all related property. It shall prescribe courses of study and conditions of admission, prepare and confer diplomas, and adopt suitable policies for the institutions it manages. Sections 14.01 to 14.47 do not apply to policies and procedures of the board.*

Subd. 2. [PERSONNEL.] *The board shall appoint all presidents, teachers, and other necessary employees. Salaries and benefits of employees must be determined according to chapters 43A and 179A.*

Subd. 3. [BUDGET.] *The board shall submit to the governor and the legislature the budget request for its several different programs of study.*

Subd. 4. [OCCUPATIONAL AND VOCATIONAL PROGRAM INFORMATION.] *In its biennial budget request, the board shall provide to the governor and legislature information on its occupational and vocational programs specifying revenues, expenditures, trends for expenditures, expenditures for instructional equipment, and other relevant information related to those programs. The board shall provide the governor and legislature in its biennial budget request information on the accountability measures it uses to determine the efficiency and effectiveness of the occupational and vocational programs.*

Subd. 5. [PROGRAM DELIVERY.] *The board shall avoid duplicate program offerings. After consulting with the local advisory committees, the board shall develop programs to meet the needs of students and the state.*

Subd. 6. [TRANSFERABILITY.] *The board shall place a high priority on ensuring the transferability of credit among the institutions it governs.*

Subd. 7. [REGISTRATION AND FINANCIAL AID.] *The board shall devise a registration system that simplifies and combines registration for the institutions it governs, improves the financial aid application process for students, and provides registration at common locations.*

Sec. 6. [136E.05] [LOCAL ADVISORY COMMITTEES.]

The president, with the approval of the chancellor and the board, may appoint a local advisory committee for each campus. Committee members must be qualified people who have knowledge of and interest in the campus. The board shall define the role and authority of the advisory committees and establish procedures for the appointment, terms, and termination of members. The president or an appointee of the president shall regularly meet and consult with the local advisory committee.

Sec. 7. Minnesota Statutes 1990, section 179A.10, subdivision 2, is

amended to read:

Subd. 2. [STATE EMPLOYEES.] Unclassified employees, unless otherwise excluded, are included within the units which include the classifications to which they are assigned for purposes of compensation. Supervisory employees shall only be assigned to units 12 and 16. The following are the appropriate units of executive branch state employees:

(1) law enforcement unit;

(2) craft, maintenance, and labor unit;

(3) service unit;

(4) health care nonprofessional unit;

(5) health care professional unit;

(6) clerical and office unit;

(7) technical unit;

(8) correctional guards unit;

(9) state university instructional unit;

(10) community college instructional unit;

(11) *technical college instructional unit;*

(12) state university administrative unit;

~~(12)~~ *(13)* professional engineering unit;

~~(13)~~ *(14)* health treatment unit;

~~(14)~~ *(15)* general professional unit;

~~(15)~~ *(16)* professional state residential instructional unit; and

~~(16)~~ *(17)* supervisory employees unit.

Each unit consists of the classifications or positions assigned to it in the schedule of state employee job classification and positions maintained by the commissioner. The commissioner may only make changes in the schedule in existence on the day prior to the effective date of this section as required by law or as provided in subdivision 4.

Sec. 8. [TRANSITIONAL PROVISIONS.]

Subdivision 1. [APPOINTMENTS TO BOARD.] *Appointments to the higher education board must be made by July 1, 1991. Notwithstanding section 2, the initial higher education board consists of two members each from the state board of technical colleges, state board for community colleges, and the state university board, appointed by their respective boards and six members appointed by the governor. The governor's appointees may also be members of the current governing boards. The members appointed by boards must have been confirmed by the senate to the board from which they are appointed and served for at least one year on the board from which they were appointed. Initial higher education board members appointed by boards are not subject to further senate confirmation. Initial appointees of the governor are not subject to section 3. The governor shall appoint the student member July 1, 1995. Notwithstanding section 2, subdivision 2, the initial members of the higher education board must be appointed so that an equal number will have terms expiring in three, five, and seven years.*

To the extent possible, the initial board must have the geographic balance required by section 2.

Subd. 2. [INTERIM CHANCELLOR.] *By November 1, 1991, the board shall hire a chancellor on an interim basis for the period ending June 30, 1995. Thereafter, the board shall conduct a search and hire a chancellor to serve on a continuing basis.*

Subd. 3. [PERSONNEL.] *The chancellor may hire employees necessary to carry out the transitional duties imposed by this section. The commissioner of employee relations shall cooperate with the chancellor to expedite hiring these employees.*

Subd. 4. [TRANSITIONAL PLANNING PROCESS.] *The board shall immediately after appointment commence planning for the merger of the technical college, community college, and state university systems. As part of the planning process, the board shall consult with the local advisory committees, representatives of student government organizations, and exclusive representatives of the employees of the state universities, community colleges, and technical colleges. The board shall complete a preliminary merger plan and timetable for the plan on or before March 1, 1992. Copies of the plan shall be submitted to the chairs of the education, appropriation, and finance committees of the legislature.*

Subd. 5. [RESTRUCTURING.] *The board shall submit a proposal to the legislature concerning the appropriate administrative structure for the educational institutions it governs. The board shall give special attention to the need to integrate the administration of programs of study now offered at institutions from different systems. The board, in cooperation with the department of employee relations and the department of administration, shall give special attention to the need to integrate administrative functions of the educational institutions it governs, including: (1) personnel, labor, and compensation policies; (2) purchases of supplies; and (3) management of property, and construction and repair of facilities.*

Subd. 6. [SCHOOL DISTRICTS.] *The board shall, in cooperation with the commissioner of employee relations, submit proposals to the legislature concerning labor and other issues related to the transfer of technical colleges from school board governance.*

The board shall, in cooperation with the commissioner of administration, submit a proposal to the legislature concerning reimbursement to school districts for technical college property transferred to the board pursuant to section 9.

Subd. 7. [LEGAL SERVICES.] *The board shall submit to the legislature proposals for providing the board with adequate legal services.*

Subd. 8. [ACCOUNTING SYSTEM.] *The commissioner of finance shall submit proposals to the legislature that will enable the board to use a single accounting system in accord with generally accepted accounting principles for colleges and universities and eliminate the need to have a second system to account for its money in the state treasury.*

Subd. 9. [BUDGET REQUESTS.] *The board shall consult with the commissioner of finance, the chair of the senate finance committee, and the chair of the house appropriations committee and submit to the legislature a proposed format for its 1995 budget request. The higher education board shall use the format, as revised in accordance with instructions from the*

legislature, to present its budget request to the governor and the 1995 legislature.

Subd. 10. [INITIAL ADVISORY COUNCIL APPOINTMENTS.] *Notwithstanding section 3, the initial members of the higher education board candidate advisory council must be appointed so that an equal number will have terms expiring in two, four, and six years.*

Sec. 9. [TRANSFER OF POWERS.]

The state board of technical colleges, the state board for community colleges, and the state university board and their respective chancellors retain responsibility for operating and managing their systems until July 1, 1995. On July 1, 1995, the authority, duties, responsibilities, related property of the state board of technical colleges, school boards, intermediate school boards, and joint vocational technical boards with respect to technical colleges, the state board for community colleges, and the state university board are transferred to the higher education board under Minnesota Statutes, section 15.039. The state board of technical colleges, state board for community colleges, and state university board are abolished, effective July 1, 1995.

Sec. 10. [CURRENT EMPLOYEES.]

It is the policy of the state of Minnesota that any restructuring of the higher education systems be accomplished while ensuring that fair and equitable arrangements are carried out to protect the interests of higher education system employees, and while facilitating the best possible service to the public. The higher education board shall make every effort to train and retrain existing employees for a changing work environment.

For employees whose positions will be eliminated by merging higher education systems, options presented to employees must include but not be limited to job and training opportunities necessary to qualify for another job within their current institution or a similar job in another institution.

Implementation of this section, as well as procedures for notifying employees affected by the merger, must be negotiated in good faith under Minnesota Statutes, chapter 179A. Nothing in this section shall be construed as diminishing any rights defined in collective bargaining agreements under this chapter or Minnesota Statutes, chapter 179A.

Sec. 11. [TECHNICAL COLLEGE COLLECTIVE BARGAINING.]

For purposes of collective bargaining, faculty of the technical colleges will initially be assigned to the new technical college instructional unit provided for in Minnesota Statutes, section 179A.10, subdivision 2, as amended by this act. The new bargaining unit may begin to organize on or after July 1, 1993, for negotiating contracts that become effective on or after July 1, 1995. Other technical college employees must be assigned to the appropriate existing state bargaining unit.

Sec. 12. [EFFECT OF CURRENT COLLECTIVE BARGAINING AGREEMENTS.]

The terms and conditions of a collective bargaining agreement covering an employee transferred to the higher education board remains in effect until a successor agreement becomes effective. This section applies to all employees transferred to the board.

Sec. 13. [TRANSITIONAL PERIOD COLLECTIVE BARGAINING.]

Contracts for the period commencing July 1, 1995, for employees transferred to the higher education board shall be negotiated with the higher education board. Negotiations for those contracts can begin anytime after July 1, 1994, and may be initiated by either party notifying the other of the desire to begin the negotiating process.

Sec. 14. [COOPERATION.]

The state university board, state board of technical colleges, and state board for community colleges shall cooperate with the higher education board. Each of those boards may transfer money, personnel, or equipment to the higher education board.

Sec. 15. [REVENUE FUND; OUTSTANDING REVENUE BONDS.]

Nothing in this article shall in any way alter or amend Minnesota Statutes, sections 136.35 through 136.41, or any contract entered into by the board pursuant to those sections, or the pledge and appropriation of revenues from the revenue fund and any covenants made for the security of revenue bonds authorized to be issued by the state university board.

Sec. 16. [EFFECTIVE DATE.]

This article is effective the day following final enactment, except that section 7 is effective July 1, 1993, for collective bargaining of contracts that become effective on or after July 1, 1995, and sections 5 and 6 are effective July 1, 1995."

Delete the title and insert:

"A bill for an act relating to higher education; appropriating money for education and related purposes to the higher education coordinating board, state board of technical colleges, state board for community colleges, state university board, University of Minnesota, higher education board, and the Mayo medical foundation, with certain conditions; creating the higher education board; amending Minnesota Statutes 1990, sections 15A.081, subdivision 7b; 135A.03, subdivision 3, and by adding subdivisions; 135A.05; 136.11, subdivisions 3, 5, and by adding a subdivision; 136.142, subdivision 1; 136A.04, subdivision 1; 136A.101, subdivisions 7, 8, and by adding subdivisions; 136A.121, subdivisions 6, 11, and 16; 136A.125, subdivisions 2, 3, 4, 6, and by adding a subdivision; 136A.132, subdivisions 3, 5, and 6; 136A.1352, subdivision 1; 136A.1353, subdivision 4; 136A.1355, subdivision 1; 136A.233, subdivision 3; 179A.10, subdivision 2; 298.28, subdivisions 4, 7, 10, 11, and by adding a subdivision; 299A.45, subdivision 1; 626.84, subdivision 1; and Laws 1990, chapter 591, article 3, section 10; proposing coding for new law in Minnesota Statutes, chapters 135A; 136; 136A; 136C; 168; 298; and 626; proposing coding for new law as Minnesota Statutes, chapter 136E; repealing Minnesota Statutes, sections 136A.132; 136A.1351; and 626.86."

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

Senate Conferees: (Signed) LeRoy A. Stumpf, Pat Piper, Ronald R. Dicklich, Nancy Brataas

House Conferees: (Signed) Lyndon R. Carlson, Howard Orenstein, Bob Haukoos, Chuck Brown

Mr. Stumpf moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1535 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. 1535 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 37 and nays 30, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Johnson, D.J.	Metzen	Reichgott
Benson, D.D.	Dahl	Johnson, J.B.	Moe, R.D.	Samuelson
Benson, J.E.	DeCramer	Kelly	Mondale	Solon
Berg	Dicklich	Kroening	Morse	Spear
Bernhagen	Finn	Langseth	Novak	Stumpf
Bertram	Frederickson, D.J.	Luther	Piper	
Brataas	Halberg	Mehrkens	Pogemiller	
Chmielewski	Johnson, D.E.	Merriam	Price	

Those who voted in the negative were:

Beckman	Frank	Knaak	Neuville	Riveness
Belanger	Frederickson, D.R.	Laidig	Olson	Sams
Berglin	Gustafson	Larson	Pappas	Storm
Davis	Hottinger	Lessard	Pariseau	Traub
Day	Hughes	Marty	Ranum	Vickerman
Flynn	Johnston	McGowan	Renneke	Waldorf

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

RECONSIDERATION

Mr. Moe, R.D. moved that the vote whereby H.F. No. 719 was passed by the Senate on May 20, 1991, be now reconsidered. The motion prevailed.

H.F. No. 719 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 10, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kelly	Mondale	Sams
Beckman	Finn	Knaak	Morse	Samuelson
Benson, J.E.	Flynn	Kroening	Neuville	Solon
Berg	Frank	Laidig	Novak	Spear
Berglin	Frederickson, D.J.	Langseth	Pappas	Storm
Bertram	Frederickson, D.R.	Larson	Piper	Stumpf
Chmielewski	Halberg	Lessard	Pogemiller	Traub
Cohen	Hottinger	Luther	Price	Vickerman
Dahl	Hughes	Marty	Ranum	Waldorf
Davis	Johnson, D.E.	Merriam	Reichgott	
Day	Johnson, D.J.	Metzen	Renneke	
DeCramer	Johnson, J.B.	Moe, R.D.	Riveness	

Those who voted in the negative were:

Belanger	Bernhagen	Gustafson	McGowan	Olson
Benson, D.D.	Brataas	Johnston	Mehrkens	Pariseau

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

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 Files, herewith returned: S.F. Nos. 204, 899, 928 and 1244.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

S.F. No. 520: A bill for an act relating to legal services; requesting the supreme court to study the feasibility of adopting rules governing the delivery of legal services by specialized legal assistants; amending Minnesota Statutes 1990, section 481.02, subdivision 3.

Senate File No. 520 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

S.F. No. 785: A bill for an act relating to financial institutions; permitting interstate banking with additional reciprocating states; amending Minnesota Statutes 1990, section 48.92, subdivision 7.

Senate File No. 785 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

S.F. No. 598: A bill for an act relating to transportation; establishing state

transportation goals and requiring periodic revisions of the state transportation plan; directing a study of rail-highway grade crossings; establishing penalties for violations of grade crossing safety laws; authorizing the commissioner of transportation to make grants and loans for the improvement of commercial navigation facilities; establishing special categories of roads and highways; authorizing local units of government to advance funds for the completion of highway projects; authorizing road authorities to enter into agreements for the construction, maintenance, and operation of toll facilities; creating a transportation services fund; specifying percentage of unrefunded motor fuel tax revenue that is attributable to use on forest roads; authorizing the use of local bridge grant funds to construct drainage structures; requiring the commissioner of transportation to include light rail transit facilities in the design for reconstruction of interstate highways I-94 and I-35W; requiring a report on metropolitan transportation development and transit development consistent with the report; authorizing the commissioner of transportation to plan, acquire, construct, and equip light rail transit facilities; creating a light rail transit joint powers board; establishing a paratransit advisory council; authorizing transportation research; directing a study of highway corridors; extending the transportation study board and specifying duties; appropriating money; amending Minnesota Statutes 1990, sections 162.02, subdivision 3a; 162.09, subdivision 3a; 162.14, subdivision 6; 169.14, by adding a subdivision; 169.26; 171.13, subdivision 1, and by adding a subdivision; 173.13, subdivision 4; 174.01; 174.03, subdivision 2, and by adding a subdivision; 219.074, by adding a subdivision; 219.402; 296.16, subdivision 1a; 296.421, subdivision 8; 299D.03, subdivision 5; 473.373, subdivision 4a; 473.3993, subdivisions 2 and 3, and by adding a subdivision; 473.3994; and 473.3996; Laws 1990, chapter 610, article 1, section 13, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 3; 160; 161; 162; 174; 219; and 473; proposing coding for new law as Minnesota Statutes, chapters 161; 457A; and 473; repealing Laws 1989, chapter 339, section 21.

Senate File No. 598 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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. 1295, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1295: A bill for an act relating to Ramsey county; creating a Ramsey county local services study commission; setting its duties.

Senate File No. 1295 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

S.F. No. 765: A bill for an act relating to transportation; clarifying parking provisions for physically disabled persons; authorizing special license plates for motorcycles; authorizing tinted windshields for medical reasons; abolishing requirement to impound vehicle registration certificates; making technical changes; amending Minnesota Statutes 1990, sections 168.021, subdivision 1; 168.041; 169.123, subdivision 5b; 169.345, subdivision 1; 169.346, subdivisions 1 and 2; 169.71, subdivision 4; 169.795; and 171.29, subdivision 3.

Senate File No. 765 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

S.F. No. 931: A bill for an act relating to waste management; requiring counties to prepare and amend solid waste management plans; requiring counties and solid waste facilities to develop and implement problem materials management plans; prohibiting issuance and renewal of certain permit if plans are not developed and implemented; amending Minnesota Statutes 1990, sections 115A.03, subdivision 24a; 115A.46, subdivisions 1 and 2; 115A.956; 115A.96, subdivision 6; 116.07, subdivisions 4j and 4k; 473.149, subdivision 1; and 473.803, subdivision 1.

Senate File No. 931 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 155:

H.F. No. 155: A bill for an act relating to traffic regulations; authorizing immediate towing of certain unlawfully parked vehicles; amending Minnesota Statutes 1990, section 169.041, subdivision 4.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Bishop; Olsen, S. and Kalis have been appointed as such committee on the part of the House.

House File No. 155 is herewith transmitted to the Senate with the request

that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

Mrs. Brataas moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 155, 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 appointed on the part of the House. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Mr. Moe, R.D. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1114 and that the rules of the Senate be so far suspended as to give H.F. No. 1114, now on the Calendar, its third reading and place it on its final passage.

H.F. No. 1114: A bill for an act relating to state government; providing for gender balance in multimember agencies; amending Minnesota Statutes 1990, section 15.0597, by adding subdivisions.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 41 and nays 21, as follows:

Those who voted in the affirmative were:

Adkins	Flynn	Kelly	Pappas	Spear
Beckman	Frank	Luther	Piper	Stumpf
Berglin	Frederickson, D.J.	Marty	Pogemiller	Traub
Bertram	Frederickson, D.R.	Merriam	Price	Vickerman
Dahl	Hottinger	Metzen	Ranum	Waldorf
Davis	Hughes	Moe, R.D.	Reichgott	
DeCramer	Johnson, D.E.	Mondale	Riveness	
Dicklich	Johnson, D.J.	Morse	Sams	
Finn	Johnson, J.B.	Novak	Solon	

Those who voted in the negative were:

Belanger	Brataas	Johnston	McGowan	Storm
Benson, D.D.	Chmielewski	Knaak	Olson	
Benson, J.E.	Day	Laidig	Pariseau	
Berg	Gustafson	Larson	Renneke	
Bernhagen	Halberg	Lessard	Samuelson	

The motion did not prevail.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. moved that H.F. No. 1655 be taken from the table. The motion prevailed.

H.F. No. 1655: A bill for an act relating to taxation; authorizing the department of trade and economic development to issue obligations to finance construction of aircraft maintenance and repair facilities; authorizing the metropolitan airports commission to operate outside the metropolitan area; establishing an interagency task force; amending Minnesota Statutes

1990, sections 272.01, subdivision 2; 290.06, by adding a subdivision; 360.013, subdivision 5; 360.032, subdivision 1; 360.038, subdivision 4; 473.608, subdivision 1; and 473.667, subdivision 8a, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 297A; and 473; proposing coding for new law as Minnesota Statutes, chapter 116R.

SUSPENSION OF RULES

Mr. Moe, R.D. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1655 and that the rules of the Senate be so far suspended as to give H.F. No. 1655 its second and third reading and place it on its final passage.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 54 and nays 7, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.J.	McGowan	Reichgott
Beckman	Day	Johnston	Metzen	Renneke
Belanger	DeCramer	Kelly	Moe, R.D.	Sams
Benson, D.D.	Dicklich	Knaak	Mondale	Samuelson
Benson, J.E.	Finn	Kroening	Morse	Solon
Bernhagen	Frederickson, D.J.	Laidig	Olson	Spear
Bertram	Gustafson	Langseth	Pappas	Storm
Brataas	Halberg	Larson	Pariseau	Stumpf
Chmielewski	Hottinger	Lessard	Piper	Traub
Cohen	Hughes	Luther	Pogemiller	Vickerman
Dahl	Johnson, D.E.	Marty	Price	

Those who voted in the negative were:

Berg	Frank	Merriam	Ranum	Waldorf
Flynn	Frederickson, D.R.			

The motion prevailed.

H.F. No. 1655 was read the second time.

Mr. Solon moved that H.F. No. 1655 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 506 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 506

A bill for an act relating to lawful gambling; lotteries; providing for teleracing and its operation and regulation; expanding requirements relating to compulsive gambling; exempting lawful gambling profits from the tax on unrelated business income; regulating manufacturers and distributors of gambling devices; changing certain requirements relating to record keeping, reports, audits, and expenditures of gambling profits by licensed gambling organizations; modifying certain licensing, training, and operating requirements for licensed gambling organizations; changing requirements relating to posting of pull-tab winners; authorizing the director of the lottery to enter into joint lotteries outside the United States; expanding certain provisions relating to lottery retailers; designating certain data on lottery prize

winners as private; changing requirements relating to lottery advertising; clarifying the prohibitions on video games of chance and lotteries; authorizing dissemination of information about lotteries conducted by adjoining states; imposing surcharges on lawful gambling premises permit fees; establishing a task force on compulsive gambling assessments; appropriating money; amending Minnesota Statutes 1990, sections 240.01, subdivisions 1, 10, and by adding subdivisions; 240.02, subdivision 3; 240.03; 240.05, subdivision 1; 240.06, subdivision 1; 240.09, subdivision 2; 240.10; 240.11; 240.13, subdivisions 1, 2, 3, 4, 5, 6, and 8; 240.15, subdivision 6; 240.16, subdivision 1a; 240.18; 240.19; 240.23; 240.24, subdivision 2; 240.25; 240.27; 240.28, subdivision 1; 240.29; 245.98, by adding a subdivision; 290.05, subdivision 3; 290.92, subdivision 27; 299L.01, subdivision 1; 349.12, subdivision 25, and by adding subdivisions; 349.15; 349.151, subdivision 4; 349.154, subdivision 2; 349.16, subdivision 3; 349.165, subdivisions 1 and 3; 349.167, subdivisions 1, 2, and 4; 349.17, subdivision 5; 349.172; 349.18, subdivision 1; 349.19, subdivisions 2, 5, 9, and by adding subdivisions; 349A.02, subdivision 3; 349A.06, subdivisions 3, 5, and 11; 349A.08, by adding a subdivision; 349A.09, subdivision 2; 349A.10, subdivision 3; 609.115, by adding a subdivision; 609.75, subdivisions 1, 4, and by adding a subdivision; 609.755; 609.76, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 240; and 299L; repealing Minnesota Statutes 1990, sections 240.01, subdivision 13; 240.13, subdivision 6a; 240.14; subdivision 1a; 349.154, subdivision 3; 349A.02, subdivision 5; and 349A.03, subdivision 3.

May 20, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 506, 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. 506 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

TELERACING

Section 1. Minnesota Statutes 1990, section 240.01, subdivision 1, is amended to read:

Subdivision 1. [TERMS.] For the purposes of ~~Laws 1983,~~ *this* chapter ~~214~~, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 1990, section 240.01, subdivision 10, is amended to read:

Subd. 10. [RACING DAY.] "Racing day" is a day assigned by the commission on which *live* racing is conducted. ~~Racing day includes televised racing day.~~

Sec. 3. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 16. [HORSEPERSON.] *"Horseperson" means a person who is*

currently licensed by the commission as an owner or lessee, or a trainer.

Sec. 4. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 17. [TELERACING FACILITY.] *"Teleracing facility" means a facility at which telerace simulcasting is conducted under authority of a class E license issued by the commission.*

Sec. 5. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 18. [ON-TRACK PARI-MUTUEL BETTING.] *"On-track pari-mutuel betting" means wagering conducted at a licensed racetrack, or at a class E licensed facility whose wagering system is electronically linked to a licensed racetrack.*

Sec. 6. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 19. [SIMULCASTING.] *"Simulcasting" means the televised display, for pari-mutuel wagering purposes, of one or more horse races conducted at another location wherein the televised display occurs simultaneously with the race being televised.*

Sec. 7. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 20. [TELERACE SIMULCASTING.] *"Telerace simulcasting" means simulcasting at a teleracing facility.*

Sec. 8. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 21. [TELERACING PROGRAM.] *"Teleracing program" means a telerace simulcasting event consisting of simulcasting that includes not more than two full racing cards, plus not more than two other races.*

Sec. 9. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 22. [RACING SEASON.] *"Racing season" means that portion of the calendar year starting at the beginning of the day of the first live horse race conducted by the licensee and concluding at the end of the day of the last live horse race conducted by the licensee in any year.*

For purposes of this chapter, the racing season begins before the first Saturday in May and continues for not less than 25 consecutive weeks.

Sec. 10. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 23. [FULL RACING CARD.] *"Full racing card" means three or more races that are: (1) part of a horse racing program being conducted at a racetrack; and (2) being simulcast or telerace simulcast at a licensed racetrack or teleracing facility.*

Sec. 11. Minnesota Statutes 1990, section 240.03, is amended to read:

240.03 [COMMISSION POWERS AND DUTIES.]

The commission has the following powers and duties:

(1) to regulate horse racing in Minnesota to ensure that it is conducted

in the public interest;

(2) to issue licenses as provided in ~~Laws 1983,~~ *this* chapter ~~214~~;

(3) to enforce all laws and rules governing horse racing;

(4) to collect and distribute all taxes provided for in ~~Laws 1983,~~ *this* chapter ~~214~~;

(5) to conduct necessary investigations and inquiries and compel the submission of information, documents, and records it deems necessary to carry out its duties;

(6) to supervise the conduct of pari-mutuel betting on horse racing;

(7) to employ and supervise personnel under ~~Laws 1983,~~ *this* chapter ~~214~~;

(8) to determine the number of racing days to be held in the state and at each licensed racetrack; *and*

(9) to take all necessary steps to ensure the integrity of racing in Minnesota.

Sec. 12. Minnesota Statutes 1990, section 240.05, subdivision 1, is amended to read:

Subdivision 1. [CLASSES.] The commission may issue ~~four~~ *five* classes of licenses:

(a) class A licenses, for the ownership and operation of a racetrack with horse racing on which pari-mutuel betting is conducted;

(b) class B licenses, for the sponsorship and management of horse racing on which pari-mutuel betting is conducted;

(c) class C licenses, for the privilege of engaging in certain occupations related to horse racing; ~~and~~

(d) class D licenses, for the conduct of pari-mutuel horse racing by county agricultural societies or associations; *and*

(e) class E licenses, for the management of a teleracing facility.

No person may engage in any of the above activities without first having obtained the appropriate license from the commission.

Sec. 13. Minnesota Statutes 1990, section 240.06, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] The commission may issue one or more class A licenses, but not more than one to any one person. An application for a class A license must be on a form the commission prescribes and must be accompanied by detailed plans and specifications of the track, buildings, fences, and other improvements. The application must contain:

(a) the name and address of the applicant and, if it is a corporation, the names of all officers, directors, and shareholders of the corporation and any of its holding corporations;

(b) if required by the commission, the names of any person or persons holding directly, indirectly, or beneficially an interest of any kind in the applicant or any of its holding corporations, whether the interest is financial, administrative, policy making, or supervisory;

(c) a statement of the assets and liabilities of the applicant;

(d) an affidavit executed by the applicant setting forth that no officer, director, or other person with a present or future direct or indirect financial or management interest in the racetrack, to the best of the applicant's knowledge:

(1) is in default in the payment of an obligation or debt to the state under ~~Laws 1983,~~ *this* chapter ~~214~~;

(2) has ever been convicted of a felony in a state or federal court or has a state or federal felony charge pending;

(3) is or has been connected with or engaged in any illegal business;

(4) has ever been found guilty of fraud or misrepresentation in connection with racing or breeding;

(5) has ever been found guilty of a violation of a law or rule relating to horse racing, pari-mutuel betting or any other form of gambling which is a serious violation as defined by the commission's rules; or

(6) has ever knowingly violated a rule or order of the commission or a law of Minnesota relating to racing;

(e) an irrevocable consent statement, to be signed by the applicant, which states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleadings is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission; and

(f) an affirmative action plan establishing goals and timetables consistent with the Minnesota human rights act, chapter 363.

Sec. 14. [240.091] [TELERACING FACILITY LICENSE.]

Subdivision 1. [APPLICATION.] *The commission may issue one or more class E licenses to a holder of a class B license who conducts live racing at a class A facility. The commission may issue a total of not more than four class E licenses, of which not more than two may be issued before January 1, 1992. If two licenses are issued before January 1, 1991, only one may be for a facility located within the seven-county metropolitan area. An application for a class E license must be on a form the commission prescribes and must be accompanied by detailed plans and specifications of the facility to be used, the location of the facility, and any other information relevant to the specifications of the facility and its operation, as designated by the commission. The application must also contain:*

(1) the name and address of the applicant and, if it is a corporation or association, the names of all officers, directors, and shareholders of the corporation and any of its holding companies;

(2) if required by the commission, the names of any person or persons holding directly, indirectly, or beneficially, an interest of any kind in the applicant or any of its holding companies, whether the interest is financial, administrative, policy making, or supervisory;

(3) a statement of the assets and liabilities of the applicant;

(4) an affidavit of the type described in section 240.06, subdivision 1, paragraph (d);

(5) an irrevocable consent statement, to be signed by the applicant, that states that the applicant agrees to be bound by and subject to the authority of the commission, the rules adopted by the commission, and the laws of this state relating to the activity to be conducted; and

(6) an irrevocable consent statement, to be signed by the applicant, that states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleading is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission.

Subd. 2. [HEARINGS; INVESTIGATIONS.] *Before granting a class E license, the commission shall conduct at least one public hearing on the license application in the area where the teleracing facility is proposed to be located. The commission shall request comments on the application from: (1) the city council or town board of the city or town where the facility is proposed to be located, (2) the county board if the facility is proposed to be located outside a city, and (3) the appropriate regional development commission if one exists for the area or, if the facility is proposed to be located within the metropolitan area as defined in section 473.121, subdivision 2, the metropolitan council. The commission may conduct, or request the division of gambling enforcement to conduct, comprehensive background and financial investigations of the applicant, sources of financing, and other information appearing in the application. The costs of the investigations must be paid in the manner prescribed by section 240.06, subdivision 3. The commission has access to all criminal history data compiled by the division of gambling enforcement on class E licensees and applicants.*

Subd. 3. [LICENSE ISSUANCE.] *(a) If after considering the information received from the hearing and investigations, the commission determines that the applicant will manage the facility in accordance with all applicable laws and rules and will not adversely affect the public health, welfare, and safety; that the license will not create a competitive situation that will adversely affect racing and the public interest; and that the applicant is financially able to manage the licensed simulcast facility, the commission may issue a class E license to the applicant. The license is effective until revoked or suspended by the commission or relinquished by the licensee.*

(b) As a condition of a class E license, the commission shall require that a person employed in the erection, construction, remodeling, or repairing of a teleracing facility may not be paid a lesser rate of wages than the prevailing wage rate, as defined in section 177.42, subdivision 6, in the same or most similar trade or occupation in the area.

Subd. 4. [FACILITIES.] *The commission may not issue a class E license unless the design of the facility will accommodate and provide adequate seating. The operators of the facility must provide adequate parking, and make food and beverages available. The telerace simulcasts must be displayed so that spectators in attendance are afforded a clear presentation of*

the races.

Subd. 5. [CHANGES IN OWNERSHIP OR MANAGEMENT.] *If a change in the officers, directors, or other persons with a direct or indirect financial or management interest in the class B licensee, or a change of ownership of more than five percent of the class B licensee's shares, is made after the application for or issuance of a class E license, the applicant or licensee must notify the commission of the changes within five days of their occurrence and provide the affidavit required in section 240.06, subdivision 1, paragraph (d).*

Subd. 6. [LICENSE SUSPENSION AND REVOCATION.] *A class E license may be suspended or revoked as provided in section 240.06, subdivision 7. A license suspension or revocation is a contested case under sections 14.57 to 14.69 of the administrative procedure act, and is in addition to criminal penalties imposed for a violation of law or rule.*

Subd. 7. [WORK AREAS.] *A class E licensee shall provide at no cost to the commission suitable work areas for commission members, officers, employees, and agents, including agents of the division of gambling enforcement, who are directed or requested by the commission to supervise and control wagering at the licensed simulcast facility.*

Sec. 15. Minnesota Statutes 1990, section 240.10, is amended to read:

240.10 [LICENSE FEES.]

The fee for a class A license is $10,000 per year. The fee for a class B license is $100 for each assigned racing day on which racing is actually conducted, and $50 for each ~~assigned televised racing~~ day on which ~~televised racing~~ *simulcasting* is *authorized and* actually ~~conducted~~ *takes place*. The fee for a class D license is $50 for each assigned racing day on which racing is actually conducted. *The fee for a class E license is $1,000 per year.* Fees imposed on class B and class D licenses must be paid to the commission at a time and in a manner as provided by rule of the commission.

The commission shall by rule establish an annual license fee for each occupation it licenses under section 240.08 but no annual fee for a class C license may exceed $100.

License fee payments received must be paid by the commission to the state treasurer for deposit in the general fund.

Sec. 16. Minnesota Statutes 1990, section 240.11, is amended to read:

240.11 [LICENSES NONTRANSFERABLE.]

A license issued under ~~Laws 1983,~~ *this* chapter ~~214~~ may not be transferred.

Sec. 17. Minnesota Statutes 1990, section 240.13, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZED.] Class B and class D licenses give the licensees authority to conduct pari-mutuel betting on the results of races run at the licensed racetrack, and on other races as authorized by the commission under ~~subdivision 6 or 6a~~ *this section.*

A class B or class E license gives the licensee the authority to transmit and receive telecasts and conduct pari-mutuel betting on the results of horse races run at its class A facility, and of other horse races run at locations outside of the state, as authorized by the commission. A class E licensee

must present, for pari-mutuel wagering purposes, all live horse races conducted at its class A facility. The class B or class E licensee may present racing programs separately or concurrently.

Subject to the approval of the commission, for simulcasts and telerace simulcasts the types of betting, takeout, and distribution of winnings on pari-mutuel pools of a class B or class E facility are those in effect at the sending racetrack. Pari-mutuel pools accumulated at a class E facility must be commingled with the pools at the class A facility for comparable pools on those races that are being simultaneously presented at both facilities. Pari-mutuel pools may be commingled with pools at the sending racetrack, for the purposes of determining odds and payout prices, via the totalizator computer at the class A facility.

The commission may not authorize a class B or class E licensee to conduct simulcasting or telerace simulcasting unless 125 days of live racing, consisting of not less than eight live races on each racing day, have been conducted at the class A facility within the preceding 12 months. The number of live racing days required may be adjusted by agreement between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races at the licensee's class A facility during the preceding 12 months. The number of live racing days required must be reduced by one day for each assigned racing day that the licensee is unable to conduct live racing due to natural occurrences or catastrophes beyond its control.

Sec. 18. Minnesota Statutes 1990, section 240.13, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS.] A licensee conducting pari-mutuel betting must provide at the licensed track *or at the teleracing facility*:

(a) the necessary equipment for issuing pari-mutuel tickets; and

(b) mechanical or electronic equipment for displaying information the commission requires. All mechanical or electronic devices must be approved by the commission before being used.

Sec. 19. Minnesota Statutes 1990, section 240.13, subdivision 3, is amended to read:

Subd. 3. [TYPES OF BETTING.] The commission shall by rule designate those types of pari-mutuel pools which are permitted at licensed racetracks *and teleracing facilities*, and no licensee may conduct any type of pari-mutuel pool which has not been so designated~~, except as provided for in subdivision 6a~~. *Pari-mutuel pools permitted at licensed racetracks and pari-mutuel pools designated by the commission are permitted at teleracing facilities.*

Sec. 20. Minnesota Statutes 1990, section 240.13, subdivision 4, is amended to read:

Subd. 4. [TAKEOUT; DISTRIBUTION OF WINNINGS.] A licensee conducting pari-mutuel betting must deduct from a straight pari-mutuel pool, before payments to holders of winning tickets, an amount equal to not more than 17 percent of the total money in that pool. The licensee must deduct from a multiple pari-mutuel pool, before payments to the holders of winning tickets, an amount equal to not more than 23 percent of the total money in that pool. The remaining money in each pool must be distributed among the holders of winning tickets in a manner the commission by rule

prescribes for each type of pool. Breakage must be computed on the basis of payoffs rounded down to the next lowest increment of ~~20~~ *10* cents, with a minimum payoff of ~~$2.20~~ *$1.10* on a ~~$2~~ *$1* ticket, except that the licensee may reduce the minimum payoff to ~~$2.10~~ *$1.05* on a ~~$2~~ *$1* ticket if there is not a sufficient amount in a pool to make a minimum payoff of ~~$2.20~~ *$1.10*.

Sec. 21. Minnesota Statutes 1990, section 240.13, subdivision 5, is amended to read:

Subd. 5. [PURSES.] (a) From the amounts deducted from all pari-mutuel pools by a licensee, an amount equal to not less than the following percentages of all money in all pools must be set aside by the licensee and used for purses for races conducted by the licensee, provided that a licensee may agree by contract with an organization representing a majority of the horsepersons racing the breed involved to set aside amounts in addition to the following percentages:

~~(1) For a licensee conducting a racing meeting with an average daily handle of $500,000 or less, four percent of the average daily handle times the number of racing days in that meeting.~~

~~(2) For a licensee conducting a racing meeting with an average daily handle of more than $500,000 but not more than $750,000, six percent of the average daily handle times the number of racing days in that meeting.~~

~~(3) For a licensee conducting a racing meeting with an average daily handle of more than $750,000, 8.4 percent of the first $1 million in average daily handle times the number of racing days in that meeting.~~

(1) for live races conducted at a class A facility, and for races that are part of full racing card simulcasting or full racing card telerace simulcasting that takes place within the time period of the live races, 8.4 percent;

(2) for simulcasts and telerace simulcasts conducted during the racing season other than as provided for in clause (1), 50 percent of the takeout remaining after deduction for taxes on pari-mutuel pools, payment to the breeders fund, and payment to the sending out-of-state racetrack for receipt of the signal; and

(3) for simulcasts and telerace simulcasts conducted outside of the racing season, 25 percent of the takeout remaining after deduction for the state pari-mutuel tax, payment to the breeders fund, payment to the sending out-of-state racetrack for receipt of the signal and, before January 1, 2005, a further deduction of eight percent of all money in all pools; provided, however, that in the event that wagering on simulcasts and telerace simulcasts outside of the racing season exceeds $125 million in any calendar year, the amount set aside for purses by this formula is increased to 30 percent on amounts between $125,000,000 and $150,000,000 wagered; 40 percent on amounts between $150,000,000 and $175,000,000 wagered; and 50 percent on amounts in excess of $175,000,000 wagered. In lieu of the eight percent deduction, a deduction as agreed to between the licensee and the horsepersons' organization representing the majority of horsepersons racing at the licensee's class A facility during the preceding 12 months, is allowed after December 31, 2004.

The commission may by rule provide for the administration and enforcement of this subdivision. *The deductions for payment to the sending out-of-state racetrack must be actual, except that when there exists any overlap*

of ownership, control, or interest between the sending out-of-state racetrack and the receiving licensee, the deduction must not be greater than three percent unless agreed to between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races during the existing racing meeting or, if outside of the racing season, during the most recent racing meeting.

In lieu of the amount the licensee must pay to the commission for deposit in the Minnesota breeders fund under section 240.15, subdivision 1, the licensee shall pay 5-1/2 percent of the takeout from all pari-mutuel pools generated by wagering at the licensee's facility on full racing card simulcasts and full racing card telerace simulcasts of races not conducted in this state.

(b) From the money set aside for purses, the licensee shall pay to the horseperson's organization representing the majority of the horsepersons racing the breed involved and contracting with the licensee with respect to purses and the conduct of the racing meetings and providing representation, benevolent programs, benefits, and services for horsepersons and their on-track employees, an amount, sufficient to perform these services, as may be determined by agreement by the licensee and the horseperson's organization. The amount paid may be deducted only from the money set aside for purses to be paid in races for the breed represented by the horseperson's organization. With respect to racing meetings where more than one breed is racing, the licensee may contract independently with the horseperson's organization representing each breed racing.

(c) Notwithstanding sections 325D.49 to 325D.66, a horseperson's organization representing the majority of the horsepersons racing a breed at a meeting, and the members thereof, may agree to withhold horses during a meeting.

(d) Money set aside for purses from wagering, during the racing season, on simulcasts and telerace simulcasts must be used for purses for live races conducted at the licensee's class A facility during the same racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the parties agree, for races conducted in this state. Money set aside for purses from wagering, outside of the racing season, on simulcasts and telerace simulcasts must be for purses for live races conducted at the licensee's class A facility during the next racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the parties agree, for races conducted in this state.

(e) Money set aside for purses from wagering on simulcasts and telerace simulcasts must be used for purses for live races involving the same breed involved in the simulcast or telerace simulcast except that money set aside for purses and payments to the breeders fund from wagering on full racing card simulcasts and full racing card telerace simulcasts of races not conducted in this state, occurring during a live mixed meet, must be allotted to the purses and breeders fund for each breed participating in the mixed meet in the same proportion that the number of live races run by each breed bears to the total number of live races conducted during the period of the mixed meet.

(f) The allocation of money set aside for purses to particular racing meets may be adjusted, relative to overpayments and underpayments, by contract between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed involved at the licensee's facility.

(g) Subject to the provisions of this chapter, money set aside from pari-mutuel pools for purses must be for the breed involved in the race that generated the pool, except that if the breed involved in the race generating the pari-mutuel pool is not racing in the current racing meeting, or has not raced within the preceding 12 months at the licensee's class A facility, money set aside for purses must be distributed proportionately to those breeds that have run during the preceding 12 months.

Sec. 22. Minnesota Statutes 1990, section 240.13, subdivision 6, is amended to read:

Subd. 6. [~~TELEVISED RACES~~ *SIMULCASTING.*] ~~(a) The commission may by rule permit a class B or class D licensee to conduct on the premises of the licensed racetrack pari-mutuel betting on horse races run in other states and broadcast by television on the premises. All provisions of law governing pari-mutuel betting apply to pari-mutuel betting on televised races except as otherwise provided in this subdivision or in the commission's rules. Pari-mutuel pools conducted on such televised races may consist only of money bet on the premises and may not be commingled with any other pool off the premises, except that:~~

~~(1) the licensee may pay a fee to the person or entity conducting the race for the privileges of conducting pari-mutuel betting on the race; and~~

~~(2) the licensee may pay the costs of transmitting the broadcast of the race.~~

~~(b) Pari-mutuel betting on a televised race may be conducted only on a racing day assigned by the commission. The takeout and taxes on pari-mutuel pools on televised races are as provided for other pari-mutuel pools. All televised races under this subdivision must comply with the Interstate Horse Racing Act of 1978 as found in United States Code, title 15, section 3001 and the following relevant sections. In lieu of the purse requirement established by subdivision 5, the licensee shall set aside for purses one-half of the takeout from the amount bet on televised races after the payment of fees and taxes. For the purposes of purse distribution under subdivision 5, the average daily handle shall not include amounts bet in pari-mutuel pools on televised races.~~

~~(c) A licensee may, with the approval of the commission, transmit telecasts of races the licensee conducts, for wagering purposes, to a location outside the state. The commission may allow the licensee to commingle its wagering pools with the wagering pools at a facility located outside of this state that is regulated by a state racing commission, when it transmits telecasts under this paragraph.~~ *The commission may permit an authorized licensee to conduct simulcasting or telerace simulcasting at the licensee's facility on any day authorized by the commission. All simulcasts and telerace simulcasts must comply with the Interstate Horse Racing Act of 1978, United States Code, title 15, sections 3001 to 3007. In addition to teleracing programs featuring live racing conducted at the licensee's class A facility, the class E licensee may conduct not more than seven teleracing programs per week during the racing season, unless additional telerace simulcasting is authorized by the director and approved by the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races at the licensee's class A facility during the preceding 12 months. The commission may not authorize any day for simulcasting at a class A facility during the racing season, and a licensee may not be allowed to transmit out-of-state telecasts of races the licensee conducts, unless the licensee has obtained the approval of the horsepersons' organization representing the*

majority of the horsepersons racing the breed involved at the licensed racetrack during the preceding 12 months. The licensee may pay fees and costs to an entity transmitting a telecast of a race to the licensee for purposes of conducting pari-mutuel wagering on the race. The licensee may deduct fees and costs related to the receipt of televised transmissions from a pari-mutuel pool on the televised race, provided that one-half of any amount recouped in this manner must be added to the amounts required to be set aside for purses.

With the approval of the commission and subject to the provisions of this subdivision, a licensee may transmit telecasts of races it conducts, for wagering purposes, to locations outside the state, and the commission may allow this to be done on a commingled pool basis.

Except as otherwise provided in this section, simulcasting and telerace simulcasting may be conducted on a separate pool basis or, with the approval of the commission, on a commingled pool basis. All provisions of law governing pari-mutuel betting apply to simulcasting and telerace simulcasting except as otherwise provided in this subdivision or in the commission's rules. If pools are commingled, wagering at the licensed facility must be on equipment electronically linked with the equipment at the licensee's class A facility or with the sending racetrack via the totalizator computer at the licensee's class A facility. Subject to the approval of the commission, the types of betting, takeout, and distribution of winnings on commingled pari-mutuel pools are those in effect at the sending racetrack. Breakage for pari-mutuel pools on a televised race must be calculated in accordance with the law or rules governing the sending racetrack for these pools, and must be distributed in a manner agreed to between the licensee and the sending racetrack. Notwithstanding sections 240.13, subdivision 7, and 240.15, subdivision 5, the commission may approve procedures governing the definition and disposition of unclaimed tickets that are consistent with the law and rules governing unclaimed tickets at the sending racetrack. For the purposes of this section, "sending racetrack" is either the racetrack outside of this state where the horse race is conducted or, with the consent of the racetrack, an alternative facility that serves as the racetrack for the purpose of commingling pools.

If there is more than one class B licensee conducting racing within the seven-county metropolitan area, simulcasting and telerace simulcasting may be conducted only on races run by a breed that ran at the licensee's class A facility within the 12 months preceding the event. That portion of the takeout allocated for purses from pari-mutuel pools generated by wagering on standardbreds must be set aside and must be paid to the racing commission and used for purses as otherwise provided by this section or to promote standardbred racing or both, in a manner prescribed by the commission. In the event that a licensee conducts live standardbred racing, pools generated by live, simulcast, or telerace simulcasting at the licensee's facilities on standardbred racing are subject to the purse set aside requirements otherwise provided by law.

Contractual agreements between licensees and horsepersons' organizations entered into before the effective date of this subdivision, regarding money to be set aside for purses from pools generated by simulcasts at a class A facility, are controlling regarding purse requirements through the end of the 1992 racing season.

Sec. 23. Minnesota Statutes 1990, section 240.13, subdivision 8, is

amended to read:

Subd. 8. [PROHIBITED ACTS.] A licensee may not accept a bet from any person under the age of 18 years; and a licensee may not accept a bet of less than ~~$2~~ *$1*.

Sec. 24. Minnesota Statutes 1990, section 240.15, subdivision 6, is amended to read:

Subd. 6. [DISPOSITION OF PROCEEDS.] The commission shall distribute all money received under this section, and all money received from license fees and fines it collects, as follows: all money designated for deposit in the Minnesota breeders fund must be paid into that fund for distribution under section 240.18 *except that all money generated by full racing card simulcasts, or full racing card telerace simulcasts of races not conducted in this state, must be distributed as provided in section 240.18, clause (2), paragraphs (a), (b), and (c)*. Revenue from an admissions tax imposed under subdivision 1 must be paid to the local unit of government at whose request it was imposed, at times and in a manner the commission determines. All other revenues received under this section by the commission, and all license fees, fines, and other revenue it receives, must be paid to the state treasurer for deposit in the general fund.

Sec. 25. Minnesota Statutes 1990, section 240.16, subdivision 1a, is amended to read:

Subd. 1a. [~~TELEVISED RACING DAY~~ *SIMULCAST*.] ~~All races on which pari-mutuel betting is conducted on televised racing days must be presided over by an official of the commission. The official of the commission presiding over races conducted on televised racing days has the powers and duties as provided by rule.~~ *All simulcasts and telerace simulcasts are subject to the regulation of the commission. The commission may assign an official to preside over these activities and, if so assigned, the official has the powers and duties provided by rule.*

Sec. 26. Minnesota Statutes 1990, section 240.19, is amended to read:

240.19 [CONTRACTS.]

The commission shall by rule require that all contracts entered into by a class A, class B, ~~or~~ class D, *or class E* licensee for the provision of goods or services, including concessions contracts, be subject to commission approval. The rules must require that the contract include an affirmative action plan establishing goals and timetables consistent with the Minnesota Human Rights Act, chapter 363. The commission may require a contract holder to submit to it documents and records the commission deems necessary to evaluate the contract.

Sec. 27. Minnesota Statutes 1990, section 240.23, is amended to read:

240.23 [RULEMAKING AUTHORITY.]

The commission has the authority, in addition to all other rulemaking authority granted elsewhere in ~~Laws 1983,~~ *this* chapter ~~214,~~ to promulgate rules governing:

(a) the conduct of horse races held at licensed racetracks in Minnesota, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying of weights, and declaration of official results;

(b) wire communications between the premises of a licensed racetrack and any place outside the premises;

(c) information on horse races which is sold on the premises of a licensed racetrack;

(d) liability insurance which it may require of all class A, class B, ~~and~~ class D, *and class E* licensees;

(e) the auditing of the books and records of a licensee by an auditor employed or appointed by the commission;

(f) emergency action plans maintained by licensed racetracks and their periodic review;

(g) safety, security, and sanitation of stabling facilities at licensed racetracks;

(h) entry fees and other funds received by a licensee in the course of conducting racing which the commission determines must be placed in escrow accounts; ~~and~~

(i) *the operation of teleracing facilities; and*

(j) any other aspect of horse racing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare, or safety.

Rules of the commission are subject to chapter 14, the Administrative Procedure Act.

Sec. 28. Minnesota Statutes 1990, section 240.25, subdivision 2, is amended to read:

Subd. 2. [OFF-TRACK BETS.] *(a)* No person shall:

(1) for a fee, directly or indirectly, accept anything of value from another to be transmitted or delivered for wager in any licensed pari-mutuel system of wagering on horse races, or for a fee deliver anything of value which has been received outside of the enclosure of a licensed racetrack holding a race meet licensed under this chapter *or a teleracing facility*, to be placed as wagers in the pari-mutuel system of wagering on horse racing within the enclosure *or facility*; or

(2) give anything of value to be transmitted or delivered for wager in any licensed pari-mutuel system of wagering on horse races to another who charges a fee, directly or indirectly, for the transmission or delivery.

(b) Nothing in this subdivision prohibits the conducting of pari-mutuel wagering at a licensed teleracing facility.

Sec. 29. Minnesota Statutes 1990, section 240.27, is amended to read:

240.27 [EXCLUSION OF CERTAIN PERSONS.]

Subdivision 1. [PERSONS EXCLUDED.] The commission may exclude from any and all licensed racetracks *or licensed teleracing facilities* in the state a person who:

(a) has been convicted of a felony under the laws of any state or the United States;

(b) has had a license suspended, revoked, or denied by the commission or by the racing authority of any other jurisdiction; or

(c) is determined by the commission, on the basis of evidence presented

to it, to be a threat to the integrity of racing in Minnesota.

Subd. 2. [HEARING; APPEAL.] An order to exclude a person from any or all licensed racetracks *or licensed teleracing facilities* in the state must be made by the commission at a public hearing of which the person to be excluded must have at least five days' notice. If present at the hearing, the person must be permitted to show cause why the exclusion should not be ordered. An appeal of the order may be made in the same manner as other appeals under section 240.20.

Subd. 3. [NOTICE TO RACETRACKS.] Upon issuing an order excluding a person from any or all licensed racetracks *or licensed teleracing facilities*, the commission shall send a copy of the order to the excluded person and to all racetracks *or teleracing facilities* named in it, along with other information as it deems necessary to permit compliance with the order.

Subd. 4. [PROHIBITIONS.] It is a gross misdemeanor for a person named in an exclusion order to enter, attempt to enter, or be on the premises of a racetrack *or a teleracing facility* named in the order while it is in effect, and for a person licensed to conduct racing or operate a racetrack *or a teleracing facility* knowingly to permit an excluded person to enter or be on the premises.

Subd. 5. [EXCLUSIONS BY RACETRACK.] The holder of a license to conduct racing *or operate a teleracing facility* may eject and exclude from its premises any licensee or any other person who is in violation of any state law or commission rule or order or who is a threat to racing integrity or the public safety. A person so excluded from racetrack premises *or teleracing facility* may appeal the exclusion to the commission and must be given a public hearing on the appeal upon request. At the hearing the person must be given the opportunity to show cause why the exclusion should not have been ordered. If the commission after the hearing finds that the integrity of racing and the public safety do not justify the exclusion, it shall order the racetrack *or teleracing facility* making the exclusion to reinstate or readmit the person. An appeal of a commission order upholding the exclusion is governed by section 240.20.

Sec. 30. Minnesota Statutes 1990, section 240.28, subdivision 1, is amended to read:

Subdivision 1. [FINANCIAL INTEREST.] No person may serve on the commission or be employed by the division who has an interest in any corporation, association, or partnership which holds a license from the commission or which holds a contract to supply goods or services to a licensee or at a licensed racetrack *or a licensed teleracing facility*, including concessions contracts. No member of the commission or employee of the division may own, wholly or in part, or have an interest in a horse which races at a licensed racetrack in Minnesota. No member of the commission or employee of the division may have a financial interest in or be employed in a profession or business which conflicts with the performance of duties as a member or employee.

Sec. 31. Minnesota Statutes 1990, section 240.29, is amended to read:

240.29 [REQUIRED RACES.]

Each holder of a class B or D license must declare and schedule, on each racing day it conducts, ~~except for televised racing days,~~ at least one race which:

~~(a) before January 1, 1988, is limited to horses which are Minnesota-bred, Minnesota-foaled, or Minnesota-owned, and~~

~~(b) on and after January 1, 1988,~~ is limited to horses which are Minnesota-bred or Minnesota-foaled.

If there is not a sufficient number of such horses entered in the declared race to make up an adequate slate of entries, another similarly restricted race may be substituted.

The commission shall by rule define "Minnesota-bred," "Minnesota-foaled," and "Minnesota-owned."

Sec. 32. [APPROPRIATION.]

$234,000 is appropriated from the general fund to the racing commission to license teleracing facilities. $88,000 is for fiscal year 1992 and $146,000 is for fiscal year 1993. The approved complement of the racing commission is increased by two positions in fiscal year 1992 and one additional position in fiscal year 1993.

Sec. 33. [REPEALER.]

Minnesota Statutes 1990, sections 240.01, subdivision 13; 240.13, subdivision 6a; and 240.14, subdivision 1a, are repealed.

Sec. 34. [SEVERABILITY.]

If article 1 is found unconstitutional, that finding does not affect the constitutionality of article 2.

Sec. 35. [EFFECTIVE DATE.]

Sections 1 to 31, 33, and 34 are effective the day following the final enactment.

ARTICLE 2

MISCELLANEOUS

Section 1. Minnesota Statutes 1990, section 3.9221, is amended by adding a subdivision to read:

Subd. 5. [REPORT.] *The governor, the attorney general, and the governor's designated representatives shall report to the house and senate committees having jurisdiction over gambling regulation semi-annually. This report shall contain information on compacts negotiated, and an outline of prospective negotiations.*

Sec. 2. Minnesota Statutes 1990, section 240.02, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION.] The compensation of commission members ~~is $35 per day~~ *for time* spent on commission activities, when authorized by the commission, *is the same as the compensation provided for members of other boards and commissions under section 15.0575, subdivision 3,* plus expenses in the same manner and amount as provided in the commissioner's plan adopted according to section 43A.18, subdivision 2.

Sec. 3. Minnesota Statutes 1990, section 240.09, subdivision 2, is amended to read:

Subd. 2. [OCCUPATIONAL LICENSES.] A person who participates in the management or conduct of horse racing or pari-mutuel betting for a

county fair holding a class D license who is in an occupation listed in section 240.08, subdivision 1, or the rules of the commission must have a class C license from the commission except for active members, as defined in section 349.12, of nonprofit organizations who act without compensation as concession workers ~~or pari-mutuel clerks~~.

Sec. 4. Minnesota Statutes 1990, section 240.13, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS.] *(a)* A licensee conducting pari-mutuel betting must provide at the licensed track:

~~(a)~~ *(1)* the necessary equipment for issuing pari-mutuel tickets; and

~~(b)~~ *(2)* mechanical or electronic equipment for displaying information the commission requires. All mechanical or electronic devices must be approved by the commission before being used.

(b) A licensee conducting pari-mutuel betting must post prominently at each point of sale of pari-mutuel tickets, in a manner approved by the commissioner of human services, the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section 245.98.

Sec. 5. Minnesota Statutes 1990, section 240.18, is amended to read:

240.18 [BREEDERS' FUND.]

Subdivision 1. [ESTABLISHMENT; APPORTIONMENT.] The commission shall establish a Minnesota breeders' fund with the money paid to it under section 240.15, subdivision 1. The commission, after paying the current costs of administering the fund, shall apportion the remaining net proceeds into categories corresponding with the various breeds of horses which are racing at licensed Minnesota racetracks in proportion to each category's contribution to the fund and distribute the available net proceeds in each category as ~~follows:~~ *provided in this section.*

~~(1)~~ *Subd. 2.* [THOROUGHBRED AND QUARTERHORSE CATEGORIES.] *(a)* With respect to available money apportioned in the thoroughbred and quarterhorse categories, 20 percent must be expended as ~~grants for equine research and related education at public institutions of post-secondary learning within the state.~~ *follows:*

(1) at least one-half in the form of grants, contracts, or expenditures for equine research and related education at the University of Minnesota school of veterinary medicine; and

(2) the balance in the form of grants, contracts, or expenditures for one or more of the following:

(i) additional equine research and related education;

(ii) substance abuse programs for licensed personnel at racetracks in this state; and

(iii) promotion and public information regarding industry and commission activities; racehorse breeding, ownership, and management; and development and expansion of economic benefits from racing.

(b) As a condition of a grant, contract, or expenditure under paragraph (a), the commission shall require an annual report from the recipient on the use of the funds to the commission, the chair of the house of representatives

committee on general legislation, veterans affairs, and gaming, and the chair of the senate committee on gaming regulation.

(c) The commission shall include in its annual report a summary of each grant, contract, or expenditure under paragraph (a), clause (2), and a description of how the commission has coordinated activities among recipients to ensure the most efficient and effective use of funds.

~~(2)~~ *(d)* After deducting the amount for paragraph ~~(1)~~ *(a)*, the balance of the available proceeds in each category may be expended by the commission to:

~~(a)~~ *(1)* supplement purses for races held exclusively for Minnesota-bred or Minnesota-foaled horses, and supplement purses for Minnesota-bred or Minnesota-foaled horses racing in nonrestricted races in that category;

~~(b)~~ *(2)* pay breeders' or owners' awards to the breeders or owners of Minnesota-bred horses in that category which win money at licensed racetracks in the state; and

~~(c)~~ *(3)* provide other financial incentives to encourage the horse breeding industry in Minnesota.

~~(3)~~ *Subd. 3.* [STANDARDBRED CATEGORY.] *(a)* With respect to the available money apportioned in the standardbred category, 20 percent must be expended as follows:

~~(a)~~ *(1)* one-half of that amount to supplement purses for standardbreds at non-pari-mutuel racetracks in the state;

~~(b)~~ *(2)* one-fourth of that amount for the development of non-pari-mutuel standardbred tracks in the state; and

~~(c)~~ *(3)* one-fourth of that amount as grants for equine research and related education at public institutions of post-secondary learning in the state.

~~(4)~~ *(b)* After deducting the amount for paragraph ~~(3)~~ *(a)*, the balance of the available proceeds in the standardbred category must be expended by the commission to:

~~(a)~~ *(1)* supplement purses for races held exclusively for Minnesota-bred and Minnesota-foaled standardbreds;

~~(b)~~ *(2)* pay breeders or owners awards to the breeders or owners of Minnesota-bred standardbreds which win money at licensed racetracks in the state; and

~~(c)~~ *(3)* provide other financial incentives to encourage the horse breeding industry in Minnesota.

Subd. 4. [RULES; ADVISORY COMMITTEES.] The commission shall adopt rules governing the distribution of the fund. The commission may establish advisory committees to advise it on the distribution of money under this section, provided that the members of an advisory committee shall serve without compensation.

Sec. 6. Minnesota Statutes 1990, section 240.24, subdivision 2, is amended to read:

Subd. 2. [EXCEPTION.] Notwithstanding subdivision 1, the commission by rule shall allow the use of: (1) topical external applications that do not contain anesthetics or steroids; (2) food additives; (3) Furosemide or other pulmonary hemostatic agents if the agents are administered under the visual

supervision of the veterinarian or ~~assistant~~ *a designee of the* veterinarian employed by the commission; and (4) nonsteroidal anti-inflammatory drugs, provided that the test sample does not contain more than three micrograms of the substance or metabolites thereof per milliliter of blood plasma. For purposes of this clause, "test sample" means any bodily substance including blood, urine, saliva, or other substance as directed by the commission, taken from a horse under the supervision of the commission veterinarian and in such manner as prescribed by the commission for the purpose of analysis.

The commission shall adopt emergency rules to implement the provisions of this subdivision.

Sec. 7. Minnesota Statutes 1990, section 245.98, is amended by adding a subdivision to read:

Subd. 2a. [ASSESSMENT OF CERTAIN OFFENDERS.] *The commissioner shall adopt by rule criteria to be used in conducting compulsive gambling assessments of offenders under section 42. The commissioner shall also adopt by rule standards to qualify a person to: (1) assess offenders for compulsive gambling treatment; and (2) provide treatment indicated in a compulsive gambling assessment. The rules must specify the circumstances in which, in the absence of an independent assessor, the assessment may be performed by a person with a direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider.*

Sec. 8. Minnesota Statutes 1990, section 299L.01, subdivision 1, is amended to read:

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

(b) "Division" means the division of gambling enforcement.

(c) "Commissioner" means the commissioner of public safety.

(d) "Director" means the director of gambling enforcement.

(e) "Manufacturer" means a person who assembles from raw materials or subparts a gambling device for sale or use in Minnesota.

(f) "Distributor" means a person who sells, offers to sell, or otherwise provides a gambling device to a person in Minnesota.

Sec. 9. [299L.07] [GAMBLING DEVICES.]

Subdivision 1. [RESTRICTION.] *A person may not manufacture, sell, offer to sell, or otherwise provide, in whole or in part, a gambling device as defined in sections 349.30, subdivision 2, and 609.75, subdivision 4, except that a gambling device may be:*

(1) manufactured as provided in section 349.40;

(2) sold, offered for sale, or otherwise provided to a distributor licensed under subdivision 3;

(3) sold, offered for sale, or otherwise provided to the governing body of a federally recognized Indian tribe that is authorized to operate the gambling device under a tribal-state compact under the Indian Gaming Regulatory Act, United States Code, title 25, sections 2701 to 2721;

(4) sold, offered for sale, or otherwise provided to a person for use in the person's dwelling for display or amusement purposes in a manner that

does not afford players an opportunity to obtain anything of value; or

(5) sold by a person who is not licensed under this section and who is not engaged in the trade or business of selling gambling devices, if the person does not sell more than one gambling device in any calendar year.

Subd. 2. [LICENSE REQUIRED.] *A person may not manufacture or distribute gambling devices without having obtained a license under this section.*

Subd. 3. [LICENSE ISSUANCE.] *The commissioner may issue a license under this section if the commissioner determines that the applicant will conduct the business in a manner that will not adversely affect the public health, welfare, and safety or be detrimental to the effective regulation and control of gambling. A license may not be issued under this section to a person, or a corporation, firm, or partnership that has an officer, director, or other person with a direct or indirect financial or management interest of five percent or more, who has ever:*

(1) been convicted of a felony;

(2) been convicted of a crime involving gambling;

(3) been connected with or engaged in an illegal business; or

(4) had a license revoked or denied by another jurisdiction for a violation of law or rule related to gambling.

Subd. 4. [APPLICATION.] *An application for a manufacturer's or distributor's license must be on a form prescribed by the commissioner and must, at a minimum, contain:*

(1) the name and address of the applicant and, if it is a corporation, the names of all officers, directors, and shareholders with a financial interest of five percent or more;

(2) the names and addresses of any holding corporation, subsidiary, or affiliate of the applicant, without regard to whether the holding corporation, subsidiary, or affiliate does business in Minnesota; and

(3) if the applicant does not maintain a Minnesota office, an irrevocable consent statement signed by the applicant, stating that suits and actions relating to the subject matter of the application or acts of omissions arising from it may be commenced against the applicant in a court of competent jurisdiction in this state by service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleading is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown on the application.

Subd. 5. [INVESTIGATION.] *Before a manufacturer's or distributor's license is granted, the director may conduct a background and financial investigation of the applicant, including the applicant's sources of financing. The director may, or shall when required by law, require that fingerprints be taken and the director may forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The director may charge an investigation fee to cover the cost of the investigation.*

Subd. 6. [LICENSE FEES.] *(a) A license issued under this section is valid for one year.*

(b) For a person who distributes 100 or fewer used gambling devices per year, the fee is $1,500. For a person who distributes more than 100 used gambling devices per year, the fee is $2,000. For purposes of this subdivision, a used gambling device is a gambling device five or more years old.

(c) For a person who manufactures or distributes 100 or fewer new, or new and used gambling devices in a year, the fee is $5,000. For a person who manufactures or distributes more than 100 new, or new and used gambling devices in a year, the fee is $7,500.

Subd. 7. [RENEWAL.] *Upon making the same determination as in subdivision 3, the commissioner may renew a license issued under this section.*

Subd. 8. [LICENSE SUSPENSION AND REVOCATION.] *(a) The commissioner may suspend a license under this section for a violation of law or rule. The commissioner may revoke a license:*

(1) for a violation of law or rule which, in the commissioner's opinion, adversely affects the integrity of gambling in Minnesota;

(2) for an intentional false statement in a license application; or

(3) if the licensee is the subject of a disciplinary proceeding in another jurisdiction which results in the revocation of a license.

A revocation or suspension is a contested case under sections 14.57 to 14.69.

(b) The commissioner may summarily suspend a license prior to a contested case hearing if the commissioner determines that a summary suspension is necessary to ensure the integrity of gambling. A contested case hearing must be held within 20 days of the summary suspension and the administrative law judge must issue a report within 20 days of the close of the hearing record. The commissioner shall issue a final decision within 30 days from receipt of the report of the administrative law judge and subsequent exceptions and argument under section 14.61.

Subd. 9. [REQUIRED INFORMATION.] *A person to whom a license is issued under this section shall provide, in a manner prescribed by the commissioner, information required by the commissioner relating to the shipment and sale of gambling devices.*

Subd. 10. [TRANSPORTATION OF GAMBLING DEVICES.] *In addition to the requirements of this section, the transportation of gambling devices into Minnesota must be in compliance with United States Code, title 15, sections 1171 to 1177, as amended.*

Sec. 10. Minnesota Statutes 1990, section 349.12, is amended by adding a subdivision to read:

Subd. 3a. [ALLOWABLE EXPENSE.] *"Allowable expense" means an expense directly related to the conduct of lawful gambling.*

Sec. 11. Minnesota Statutes 1990, section 349.12, subdivision 25, is amended to read:

Subd. 25. (a) "Lawful purpose" means one or more of the following:

(1) any expenditure by or contribution to a 501(c)(3) organization, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 349.154;

(2) a contribution to an individual or family suffering from poverty,

homelessness, or physical or mental disability, which is used to relieve the effects of that poverty, homelessness, or disability;

(3) a contribution to an individual for treatment for delayed posttraumatic stress syndrome or a contribution to a recognized program for the treatment of compulsive gambling on behalf of an individual who is a compulsive gambler;

(4) a contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;

(5) a contribution to a scholarship fund for defraying the cost of education to individuals where the funds are awarded through an open and fair selection process;

(6) activities by an organization or a government entity which recognize humanitarian or military service to the United States, the state of Minnesota, or a community, subject to rules of the board;

(7) recreational, community, and athletic facilities and activities intended primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender, as evidenced by (i) provision of equipment and supplies, (ii) scheduling of activities, including games and practice times, (iii) supply and assignment of coaches or other adult supervisors, (iv) provision and availability of support facilities, and (v) whether the opportunity to participate reflects each gender's demonstrated interest in the activity, provided that nothing in this clause prohibits a contribution to or expenditure on an educational institution or other entity that is excepted from the prohibition against discrimination based on sex contained in the Higher Education Act Amendments of 1976, United States Code, title 20, section 1681;

(8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, *and* the tax imposed by section 349.212, subdivisions 1 and 4, and the tax imposed on unrelated business income by section 290.05, subdivision 3;

(9) payment of real estate taxes and assessments on licensed gambling premises wholly owned by the licensed organization paying the taxes, not to exceed*:*

(i) the amount which an organization may expend under board rule on rent for premises used for ~~lawful gambling~~ *bingo; or*

(ii) $15,000 per year for premises used for other forms of lawful gambling;

(10) a contribution to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency; ~~or~~

(11) a contribution to or expenditure by a nonprofit organization, church, or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances*; or*

(12) payment of one-half of the reasonable costs of an audit required in section 349.19, subdivision 9.

(b) Notwithstanding paragraph (a), "lawful purpose" does not include:

(1) any expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office or for the purpose

of promoting or defeating a ballot question;

(2) any activity intended to influence an election or a governmental decision-making process;

(3) the erection, acquisition, improvement, expansion, repair, or maintenance of real property or capital assets owned or leased by an organization, except as provided in clause (6), unless the board has first specifically authorized the expenditures after finding that (i) the real property or capital assets will be used exclusively for one or more of the purposes in paragraph (a); (ii) with respect to expenditures for repair or maintenance only, that the property is or will be used extensively as a meeting place or event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; (iii) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building, a building owned by the organization and destroyed or made uninhabitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance; or (iv) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization that was acquired from the organization by eminent domain or sold by the organization to a purchaser that the organization reasonably believed would otherwise have acquired the building by eminent domain, provided that the expenditure may be only for that part of the replacement cost that exceeds the compensation received by the organization for the building being replaced;

(4) an expenditure by an organization which is a contribution to a parent organization, foundation, or affiliate of the contributing organization, if the parent organization, foundation, or affiliate has provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value;

(5) a contribution by a licensed organization to another licensed organization unless the board has specifically authorized the contribution. The board must authorize such a contribution when requested to do so by the contributing organization unless it makes an affirmative finding that the contribution will not be used by the recipient organization for one or more of the purposes in paragraph (a); or

(6) the erection, acquisition, improvement, or expansion of real property or capital assets which will be used for one or more of the purposes in paragraph (a), clause (7), unless the organization making the expenditures notifies the board at least 15 days before making the expenditure.

Sec. 12. Minnesota Statutes 1990, section 349.12, is amended by adding a subdivision to read:

Subd. 30a. [PROFIT CARRYOVER.] *"Profit carryover" means cumulative net profit less cumulative lawful purpose expenditures.*

Sec. 13. Minnesota Statutes 1990, section 349.15, is amended to read:

349.15 [USE OF GROSS PROFITS.]

~~(a)~~ Gross profits from lawful gambling may be expended only for lawful purposes or allowable expenses as authorized at a regular meeting of the conducting organization. Provided that no more than 60 percent of the gross

profit less the tax imposed under section 349.212, subdivision 1, from bingo, and no more than 50 percent of the gross profit ~~less the tax imposed by section 349.212, subdivision 6,~~ from other forms of lawful gambling, may be expended for allowable expenses related to lawful gambling.

~~(b) The board shall provide by rule for the administration of this section, including specifying allowable expenses. The rules must specify that no more than one-third of the annual premium on a policy of liability insurance procured by the organization may be taken as an allowable expense. This expense shall be allowed by the board only to the extent that it relates directly to the conduct of lawful gambling and is verified in the manner the board prescribes by rule. The rules may provide a maximum percentage of gross profits which may be expended for certain expenses.~~

~~(c) Allowable expenses also include reasonable costs of bank account service charges, and the reasonable costs of an audit required by the board, except an audit required under section 349.19, subdivision 9.~~

~~(d) Allowable expenses include reasonable legal fees and damages that relate to the conducting of lawful gambling, except for legal fees or damages incurred in defending the organization against the board, attorney general, United States attorney, commissioner of revenue, or a county or city attorney.~~

Sec. 14. Minnesota Statutes 1990, section 349.151, subdivision 4, is amended to read:

Subd. 4. [POWERS AND DUTIES.] (a) The board has the following powers and duties:

(1) to regulate lawful gambling to ensure it is conducted in the public interest;

(2) to issue licenses to organizations, distributors, bingo halls, manufacturers, and gambling managers;

(3) to collect and deposit license, permit, and registration fees due under this chapter;

(4) to receive reports required by this chapter and inspect all premises, records, books, and other documents of organizations, distributors, manufacturers, and bingo halls to insure compliance with all applicable laws and rules;

(5) to make rules authorized by this chapter;

(6) to register gambling equipment and issue registration stamps;

(7) to provide by rule for the mandatory posting by organizations conducting lawful gambling of rules of play and the odds and/or house percentage on each form of lawful gambling;

(8) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing gambling;

(9) to impose civil penalties of not more than $500 per violation on organizations, distributors, manufacturers, bingo halls, and gambling managers for failure to comply with any provision of this chapter or any rule of the board;

(10) to issue premises permits to organizations licensed to conduct lawful gambling;

(11) to delegate to the director the authority to issue licenses and premises

permits under criteria established by the board;

(12) to suspend or revoke licenses and premises permits of organizations, distributors, manufacturers, bingo halls, or gambling managers as provided in this chapter;

(13) ~~to register recipients of net profits from lawful gambling and to revoke or suspend the registrations;~~

~~(14)~~ to register employees of organizations licensed to conduct lawful gambling;

~~(15)~~ *(14)* to require fingerprints from persons determined by board rule to be subject to fingerprinting; and

~~(16)~~ *(15)* to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

(b) Any organization, distributor, bingo hall operator, or manufacturer assessed a civil penalty may request a hearing before the board. Hearings conducted on appeals of imposition of penalties are not subject to the provisions of the administrative procedure act.

(c) All fees and penalties received by the board must be deposited in the general fund.

Sec. 15. Minnesota Statutes 1990, section 349.151, is amended by adding a subdivision to read:

Subd. 4a. [PADDLEWHEEL RULES.] *The board shall promulgate rules governing paddlewheels before July 1, 1992. The rules must provide for operation procedures, internal control standards, posted information, records, and reports.*

Sec. 16. Minnesota Statutes 1990, section 349.154, subdivision 2, is amended to read:

Subd. 2. [NET PROFIT REPORTS.] (a) Each licensed organization must report monthly to the board on a form prescribed by the board each expenditure and contribution of net profits from lawful gambling. The reports must provide for each expenditure or contribution:

(1) the name, address, and telephone number of the recipient of the expenditure or contribution;

(2) the date the contribution was approved by the organization;

(3) the date, amount, and check number of the expenditure or contribution; and

(4) a brief description of how the expenditure or contribution meets one or more of the purposes in section 349.12, subdivision 25, paragraph (a).

(b) ~~Each report required under paragraph (a) must be accompanied by an acknowledgment, on a form the board prescribes, of each contribution of net profits from lawful gambling included in the report. The acknowledgment must be signed by the recipient of the contribution, or, if the recipient is not an individual, or other authorized representative of the recipient, by an officer. The acknowledgment must include the name and address of the contributing organization and each item in paragraph (a), clauses (1) to (3).~~

~~(c)~~ The board shall provide the commissioners of revenue and public safety copies of each report received under this subdivision.

Sec. 17. Minnesota Statutes 1990, section 349.16, subdivision 3, is amended to read:

Subd. 3. [TERM OF LICENSE: SUSPENSION AND REVOCATION.] Licenses issued under this section are valid for ~~one year~~ *two years* and may be suspended by the board for a violation of law or board rule or revoked for what the board determines to be a willful violation of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Sec. 18. Minnesota Statutes 1990, section 349.163, is amended by adding a subdivision to read:

Subd. 6a. [PADDLEWHEEL MORATORIUM.] *The board must not approve new types of paddlewheel equipment for sale in this state until July 1, 1993. This subdivision applies to new types of paddlewheel equipment, samples of which are submitted to the board after March 15, 1991.*

Sec. 19. Minnesota Statutes 1990, section 349.165, subdivision 1, is amended to read:

Subdivision 1. [PREMISES PERMIT REQUIRED; APPLICATION.] A licensed organization may not conduct lawful gambling at any site unless it has first obtained from the board a premises permit for the site. The board shall prescribe a form for permit applications, and each application for a permit must be submitted on a separate form. *A premises permit issued by the board is valid for two years.* The board may by rule limit the number of premises permits that may be issued to an organization.

Sec. 20. Minnesota Statutes 1990, section 349.165, subdivision 3, is amended to read:

Subd. 3. [FEES.] The board may issue four classes of premises permits corresponding to the classes of licenses authorized under section 349.16, subdivision 6. The ~~annual~~ fee for each class of permit is:

(1) ~~$200~~ *$400* for a class A permit;

(2) ~~$125~~ *$250* for a class B permit;

(3) ~~$100~~ *$200* for a class C permit; and

(4) ~~$75~~ *$150* for a class D permit.

Sec. 21. Minnesota Statutes 1990, section 349.167, subdivision 1, is amended to read:

Subdivision 1. [GAMBLING MANAGER REQUIRED.] (a) All lawful gambling conducted by a licensed organization must be under the supervision of a gambling manager. A gambling manager designated by an organization to supervise lawful gambling is responsible for the gross receipts of the organization and for its conduct in compliance with all laws and rules. ~~The organization must maintain, or require the~~ *A* person designated as a gambling manager ~~to~~ *shall* maintain~~,~~ a fidelity bond in the sum of ~~$25,000~~ *$10,000* in favor of the organization ~~and the state,~~ conditioned on ~~(1)~~ the faithful performance of the manager's duties~~; and (2) the payment of all taxes due under this chapter on lawful expenditures of gross profits from lawful gambling~~. The terms of the bond must provide that notice be given to the board in writing not less than 30 days before its cancellation. ~~In the case of conflicting claims against a bond, a claim by the state has preference over a claim by the organization.~~

(b) A person may not act as a gambling manager for more than one organization.

(c) An organization may not conduct lawful gambling without having a gambling manager. The board must be notified in writing of a change in gambling managers. Notification must be made within ten days of the date the gambling manager assumes the manager's duties.

(d) An organization may not have more than one gambling manager at any time.

Sec. 22. Minnesota Statutes 1990, section 349.167, subdivision 2, is amended to read:

Subd. 2. [GAMBLING MANAGERS; LICENSES.] A person may not serve as a gambling manager for an organization unless the person possesses a valid gambling manager's license issued by the board. The board may issue a gambling manager's license to a person applying for the license who:

(1) has ~~received training as required in~~ *complied with* subdivision 4, *clause (1)*;

(2) has never been convicted of a felony;

(3) within the five years before the date of the license application, has not committed a violation of law or board rule that resulted in the revocation of a license issued by the board;

(4) has never been convicted of a criminal violation involving fraud, theft, tax evasion, misrepresentation, or gambling;

(5) has never been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats; and

(6) has not engaged in conduct the board determines is contrary to the public health, welfare, or safety or the integrity of lawful gambling.

A gambling manager's license is valid for one year unless suspended or revoked. The annual fee for a gambling manager's license is $100.

Sec. 23. Minnesota Statutes 1990, section 349.167, subdivision 4, is amended to read:

Subd. 4. [TRAINING OF GAMBLING MANAGERS.] The board shall by rule require all persons licensed as gambling managers to receive periodic training in laws and rules governing lawful gambling. The rules must contain the following requirements:

(1) each gambling manager must ~~have received such~~ *receive* training before being issued a new license, *except that in the case of the death, disability, or termination of a gambling manager, a replacement gambling manager must receive the training within 90 days of being issued a license*;

(2) each gambling manager applying for a renewal of a license must have received training within the three years prior to the date of application for the renewal; and

(3) the training required by this subdivision may be provided by a person, firm, association, or organization authorized by the board to provide the training. Before authorizing a person, firm, association, or organization to provide training, the board must determine that:

(i) the provider and all of the provider's personnel conducting the training

are qualified to do so;

(ii) the curriculum to be used fully and accurately covers all elements of lawful gambling law and rules that the board determines are necessary for a gambling manager to know and understand;

(iii) the fee to be charged for participants in the training sessions is fair and reasonable; and

(iv) the training provider has an adequate system for documenting completion of training.

The rules may provide for differing training requirements for gambling managers based on the class of license held by the gambling manager's organization.

The board or the director may provide the training required by this subdivision using employees of the division.

Sec. 24. Minnesota Statutes 1990, section 349.17, subdivision 5, is amended to read:

Subd. 5. [BINGO CARD NUMBERING.] (a) The board shall by rule require that all licensed organizations: (1) conduct bingo only using liquid daubers on cards that bear an individual number recorded by the distributor; (2) sell all bingo cards only in the order of the numbers appearing on the cards; and (3) use each bingo card for no more than one bingo occasion. In lieu of the requirements of clauses (2) and (3), a licensed organization may electronically record the sale of each bingo card at each bingo occasion using an electronic recording system approved by the board.

(b) The requirements of paragraph (a) do not apply to a licensed organization that ~~(1)~~ has never received gross receipts from bingo in excess of $150,000 in any year~~, and (2) does not pay compensation to any person for participating in the conduct of lawful gambling~~.

Sec. 25. Minnesota Statutes 1990, section 349.172, is amended to read:

349.172 [PULL-TABS; INFORMATION REQUIRED TO BE POSTED.]

~~An organization selling pull-tabs must post for each deal of pull-tabs all major prizes that have been awarded for pull-tabs purchased from that deal. The information must be posted prominently at the point of sale of the deal. An easily legible pull-tab flare that lists prizes in that deal, and on which prizes are marked or crossed off as they are awarded, satisfies the requirement of this section that major prizes be posted, provided that a separate flare is posted for each deal of pull-tabs. An organization must post or mark off each major prize immediately upon awarding the prize. A "major prize" in a deal of pull-tabs is any prize that is at least 50 times the face value of any pull-tab in the deal.~~ *Subdivision 1.* [BOARD MAY REQUIRE CERTAIN POSTING.] *The board may issue an order requiring an organization selling pull-tabs to post major pull-tab prizes and the names of major prize winners if the board has reasonable grounds to believe that the organization, or a person receiving compensation from the organization for participating in the sale of pull-tabs, has been or is providing information to a player or players that provides an unfair advantage related to the potential winnings from pull-tabs. The board must notify the organization at least 14 days before the order becomes effective. The notice to the organization must describe the organization's right to a hearing under subdivision 3.*

Subd. 2. [POSTING; REQUIREMENTS.] *The information required to*

be posted under subdivision 1 must be posted prominently at the point of sale of the pull-tabs. An easily legible pull-tab flare that lists prizes in the deal for that flare, and on which prizes are marked off as they are awarded, satisfies the requirements of this section that major prizes be posted, provided that a separate flare is posted for each deal of pull-tabs. An organization must post or mark off each major prize and post the name of the prize winner immediately on awarding the prize.

Subd. 3. [APPEAL.] *An organization to which the board issues an order under subdivision 1 may request a contested case hearing on the order. The hearing must be held within 20 days of the effective date of the order, and the report by the administrative law judge must be issued within 20 days after the close of the hearing record. The board must issue its final decision within 30 days after receipt of the report of the administrative law judge and subsequent exceptions and arguments under section 14.61.*

Subd. 4. [MAJOR PRIZES.] *For purposes of this section, a "major prize" in a deal of pull-tabs is a prize of at least 50 times the face value of any pull-tab in the deal.*

Subd. 5. [COMPULSIVE GAMBLING HOTLINE NUMBER.] *An organization conducting lawful gambling must post at each point of sale a sign containing the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section 245.98. The sign must be kept in easily legible form and repair by the owner, lessee, or person having control thereof, and must either:*

(1) be approved by the commissioner; or

(2) have lettering at least three-quarters of an inch in height, of block letter design.

Subd. 6. [VOLUNTARY POSTING.] *Nothing in this section limits the right of an organization voluntarily to post the names of winners of lawful gambling prizes.*

Sec. 26. Minnesota Statutes 1990, section 349.18, subdivision 1, is amended to read:

Subdivision 1. [LEASE OR OWNERSHIP REQUIRED.] An organization may conduct lawful gambling only on premises it owns or leases. Leases must be for a period of *at least* one year and must be on a form prescribed by the board. Copies of all leases must be made available to employees of the division and the division of gambling enforcement on request. A lease may not provide for payments determined directly or indirectly by the receipts or profits from lawful gambling. The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for lawful gambling *provided that no rule of the board may prescribe a limit of less than $1,000 per month on rent paid for premises used for lawful gambling other than bingo*. Any rule adopted by the board limiting the amount of rent to be paid may only be effective for leases entered into, or renewed, after the effective date of the rule.

No person, distributor, manufacturer, lessor, or organization other than the licensed organization leasing the space may conduct any activity on the leased premises during times when lawful gambling is being conducted on the premises.

Sec. 27. Minnesota Statutes 1990, section 349.18, subdivision 1a, is

amended to read:

Subd. 1a. [STORAGE OF GAMBLING EQUIPMENT.] (a) Gambling equipment owned by or in the possession of an organization must be kept at a licensed gambling premises owned or operated by the organization, or at other storage sites within the state that the organization has notified the board are being used as gambling equipment storage sites. At each storage site or licensed premises, the organization must have the invoices or true and correct copies of the invoices for the purchase of all gambling equipment at the site or premises. Gambling equipment owned by an organization may not be kept at a distributor's office, warehouse, storage unit, or other place of the distributor's business.

(b) Gambling equipment, other than devices for selecting bingo numbers, owned by an organization must be secured and kept separate from gambling equipment owned by other persons, organizations, distributors, or manufacturers.

(c) *Paddlewheels must be covered or disabled when not in use by the organization in the conduct of lawful gambling.*

(d) Gambling equipment kept in violation of this subdivision is contraband under section 349.2125.

~~(d)~~ *(e)* An organization may transport gambling equipment it owns or possesses between approved gambling equipment storage sites and to and from licensed distributors.

Sec. 28. Minnesota Statutes 1990, section 349.19, subdivision 2, is amended to read:

Subd. 2. [ACCOUNTS.] Gross receipts from lawful gambling by each organization ~~at each permitted premises~~ must be segregated from all other revenues of the conducting organization and placed in a separate account. All expenditures for expenses, taxes, and lawful purposes must be made from the separate account except in the case of expenditures previously approved by the organization's membership for emergencies as defined by board rule. The name and address of the bank ~~and~~, the account number for ~~that~~ *the* separate account ~~for that licensed premises~~, and the names of organization members authorized as signatories on the separate account must be provided to the board when the application is submitted. Changes in the information must be submitted to the board at least ten days before the change is made. Gambling receipts must be deposited into the gambling bank account within three days of completion of the bingo occasion, deal, or game from which they are received~~, and~~. Deposit records must be sufficient to allow determination of deposits made from each bingo occasion, deal, or game *at each permitted premises*. The person who accounts for gambling gross receipts and profits may not be the same person who accounts for other revenues of the organization.

Sec. 29. Minnesota Statutes 1990, section 349.19, subdivision 5, is amended to read:

Subd. 5. [REPORTS.] A licensed organization must report to the board and to its membership monthly, or quarterly in the case of a licensed organization which does not report more than $1,000 in gross receipts from lawful gambling in any calendar quarter, on its gross receipts, expenses, profits, and expenditure of profits from lawful gambling. *The report must include a reconciliation of the organization's profit carryover with its cash*

balance on hand. If the organization conducts both bingo and other forms of lawful gambling, the figures for both must be reported separately. In addition, a licensed organization must report to the board monthly on its purchases of gambling equipment and must include the type, quantity, and dollar amount from each supplier separately. The reports must be on a form the board prescribes. Submission of the report required by section 349.154 satisfies the requirement for reporting monthly to the board on expenditure of net profits.

Sec. 30. Minnesota Statutes 1990, section 349.19, subdivision 9, is amended to read:

Subd. 9. [ANNUAL AUDIT; FILING REQUIREMENT.] An organization licensed under this chapter must have an annual financial audit of its lawful gambling activities and funds performed by an independent ~~auditor~~ *accountant* licensed by the state of Minnesota ~~or performed by an independent accountant who has had prior approval of the board~~. The ~~board~~ *commissioner of revenue* shall ~~by rule~~ prescribe standards for the audit~~, which must provide for the reconciliation of the organization's gambling account or accounts with the organization's reports filed under subdivision 5 and section 349.154~~. A complete, true, and correct copy of the audit report must be filed ~~with~~ *as prescribed by* the ~~board upon completion of the audit~~ *commissioner of revenue.*

Sec. 31. Minnesota Statutes 1990, section 349.19, is amended by adding a subdivision to read:

Subd. 9a. [RECORDS.] *An organization licensed under this chapter must maintain records that account for the assets, liabilities, and fund balance of the organization. The records must also account for the revenues, taxes, prize payouts, expenses, and lawful purpose expenditures of the organization. The records must include a perpetual inventory of games purchased but not yet played and games in play.*

Sec. 32. Minnesota Statutes 1990, section 349.19, is amended by adding a subdivision to read:

Subd. 9b. [ACCOUNTING MANUAL.] *The board must prepare and distribute to each organization licensed under this chapter a manual designed to facilitate compliance with section 31. The manual must include a clear description of the processes needed to maintain the records required in section 31. The board may contract for preparation of the manual.*

Sec. 33. Minnesota Statutes 1990, section 349.211, is amended by adding a subdivision to read:

Subd. 2b. [PADDLEWHEEL PRIZES.] *The maximum cash prize which may be awarded for a paddleticket is $70. An organization may not sell any paddleticket for more than $2.*

Sec. 34. Minnesota Statutes 1990, section 349.213, subdivision 1, is amended to read:

Subdivision 1. [LOCAL REGULATION.] (a) A statutory or home rule city or county has the authority to adopt more stringent regulation of lawful gambling within its jurisdiction, including the prohibition of lawful gambling, and may require a permit for the conduct of gambling exempt from licensing under section 349.214. The fee for a permit issued under this subdivision may not exceed $100. The authority granted by this subdivision does not include the authority to require a license or permit to conduct

gambling by organizations or sales by distributors licensed by the board. The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent from its net profits derived from lawful gambling. For the purposes of this subdivision, net profits are profits less amounts expended for allowable expenses. A statutory or home rule charter city or a county may not require an organization conducting lawful gambling within its jurisdiction to make an expenditure to the city or county as a condition to operate within that city or county, except as authorized under section 349.16, subdivision 4, or 349.212; provided, however, that an ordinance requirement that such organizations must contribute ten percent of their net profits derived from lawful gambling to a fund administered and regulated by the responsible local unit of government without cost to such fund, for disbursement by the responsible local unit of government of the receipts for lawful purposes, is not considered an expenditure to the city or county nor a tax under section 349.212, and is valid and lawful.

(b) A statutory or home rule city or county may by ordinance require that a licensed organization conducting lawful gambling within its jurisdiction expend all or a portion of its expenditures for lawful purposes on lawful purposes conducted or located within the city's or county's trade area. Such an ordinance must define the city's or county's trade area and must specify the percentage of lawful purpose expenditures which must be expended within the trade area. A trade area defined by a city under this subdivision must include each city contiguous to the defining city.

(c) A more stringent regulation or prohibition of lawful gambling adopted by a political subdivision under this subdivision must apply equally to all forms of lawful gambling within the jurisdiction of the political subdivision, *except a political subdivision may prohibit the use of paddlewheels.*

Sec. 35. Minnesota Statutes 1990, section 349A.02, subdivision 3, is amended to read:

Subd. 3. [POWERS AND DUTIES.] In operating the lottery the director shall exercise the following powers and duties:

(1) adopt rules and game procedures;

(2) issue lottery retailer contracts and rule on appeals of decisions relating to those contracts;

(3) enter into lottery procurement contracts for the provision of goods and services to the lottery;

(4) employ personnel as are required to operate the lottery;

(5) enter into written agreements with one or more ~~states~~ *government-authorized lotteries, or with an organization created and controlled by those lotteries*, for the operation, marketing, and promotion of a joint lottery;

(6) adopt and publish advertising and promotional materials consistent with section 349A.09; and

(7) take all necessary steps to ensure the integrity of, and public confidence in, the state lottery.

Sec. 36. Minnesota Statutes 1990, section 349A.06, subdivision 3, is amended to read:

Subd. 3. [BOND.] The director shall require that each lottery retailer

post a bond, *securities, or an irrevocable letter of credit,* in an amount as the director deems necessary, to protect the financial interests of the state. *If securities are deposited or an irrevocable letter of credit filed, the securities or letter of credit must be of a type or in the form provided under section 349A.07, subdivision 5, paragraphs (b) and (c).*

Sec. 37. Minnesota Statutes 1990, section 349A.06, subdivision 5, is amended to read:

Subd. 5. [RESTRICTIONS ON LOTTERY RETAILERS.] (a) A lottery retailer may sell lottery tickets only on the premises described in the contract.

(b) A lottery retailer must prominently display a certificate issued by the director on the premises where lottery tickets will be sold.

(c) A lottery retailer must keep a complete set of books of account, correspondence, and all other records necessary to show fully the retailer's lottery transactions, and make them available for inspection by employees of the division at all times during business hours. The director may require a lottery retailer to furnish information as the director deems necessary to carry out the purposes of this chapter, and may require an audit to be made of the books of account and records. The director may select an auditor to perform the audit and may require the retailer to pay the cost of the audit. The auditor has the same right of access to the books of account, correspondence, and other records as is given to employees of the division.

(d) A contract issued under this section may not be transferred or assigned.

(e) The director shall require that lottery tickets may be sold by retailers only for cash.

(f) A lottery retailer must prominently post at the point of sale of lottery tickets, in a manner approved by the commissioner of human services, the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section 245.98.

Sec. 38. Minnesota Statutes 1990, section 349A.06, subdivision 11, is amended to read:

Subd. 11. [~~REVOCATION~~ *CANCELLATION*, SUSPENSION, AND REFUSAL TO RENEW ~~LICENSES~~ *CONTRACTS*.] (a) The director shall cancel the contract of any lottery retailer who:

(1) has been convicted of a felony or gross misdemeanor;

(2) has committed fraud, misrepresentation, or deceit;

(3) has provided false or misleading information to the division; or

(4) has acted in a manner prejudicial to public confidence in the integrity of the lottery.

(b) The director may cancel, suspend, or refuse to renew the contract of any lottery retailer who:

(1) changes business location;

(2) fails to account for lottery tickets received or the proceeds from tickets sold;

(3) fails to remit funds to the director in accordance with the director's rules;

(4) violates a law or a rule or order of the director;

(5) fails to comply with any of the terms in the lottery retailer's contract;

(6) fails to ~~comply with~~ *file a* bond ~~requirements~~, *securities, or a letter of credit as required* under ~~this section~~ *subdivision 3*;

(7) in the opinion of the director fails to maintain a sufficient sales volume to justify continuation as a lottery retailer; or

(8) has violated section 340A.503, subdivision 2, clause (1), two or more times within a two-year period.

(c) The director may also cancel, suspend, or refuse to renew a lottery retailer's contract if there is a material change in any of the factors considered by the director under subdivision 2.

(d) A contract cancellation, suspension, or refusal to renew under this subdivision is a contested case under sections 14.57 to 14.69 and is in addition to any criminal penalties provided for a violation of law or rule.

(e) The director may temporarily suspend a contract without notice for any of the reasons specified in this subdivision provided that a hearing is conducted within seven days after a request for a hearing is made by a lottery retailer. Within 20 days after receiving the administrative law judge's report, the director shall issue an order vacating the temporary suspension or making any other appropriate order. If no hearing is requested within 30 days of the temporary suspension taking effect, the ~~director may issue an order making the suspension permanent~~ *suspension becomes permanent unless the director vacates or modifies the order.*

Sec. 39. Minnesota Statutes 1990, section 349A.08, is amended by adding a subdivision to read:

Subd. 9. [PRIVACY.] *The phone number and street address of a winner of a lottery prize is private data on individuals under chapter 13.*

Sec. 40. Minnesota Statutes 1990, section 349A.09, subdivision 2, is amended to read:

Subd. 2. [CONTENT OF ADVERTISING.] (a) Advertising and promotional materials for the lottery adopted or published by the director must be consistent with the dignity of the state and may only:

(1) present information on how lottery games are played, prizes offered, where and how tickets may be purchased, when drawings are held, and odds on the games advertised;

(2) identify state programs supported by lottery net revenues;

(3) present the lottery as a form of entertainment; or

(4) state the winning numbers or identity of winners of lottery prizes.

(b) The director may not adopt or publish any advertising for the lottery which:

(1) presents directly or indirectly any lottery game as a potential means of relieving any person's financial difficulties;

(2) is specifically targeted with the intent to exploit a person, a specific group or ~~an~~ economic class of people, *or a religious holiday by use of a religious theme or symbol*;

(3) presents the purchase of a lottery ticket as a financial investment or a way to achieve financial security;

(4) uses the name or picture of a current elected state official to promote a lottery game;

(5) exhorts the public to bet by directly or indirectly misrepresenting a person's chance of winning a prize; or

(6) denigrates a person who does not buy a lottery ticket or unduly praises a person who does buy a ticket.

Sec. 41. Minnesota Statutes 1990, section 349A.10, subdivision 3, is amended to read:

Subd. 3. [LOTTERY OPERATIONS.] (a) The director shall establish a lottery operations account in the lottery fund. The director shall pay all costs of operating the lottery, including payroll costs or amounts transferred to the state treasury for payroll costs, but not including lottery prizes, from the lottery operating account. The director shall credit to the lottery operations account amounts sufficient to pay the operating costs of the lottery.

(b) The director may not credit in any fiscal year amounts to the lottery operations account which when totaled exceed 15 percent of gross revenue to the lottery fund in that fiscal year. In computing total amounts credited to the lottery operations account under this paragraph the director shall disregard amounts transferred to or retained by lottery retailers as sales commissions or other compensation.

(c) The director of the lottery may not expend after July 1, ~~1992~~ *1991*, more than 2-3/4 percent of gross revenues in a fiscal year for contracts for the preparation, publication, and placement of advertising.

(d) Except as the director determines, the division is not subject to chapter 16A relating to budgeting, payroll, and the purchase of goods and services.

Sec. 42. Minnesota Statutes 1990, section 609.115, is amended by adding a subdivision to read:

Subd. 8. [COMPULSIVE GAMBLING ASSESSMENT REQUIRED.] *(a) If a person is convicted of a felony for theft under section 609.52, embezzlement of public funds under section 609.54, or forgery under section 609.625, 609.63, or 609.631, the probation officer shall determine in the report prepared under subdivision 1 whether or not compulsive gambling contributed to the commission of the offense. If so, the report shall contain the results of a compulsive gambling assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the defendant to undergo the assessment if so indicated.*

(b) The compulsive gambling assessment report must include a recommended level of care for the defendant if the assessor concludes that the defendant is in need of compulsive gambling treatment. The assessment must be conducted by an assessor qualified under section 7 to perform these assessments or to provide compulsive gambling treatment. An assessor providing a compulsive gambling assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor with a financial interest or referral relationship as authorized under rules adopted by the commissioner of human services under section 7.

(c) The commissioner of human services shall reimburse the county for the costs associated with a compulsive gambling assessment at a rate established by the commissioner up to a maximum of $100 for each assessment.

Sec. 43. Minnesota Statutes 1990, section 609.75, subdivision 1, is amended to read:

Subdivision 1. [LOTTERY.] (a) A lottery is a plan which provides for the distribution of money, property or other reward or benefit to persons selected by chance from among participants some or all of whom have given a consideration for the chance of being selected. *A participant's payment for use of a 900 telephone number or another means of communication that results in payment to the sponsor of the plan constitutes consideration under this paragraph.*

(b) An in-package chance promotion is not a lottery if all of the following are met:

(1) participation is available, free and without purchase of the package, from the retailer or by mail or toll-free telephone request to the sponsor for entry or for a game piece;

(2) the label of the promotional package and any related advertising clearly states any method of participation and the scheduled termination date of the promotion;

(3) the sponsor on request provides a retailer with a supply of entry forms or game pieces adequate to permit free participation in the promotion by the retailer's customers;

(4) the sponsor does not misrepresent a participant's chances of winning any prize;

(5) the sponsor randomly distributes all game pieces and maintains records of random distribution for at least one year after the termination date of the promotion;

(6) all prizes are randomly awarded if game pieces are not used in the promotion; and

(7) the sponsor provides on request of a state agency a record of the names and addresses of all winners of prizes valued at $100 or more, if the request is made within one year after the termination date of the promotion.

(c) Except as provided by section 349.40, acts in this state in furtherance of a lottery conducted outside of this state are included notwithstanding its validity where conducted.

(d) The distribution of property, or other reward or benefit by an employer to persons selected by chance from among participants who have made a contribution through a payroll or pension deduction campaign to a registered combined charitable organization, within the meaning of section 309.501, as a precondition to the chance of being selected, is not a lottery if:

(1) all of the persons eligible to be selected are employed by or retirees of the employer;

(2) the cost of the property or other reward or benefit distributed and all costs associated with the distribution are borne by the employer; and

(3) the total amount actually expended by the employer to obtain the

property or other rewards or benefits distributed by the employer during the calendar year does not exceed $500.

Sec. 44. Minnesota Statutes 1990, section 609.75, subdivision 4, is amended to read:

Subd. 4. [GAMBLING DEVICE.] A gambling device is a contrivance which for a consideration affords the player an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance. "Gambling device" *also* includes ~~any~~ *a* video game of chance, as defined in ~~section 349.50,~~ subdivision 8~~, that is not in compliance with sections 349.50 to 349.60~~.

Sec. 45. Minnesota Statutes 1990, section 609.75, is amended by adding a subdivision to read:

Subd. 8. [VIDEO GAME OF CHANCE.] *A video game of chance is a game or device that simulates one or more games commonly referred to as poker, blackjack, craps, hi-lo, roulette, or other common gambling forms, though not offering any type of pecuniary award or gain to players. The term also includes any video game having one or more of the following characteristics:*

(1) it is primarily a game of chance, and has no substantial elements of skill involved;

(2) it awards game credits or replays and contains a meter or device that records unplayed credits or replays.

Sec. 46. Minnesota Statutes 1990, section 609.75, is amended by adding a subdivision to read:

Subd. 9. [900 TELEPHONE NUMBER.] *A 900 telephone number is a ten-digit number, the first three numbers of which are from 900 to 999.*

Sec. 47. Minnesota Statutes 1990, section 609.755, is amended to read:

609.755 [ACTS OF OR RELATING TO GAMBLING.]

Whoever does any of the following is guilty of a misdemeanor:

(1) makes a bet; ~~or~~

(2) sells or transfers a chance to participate in a lottery; ~~or~~

(3) disseminates information about a lottery, *except a lottery conducted by an adjoining state,* with intent to encourage participation therein; ~~or~~

(4) permits a structure or location owned or occupied by the actor or under the actor's control to be used as a gambling place*; or*

(5) operates a gambling device.

Clause (5) does not prohibit operation of a gambling device in a person's dwelling for amusement purposes in a manner that does not afford players an opportunity to obtain anything of value.

Sec. 48. Minnesota Statutes 1990, section 609.76, subdivision 1, is amended to read:

Subdivision 1. [GROSS MISDEMEANORS.] ~~(a)~~ Whoever does any of the following may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both:

(1) maintains or operates a gambling place or operates a bucket shop;

(2) intentionally participates in the income of a gambling place or bucket shop;

(3) conducts a lottery, or, with intent to conduct a lottery, possesses facilities for doing so;

(4) sets up for use for the purpose of gambling, or collects the proceeds of, any gambling device or bucket shop;

(5) ~~with intent that it shall be so used~~ *except as provided in section 9,* manufactures, sells ~~or~~, offers for sale, *or otherwise provides,* in whole or any part thereof, any gambling device including those defined in section 349.30, subdivision 2~~, and any facility for conducting a lottery, except as provided by section 349.40~~;

(6) *with intent that it be so used, manufactures, sells, or offers for sale any facility for conducting a lottery, except as provided by section 349.40; or*

(7) receives, records, or forwards bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possesses facilities to do so; ~~or~~

~~(7) pays any compensation for game credits earned on or otherwise rewards, with anything of value other than free plays, players of video games of chance as defined in section 349.50, subdivision 8, or who directs an employee to pay any such compensation or reward~~.

~~(b) On conviction of a person for the crime established in paragraph (a), clause (7), the court shall impose a fine of not less than $700.~~

Sec. 49. [TRIBAL-STATE COMPACTS.]

Sections 8, 9, 44, 45, 47, and 48 do not affect the validity of, and must not be construed as prohibiting the state from entering into or participating in, a tribal-state compact with the governing body of an Indian tribe governing the conduct of video games of chance under the Indian Gaming Regulatory Act, United States Code, title 25, sections 2701 to 2721.

Sec. 50. [REPORT.]

The director of the gambling control board, the commissioner of public safety, and the attorney general or their designees shall jointly study the issue of requiring that all gambling equipment as defined in Minnesota Statutes, section 34.12, subdivision 24, be purchased from one or more suppliers who contract with the state for that purpose. The study shall include a recommendation as to the adoption of the requirement and a plan for implementing such a requirement. The study must include, among other things, the following options:

(1) requiring organizations to purchase gambling equipment directly from the state; and

(2) requiring organizations to purchase gambling equipment directly from suppliers who contract with the state.

The director, the commissioner, and the attorney general or their designees shall report to the legislature on the results of the study not later than February 1, 1992. The report must contain draft legislation that implements any legislative recommendation contained in the study.

Sec. 51. [REPORT ON COMPULSIVE GAMBLING ASSESSMENTS.]

By February 1, 1992, the commissioner of human services shall report to the chairs of the senate committees on judiciary, health and human services, and gaming regulation and the chairs of the house of representatives committees on judiciary, health and human services, and general legislation, veterans, and gaming, on a method to implement sections 245.98, subdivision 2a, and 609.115, subdivision 8.

Sec. 52. [APPROPRIATION.]

$600,000 in fiscal year 1992 and $600,000 in fiscal year 1993 is appropriated from the general fund to the commissioner of human services to implement the compulsive gambling treatment program established under Minnesota Statutes, section 245.98. Of the amounts appropriated in this section, not more than $91,500 in each fiscal year may be spent for administrative expenses.

The director of the state lottery shall transfer $200,000 in fiscal year 1992 and $200,000 in fiscal year 1993 from the lottery operations account to the general fund for the costs incurred for the compulsive gambling treatment program under Minnesota Statutes, section 245.98. This transfer is in addition to any amount the director is required to transfer in those years by any other law.

Sec. 53. [REPEALER.]

Minnesota Statutes 1990, section 349.154, subdivision 3, is repealed.

Sec. 54. [EFFECTIVE DATE.]

(a) Sections 1, 2, 3, 5, 6, 10, 11, 13 to 16, 21 to 24, 26, 28, 30, 35, 36, 38 to 40, 50, 51, the provisions of section 47 that amend Minnesota Statutes 1990, section 609.755, clause (3), 50, 51, and 53 are effective are effective the day following final enactment.

(b) Sections 4, 25, 37, and 41 are effective July 1, 1991.

(c) Sections 18 to 20 are effective August 1, 1991, and apply to licenses and permits issued on and after that date.

(d) Section 32 is effective September 1, 1991, and the manual required by that section must be distributed by that date.

(e) Sections 8, 9, 44, 45, 47 except as provided in paragraph (a), 48, and 49 are effective January 1, 1992.

(f) Sections 12, 29, and 31 are effective March 1, 1992.

(g) Sections 7 and 42 are effective July 1, 1993."

Delete the title and insert:

"A bill for an act relating to lawful gambling; lotteries; providing for teleracing and its operation and regulation; expanding requirements relating to compulsive gambling; exempting lawful gambling profits from the tax on unrelated business income; regulating manufacturers and distributors of gambling devices; changing certain requirements relating to record keeping, reports, audits, and expenditures of gambling profits by licensed gambling organizations; modifying certain licensing, training, and operating requirements for licensed gambling organizations; changing requirements relating to posting of pull-tab winners; authorizing the director of the lottery to

enter into joint lotteries outside the United States; expanding certain provisions relating to lottery retailers; designating certain data on lottery prize winners as private; changing requirements relating to lottery advertising; clarifying the prohibitions on video games of chance and lotteries; authorizing dissemination of information about lotteries conducted by adjoining states; establishing a task force on compulsive gambling assessments; appropriating money; amending Minnesota Statutes 1990, sections 3.9221, by adding a subdivision; 240.01, subdivisions 1, 10, and by adding subdivisions; 240.02, subdivision 3; 240.03; 240.05, subdivision 1; 240.06, subdivision 1; 240.09, subdivision 2; 240.10; 240.11; 240.13, subdivisions 1, 2, 3, 4, 5, 6, and 8; 240.15, subdivision 6; 240.16, subdivision 1a; 240.18; 240.19; 240.23; 240.24, subdivision 2; 240.25, subdivision 2; 240.27; 240.28, subdivision 1; 240.29; 245.98, by adding a subdivision; 299L.01, subdivision 1; 349.12, subdivision 25, and by adding subdivisions; 349.15; 349.151, subdivision 4, and by adding a subdivision; 349.154, subdivision 2; 349.16, subdivision 3; 349.163, by adding a subdivision; 349.165, subdivisions 1 and 3; 349.167, subdivisions 1, 2, and 4; 349.17, subdivision 5; 349.172; 349.18, subdivisions 1 and 1a; 349.19, subdivisions 2, 5, 9, and by adding subdivisions; 349.211, by adding a subdivision; 349.213, subdivision 1; 349A.02, subdivision 3; 349A.06, subdivisions 3, 5, and 11; 349A.08, by adding a subdivision; 349A.09, subdivision 2; 349A.10, subdivision 3; 609.115, by adding a subdivision; 609.75, subdivisions 1, 4, and by adding subdivisions; 609.755; 609.76, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 240; and 299L; repealing Minnesota Statutes 1990, sections 240.01, subdivision 13; 240.13, subdivision 6a; 240.14; subdivision 1a; and 349.154, subdivision 3."

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

Senate Conferees: (Signed) Charles A. Berg, Allan H. Spear, Dean E. Johnson, Patrick D. McGowan, Ronald R. Dicklich

House Conferees: (Signed) Tom Osthoff, Linda Scheid, Chuck Brown, Steven Sviggum, Leo J. Reding

Mr. Berg moved that the foregoing recommendations and Conference Committee Report on S.F. No. 506 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. 506 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 53 and nays 11, as follows:

Those who voted in the affirmative were:

Adkins	Day	Hughes	Metzen	Renneke
Beckman	DeCramer	Johnson, D.E.	Moe, R.D.	Riveness
Belanger	Dicklich	Johnson, J.B.	Mondale	Sams
Benson, D.D.	Finn	Johnston	Morse	Samuelson
Benson, J.E.	Flynn	Kroening	Neuville	Solon
Berg	Frank	Laidig	Novak	Spear
Bernhagen	Frederickson, D.J.	Langseth	Olson	Storm
Bertram	Frederickson, D.R.	Larson	Pariseau	Traub
Cohen	Gustafson	Lessard	Piper	Vickerman
Dahl	Halberg	McGowan	Pogemiller	
Davis	Hottinger	Mehrkens	Price	

Those who voted in the negative were:

Berglin	Knaak	Marty	Pappas	Reichgott
Chmielewski	Luther	Merriam	Ranum	Waldorf
Kelly				

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

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 1179: Mr. Pogemiller, Ms. Reichgott and Mr. Bernhagen.

H.F. No. 155: Mrs. Brataas, Mr. Novak and Ms. Flynn.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 351 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 351

A bill for an act relating to peace officers; guaranteeing peace officers certain rights when a formal statement is taken for disciplinary purposes; proposing coding for new law in Minnesota Statutes, chapter 626.

May 20, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 351, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 351 be further amended as follows:

Page 2, line 6, delete "9" and insert "*10*"

Page 2, line 15, after the period insert "*Complaints stating the signer's knowledge also may be filed by members of the law enforcement agency.*"

Page 2, after line 17, insert:

"*Subd. 6.* [WITNESSES; INVESTIGATIVE REPORTS.] *Upon request, the investigating agency or the officer shall provide the other party with a*

list of witnesses that the agency or officer expects to testify at the administrative hearing and the substance of the testimony. A party is entitled to copies of any witness statements in the possession of the other party and an officer is entitled to a copy of the investigating agency's investigative report, provided that any references in a witness statement or investigative report that would reveal the identity of confidential informants need not be disclosed except upon order of the person presiding over the administrative hearing for good cause shown."

Renumber the remaining subdivisions in sequence

Page 3, line 20, delete "*release*" and insert "*provide*" and after "*photograph*" insert "*of an officer*"

Page 3, line 21, before the period insert "*for it to display to a prospective witness as part of the authority's investigation*"

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

Senate Conferees: (Signed) Lawrence J. Pogemiller, William P. Luther, Thomas M. Neuville

House Conferees: (Signed) Phil Carruthers, Bill Macklin, Robert P. Milbert

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on S.F. No. 351 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. 351 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 60 and nays 2, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Mehrkens	Price
Beckman	Day	Johnston	Metzen	Ranum
Belanger	DeCramer	Kelly	Moe, R.D.	Reichgott
Benson, D.D.	Finn	Knaak	Mondale	Renneke
Benson, J.E.	Flynn	Kroening	Morse	Sams
Berg	Frank	Laidig	Neuville	Samuelson
Berglin	Frederickson, D.J.	Langseth	Novak	Solon
Bernhagen	Frederickson, D.R.	Larson	Olson	Spear
Bertram	Gustafson	Lessard	Pappas	Storm
Chmielewski	Halberg	Luther	Pariseau	Traub
Cohen	Hottinger	Marty	Piper	Vickerman
Dahl	Johnson, D.E.	McGowan	Pogemiller	Waldorf

Messrs. Hughes and Merriam voted in the negative.

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

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, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 906: A bill for an act relating to retirement; authorizing purchase of military service credit by a certain teachers retirement association member.

Senate File No. 906 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Mr. Price moved that the Senate concur in the amendments by the House to S.F. No. 906 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 906 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 60 and nays 2, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.J.	Metzen	Ranum
Beckman	Day	Johnson, J.B.	Moe, R.D.	Reichgott
Belanger	DeCramer	Johnston	Mondale	Renneke
Benson, D.D.	Finn	Kelly	Morse	Riveness
Benson, J.E.	Flynn	Knaak	Neuville	Sams
Berg	Frank	Kroening	Novak	Samuelson
Berglin	Frederickson, D.J.	Laidig	Olson	Solon
Bernhagen	Frederickson, D.R.	Langseth	Pappas	Spear
Bertram	Gustafson	Lessard	Pariseau	Storm
Chmielewski	Halberg	Luther	Piper	Stumpf
Cohen	Hughes	McGowan	Pogemiller	Traub
Dahl	Johnson, D.E.	Mehrkens	Price	Vickerman

Messrs. Marty and Waldorf voted in the negative.

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. 1300: A bill for an act relating to agriculture; allowing exemption of certain garbage from requirements for feeding to livestock or poultry; amending Minnesota Statutes 1990, section 35.73, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 35.

Senate File No. 1300 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

Mr. Beckman moved that the Senate do not concur in the amendments by the House to S.F. No. 1300, 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.

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

House File No. 181 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 181

A bill for an act relating to the environment; adding reimbursement requirements for the petroleum tank release cleanup account; providing for insurance subrogation rights; amending Minnesota Statutes 1990, sections 115C.04, subdivision 3; 115C.09, subdivision 3; and 115C.10, subdivision 1.

May 18, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 181, 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. 181 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115C.04, subdivision 3, is amended to read:

Subd. 3. [AGENCY COST RECOVERY.] Reasonable and necessary expenses incurred by the agency in taking a corrective action, including costs of investigating a release, administrative and legal expenses, and reimbursement costs described in subdivision 1, paragraph (b), may be recovered in a civil action in district court brought by the attorney general against a responsible person. The agency's certification of expenses is prima facie evidence that the expenses are reasonable and necessary. *If the responsible person has petroleum tank leakage or spill insurance coverage that insures against the liability provided in this section, the agency is subrogated to the rights of the responsible person with respect to that insurance coverage,*

to the extent of the expenses incurred by the agency and described in this subdivision. The agency may request the attorney general to bring an action in district court against the insurer to enforce this subrogation right. Expenses that are recovered under this section must be deposited in the account.

Sec. 2. Minnesota Statutes 1990, section 115C.09, subdivision 3, is amended to read:

Subd. 3. [REIMBURSEMENT.] (a) The board shall reimburse a responsible person who is eligible under subdivision 2 from the account for 90 percent of the portion of the total reimbursable costs or $1,000,000, whichever is less. Not more than $1,000,000 may be reimbursed for costs associated with a single release, regardless of the number of persons eligible for reimbursement, and not more than $2,000,000 may be reimbursed for costs associated with a single tank facility.

(b) A reimbursement may not be made from the account under this subdivision until the board has determined that the costs for which reimbursement is requested were actually incurred and were reasonable.

(c) *A reimbursement may not be made from the account under this subdivision in response to either an initial or supplemental application for costs incurred after June 4, 1987, that are payable under an applicable insurance policy, except that if the board finds that the responsible person has made reasonable efforts to collect from an insurer and failed, the board shall reimburse the responsible person under this subdivision.*

(d) If the board reimburses a responsible person for costs for which the responsible person has petroleum tank leakage or spill insurance coverage, the board is subrogated to the rights of the responsible person with respect to that insurance coverage, to the extent of the reimbursement by the board. The board may request the attorney general to bring an action in district court against the insurer to enforce the board's subrogation rights. Acceptance by a responsible person of reimbursement constitutes an assignment by the responsible person to the board of any rights of the responsible person with respect to any insurance coverage applicable to the costs that are reimbursed. Notwithstanding this paragraph, the board may instead request a return of the reimbursement under subdivision 5 and may employ against the responsible party the remedies provided in that subdivision, except where the board has knowingly provided reimbursement because the responsible person was denied coverage by the insurer.

(e) Money in the account is appropriated to the board to make reimbursements under this section. A reimbursement to a state agency must be credited to the appropriation account or accounts from which the reimbursed costs were paid.

Sec. 3. Minnesota Statutes 1990, section 115C.10, subdivision 1, is amended to read:

Subdivision 1. [PAYMENT FROM THE ACCOUNT.] (a) If the cost of authorized actions under section 115C.03 exceeds the amount appropriated to the agency for the actions and amounts awarded to the agency from the federal government, the agency may apply to the board for money to pay for the actions from the account. The board shall pay the agency the cost of the proposed actions under section 115C.03 if the board finds that the conditions for the agency to be paid from the account have been met, and that an adequate amount exists in the account to pay for the corrective

action. *If the board pays the agency for the cost of authorized actions for which a responsible person has petroleum tank leakage or spill insurance coverage, the board is subrogated to the agency's rights with respect to the responsible person and the responsible person's insurer, to the extent of the board's payment of costs for which the responsible person has insurance coverage, subject to the limitations on an agency cost recovery action set forth in section 115C.04, subdivision 3. The board may request the attorney general to bring an action in district court against the responsible person or that person's insurer to enforce the board's subrogation rights. Acceptance of a payment from the board by the agency constitutes an assignment to the board of the subrogation rights specified in this subdivision.*

(b) Money in the account is appropriated to the board for the purpose of this subdivision.

Sec. 4. [EFFECTIVE DATE.]

Sections 1, 2, and 3 are effective the day following final enactment and apply to applications pending on or filed after that date."

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

House Conferees: (Signed) Wally Sparby, Loren G. Jennings, Virgil J. Johnson

Senate Conferees: (Signed) Steven G. Novak, Ted A. Mondale, Janet B. Johnson

Mr. Novak moved that the foregoing recommendations and Conference Committee Report on H.F. No. 181 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. 181 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:

Adkins	Davis	Johnston	Metzen	Renneke
Beckman	Day	Kelly	Moe, R.D.	Riveness
Belanger	DeCramer	Knaak	Mondale	Sams
Benson, J.E.	Flynn	Kroening	Morse	Samuelson
Berg	Frank	Laidig	Neuville	Solon
Berglin	Frederickson, D.R.	Langseth	Novak	Spear
Bernhagen	Gustafson	Larson	Olson	Storm
Bertram	Halberg	Lessard	Pappas	Stumpf
Brataas	Hottinger	Luther	Pariseau	Traub
Chmielewski	Johnson, D.E.	Marty	Piper	Vickerman
Cohen	Johnson, D.J.	McGowan	Ranum	Waldorf
Dahl	Johnson, J.B.	Merriam	Reichgott	

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

House File No. 887 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 887

A bill for an act relating to game and fish; setting conditions under which a hunter may take two deer; amending Minnesota Statutes 1990, section 97B.301, subdivision 4.

May 18, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 887, 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. 887 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 97A.431, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] Persons eligible for a moose license shall be determined under this section and commissioner's order. A person is eligible for a moose license only if the person:

(1) is a resident;

(2) is at least age 16 before the season opens; and

(3) has not been issued a moose license ~~for any of the last five seasons~~ *during any of the preceding ten years.*

Sec. 2. Minnesota Statutes 1990, section 97B.621, subdivision 1, is amended to read:

Subdivision 1. [SEASON.] The statewide open season for raccoon may be prescribed by the commissioner ~~between October 15 and December 31~~.

Sec. 3. [PILOT PROJECT FOR TAKING TWO DEER.]

(a) Notwithstanding Minnesota Statutes, section 97B.301, in the 1991 and 1992 hunting seasons, the commissioner must allow a resident to take two deer per season, one by firearm and one by archery, in the counties of Marshall, Kittson, and Roseau. A person taking two deer under this section

must obtain a resident license for each method of hunting.

(b) The commissioner shall conduct a study on the provisions of paragraph (a) including, but not limited to, a review of the impact on the deer population, the participation and satisfaction of hunters, and the success ratio. By February 15, 1993, the commissioner must report on the study to the house and senate committees with jurisdiction over natural resources.

Sec. 4. [EXPERIMENTAL FOX SEASONS.]

Subdivision 1. [OPEN SEASON.] *There shall be an open season on red fox and gray fox during calendar years 1991, 1992, and 1993.*

Subd. 2. [AREA COVERED.] *Subdivision 1 applies in that part of the state lying west and south of a line formed by Trunk Highway No. 72 from near Baudette south to Blackduck, then continuing south on Trunk Highway No. 71 to its intersection with Trunk Highway No. 19, east on Trunk Highway No. 19 to its intersection with Trunk Highway No. 15, and south on Trunk Highway No. 15 to the Iowa border.*

Subd. 3. [REPORT.] *The commissioner of natural resources shall report to the legislature by February 15, 1994, on the results of the designation of red fox and gray fox as unprotected wild animals under this section. This section is repealed December 31, 1993.*"

Delete the title and insert:

"A bill for an act relating to game and fish; increasing the disqualification period after having obtained a moose license; removing statutory date limits on raccoon seasons; authorizing experimental two deer seasons in northwestern counties; declaring a temporary unprotected status for fox in the western portion of the state; amending Minnesota Statutes 1990, sections 97A.431, subdivision 2; and 97B.621, subdivision 1."

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

House Conferees: (Signed) Leo J. Reding, Wally Sparby, Brad Stanius

Senate Conferees: (Signed) Charles A. Berg, Dennis R. Frederickson, Bob Lessard

Mr. Berg moved that the foregoing recommendations and Conference Committee Report on H.F. No. 887 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. 887 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 32 and nays 31, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Johnson, D.E.	Mehrkens	Solon
Beckman	Day	Johnston	Moe, R.D.	Storm
Benson, D.D.	Frank	Kroening	Olson	Stumpf
Benson, J.E.	Frederickson, D.J.	Laidig	Pariseau	Vickerman
Berg	Frederickson, D.R.	Larson	Piper	
Bernhagen	Gustafson	Lessard	Renneke	
Bertram	Halberg	McGowan	Samuelson	

Those who voted in the negative were:

Belanger	Finn	Luther	Pappas	Spear
Berglin	Flynn	Merriam	Pogemiller	Traub
Cohen	Hottinger	Metzen	Price	Waldorf
Dahl	Johnson, D.J.	Mondale	Ranum	
Davis	Johnson, J.B.	Morse	Reichgott	
DeCramer	Kelly	Neuville	Riveness	
Dicklich	Knaak	Novak	Sams	

So the bill, as amended by the Conference Committee, failed to pass.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 1300: Messrs. Beckman, Davis and Frederickson, D.J.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

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. 1466: A bill for an act relating to energy; creating an advisory task force on low-income energy assistance to establish an energy assistance foundation.

Senate File No. 1466 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Ms. Piper moved that the Senate concur in the amendments by the House to S.F. No. 1466 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1466 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 52 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Hottinger	Metzen	Ranum
Beckman	Davis	Johnson, D.E.	Moe, R.D.	Reichgott
Belanger	Day	Johnson, D.J.	Mondale	Riveness
Benson, D.D.	DeCramer	Johnston	Morse	Solon
Benson, J.E.	Dicklich	Kelly	Neuville	Storm
Berg	Finn	Knaak	Novak	Stumpf
Berglin	Flynn	Kroening	Pappas	Traub
Bernhagen	Frank	Laidig	Pariseau	Vickerman
Bertram	Frederickson, D.J.	Larson	Piper	
Chmielewski	Frederickson, D.R.	Lessard	Pogemiller	
Cohen	Gustafson	Luther	Price	

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. 559: A bill for an act relating to motor fuels; requiring the sale of oxygenated gasoline; changing a requirement for the agricultural alcohol gasoline tax reduction; amending Minnesota Statutes 1990, sections 239.76, by adding a subdivision; 296.01, by adding a subdivision; and 296.02, subdivision 8.

Senate File No. 559 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Mr. Frederickson, D.J. moved that the Senate concur in the amendments by the House to S.F. No. 559 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 559: A bill for an act relating to agriculture; requiring the commissioner of revenue to make certain payments to the commissioner of agriculture for the purpose of promoting ethanol fuel use and providing information to ethanol producers; amending Minnesota Statutes 1990, sections 41A.09, subdivision 3; 239.76, by adding a subdivision; and 296.02, subdivision 8.

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 55 and nays 2, as follows:

Those who voted in the affirmative were:

Beckman	Dahl	Hottinger	McGowan	Price
Belanger	Davis	Johnson, D.E.	Metzen	Ranum
Benson, D.D.	Day	Johnson, D.J.	Moe, R.D.	Reichgott
Benson, J.E.	DeCramer	Johnston	Mondale	Renneke
Berg	Finn	Kelly	Morse	Riveness
Berglin	Flynn	Knaak	Neuville	Sams
Bernhagen	Frank	Kroening	Novak	Solon
Bertram	Frederickson, D.J.	Laidig	Pappas	Stumpf
Brataas	Frederickson, D.R.	Larson	Pariseau	Traub
Chmielewski	Gustafson	Lessard	Piper	Vickerman
Cohen	Halberg	Luther	Pogemiller	Waldorf

Messrs. Merriam and Storm voted in the negative.

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 that the House has adopted the recommendation and report of the Conference Committee on House File No. 977, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 977 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 977

A bill for an act relating to the environment; prescribing who must prevent, prepare for, and respond to worst case discharges of oil and hazardous substances; describing response plans; authorizing the commissioners of the pollution control agency and departments of agriculture and public safety to order compliance; providing for good samaritan assistance; authorizing cooperation between public and private responders; requiring the establishment of a single answering point system; authorizing citizens advisory groups; providing penalties; amending Minnesota Statutes 1990, section 116.072, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 115E.

May 19, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 977, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments and that H.F. No. 977 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [115E.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *The definitions in this section apply to this*

chapter. Terms that are not defined have the meanings given in the Oil Pollution Act of 1990.

Subd. 2. [AGRICULTURAL CHEMICAL.] *"Agricultural chemical" has the meaning given in section 18D.01, subdivision 3.*

Subd. 3. [COMMISSIONERS.] *"Commissioners" means the commissioner of public safety and*

(1) the commissioner of agriculture, with respect to agricultural chemicals; or

(2) the commissioner of the pollution control agency, with respect to other hazardous substances and oil.

Subd. 4. [DISCHARGE.] *"Discharge" means an intentional or unintentional emission, other than natural seepage, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping; and also includes release as defined in section 115B.02, subdivision 15.*

Subd. 5. [FACILITY.] *"Facility" means a structure, group of structures, equipment, or device, other than a vessel, that is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil or a hazardous substance. Facility includes a motor vehicle, rolling stock, or pipeline used for one or more of these purposes. A facility may be in, on, or under land, or in, on, or under waters of the state as defined in section 115.01, subdivision 9.*

Subd. 6. [HAZARDOUS SUBSTANCE.] *"Hazardous substance" has the meaning given in section 115B.02, subdivision 8.*

Subd. 7. [LEAD AGENCY.] *"Lead agency" means:*

(1) the department of agriculture, with respect to agricultural chemicals; or

(2) the pollution control agency, for other hazardous substances or oil.

Subd. 8. [OIL.] *"Oil" means oil of any kind or in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoils; and also includes petroleum as defined in section 115C.02, subdivision 10.*

Subd. 9. [OIL POLLUTION ACT OF 1990.] *"Oil Pollution Act of 1990" means the Oil Pollution Act of 1990, Statutes at Large, volume 104, pages 484 to 575.*

Subd. 10. [PERSON.] *"Person" has the meaning given in section 115B.02, subdivision 12.*

Subd. 11. [RESPONSE.] *"Response" has the meaning given in section 115B.02, subdivision 18, and the meaning of corrective action given in section 115C.02, subdivision 4. Response includes restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources affected by the discharge of hazardous substances or oil.*

Subd. 12. [VESSEL.] *"Vessel" means a watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water. It includes a vessel that is constructed or adapted to carry, or that carried, oil or hazardous substances in bulk as cargo or cargo residue.*

Subd. 13. [WORST CASE DISCHARGE.] *"Worst case discharge" means:*

(1) in the case of a vessel, sudden loss of the entire contents of the vessel in weather conditions that impede cleanup;

(2) for each tank of a storage tank facility, sudden loss of the entire contents of the tank in weather conditions that impede cleanup;

(3) in the case of railroad rolling stock facilities, sudden loss of the contents of the maximum expected number of the rail cars containing oil or hazardous substance of a train onto land or into water in weather conditions that impede cleanup;

(4) in the case of truck and trailer rolling stock facilities, sudden loss of the entire contents of the truck or trailer onto land or into water in weather conditions that impede cleanup;

(5) in the case of a pipeline facility, sudden loss of the contents of the pipeline which would be expected from complete failure of the pipeline onto land or into water in weather conditions that impede cleanup;

(6) in the case of oil or hazardous substance transfer facilities, sudden loss of the largest volume which could occur during transfer into or out of a facility; or

(7) the worst case discharge for the facility as described by regulations under the Oil Pollution Act of 1990 if the regulations, when adopted, describe a discharge worse than one described in clauses (1) to (6).

Sec. 2. [115E.02] [DUTY TO PREVENT DISCHARGES.]

A person who owns or operates a vessel or facility transporting, storing, or otherwise handling hazardous substances or oil or who is otherwise in control of hazardous substances or oil shall take reasonable steps to prevent the discharge of those materials in a place or manner that might cause pollution of the land, waters, or air of the state or that might threaten the public's safety or health.

Sec. 3. [115E.03] [DUTY TO PREPARE FOR RESPONSE TO DISCHARGES.]

Subdivision 1. [GENERAL PREPAREDNESS.] *A person who owns or operates a vessel or facility transporting, storing, or otherwise handling hazardous substances or oil or who is otherwise in control of hazardous substances or oil shall be prepared at all times to rapidly and thoroughly recover discharged hazardous substances or oil that were under that person's control and to take all other actions necessary to minimize or abate pollution of land, waters, and air of the state and to protect the public's safety and health.*

Subd. 2. [SPECIFIC PREPAREDNESS.] *The following persons shall comply with the specific requirements of subdivisions 3 and 4 and section 4:*

(1) persons who own or operate a vessel that is constructed or adapted to carry, or that carried, oil or hazardous substances in bulk as cargo or cargo residue;

(2) persons who own or operate trucks or cargo trailer rolling stock transporting an average monthly aggregate total of more than 100,000 gallons of oil or hazardous substance as cargo in Minnesota;

(3) persons who own or operate railroad car rolling stock transporting

an aggregate total of more than 100,000 gallons of oil or hazardous substance as cargo in Minnesota in any calendar month;

(4) persons who own or operate facilities containing 100,000 gallons or more of oil or hazardous substance in tank storage at any time;

(5) persons who own or operate facilities where there is transfer of an average monthly aggregate total of more than 100,000 gallons of oil or hazardous substances to or from vessels, tanks, rolling stock, or pipelines, except for facilities where the primary transfer activity is the retail sales of motor fuels;

(6) persons who own or operate hazardous liquid pipeline facilities through which more than 100,000 gallons of oil or hazardous substance is transported in any calendar month; and

(7) persons required to demonstrate preparedness under section 5.

Subd. 3. [LEVEL OF PREPAREDNESS.] *A person described in subdivision 2 shall maintain a level of preparedness that ensures that effective response can reliably be made to worst case discharges.*

Subd. 4. [DEMONSTRATION OF SATISFACTORY PREPAREDNESS.] *A person required to maintain preparedness under subdivision 2 may demonstrate satisfactory preparedness to the commissioner of the lead agency through one or a combination of the following means:*

(1) adequate response personnel and equipment in the usual employ of the person;

(2) adequate response personnel and equipment available from for-hire cleanup contractors with arrangements made for their deployment;

(3) adequate response personnel and equipment from a response cooperative or community awareness and emergency response organization meeting guidelines prepared by the lead agency with arrangements made for their deployment; or

(4) adequate response personnel and equipment of local, state, or federal public sector response organizations with arrangements made for their deployment.

Subd. 5. [DEPARTMENT OF TRANSPORTATION.] *The commissioner of transportation may examine the evidence of financial responsibility required under section 1016 of the Oil Pollution Act of 1990 for a vessel and may apply the sanctions in that section.*

Sec. 4. [115E.04] [PREVENTION AND RESPONSE PLANS.]

Subdivision 1. [PLAN CONTENTS.] *Persons required to show specific preparedness under section 3, subdivision 2, shall prepare and maintain a prevention and response plan for a worst case discharge. The plan must:*

(1) describe how it is consistent with the requirements of the national or area contingency plans developed under the Oil Pollution Act of 1990;

(2) describe the measures taken to prevent discharges from occurring, including prevention of a worst case discharge, prevention of discharges of lesser magnitude, and prevention of discharges similar to those that have occurred from the vessel or facility during its history of operation;

(3) identify the individual or individuals having full authority to implement response actions, and those individuals' qualifications and titles;

(4) identify how communication and incident command relationships will be established between the individuals in command of a vessel or facility response and the following persons:

(i) individuals in the employ of the owner or operator of the vessel or facility who are responding to the discharge;

(ii) appropriate federal, state, and local officials; and

(iii) other persons providing emergency response equipment and personnel;

(5) describe the facility or vessel and identify the locations and characteristics of potential worst case discharges from the vessel or facility;

(6) identify the means under section 3, subdivision 4, that will be used to satisfy the requirement to have adequate equipment and personnel to respond to a worst case discharge;

(7) contain copies of contracts, correspondence, or other documents showing that adequate personnel and equipment as described in section 3, subdivision 4, will be available to respond to a worst case discharge;

(8) describe the actions that will be taken by the persons described in section 3, subdivision 4, in the event of a worst case discharge; and

(9) describe the training, equipment testing, periodic drills, and unannounced drills that will be used to ensure that the persons and equipment described in section 3, subdivision 4, are ready for response.

A plan submitted to the federal government under the Oil Pollution Act of 1990 or prepared under other law may be used to satisfy the requirements in clauses (1) to (9) provided that the information required by clauses (1) to (9) is included in the plan.

Subd. 2. [TIMING.] *A person required to be prepared under section 3 shall complete the response plan required by this section by March 1, 1993, unless one of the commissioners orders the person to demonstrate preparedness at an earlier date under section 5. Plans must be updated every three years. Plans must be updated before three years following a significant discharge, upon significant change in vessel or facility operation or ownership, upon significant change in the national or area contingency plans under the Oil Pollution Act of 1990, or upon change in the capabilities or role of a person named in a plan who has an important response role.*

Subd. 3. [NOTIFICATION.] *(a) The commissioner of public safety must be notified when any of the following takes place:*

(1) submission of the plan to the federal government;

(2) granting of exemptions or extensions of time by the federal government for submission of the plan; or

(3) completion of the plan if submission to the federal government is not required.

(b) Notification under this subdivision must be on a form prescribed by the commissioner of public safety and must include:

(1) a description of the facility or vessel;

(2) a description of the activities involving oil or hazardous substances;

(3) a description of the types of materials being handled, including

whether agricultural chemicals are involved; and

(4) other information required by the commissioner.

(c) The commissioner of public safety shall transmit a copy of the notification to the other commissioners as appropriate, depending on the types of materials involved.

Subd. 4. [REVIEW OF PREVENTION AND RESPONSE PLAN.] *(a) A copy of the prevention and response plan must be submitted to any of the commissioners who request it and to an official of a political subdivision with appropriate jurisdiction upon the official's request, or the plan and equipment and material named in the plan may be examined upon the request of an authorized agent of a commissioner or official.*

(b) Upon the request of one or more of the commissioners, a person shall demonstrate the adequacy of prevention and response plans and preparedness measures by conducting announced or unannounced drills, calling persons and organizations named in a prevention and response plan and verifying roles and capabilities, locating and testing response equipment, questioning response personnel, or other means that in the judgment of the requesting commissioner demonstrate preparedness. Before requesting an unannounced drill, the requesting commissioner shall notify the other commissioners that a drill will be requested and invite them to participate in or witness the drill. If an unannounced drill is conducted to the satisfaction of the commissioners, the person conducting the drill may not be required to conduct an additional unannounced drill in the same calendar year.

Subd. 5. [CITIZENS ADVISORY GROUPS.] *The commissioner of the pollution control agency, the department of agriculture, or the department of public safety may establish, or a local official may request a commissioner to establish, a citizens advisory group following a discharge of oil or a hazardous substance. The purpose of the citizens advisory group is to facilitate exchange of information and concerns related to the discharge and response between the owner or operator of the vessel or facility, the governmental responders, and the affected members of the public.*

Sec. 5. [115E.05] [ORDERS AND INJUNCTIONS; ENFORCEMENT.]

Subdivision 1. [AMENDMENT TO PLAN.] *If one or more of the commissioners finds the prevention and response plans or preparedness measures of a person do not meet the requirements of this chapter, the commissioner or commissioners making the finding may by order require that reasonable amendments to the plan or reasonable additional preventive or preparedness measures be implemented in a timely fashion. If more than one commissioner makes the finding, the order must be a joint order.*

Subd. 2. [COMPLIANCE.] *If oil or a hazardous substance is discharged while it is under the control of a person not identified in section 3, subdivision 2, any one of the commissioners may by order require the person to comply with the prevention and response plan requirements of sections 3 and 4 in a timely manner if:*

(1) land, water, or air of the state is polluted or threatened; or

(2) human life, safety, health, natural resources, or property is damaged or threatened.

Subd. 3. [FINANCIAL ASSURANCE FOR RESPONSE.] *(a) For purposes of this subdivision, "ordering commissioner" means:*

(1) the commissioner of the pollution control agency;

(2) the commissioner of natural resources;

(3) the commissioner of agriculture; or

(4) two or more of these commissioners acting jointly.

(b) The ordering commissioner may issue an order under this subdivision if the ordering commissioner determines that adequate response is not being made or that other circumstances exist which indicate adequate response will not continue. When ordered by the ordering commissioner the owner or operator of a vessel or facility responsible for the discharge of a hazardous substance or oil shall provide financial assurance acceptable to the ordering commissioner. The financial assurance must be in the amount necessary to cover the reasonable response costs, as determined within one year after discharge by the ordering commissioner, of any additional response that is determined to be reasonable and necessary under applicable laws and regulations.

(c) The ordering commissioner may issue only one financial assurance order under this subdivision for a single incident involving the discharge of hazardous substances or oil.

(d) This subdivision may be enforced by the ordering commissioner under section 115.071.

(e) An order issued under this subdivision shall cease to be effective upon completion of a response in accordance with applicable laws and regulations.

Subd. 4. [OTHER ENFORCEMENT POWERS.] *For the purposes of enforcing this chapter, the commissioner of the pollution control agency may exercise the regulatory and enforcement powers in chapters 115 and 116 and the commissioner of the department of agriculture may exercise the regulatory and enforcement powers in chapters 18B, 18C, and 18D.*

Sec. 6. [115E.06] [GOOD SAMARITAN.]

(a) A person listed in this paragraph who is rendering assistance in response to a discharge of a hazardous substance or oil is not liable for response costs that result from actions taken or failed to be taken in the course of the assistance unless the person is grossly negligent or engages in willful misconduct:

(1) a member of a cooperative or community awareness and emergency response group in compliance with standards in rules adopted by the pollution control agency;

(2) an employee or official of the political subdivision where the response takes place, or a political subdivision that has a mutual aid agreement with that subdivision;

(3) a member or political subdivision sponsor of a hazardous materials incident response team or special chemical assessment team designated by the commissioner of the department of public safety;

(4) a person carrying out the directions of: (i) the commissioner of the pollution control agency, the commissioner of agriculture, the commissioner of natural resources, or the commissioner of public safety; or (ii) the United States Coast Guard or Environmental Protection Agency on-scene coordinator consistent with a national contingency plan under the Oil Pollution Act of 1990; and

(5) a for-hire response contractor.

(b) This section does not exempt from liability responsible persons with respect to the discharge under chapter 115B or 115C or responsible parties with respect to the discharge under chapter 18B or 18D.

Sec. 7. [115E.07] [COOPERATION BETWEEN PRIVATE AND PUBLIC RESPONDERS.]

Political subdivisions and state agencies may arrange with persons to provide resources of state and local government so that the persons may comply with section 3, subdivision 4.

Sec. 8. [115E.08] [COORDINATION.]

Subdivision 1. [APPOINTMENT.] *The commissioner of public safety shall coordinate state agency preparedness for response to discharges of oil or hazardous substances.*

Subd. 2. [DUTIES.] *The commissioner of public safety shall at least annually assess the preparedness of each state agency for carrying out its responsibilities under sections 1 to 9 and shall chair regular meetings of representatives of each agency to prepare for coordinated response. The commissioner shall develop an incident command system for use by state agency responders in consultation with the affected state agencies. Following each major incident, the commissioner shall review the performance of each responding agency and the adequacy of the overall response and shall report to the agencies involved and the governor. The commissioner shall also identify opportunities for state agencies to coordinate with federal departments and agencies and political subdivisions of the state for preparedness and response actions.*

Subd. 3. [JURISDICTION.] *Except as otherwise provided, the following agencies have primary responsibility for the specified areas in carrying out the duties and authorities of this chapter:*

(1) the department of agriculture, for agricultural chemicals;

(2) the department of public safety, for public safety and protection of property;

(3) the department of natural resources, for assessment and rehabilitation of water resources;

(4) the pollution control agency, for all other matters subject to this chapter; and

(5) the department of transportation, with respect to requirements related to the packaging, labeling, placarding, routing, and written reporting on releases of hazardous materials that are being transported.

Subd. 4. [ANNUAL REPORT.] *The commissioner shall annually report to the appropriate committees of the legislature on the readiness of state government to respond appropriately to discharges of oil or hazardous substances.*

Sec. 9. [115E.09] [SINGLE ANSWERING POINT SYSTEM.]

The commissioner of public safety shall establish a single answering point system for use by persons responsible for reporting emergency incidents and conditions involving hazardous substances or oil to agencies of the state. The single answering point system must include personnel on duty 24 hours

a day and equipment adequate to support communication to and from the parties responsible for an incident and all state agencies responsible for state response to the incident. The persons at the answering point must be trained in the jurisdictions, responsibilities, and capabilities of each state agency and basic hazardous substance hazard recognition and response procedures. All state agencies shall cooperate with the commissioner by including the single answering point system telephone number in files, permits, correspondence, and similar written material, and by appointing staff to coordinate the receipt of reports with the staff of the single answering point system.

Sec. 10. Minnesota Statutes 1990, section 116.072, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY TO ISSUE PENALTY ORDERS.] The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for ~~hazardous waste~~ violations under sections 115.061 and 116.07, ~~and~~ *chapter 115E,* Minnesota Rules, chapter 7045, *and rules adopted by the agency under section 115.03, subdivision 1, paragraph (e), clause (3) or 116.49.* The order must be issued as provided in this section.

Sec. 11. [REPORTS.]

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

(b) "Discharge" has the meaning given in section 1, subdivision 4.

(c) "Response" has the meaning given in section 1, subdivision 11.

Subd. 2. [COMMUNICATION REVIEW; REPORT.] *The commissioners of public safety, transportation, natural resources, agriculture, military affairs, the pollution control agency, and other state agencies shall review the adequacy of existing radio, telephone, and other communications between local, state, federal, private, and other responders to discharges of oil or hazardous substances. The commissioners shall consult with representatives of the emergency management and public safety agencies of political subdivisions. The commissioners shall jointly report to the legislature by January 1, 1992, on the current abilities of public safety, environmental, health, and cleanup personnel to communicate, and may prepare recommendations for improving communications including designation of statewide radio frequencies for emergency use.*

Subd. 3. [RESPONSE REVIEW; REPORT.] *The commissioner of the pollution control agency, in consultation with public and private responders, shall review state practices for response and follow-up to discharges and shall report to the legislature by January 1, 1992. The report must include:*

(1) recommendations on preparing, training, and directing state, local, and private responders;

(2) evaluation of and recommendations on procedures for oversight of responses to pipeline and tank discharges, including discharges occurring before the effective date of this section;

(3) evaluation of the adequacy of resources and authorities for response oversight;

(4) review of procedures and policies for ordering financial assurance under section 5, subdivision 3;

(5) recommendations on the need for amendments to liability provisions in existing law relating to discharges; and

(6) review, in consultation with the department of transportation, of the federal Hazardous Materials Transportation Uniform Safety Act of 1990, Public Law Number 101-615, and how it interacts with this act.

Sec. 12. [FUNDS; TRAINING.]

The commissioners of public safety, the pollution control agency, natural resources, agriculture, and transportation shall seek federal funding for activities undertaken under this act. A portion of any funds received under this section must be used by the agencies to train state agency and political subdivision personnel in proper recognition of and response to discharges and releases.

The commissioner of public safety may accept gifts for the purpose of ensuring adequate training of state agency and political subdivision personnel.

Sec. 13. [EFFECTIVE DATE.]

Section 5, subdivision 3, is effective the day following final enactment and applies to discharges of hazardous substances or oil on or after March 1, 1991."

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

House Conferees: (Signed) Loren A. Solberg, Thomas W. Pugh, Virgil J. Johnson

Senate Conferees: (Signed) Steven Morse, Leonard R. Price, Lyle G. Mehrkens

Mr. Morse moved that the foregoing recommendations and Conference Committee Report on H.F. No. 977 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. 977 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Belanger	DeCramer	Kelly	Mondale	Riveness
Benson, J.E.	Finn	Knaak	Morse	Sams
Berg	Flynn	Kroening	Neuville	Samuelson
Berglin	Frank	Laidig	Novak	Solon
Bernhagen	Frederickson, D.J.	Langseth	Pappas	Spear
Bertram	Frederickson, D.R.	Lessard	Pariseau	Storm
Brataas	Gustafson	Luther	Piper	Stumpf
Chmielewski	Halberg	Marty	Pogemiller	Traub
Cohen	Hottinger	McGowan	Price	Vickerman
Dahl	Johnson, D.E.	Merriam	Ranum	Waldorf
Davis	Johnson, J.B.	Metzen	Reichgott	
Day	Johnston	Moe, R.D.	Renneke	

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

House File No. 218 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CALL OF THE SENATE

Mr. Dahl imposed a call of the Senate for the balance of the proceedings on H.F. No. 218. The Sergeant at Arms was instructed to bring in the absent members.

CONFERENCE COMMITTEE REPORT ON H.F. NO. 218

A bill for an act relating to occupations and professions; requiring residential building contractors, remodelers, and specialty contractors to be licensed by the state; establishing a builders state advisory council; providing penalties; appropriating money; amending Minnesota Statutes 1990, section 45.027, subdivisions 1, 2, 5, 6, 7, and 8; proposing coding for new law in Minnesota Statutes, chapter 326.

May 18, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 218, 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. 218 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 45.027, subdivision 1, is amended to read:

Subdivision 1. [GENERAL POWERS.] In connection with the administration of chapters 45 to 83, 309, and 332, *and sections 326.83 to 326.98*, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate chapters 45 to 83, 309, and 332, *sections 326.83 to 326.98*, or any rule or order under those chapters, or to aid in the enforcement of chapters 45 to 83, 309, and 332, *sections 326.83 to 326.98*, or in the prescribing of rules or forms under those chapters;

(2) require or permit any person to file a statement in writing, under oath

or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the administration of chapters 45 to 83, 309, and 332, *and sections 326.83 to 326.98*;

(4) conduct investigations and hold hearings for the purpose of compiling information with a view to recommending changes in chapters 45 to 83, 309, and 332, *and sections 326.83 to 326.98*, to the legislature;

(5) examine the books, accounts, records, and files of every licensee under chapters 45 to 83, 309, and 332, *and sections 326.83 to 326.98*, and of every person who is engaged in any activity regulated under chapters 45 to 83, 309, and 332, *and sections 326.83 to 326.98*; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; and

(7) require any person subject to chapters 45 to 83, 309, and 332, *and sections 326.83 to 326.98*, to report all sales or transactions that are regulated under chapters 45 to 83, 309, and 332, *and sections 326.83 to 326.98*. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction.

Sec. 2. Minnesota Statutes 1990, section 45.027, subdivision 2, is amended to read:

Subd. 2. [POWER TO COMPEL PRODUCTION OF EVIDENCE.] For the purpose of any investigation, hearing, or proceeding under chapters 45 to 83, 309, and 332, *and sections 326.83 to 326.98*, the commissioner or a designated representative may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner considers relevant or material to the inquiry.

Sec. 3. Minnesota Statutes 1990, section 45.027, subdivision 5, is amended to read:

Subd. 5. [LEGAL ACTIONS; INJUNCTIONS; CEASE AND DESIST ORDERS.] Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of chapters 45 to 83, 309, and 332, *sections 326.83 to 362.98*, or any rule or order adopted under those chapters, the commissioner has the following powers: (1) the commissioner may bring an action in the name of the state in the district court of the appropriate county to enjoin the acts or practices and to enforce compliance with chapters 45 to 83, 309, and 332, *sections 326.83 to 326.98*, or any rule or order adopted or issued under those chapters, or the commissioner may refer the matter to the attorney general or the county attorney of the appropriate county. Upon a proper showing, a permanent or temporary injunction, restraining order, or other appropriate relief must be granted; (2) the commissioner may issue and cause to be

served upon the person an order requiring the person to cease and desist from violations of chapters 45 to 83, 309, and 332, *sections 326.83 to 326.98*, or any rule or order adopted or issued under those chapters. The order must be calculated to give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order. A hearing must be held not later than seven days after the request for the hearing is received by the commissioner, unless the person requesting the hearing and the department of commerce agree the hearing be scheduled after the seven-day period. After the hearing and within 20 days after receiving the administrative law judge's report, the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. Unless otherwise provided, all hearings must be conducted in accordance with chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted under this subdivision.

Sec. 4. Minnesota Statutes 1990, section 45.027, subdivision 6, is amended to read:

Subd. 6. [VIOLATIONS AND PENALTIES.] The commissioner may impose a civil penalty not to exceed $2,000 per violation upon a person who violates chapters 45 to 83, 309, and 332, *and sections 326.83 to 326.98*, unless a different penalty is specified.

Sec. 5. Minnesota Statutes 1990, 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 chapters 45 to 83, 155A, 309, or 332, *or sections 326.83 to 326.98*, or censure that person if the commissioner finds that:

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

(2) the person has violated chapters 45 to 83, 155A, 309, or 332, *or sections 326.83 to 326.98*.

Sec. 6. Minnesota Statutes 1990, section 45.027, subdivision 8, is amended to read:

Subd. 8. [STOP ORDER.] In addition to any other actions authorized by this section, the commissioner may issue a stop order denying effectiveness to or suspending or revoking any registration subject to chapters 45 to 83, 309, or 332, *or sections 326.83 to 326.98*.

RESIDENTIAL CONTRACTORS

Sec. 7. [326.83] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *The definitions in this section apply to sections 7 to 22.*

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

Subd. 3. [COUNCIL.] *"Council" means the builders state advisory council.*

Subd. 4. [LICENSEE.] *"Licensee" means a residential building contractor, remodeler, or specialty contractor licensed under sections 7 to 22.*

Subd. 5. [MECHANICAL CONTRACTOR.] *"Mechanical contractor" means a person, sole proprietor, partnership, joint venture, corporation, or other organization which is in the business of erection, installation, alteration, repair, relocation, replacement, addition to, use, or maintenance of any heating, ventilating, cooling, process piping, plumbing, fire protection, or refrigeration systems, incinerators, or other miscellaneous heat-producing appliance, piping, or equipment or appliances associated with those systems.*

Subd. 6. [PUBLIC MEMBER.] *"Public member" means a person who is not, and never was, a residential builder, remodeler, or specialty contractor or the spouse of such person, or a person who has no, or never has had a, material financial interest in acting as a residential building contractor, remodeler, or specialty contractor or a directly related activity.*

Subd. 7. [REMODELER.] *"Remodeler" means a person in the business of contracting or offering to contract to improve existing residential real estate. A remodeler has two or more special skills.*

Subd. 8. [RESIDENTIAL BUILDING CONTRACTOR.] *"Residential building contractor" means a person in the business of building residential real estate or of contracting or offering to contract to improve residential real estate.*

Subd. 9. [RESIDENTIAL REAL ESTATE.] *"Residential real estate" means a new or existing building constructed for habitation by one to four families, and includes detached garages.*

Subd. 10. [SPECIALTY CONTRACTOR.] *"Specialty contractor" means a person other than a residential building contractor, remodeler, or material supplier in the business of contracting or offering to contract to make part of an improvement to residential real estate, including roofing.*

Sec. 8. [326.84] [LICENSING REQUIREMENTS.]

Subdivision 1. [PERSONS REQUIRED TO BE LICENSED.] *Except as provided in subdivision 3, no person may engage in the work of a residential building contractor, remodeler, or specialty contractor for compensation without a valid license issued by the commissioner. The commissioner shall recommend which types of one-skill competency or single special skill groups must be licensed as specialty contractors and report to the legislature by January 31, 1992, with the recommended types of specialty groups, the licensing procedures, and potential continuing education requirements.*

Subd. 2. [PERSONS CONSIDERED LICENSED.] *Residential building contractors, remodelers, and specialty contractors are considered licensed if the following requirements are met:*

(1) for a sole proprietorship, the proprietor is licensed;

(2) for a partnership, a general partner is licensed; and

(3) for a corporation, a chief executive officer, responsible managing employee, or qualifying person in Minnesota designated by the corporation is licensed. "Responsible managing employee" or "qualifying person" means

an employee who is regularly employed by the corporation and is actively engaged in the classification of work for which the responsible managing employee qualifies on behalf of the corporation. A person may act in the capacity of the qualifying party for one additional corporation if one of the following conditions exist:

(i) there is a common ownership of at least 25 percent of each licensed corporation for which the person acts in a qualifying capacity; or

(ii) one corporation is a subsidiary of another corporation for which the same person acts in a qualifying capacity. "Subsidiary," as used in this section, means a corporation of which at least 25 percent is owned by the parent corporation.

Subd. 3. [EXCEPTIONS.] *The license requirement does not apply to:*

(1) an employee of a licensee performing work for the licensee;

(2) a material person, manufacturer, or retailer furnishing finished products, materials, or articles of merchandise who does not install or attach the items;

(3) an owner or owners of residential real estate who improve the residential real estate or who build or improve a structure on the residential real estate and who do the work themselves or jointly with the owner's own employees or agents;

(4) an architect or engineer engaging in professional practice as defined in this chapter;

(5) a person engaging in any project by one or more contracts, for which the aggregate contract price, including labor, materials, installation, and all other items, is less than $2,500. The $2,500 limit may be exceeded by the unlicensed person if the person's total gross annual receipts from projects regulated under this section do not exceed $15,000;

(6) a mechanical contractor, plumber, or electrician;

(7) a person doing excavation for the installation of an on-site sewage treatment system;

(8) all specialty contractors that were required to be licensed by the state before the effective date of sections 7 to 22; and

(9) specialty contractors that are not required to be licensed, as determined by the legislature.

Sec. 9. [326.85] [ADVISORY COUNCIL.]

Subdivision 1. [BUILDERS STATE ADVISORY COUNCIL.] *The commissioner shall appoint seven persons to the builders state advisory council. At least three members of the council must reside in greater Minnesota, as defined in section 116O.02, subdivision 5. At least one member of the council must be a residential building contractor, one a remodeler, one a specialty contractor, one a representative of the commissioner, one a local building official, and one a public member.*

Subd. 2. [MEMBERSHIP TERMS.] *The membership terms, compensation, removal, and filling of vacancies of the council are as provided in section 15.059.*

Subd. 3. [DUTIES.] *The council shall advise the commissioner on matters related to sections 7 to 22.*

Sec. 10. [326.86] [FEES.]

Subdivision 1. [LICENSING FEE.] *The licensing fee for residential building contractors and remodelers is $60 for the license period ending March 31, 1993, and $75 for each year thereafter. The commissioner may adjust the fees under section 16A.128 to recover the costs of administration and enforcement. The commissioner shall establish licensing fees for specialty contractors under section 16A.128. The fees must be limited to the cost of license administration and enforcement and must be deposited in the state treasury and credited to the general fund.*

Subd. 2. [LOCAL SURCHARGE.] *A local government unit may place a surcharge in an amount no greater than $5 on each building permit that requires a licensed residential building contractor, remodeler, or specialty contractor for the purpose of license verification. The local government may verify a license by telephone or facsimile machine.*

Sec. 11. [326.87] [CONTINUING EDUCATION.]

Subdivision 1. [STANDARDS.] *The commissioner, in consultation with the council, may adopt standards for continuing education requirements and course approval. Except for the course content, the standards must be consistent with the standards established for real estate agents and other professions licensed by the department of commerce.*

Subd. 2. [HOURS.] *A licensee of a general residential contractor or remodeler must provide proof of completion of 15 hours for each two-year license period. Continuing real estate hours and continuing general residential contractor or remodeler hours must be granted for the same course if it meets the guidelines for an approved course in each license program.*

Subd. 3. [ACCESSIBILITY.] *To the extent possible, the commissioner shall ensure that continuing education courses are offered throughout the state and are easily accessible to all licensees.*

Sec. 12. [326.88] [TEMPORARY LICENSES.]

A temporary license must be issued to residential building contractors, remodelers, or specialty contractors if the person who obtained a license under section 8, subdivision 2, clause (2) or (3), leaves the partnership or corporation because of death, disability, retirement, or position change. A temporary license expires after one year and may not be renewed.

Sec. 13. [326.89] [APPLICATION AND EXAMINATION.]

Subdivision 1. [FORM.] *An applicant for a license under sections 7 to 22 must submit an application to the commissioner, under oath, on a form prescribed by the commissioner. Within 30 business days of receiving all required information, the commissioner must act on the license request. If one of the categories in the application does not apply, the applicant must state the reason. The commissioner may refuse to issue a license if the application is not complete or contains unsatisfactory information.*

Subd. 2. [CONTENTS.] *The application must include the following information regarding the applicant:*

(1) Minnesota workers' compensation insurance account number;

(2) employment insurance account number;

(3) type of license requested;

(4) name and address of the applicant if the applicant is a sole proprietorship; name and address of each partner if the applicant is a partnership; or name and address of each of the corporate officers, directors, and all shareholders holding more than five percent of the outstanding stock in the corporation;

(5) whether the applicant has ever been licensed in any other state and has had a professional or vocational license refused, suspended, or revoked;

(6) whether the applicant or any of its corporate or partnership directors, officers, limited or general partners, managers, or all shareholders holding more than five percent of the outstanding stock of the corporation has been convicted of a crime that either related directly to the business for which the license is sought or involved fraud, misrepresentation, or misuse of funds; has suffered a judgment in a civil action involving fraud, misrepresentation, negligence, or breach of contract, or conversion within the ten years prior to the submission of the application; or has had any government license or permit suspended or revoked as a result of an action brought by a federal, state, or local governmental unit or agency in this or any other state;

(7) the applicant's education and experience as they relate to the requested type of license; and

(8) the applicant's business history for the past five years and whether the applicant has ever filed for bankruptcy or protection from creditors or has any unsatisfied judgments against the applicant.

The commissioner may require further information as the commissioner deems appropriate to administer the provisions and further the purposes of this chapter.

Subd. 3. [EXAMINATION.] *All individual applicants must satisfactorily complete a written examination for the type of license requested. The commissioner may establish the examination qualifications, including related education experience and education, the examination procedure, and the examination for each licensing group. The examination must include at a minimum the following areas:*

(1) appropriate knowledge of technical terms commonly used and the knowledge of reference materials and code books to be used for technical information; and

(2) understanding of the general principles of business management and other pertinent state laws.

Each examination must be designed for the specified type of license requested. The council shall advise the commissioner on the grading, monitoring, and updating of examinations.

Subd. 4. [COMPETENCY SKILLS.] *The commissioner shall, in consultation with the council, determine the competency skills and installation knowledge required for the licensing of specialty contractors.*

Subd. 5. [EXEMPTION.] *A general retailer whose primary business is not being a residential building contractor, remodeler, or specialty contractor and who has completed a comparable license examination in another state is exempt from subdivisions 3 and 4 and sections 11 and 12.*

Sec. 14. [326.90] [LOCAL LICENSE PROHIBITED.]

Except as provided in section 24, a political subdivision may not require a residential building contractor, remodeler, or specialty contractor to also be licensed under any ordinance, law, rule, or regulation of the political subdivision. This section does not prohibit charges for building permits or other charges not directly related to licensure.

Sec. 15. [326.91] [DENIAL, SUSPENSION, OR REVOCATION OF LICENSES.]

Subdivision 1. [CAUSE.] *The commissioner may by order deny, suspend, or revoke any license or may censure a licensee if the commissioner finds that the order is in the public interest, and that the applicant or licensee:*

(1) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(2) has engaged in a fraudulent, deceptive, or dishonest practice;

(3) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the business;

(4) has failed to reasonably supervise employees, agents, subcontractors, or salespersons, or has performed negligently or in breach of contract, so as to cause injury or harm to the public;

(5) has violated or failed to comply with any provision of sections 7 to 22 or any rule or order under sections 7 to 22;

(6) has been shown to be incompetent, untrustworthy, or financially irresponsible;

(7) has been convicted of a violation of the state building code;

(8) has failed to use the proceeds of any payment made to the licensee for the construction of, or any improvement to, residential real estate, as defined in section 326.83, subdivision 9, for the payment of labor, skill, material, and machinery contributed to the construction or improvement, knowing that the cost of any labor performed, or skill, material, or machinery furnished for the improvement remains unpaid; or

(9) has not furnished to the person making payment either a valid lien waiver as to any unpaid labor performed, or skill, material, or machinery furnished for an improvement, or a payment bond in the basic amount of the contract price for the improvement conditioned for the prompt payment to any person or persons entitled to payment.

Subd. 2. [ADMINISTRATIVE ACTION.] *Section 45.027 applies to any action taken by the commissioner in connection with the administration of sections 7 to 22.*

Sec. 16. [326.92] [PENALTIES.]

Subdivision 1. [MISDEMEANOR.] *A person required to be licensed under sections 7 to 22 who performs unlicensed work as a residential building contractor, remodeler, or specialty contractor is guilty of a misdemeanor.*

Subd. 2. [LIEN RIGHTS.] *An unlicensed person who knowingly violates sections 7 to 22 has no right to claim a lien under section 514.01 and the lien is void. Nothing in this section affects the lien rights of material suppliers*

and licensed contractors to the extent provided by law.

Subd. 3. [COMMISSIONER ACTION.] *The commissioner may bring actions, including cease and desist actions, against an unlicensed or licensed residential building contractor, remodeler, or specialty contractor to protect the public health, safety, and welfare.*

Sec. 17. [326.93] [SERVICE OF PROCESS; NONRESIDENT LICENSING.]

Subdivision 1. [LICENSE.] *A nonresident of Minnesota may be licensed as a residential building contractor, remodeler, or specialty contractor upon compliance with all the provisions of sections 7 to 22.*

Subd. 2. [SERVICE OF PROCESS.] *Service of process upon a person performing work in the state of a type that would require a license under sections 7 to 22 may be made as provided in section 45.028.*

Sec. 18. [326.94] [BOND; INSURANCE.]

Subdivision 1. [BOND.] *(a) Residential building contractors, remodelers, and specialty contractors licensed under section 8 must post a license bond with the commissioner, conditioned that the applicant shall faithfully perform the duties and in all things comply with all laws, ordinances, and rules pertaining to the license or permit applied for and all contracts entered into. The annual bond must be continuous and maintained for so long as the licensee remains licensed. The aggregate liability of the surety on the bond to any and all persons, regardless of the number of claims made against the bond, may not exceed the amount of the bond. The bond may be canceled as to future liability by the surety upon 30 days written notice mailed to the commissioner by regular mail.*

(b) The commissioner shall establish by rule a bond scale based on the gross annual receipts of the licensee. The residential building contractor and remodeler licensees must post a bond of at least $5,000. A specialty contractor licensee must post a bond of at least $2,500. The bond amounts for specialty contractor licensees must be based upon the same classifications as a residential building contractor and remodeler licensee.

Subd. 2. [INSURANCE.] *Residential building contractors, remodelers, and specialty contractors must have public liability insurance with limits of at least $100,000 per occurrence and $10,000 property damage insurance. The commissioner may increase the minimum amount of insurance required based on the type of license and the annual gross receipts of the licensee.*

Sec. 19. [326.95] [LICENSE NUMBER; ADVERTISING.]

Subdivision 1. [LICENSE NUMBER MUST BE DISPLAYED.] *The license number of a licensee must be placed on all building permits and building permit applications made to or issued by the state or a political subdivision. In jurisdictions that have not adopted the state building code, the license number must be placed on the site plan review or zoning permit. License numbers must be on all business cards and all contracts to perform work for which a license is required.*

Subd. 2. [ADVERTISING.] *The license number of a licensee must appear in any display advertising by that licensee.*

Subd. 3. [CONTRACTS.] *Contracts entered into by a licensee must state that the person is licensed and must state the license number.*

Subd. 4. [NOTICES.] *License numbers must appear on each notice under section 514.011, and each statement under section 514.08.*

Sec. 20. [326.96] [PUBLIC EDUCATION.]

The commissioner may develop materials and programs to educate the public concerning licensing requirements and methods for reporting unlicensed contracting activity.

Sec. 21. [326.97] [LICENSE RENEWAL.]

Subdivision 1. [APPROVAL.] *Licensees whose applications have been properly and timely filed and who have not received notice of denial of renewal are considered to have been approved for renewal and may continue to transact business whether or not the renewed license has been received. Application for renewal of a license is required every two years after the initial issuance. Applications are timely if received or postmarked by December 15 of the year prior to the renewal year. Applications must be made on a form approved by the commissioner.*

Subd. 2. [FAILURE TO APPLY.] *A person who has failed to make a timely application for renewal of a license by March 31 of the renewal year is unlicensed until the license has been issued by the commissioner and is received by the applicant.*

Subd. 3. [REEXAMINATION NOT REQUIRED.] *An examination is not required for the renewal of a license, except that a licensee who has failed to renew a license for two years must retake the examination. The commissioner may stagger the dates of license renewal.*

Sec. 22. [326.98] [RULES.]

The commissioner may adopt rules to administer and enforce sections 7 to 22.

Sec. 23. [INITIAL TEMPORARY LICENSES.]

Residential building contractors and remodelers must obtain a temporary license, which is effective as of January 1, 1992. The commissioner may stagger the temporary licenses so that approximately one-half of the licenses will expire on March 31, 1993, and the other one-half on March 31, 1994.

Sec. 24. [EXEMPTION.]

The license requirement under section 8 does not apply to a residential building contractor, 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. The two cities shall adopt and administer the tests for the residential building contractors and remodelers established in section 13 within six months of the effective date of the rules establishing the examinations. The commissioner may by rule establish a procedure for the city of Minneapolis and the city of St. Paul to administer this licensing program on a contract basis.

Sec. 25. [APPROPRIATION.]

$912,000 is appropriated from the general fund to the commissioner of commerce to administer sections 7 to 22. $436,000 is for fiscal year 1992 and $476,000 is for fiscal year 1993.

$216,000 is appropriated from the general fund to the attorney general to administer sections 7 to 22. $88,000 is for fiscal year 1992 and $128,000

is for fiscal year 1993.

Sec. 26. [REPEALER.]

Section 24 is repealed March 31, 1993.

Sec. 27. [EFFECTIVE DATE.]

Sections 9 and 22 are effective the day following final enactment. Section 8 is effective January 1, 1992."

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

House Conferees: (Signed) Jerry J. Bauerly, John J. Sarna, Kevin P. Goodno

Senate Conferees: (Signed) Gregory L. Dahl, Gene Waldorf, Cal Larson

Mr. Dahl moved that the foregoing recommendations and Conference Committee Report on H.F. No. 218 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. 218 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 38 and nays 17, as follows:

Those who voted in the affirmative were:

Belanger	Dicklich	Kroening	Novak	Reichgott
Benson, J.E.	Finn	Laidig	Olson	Samuelson
Berglin	Frank	Lessard	Pappas	Solon
Brataas	Hottinger	Luther	Pariseau	Spear
Cohen	Johnson, D.J.	Marty	Piper	Traub
Dahl	Johnston	Merriam	Pogemiller	Waldorf
Davis	Kelly	Metzen	Price	
DeCramer	Knaak	Mondale	Ranum	

Those who voted in the negative were:

Beckman	Frederickson, D.J.	Mehrkens	Renneke	Vickerman
Berg	Frederickson, D.R.	Moe, R.D.	Riveness	
Bertram	Johnson, J.B.	Morse	Sams	
Chmielewski	Langseth	Neuville	Stumpf	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 621 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 621

A bill for an act relating to the environment; clarifying and correcting provisions relating to the legislative commission on Minnesota resources and the Minnesota environmental and natural resources trust fund; amending Minnesota Statutes 1990, sections 116P.04, subdivision 5; 116P.05; 116P.06; 116P.07; 116P.08, subdivisions 3 and 4; 116P.09, subdivisions 2, 4, and 7.

May 19, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 621, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 621 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 116P.04, subdivision 5, is amended to read:

Subd. 5. [AUDITS REQUIRED.] ~~(a) The commission shall select a certified public accountant annually to audit the trust fund. The audit must be given to the governor and the legislature and be available to the public.~~

~~(b)~~ The legislative auditor shall audit trust fund expenditures to ensure that the money is spent for the purposes provided in the commission's budget plan.

Sec. 2. Minnesota Statutes 1990, section 116P.05, is amended to read:

116P.05 [LEGISLATIVE COMMISSION *ON* MINNESOTA RESOURCES.]

Subdivision 1. [MEMBERSHIP.] (a) A legislative commission on Minnesota resources of 16 members is created, consisting of the chairs of the house and senate committees on environment and natural resources or designees appointed for the terms of the chairs, the chairs of the house appropriations and senate finance committees or designees appointed for the terms of the chairs, six members of the senate appointed by the subcommittee on committees of the committee on rules and administration, and six members of the house appointed by the speaker. ~~The commission shall develop a budget plan for expenditures from the trust fund and shall adopt a strategic plan as provided in section 116P.08.~~

~~(b) The commission shall recommend expenditures to the legislature from the Minnesota future resources account under section 116P.13.~~ At least two members from the senate and two members from the house must be from the minority caucus. Members are entitled to reimbursement for per diem expenses plus travel expenses incurred in the services of the commission.

~~(c)~~ *(b)* Members shall appoint a chair who shall preside and convene meetings as often as necessary to conduct duties prescribed by this chapter.

~~(d)~~ *(c)* Members shall serve on the commission until their successors are appointed.

~~(e)~~ *(d)* Vacancies occurring on the commission shall not affect the authority of the remaining members of the commission to carry out their duties, and vacancies shall be filled in the same manner under paragraph (a).

Subd. 2. [DUTIES.] *(a) The commission shall recommend a budget plan for expenditures from the environment and natural resources trust fund and shall adopt a strategic plan as provided in section 116P.08.*

(b) The commission shall recommend expenditures to the legislature from the Minnesota future resources fund under section 116P.13.

(c) It is a condition of acceptance of the appropriations made from the Minnesota future resources fund, Minnesota environment and natural resources trust fund, and oil overcharge money under Minnesota Statutes, section 4.071, subdivision 2, that the agency or entity receiving the appropriation must submit a work program and semiannual progress reports in the form determined by the legislative commission on Minnesota resources. None of the money provided may be spent unless the commission has approved the pertinent work program.

~~(f)~~ *(d)* The commission may adopt ~~bylaws and~~ operating procedures to fulfill their duties under sections 116P.01 to 116P.13.

Sec. 3. Minnesota Statutes 1990, section 116P.06, is amended to read:

116P.06 [ADVISORY COMMITTEE.]

Subdivision 1. [MEMBERSHIP.] (a) An advisory committee of 11 citizen members shall be appointed by the governor to advise the legislative commission on Minnesota resources on project proposals to receive funding from the trust fund and the development of budget and strategic plans. The governor shall appoint at least one member from each congressional district. The governor shall appoint the chair.

(b) The governor's appointees must be confirmed with the advice and consent of the senate. The membership terms, compensation, removal, and filling of vacancies for citizen members of the advisory committee are governed by section 15.0575.

Subd. 2. [DUTIES.] *(a) The advisory committee shall:*

(1) prepare and submit to the commission a draft strategic plan to guide expenditures from the trust fund;

(2) review the reinvest in Minnesota program during development of the draft strategic plan;

(3) gather input from the resources congress during development of the draft strategic plan;

(4) advise the commission on project proposals to receive funding from the trust fund; and

(5) advise the commission on development of the budget plan.

(b) The advisory committee may review all project proposals for funding and may make recommendations to the commission on whether the projects:

(1) meet the standards and funding categories set forth in sections 116P.01 to 116P.12;

(2) duplicate existing federal, state, or local projects being conducted within the state; and

(3) are consistent with the most recent strategic plan adopted by the commission.

Sec. 4. Minnesota Statutes 1990, section 116P.07, is amended to read:

116P.07 [RESOURCES CONGRESS.]

The commission must convene a resources congress at least once every

biennium *and shall develop procedures for the congress*. The congress must be open to all interested individuals. The purpose of the congress is to collect public input necessary to allow the commission, with the advice of the advisory committee, to develop a strategic plan to guide expenditures from the trust fund. The congress also may be convened to receive and review reports on trust fund projects. *The congress shall also review the reinvest in Minnesota program.*

Sec. 5. Minnesota Statutes 1990, section 116P.08, subdivision 3, is amended to read:

Subd. 3. [STRATEGIC PLAN REQUIRED.] (a) The commission shall adopt a strategic plan for making expenditures from the trust fund, including identifying the priority areas for funding for the next six years. ~~The reinvest in Minnesota program must be reviewed by the advisory committee, resources congress, and commission during the development of the strategic plan.~~ The strategic plan must be updated every two years. The plan is advisory only. The commission shall submit the plan, as a recommendation, to the house of representatives appropriations and senate finance committees by January 1 of each odd-numbered year.

(b) ~~The advisory committee shall work with the resources congress to develop a draft strategic plan to be submitted to the commission for approval. The commission shall develop the procedures for the resources congress.~~

~~(c)~~ The commission may accept or modify the draft of the strategic plan submitted to it by the advisory committee before voting on the plan's adoption.

Sec. 6. Minnesota Statutes 1990, section 116P.08, subdivision 4, is amended to read:

Subd. 4. [BUDGET PLAN.] (a) Funding may be provided only for those projects that meet the categories established in subdivision 1.

(b) Projects submitted to the commission for funding may be referred to the advisory committee for recommendation~~, except that research proposals first must be reviewed by the peer review panel. The advisory committee may review all project proposals for funding and may make recommendations to the commission on whether:~~

~~(1) the projects meet the standards and funding categories set forth in sections 116P.01 to 116P.12;~~

~~(2) the projects duplicate existing federal, state, or local projects being conducted within the state; and~~

~~(3) the projects are consistent with the most recent strategic plan adopted by the commission~~.

(c) The commission must adopt a budget plan to make expenditures from the trust fund for the purposes provided in subdivision 1. The budget plan must be submitted to the governor for inclusion in the biennial budget and supplemental budget submitted to the legislature.

(d) Money in the trust fund may not be spent except under an appropriation by law.

Sec. 7. Minnesota Statutes 1990, section 116P.09, subdivision 2, is amended to read:

Subd. 2. [LIAISON OFFICERS.] The commission shall request each

department or agency head of all state agencies with a direct interest and responsibility in any phase of environment and natural resources to appoint, and the latter shall appoint for the agency, a liaison officer who shall work closely with the commission and its staff. ~~The designated liaison officer shall attend all meetings of the advisory committee to provide assistance and information to committee members when necessary.~~

Sec. 8. Minnesota Statutes 1990, section 116P.09, subdivision 4, is amended to read:

Subd. 4. [PERSONNEL.] Persons who are employed by a state agency to work on a project and are paid by an appropriation from the trust fund or Minnesota future resources ~~account~~ *fund* are in the unclassified civil service, and their continued employment is contingent upon the availability of money from the appropriation. When the appropriation has been spent, their positions must be canceled and the approved complement of the agency reduced accordingly. Part-time employment of persons for a project is authorized.

Sec. 9. Minnesota Statutes 1990, section 116P.09, subdivision 5, is amended to read:

Subd. 5. [ADMINISTRATIVE EXPENSE.] ~~(a)~~ The administrative expenses of the commission ~~and advisory committee shall be paid from the Minnesota future resources account until June 30, 1995.~~ *shall be paid from the various funds administered by the commission as follows:*

~~(b) After June 30, 1995, the expenses of the commission and advisory committee combined may not exceed an amount equal to two percent of the total earnings of the trust fund in the preceding fiscal year.~~ *(1) Through June 30, 1993, the administrative expenses of the commission and the advisory committee shall be paid from the Minnesota future resources fund. After that time, the prorated expenses related to administration of the trust fund shall be paid from the earnings of the trust fund.*

~~(c) The commission and the advisory committee must include a reasonable amount for their administrative expense in the budget plan for the trust fund.~~ *(2) After June 30, 1993, the prorated expenses related to administration of the trust fund may not exceed an amount equal to four percent of the projected earnings of the trust fund for the biennium.*

Sec. 10. Minnesota Statutes 1990, section 116P.09, subdivision 7, is amended to read:

Subd. 7. [REPORT REQUIRED.] The commission shall, by ~~July~~ *January 15* of each ~~even-numbered~~ *odd-numbered* year, submit a report to the governor, the chairs of the house appropriations and senate finance committees, and the chairs of the house and senate committees on environment and natural resources. Copies of the report must be available to the public. The report must include:

(1) a copy of the current strategic plan;

(2) a description of each project receiving money from the trust fund and Minnesota future resources ~~account~~ *fund* during the preceding ~~two years~~ *biennium*;

(3) a summary of any research project completed in the preceding ~~two years~~ *biennium*;

(4) recommendations to implement successful projects and programs into

a state agency's standard operations;

(5) to the extent known by the commission, descriptions of the projects anticipated to be supported by the trust fund and Minnesota future resources account during the next ~~two years~~ *biennium*;

(6) the source and amount of all revenues collected and distributed by the commission, including all administrative and other expenses;

(7) a description of the ~~trust fund's~~ assets and liabilities *of the trust fund and the Minnesota future resources fund*;

(8) any findings or recommendations that are deemed proper to assist the legislature in formulating legislation;

(9) a list of all gifts and donations with a value over $1,000;

(10) a comparison of the amounts spent by the state for environment and natural resources activities through the most recent fiscal year; and

(11) a copy of the most recent ~~certified financial and~~ compliance audit.

Sec. 11. [NATIVE PLANT CENTER GRANT TRANSFER.]

Any remaining balance of the grant made in Laws 1989, chapter 335, article 1, section 8, for the establishment and operation of a midwest native plant center and any property acquired through that grant shall be transferred by June 1, 1991, to the commissioner of natural resources to be administered consistent with the purposes of the original grant."

Amend the title as follows:

Page 1, line 5, after the semicolon insert "providing for transfer of funds relating to the midwest native plant center;"

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

Senate Conferees: (Signed) Gregory L. Dahl, Gene Merriam, Earl W. Renneke

House Conferees: (Signed) Phyllis Kahn, Tom Osthoff, Virgil J. Johnson

Mr. Dahl moved that the foregoing recommendations and Conference Committee Report on S.F. No. 621 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. 621 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnston	Mondale	Renneke
Beckman	Dicklich	Kelly	Morse	Riveness
Belanger	Finn	Knaak	Neuville	Sams
Benson, D.D.	Flynn	Kroening	Novak	Samuelson
Benson, J.E.	Frank	Laidig	Olson	Solon
Berg	Frederickson, D.J.	Langseth	Pappas	Spear
Berglin	Frederickson, D.R.	Luther	Pariseau	Stumpf
Bertram	Gustafson	Marty	Piper	Traub
Chmielewski	Halberg	Mehrkens	Pogemiller	Vickerman
Cohen	Hottinger	Merriam	Price	Waldorf
Dahl	Hughes	Metzen	Ranum	
Davis	Johnson, J.B.	Moe, R.D.	Reichgott	

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

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, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 505: A bill for an act relating to state lands; authorizing private sale of certain tax-forfeited land in Washington county.

Senate File No. 505 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Mr. Laidig moved that the Senate concur in the amendments by the House to S.F. No. 505 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 505 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:

Adkins	Davis	Kelly	Morse	Riveness
Beckman	DeCramer	Knaak	Neuville	Sams
Belanger	Dicklich	Kroening	Novak	Samuelson
Benson, D.D.	Flynn	Laidig	Olson	Solon
Benson, J.E.	Frank	Langseth	Pappas	Spear
Berg	Frederickson, D.R.	Luther	Pariseau	Stumpf
Berglin	Halberg	Marty	Piper	Traub
Bernhagen	Hottinger	Mehrkens	Pogemiller	Vickerman
Bertram	Hughes	Merriam	Price	Waldorf
Chmielewski	Johnson, D.J.	Metzen	Ranum	
Cohen	Johnson, J.B.	Moe, R.D.	Reichgott	
Dahl	Johnston	Mondale	Renneke	

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 that the House has adopted the recommendation and report of the Conference Committee on House File No. 202, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 202 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 202

A bill for an act relating to public employees; defining the term "employee" for the purpose of the public employees labor relations act; providing for a leave of absence from public office or to employment without pay for certain elected officials; amending Minnesota Statutes 1990, sections 3.088, subdivision 1; 179A.03, subdivision 14.

May 18, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 202, 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. 202 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 3.088, subdivision 1, is amended to read:

Subdivision 1. [LEAVE OF ABSENCE WITHOUT PAY.] Subject to this section, any appointed officer or employee of a political subdivision, municipal corporation, or school district of the state or an institution of learning maintained by the state who serves as a legislator ~~during a session~~ or is elected to a full-time city or county office in Minnesota is entitled to a leave of absence from the public office or to employment without pay ~~during any part or all of the service~~ *when on the business of the office*, with right of reinstatement as provided in this section.

Sec. 2. Minnesota Statutes 1990, section 179A.03, subdivision 14, is amended to read:

Subd. 14. [PUBLIC EMPLOYEE.] "Public employee" or "employee" means any person appointed or employed by a public employer except:

(a) elected public officials;

(b) election officers;

(c) commissioned or enlisted personnel of the Minnesota national guard;

(d) emergency employees who are employed for emergency work caused by natural disaster;

(e) part-time employees whose service does not exceed the lesser of 14 hours per week or 35 percent of the normal work week in the employee's appropriate unit;

(f) employees whose positions are basically temporary or seasonal in character and: (1) are not for more than 67 working days in any calendar year; or (2) are not for more than 100 working days in any calendar year and the employees are under the age of 22, are full-time students enrolled in a nonprofit or public educational institution prior to being hired by the employer, and have indicated, either in an application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary employment;

(g) employees providing services for not more than two consecutive quarters to the state university board or the community college board under the terms of a professional or technical services contract as defined in section 16B.17, subdivision 1;

(h) employees of charitable hospitals as defined by section 179.35, subdivision 3;

(i) full-time undergraduate students employed by the school which they attend under a work-study program or in connection with the receipt of financial aid, irrespective of number of hours of service per week;

(j) an individual who is employed for less than 300 hours in a fiscal year as an instructor in an adult vocational education program;

(k) an individual hired by a school district, the community college board, or the state university board, to teach one course for up to four credits for one quarter in a year.

The following individuals are public employees regardless of the exclusions of clauses (e) and (f):

(1) An employee hired by a school district, the community college board, or the state university board, except at the university established in section 136.017 or for community services or community education instruction offered on a noncredit basis: ~~(1)~~ *(i)* to replace an absent teacher or faculty member who is a public employee, where the replacement employee is employed more than 30 working days as a replacement for that teacher or faculty member; or ~~(2)~~ *(ii)* to take a teaching position created due to increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons; *and*

(2) An employee hired for a position under clause (f)(1) if that same position has already been filled under clause (f)(1) in the same calendar year and the cumulative number of days worked in that same position by all employees exceeds 67 calendar days in that year. For the purpose of this paragraph, "same position" includes a substantially equivalent position if it is not the same position solely due to a change in the classification or title of the position."

Delete the title and insert:

"A bill for an act relating to public employees; providing for a leave of absence from public office or to employment without pay for certain elected officials; defining the term "employee" for the purpose of the public employees labor relations act; amending Minnesota Statutes 1990, sections 3.088, subdivision 1; and 179A.03, subdivision 14."

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

House Conferees: (Signed) Tom Rukavina, Jim Farrell, Jim Girard

Senate Conferees: (Signed) Florian Chmielewski, Phil J. Riveness, Patrick D. McGowan

Mr. Chmielewski moved that the foregoing recommendations and Conference Committee Report on H.F. No. 202 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. 202 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 56 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Moe, R.D.	Reichgott
Beckman	Day	Johnston	Mondale	Renneke
Belanger	DeCramer	Kelly	Morse	Riveness
Benson, D.D.	Flynn	Knaak	Neuville	Sams
Benson, J.E.	Frank	Laidig	Novak	Samuelson
Berg	Frederickson, D.J.	Langseth	Olson	Spear
Berglin	Frederickson, D.R.	Lessard	Pappas	Traub
Bernhagen	Halberg	Luther	Pariseau	Vickerman
Bertram	Hottinger	Marty	Piper	
Chmielewski	Hughes	McGowan	Pogemiller	
Cohen	Johnson, D.E.	Mehrkens	Price	
Dahl	Johnson, D.J.	Metzen	Ranum	

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

House File No. 958 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 958

A bill for an act relating to agriculture; providing for development of aquaculture; amending Minnesota Statutes 1990, section 17.49; proposing coding for new law in Minnesota Statutes, chapter 17.

May 18, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 958, 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. 958 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [13.645] [AQUACULTURE PERMIT DATA.]

The following data collected and maintained by an agency issuing aquaculture permits under sections 4 to 10 are classified as private or nonpublic: the names and addresses of customers provided in the permit application.

Sec. 2. [17.107] [TROPHIC STATE LABELING.]

Subdivision 1. [CERTIFICATION OF TROPHIC STATE.] *The commissioner, in consultation with the commissioners of the pollution control agency and natural resources, shall annually certify the trophic state of the waters used for aquatic farming. Aquatic farming waters maintained in a trophic state equal or better than:*

(1) 25 percent of the lakes in this state over 100 acres shall be certified as "pristine waters";

(2) 50 percent of the lakes in this state over 100 acres shall be certified as "pure, clean, or fresh waters"; and

(3) 75 percent of the lakes in this state over 100 acres shall be certified as "natural waters."

Subd. 2. [USE OF TERMS.] *A person may only use the terms "natural," "pure," "clean," "fresh," or "pristine" in describing waters used for aquaculture on labeling, advertising, or other material if the waters from which the products were raised are certified accordingly under subdivision 1. The terms may be used in conjunction with other Minnesota grown labeling.*

Sec. 3. [17.46] [SHORT TITLE.]

Sections 4 to 16 may be cited as the aquaculture development act.

Sec. 4. [17.47] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *The definitions in this section apply to sections 2 to 16.*

Subd. 2. [AQUACULTURE.] *"Aquaculture" means the culture of private aquatic life for consumption or sale.*

Subd. 3. [AQUATIC FARM.] *"Aquatic farm" means a facility used for*

the purpose of culturing private aquatic life in waters, including but not limited to artificial ponds, vats, tanks, raceways, other indoor or outdoor facilities that an aquatic farmer owns or where an aquatic farmer has exclusive control of, fish farms licensed under section 97C.209, or private fish hatcheries licensed under section 97C.211 for the sole purpose of processing or cultivating aquatic life.

Subd. 4. [AQUATIC FARMER.] *"Aquatic farmer" means an individual who practices aquaculture.*

Subd. 5. [COMMISSIONER.] *"Commissioner" means the commissioner of agriculture.*

Subd. 6. [DEPARTMENT.] *"Department" means the department of agriculture.*

Subd. 7. [PRIVATE AQUATIC LIFE.] *"Private aquatic life" means fish, shellfish, mollusks, crustaceans, and any other aquatic animals cultured within an aquatic farm. Private aquatic life is the property of the aquatic farmer.*

Sec. 5. Minnesota Statutes 1990, section 17.49, is amended to read:

17.49 [AQUACULTURE PROGRAM AND PROMOTION.]

Subdivision 1. [PROGRAM ESTABLISHED.] The commissioner shall establish and promote a program ~~for the commercial raising of fish in fish farms~~ *of aquaculture* in consultation with an advisory committee consisting of the University of Minnesota, the commissioner of natural resources, the commissioner of agriculture, the commissioner of trade and economic development, the commissioner of the state planning agency, representatives of *the* private ~~fish raising~~ *aquaculture* industry, and the chairs of the environment and natural resources committees of the house of representatives and senate.

Subd. 2. [COORDINATION.] Aquaculture programs in the state must be coordinated through the commissioner of agriculture. The commissioner of agriculture shall direct the development of aquaculture in the state. Aquaculture research, projects, and demonstrations must be reported to the commissioner before state appropriations for the research, projects, and demonstrations are encumbered. The commissioner shall maintain a data base of aquaculture research, demonstrations, and other related information pertaining to aquaculture in the state.

Subd. 2a. [DEVELOPMENT PROGRAM.] *The commissioner may establish a Minnesota aquaculture development and aid program that may support applied research, demonstration, financing, marketing, promotion, broodstock development, and other services.*

Subd. 3. [REPORT.] The commissioner shall prepare an annual report on the amount of fish and aquaculture products ~~consumed~~ *produced* in the state, where the products were produced, the opportunities in the state for aquaculture development, and impediments to Minnesota development of aquaculture.

Sec. 6. [17.494] [AQUACULTURE PERMITS; RULES.]

The commissioner shall act as permit or license coordinator for aquatic farmers and shall assist aquatic farmers to obtain licenses or permits.

By July 1, 1992, a state agency issuing multiple permits or licenses for

aquaculture shall consolidate the permits or licenses required for every aquatic farm location. The department of natural resources transportation permits are exempt from this requirement. State agencies shall adopt rules or issue commissioner's orders that establish permit and license requirements, approval timelines, and compliance standards.

Nothing in this section modifies any state agency's regulatory authority over aquaculture production.

Sec. 7. [17.495] [APPEAL PROCEDURES.]

A state agency that denies a license or permit to an aquatic farmer shall provide the aquatic farmer with a written notice specifying the reasons for refusal.

An aquatic farmer may appeal a state agency's denial of the license or permit in a contested case proceeding under chapter 14.

Sec. 8. [17.496] [QUARANTINE FACILITY; RULES.]

By July 1, 1992, the commissioner of natural resources shall adopt rules, in consultation with the commissioner of agriculture and the aquaculture advisory committee, for the construction and operation of a quarantine facility for fish eggs presently requiring quarantine and disposition of fish from the facility. Fish in a quarantine station that are determined to be disease-free under the procedures developed by the commissioner of natural resources may be bought, sold, or transported.

Sec. 9. [17.497] [EXOTIC SPECIES IMPORTATION; RULES.]

The commissioner of natural resources shall establish rules, in consultation with the commissioner of agriculture and the aquaculture advisory committee, for approving or rejecting importation of "exotic" or genetically altered aquatic species to protect the integrity of the natural ecosystem and provide aquatic farmers with information that may affect business decisions.

Sec. 10. [17.498] [RULES; FINANCIAL ASSURANCE.]

(a) The commissioner of the pollution control agency, after consultation and cooperation with the commissioners of agriculture and natural resources, shall present proposed rules to the pollution control agency board prescribing water quality permit requirements for aquaculture facilities by May 1, 1992. The rules must consider:

(1) best available proven technology, best management practices, and water treatment practices that prevent and minimize degradation of waters of the state considering economic factors, availability, technical feasibility, effectiveness, and environmental impacts;

(2) classes, types, sizes, and categories of aquaculture facilities;

(3) temporary reversible impacts versus long-term impacts on water quality;

(4) effects on drinking water supplies that cause adverse human health concerns; and

(5) aquaculture therapeutics, which shall be regulated by the pollution control agency.

(b) Net pen aquaculture and other aquaculture facilities with similar effects must submit an annual report to the commissioner of the pollution control agency analyzing changes in water quality trends from previous

years, documentation of best management practices, documentation of costs to restore the waters used for aquaculture to the trophic state existing before aquatic farming was initiated, and documentation of financial assurance in an amount adequate to pay for restoration costs. The trophic state, which is the productivity of the waters measured by total phosphorus, dissolved oxygen, algae abundance as chlorophyll-a, and secchi disk depth of light penetration, and the condition of the waters measured by raw drinking water parameters, shall be determined to the extent possible before aquatic farming is initiated. The financial assurance may be a trust fund, letter of credit, escrow account, surety bond, or other financial assurance payable to the commissioner for restoration of the waters if the permittee cannot or will not restore the waters after termination of aquatic farming operations or revocation of the permit.

(c) The commissioner of the pollution control agency shall submit a draft of the proposed rules to the legislative water commission by September 1, 1991. By January 15, 1992, the commissioner of the pollution control agency shall submit a report to the legislative water commission about aquaculture facilities permitted by the pollution control agency. The report must include concerns of permittees as well as concerns of the agency about permitted aquaculture facilities and how those concerns will be addressed in the proposed rules.

(d) Information received as part of a permit application or as otherwise requested must be classified according to chapter 13. Information about processes, aquatic farming procedures, feed and therapeutic formulas and rates, and tests on aquatic farming products that have economic value is nonpublic data under chapter 13, if requested by the applicant or permittee.

Sec. 11. Minnesota Statutes 1990, section 18B.26, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] (a) A person may not use or distribute a pesticide in this state unless it is registered with the commissioner. *Aquaculture therapeutics shall be registered and labeled in the same manner as pesticides.* Pesticide registrations expire on December 31 of each year and may be renewed on or before that date for the following calendar year.

(b) Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as an ingredient in the formulation of a pesticide that is registered under this chapter.

(c) An unregistered pesticide that was previously registered with the commissioner may be used only with the written permission of the commissioner.

(d) Each pesticide with a unique United States Environmental Protection Agency pesticide registration number or a unique brand name must be registered with the commissioner.

Sec. 12. Minnesota Statutes 1990, section 25.33, subdivision 5, is amended to read:

Subd. 5. "Commercial feed" means all materials except unmixed seed, whole or processed, when not adulterated within the meaning of section 25.37, paragraphs (A), (B), (C), or (D) which are distributed for use as

feed or for mixing in feed, *including feed for aquatic animals*. The commissioner by rule may exempt from this definition, or from specific provisions of sections 25.31 to 25.44, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not intermixed with other materials, and are not adulterated within the meaning of section 25.37, paragraphs (A), (B), (C), or (D).

Sec. 13. Minnesota Statutes 1990, section 97A.025, is amended to read:

97A.025 [OWNERSHIP OF WILD ANIMALS.]

The ownership of wild animals of the state is in the state, in its sovereign capacity for the benefit of all the people of the state. A person may not acquire a property right in wild animals, or destroy them, unless authorized under the game and fish laws ~~or~~, sections 84.09 to 84.15, *or sections 4 to 10*.

Sec. 14. Minnesota Statutes 1990, section 297A.01, is amended by adding a subdivision to read:

Subd. 19. [AQUACULTURE PRODUCTION EQUIPMENT.] *"Aquaculture production equipment" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in aquaculture production. Aquaculture production equipment includes: augers and blowers, automatic feed systems, manual feeding equipment, shockers, gill nets, trap nets, seines, box traps, round nets and traps, net pens, dip nets, net washers, floating net supports, floating access walkways, net supports and walkways, growing tanks, holding tanks, troughs, raceways, transport tanks, egg taking equipment, egg hatcheries, egg incubators, egg baskets and troughs, egg graders, egg counting equipment, fish counting equipment, fish graders, fish pumps and loaders, fish elevators, air blowers, air compressors, oxygen generators, oxygen regulators, diffusers and injectors, air supply equipment, oxygenation columns, water coolers and heaters, heat exchangers, water filter systems, water purification systems, waste collection equipment, feed mills, portable scales, feed grinders, feed mixers, feed carts and trucks, power feed wagons, fertilizer spreaders, fertilizer tanks, forage collection equipment, land levelers, loaders, post hole diggers, disc, harrow, plow, and water diversion devices. Repair or replacement parts for aquaculture production equipment shall not be included in the definition of aquaculture production equipment.*

Sec. 15. Minnesota Statutes 1990, section 297A.02, subdivision 2, is amended to read:

Subd. 2. [MACHINERY AND EQUIPMENT.] Notwithstanding the provisions of subdivision 1, the rate of the excise tax imposed upon sales of special tooling is four percent and upon sales of farm machinery *and aquaculture production equipment* is two percent.

Sec. 16. Minnesota Statutes 1990, section 500.24, subdivision 3, is amended to read:

Subd. 3. [FARMING AND OWNERSHIP OF AGRICULTURAL LAND BY CORPORATIONS RESTRICTED.] No corporation, pension or investment fund, or limited partnership shall engage in farming; nor shall any corporation, pension or investment fund, or limited partnership, directly or indirectly, own, acquire, or otherwise obtain an interest, whether legal, beneficial or otherwise, in any title to real estate used for farming or capable

of being used for farming in this state. Provided, however, that the restrictions in this subdivision do not apply to corporations or partnerships in clause (b) and do not apply to corporations, limited partnerships, and pension or investment funds that record its name and the particular exception under clauses (a) to ~~(r)~~ *(s)* under which the agricultural land is owned or farmed, have a conservation plan prepared for the agricultural land, report as required under subdivision 4, and satisfy one of the following conditions under clauses (a) to ~~(r)~~ *(s)*:

(a) A bona fide encumbrance taken for purposes of security;

(b) A family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized farm partnership as defined in subdivision 2 or a general partnership;

(c) Agricultural land and land capable of being used for farming owned by a corporation as of May 20, 1973, or a pension or investment fund as of May 12, 1981, including the normal expansion of such ownership at a rate not to exceed 20 percent of the amount of land owned as of May 20, 1973, or, in the case of a pension or investment fund, as of May 12, 1981, measured in acres, in any five-year period, and including additional ownership reasonably necessary to meet the requirements of pollution control rules;

(d) Agricultural land operated for research or experimental purposes with the approval of the commissioner of agriculture, provided that any commercial sales from the operation must be incidental to the research or experimental objectives of the corporation. A corporation, limited partnership, or pension or investment fund seeking to operate agricultural land for research or experimental purposes must submit to the commissioner a prospectus or proposal of the intended method of operation, containing information required by the commissioner including a copy of any operational contract with individual participants, prior to initial approval of an operation. A corporation, limited partnership, or pension or investment fund operating agricultural land for research or experimental purposes prior to May 1, 1988, must comply with all requirements of this clause except the requirement for initial approval of the project;

(e) Agricultural land operated by a corporation or limited partnership for the purpose of raising breeding stock, including embryos, for resale to farmers or operated for the purpose of growing seed, wild rice, nursery plants or sod;

(f) Agricultural land and land capable of being used for farming leased by a corporation or limited partnership in an amount, measured in acres, not to exceed the acreage under lease to such corporation as of May 20, 1973, or to the limited partnership as of May 1, 1988, and the additional acreage required for normal expansion at a rate not to exceed 20 percent of the amount of land leased as of May 20, 1973, for a corporation or May 1, 1988, for a limited partnership in any five-year period, and the additional acreage reasonably necessary to meet the requirements of pollution control rules;

(g) Agricultural land when acquired as a gift (either by grant or a devise) by an educational, religious, or charitable nonprofit corporation or by a pension or investment fund or limited partnership; provided that all lands so acquired by a pension or investment fund, and all lands so acquired by a corporation or limited partnership which are not operated for research or

experimental purposes, or are not operated for the purpose of raising breeding stock for resale to farmers or operated for the purpose of growing seed, wild rice, nursery plants or sod must be disposed of within ten years after acquiring title thereto;

(h) Agricultural land acquired by a pension or investment fund or a corporation other than a family farm corporation or authorized farm corporation, as defined in subdivision 2, or a limited partnership other than a family farm partnership or authorized farm partnership as defined in subdivision 2, for which the corporation or limited partnership has documented plans to use and subsequently uses the land within six years from the date of purchase for a specific nonfarming purpose, or if the land is zoned nonagricultural, or if the land is located within an incorporated area. A pension or investment fund or a corporation or limited partnership may hold such agricultural land in such acreage as may be necessary to its nonfarm business operation; provided, however, that pending the development of agricultural land for nonfarm purposes, such land may not be used for farming except under lease to a family farm unit, a family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized farm partnership, or except when controlled through ownership, options, leaseholds, or other agreements by a corporation which has entered into an agreement with the United States of America pursuant to the New Community Act of 1968 (Title IV of the Housing and Urban Development Act of 1968, United States Code, title 42, sections 3901 to 3914) as amended, or a subsidiary or assign of such a corporation;

(i) Agricultural lands acquired by a pension or investment fund or a corporation or limited partnership by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; provided, however, that all lands so acquired be disposed of within ten years after acquiring the title if acquired before May 1, 1988, and five years after acquiring the title if acquired on or after May 1, 1988, acquiring the title thereto, and further provided that the land so acquired shall not be used for farming during the ten-year or five-year period except under a lease to a family farm unit, a family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized farm partnership. The aforementioned ten-year or five-year limitation period shall be deemed a covenant running with the title to the land against any pension or investment fund or corporate or limited partnership grantee or assignee or the successor of such pension or investment fund or corporation or limited partnership. Notwithstanding the five-year divestiture requirement under this clause, a financial institution may continue to own the agricultural land if the agricultural land is leased to the immediately preceding former owner, but must divest of the agricultural land within the ten-year period;

(j) Agricultural land acquired by a corporation regulated under the provisions of Minnesota Statutes 1974, chapter 216B, for purposes described in that chapter or by an electric generation or transmission cooperative for use in its business, provided, however, that such land may not be used for farming except under lease to a family farm unit, a family farm corporation, or a family farm partnership;

(k) Agricultural land, either leased or owned, totaling no more than 2,700 acres, acquired after May 20, 1973, for the purpose of replacing or expanding asparagus growing operations, provided that such corporation had established 2,000 acres of asparagus production;

(l) All agricultural land or land capable of being used for farming which was owned or leased by an authorized farm corporation as defined in Minnesota Statutes 1974, section 500.24, subdivision 1, clause (d), but which does not qualify as an authorized farm corporation as defined in subdivision 2, clause (d);

(m) A corporation formed primarily for religious purposes whose sole income is derived from agriculture;

(n) Agricultural land owned or leased by a corporation prior to August 1, 1975, which was exempted from the restriction of this subdivision under the provisions of Laws 1973, chapter 427, including normal expansion of such ownership or leasehold interest to be exercised at a rate not to exceed 20 percent of the amount of land owned or leased on August 1, 1975, in any five-year period and the additional ownership reasonably necessary to meet requirements of pollution control rules;

(o) Agricultural land owned or leased by a corporation prior to August 1, 1978, including normal expansion of such ownership or leasehold interest, to be exercised at a rate not to exceed 20 percent of the amount of land owned or leased on August 1, 1978, and the additional ownership reasonably necessary to meet requirements of pollution control rules, provided that nothing herein shall reduce any exemption contained under the provisions of Laws 1975, chapter 324, section 1, subdivision 2;

(p) An interest in the title to agricultural land acquired by a pension fund or family trust established by the owners of a family farm, authorized farm corporation or family farm corporation, but limited to the farm on which one or more of those owners or shareholders have resided or have been actively engaged in farming as required by subdivision 2, clause (b), (c), or (d);

(q) Agricultural land owned by a nursing home located in a city with a population, according to the state demographer's 1985 estimate, between 900 and 1,000, in a county with a population, according to the state demographer's 1985 estimate, between 18,000 and 19,000, if the land was given to the nursing home as a gift with the expectation that it would not be sold during the donor's lifetime. This exemption is available until July 1, 1995;

(r) The acreage of agricultural land and land capable of being used for farming owned and recorded by an authorized farm corporation as defined in Minnesota Statutes 1986, section 500.24, subdivision 2, paragraph (d), or a limited partnership as of May 1, 1988, including the normal expansion of the ownership at a rate not to exceed 20 percent of the land owned and recorded as of May 1, 1988, measured in acres, in any five-year period, and including additional ownership reasonably necessary to meet the requirements of pollution control rules;

(s) Agricultural land owned or leased as a necessary part of an aquatic farm as defined in section 3, subdivision 3.

Sec. 17. [REPEALER.]

Minnesota Statutes 1990, section 17.492, is repealed.

Sec. 18. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to agriculture; classifying certain private data collected for aquaculture permits; providing for development of aquaculture; imposing a two percent excise tax on sales of aquaculture production equipment; amending Minnesota Statutes 1990, sections 17.49; 18B.26, subdivision 1; 25.33, subdivision 5; 97A.025; 297A.01, by adding a subdivision; 297A.02, subdivision 2; and 500.24, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 13 and 17; repealing Minnesota Statutes 1990, section 17.492."

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

House Conferees: (Signed) Wally Sparby, Loren A. Solberg, Hilda Bettermann

Senate Conferees: (Signed) Charles A. Berg, Dennis R. Frederickson, Steven Morse

Mr. Berg moved that the foregoing recommendations and Conference Committee Report on H.F. No. 958 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. 958 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 64 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Johnston	Metzen	Reichgott
Beckman	Finn	Kelly	Moe, R.D.	Renneke
Belanger	Flynn	Knaak	Mondale	Riveness
Benson, D.D.	Frank	Kroening	Morse	Sams
Benson, J.E.	Frederickson, D.J.	Laidig	Neuville	Samuelson
Berg	Frederickson, D.R.	Langseth	Novak	Solon
Bernhagen	Gustafson	Larson	Olson	Spear
Bertram	Halberg	Lessard	Pappas	Storm
Chmielewski	Hottinger	Luther	Pariseau	Stumpf
Cohen	Hughes	Marty	Piper	Traub
Davis	Johnson, D.E.	McGowan	Pogemiller	Vickerman
Day	Johnson, D.J.	Mehrkens	Price	Waldorf
DeCramer	Johnson, J.B.	Merriam	Ranum	

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 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. 804: A bill for an act relating to corrections; requiring prisoners to pay for medical services to the extent of their ability to pay; requiring the county of residence to pay for medical services to juveniles in custody; providing for reimbursement of the costs of medical services by health insurance or a health plan; requiring county boards to pay for medical services for prisoners in jail; amending Minnesota Statutes 1990, section

641.15; proposing coding for new law in Minnesota Statutes, chapter 260.

Senate File No. 804 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Mr. Luther moved that the Senate concur in the amendments by the House to S.F. No. 804 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 804: A bill for an act relating to corrections; requiring the county of residence to pay for medical services to juveniles in custody; requiring county boards to pay for medical services for prisoners in jail; requiring children in custody and prisoners to pay for medical services to the extent of their ability to pay; providing for reimbursement of the costs of medical services by health insurance or a health plan; amending Minnesota Statutes 1990, section 641.15; proposing coding for new law in Minnesota Statutes, chapter 260.

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 60 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, J.B.	Mehrkens	Ranum
Beckman	Finn	Johnston	Metzen	Reichgott
Belanger	Flynn	Kelly	Moe, R.D.	Renneke
Benson, D.D.	Frank	Knaak	Morse	Riveness
Benson, J.E.	Frederickson, D.J.	Kroening	Neuville	Sams
Berglin	Frederickson, D.R.	Laidig	Novak	Samuelson
Bernhagen	Gustafson	Langseth	Olson	Spear
Bertram	Halberg	Larson	Pappas	Storm
Chmielewski	Hottinger	Lessard	Pariseau	Stumpf
Cohen	Hughes	Luther	Piper	Traub
Davis	Johnson, D.E.	Marty	Pogemiller	Vickerman
Day	Johnson, D.J.	McGowan	Price	Waldorf

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 783 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 783

A bill for an act relating to health; infectious waste control; transferring responsibility for infectious waste from the pollution control agency to the department of health; clarifying that veterinarians are also covered by the act; clarifying requirements for management and generators' plans; allowing certain medical waste to be mixed with other waste under certain conditions;

creating a medical waste task force; appropriating money; amending Minnesota Statutes 1990, sections 116.76, subdivision 5; 116.77; 116.78, subdivision 4; 116.79, subdivisions 1, 3, and 4; 116.80, subdivisions 2 and 3; 116.81, subdivision 1; 116.82, subdivision 3; and 116.83; repealing Minnesota Statutes 1990, sections 116.76, subdivision 2; and 116.81, subdivision 2.

May 20, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 783, 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. 783 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 116.77, is amended to read:

116.77 [COVERAGE.]

Sections 116.75 to 116.83 and 609.671, subdivision 10, cover any person, *including a veterinarian,* who generates, treats, stores, transports, or disposes of infectious or pathological waste ~~except~~ *but not including* infectious or pathological waste generated by households, farm operations, or agricultural businesses. Except as specifically provided, sections 116.75 to 116.83 do not limit or alter treatment or disposal methods for infectious or pathological waste.

Sec. 2. Minnesota Statutes 1990, section 116.78, subdivision 4, is amended to read:

Subd. 4. [SHARPS.] Sharps, except those generated from a household or from a farm operation or agricultural business:

(1) must be placed in puncture-resistant containers;

(2) may not be compacted or mixed with other waste material whether or not the sharps are decontaminated *unless it is part of an infectious waste decontamination process approved by the commissioner of health or the commissioner of the pollution control agency that will prevent exposure during transportation and disposal*; and

(3) may not be disposed of at refuse-derived fuel facilities or at other facilities where waste is hand sorted.

Sec. 3. Minnesota Statutes 1990, section 116.78, subdivision 7, is amended to read:

Subd. 7. [COMPACTION AND MIXTURE WITH OTHER WASTES.] Infectious waste may not be compacted or mixed with other waste materials prior to incineration or disposal. *Compaction is acceptable if it is part of an infectious waste system, approved by the commissioner of health or the commissioner of the pollution control agency, that is designed to prevent exposure during storage, transportation, and disposal.*

Sec. 4. Minnesota Statutes 1990, section 116.79, subdivision 1, is amended to read:

Subdivision 1. [PREPARATION OF MANAGEMENT PLANS.] (a) To the extent applicable to the facility, a person in charge of a facility that generates, stores, decontaminates, incinerates, or disposes of infectious or pathological waste must prepare a management plan for the infectious or pathological waste handled by the facility. *A person may prepare a common management plan for all generating facilities owned and operated by the person. If a single plan is prepared to cover multiple facilities, the plan must identify common policy and procedures for the facilities and any management procedures that are facility specific. The plan must identify each generating facility covered by the plan. A management plan must list all physicians, dentists, chiropractors, podiatrists, veterinarians, certified nurse practitioners, certified nurse midwives, or physician assistants, employed by, under contract to, or working at the generating facilities, except hospitals or laboratories. A management plan from a hospital must list the number of licensed beds and from a laboratory must list the number of generating employees.*

(b) The management plan must describe, to the extent the information is applicable to the facility:

(1) the type of infectious waste and pathological waste that the person generates or handles;

(2) the segregation, packaging, labeling, collection, storage, and transportation procedures for the infectious waste or pathological waste that will be followed;

(3) the decontamination or disposal methods for the infectious or pathological waste that will be used;

(4) the transporters and disposal facilities that will be used for the infectious waste;

(5) the steps that will be taken to minimize the exposure of employees to infectious agents throughout the process of disposing of infectious or pathological wastes; and

(6) the name of the individual responsible for the management of the infectious waste or pathological waste.

(c) The management plan must be kept at the facility.

(d) To the extent applicable to the facility, management plans must be accompanied by a statement of the quantity of infectious and pathological waste generated, decontaminated, stored, incinerated, or disposed of at the facility during the previous two-year period. Quantities ~~may~~ *shall* be reported ~~by weight, volume, or number and capacity of containers~~ *in gallons or pounds*. The commissioner of health shall prepare a summary of the quantities of infectious and pathological waste generated, by facility type.

(e) A management plan must be updated and resubmitted at least once every two years.

Sec. 5. Minnesota Statutes 1990, section 116.79, subdivision 3, is amended to read:

Subd. 3. [GENERATORS' PLANS.] (a) Management plans prepared by facilities that generate infectious or pathological waste must be submitted

to the commissioner of health with a fee of $225 for facilities with 25 or more employees, or a fee of $40 for facilities with less than 25 employees. The fee must be deposited in the state treasury and credited to the general fund.

(b) A person shall submit for each generating facility the following fee with the generator's management plan:

(1) for a generating facility that is a private practice office with two or fewer physicians, dentists, chiropractors, podiatrists, veterinarians, certified nurse practitioners, certified nurse midwives, or physician assistants, employed by, under contract to, or working at the generating facility, a fee of $40;

(2) for a generating facility that is a private practice office with three or more physicians, dentists, chiropractors, podiatrists, veterinarians, certified nurse practitioners, certified nurse midwives, or physician assistants, employed by, under contract to, or working at the generating facility, in addition to the fee for two practitioners as prescribed under clause (1), a fee of $20 for each additional practitioner, up to a maximum total fee of $225;

(3) for a generating facility that is a health facility or agency other than a hospital or laboratory described in clause (5) or (6), a fee of $225. Long-term health care facilities, including nursing homes, boarding care facilities, or intermediate care facilities, with less than 25 licensed beds shall have a fee of $40. A corporate research and development laboratory with fewer than ten generating employees is also included in this category;

(4) for a generating facility that is not a health facility or agency, a fee of $40. Included in this category are a corporate occupational health clinic; or a college or university campus, including its research laboratories, and student health service, but not including a hospital;

(5) for a generating facility that is a laboratory, including a corporate research and development laboratory, with ten to 49 generating employees, or a hospital with 50 to 299 licensed beds, a fee of $450;

(6) for a generating facility that is a laboratory, including a corporate research and development laboratory, with 50 or more generating employees or a hospital with 300 or more licensed beds, a fee of $600;

(7) the following persons shall pay a fee of $225 to cover the generation at all its facilities:

(i) a community health board; or

(ii) Migrant Health Services, Inc.;

(8) for a generator with a generating satellite facility or mobile facility, that is used for an average of less than five hours per week on an annual basis, no additional fee is required;

(9) for a licensed home care agency with no more than two generating employees, a fee of $40;

(10) for a licensed home care agency with more than two generating employees, a fee of $20 for each generating employee, up to a maximum fee of $225; and

(11) the fees are waived for the Bureau of Indian Affairs, federal facilities, and state agencies.

~~(b)~~ *(c)* A person who begins the generation of infectious or pathological waste after January 1, 1990, must submit to the commissioner of health a copy of the person's management plan prior to initiating the handling of the infectious or pathological waste.

~~(c)~~ *(d)* If a *hospital or nursing home that is a* generator also incinerates infectious or pathological waste *on site*, ~~a separate~~ *the* management plan must ~~be prepared for the incineration activities~~ *detail that incineration in the plan*.

~~(d)~~ *(e)* The commissioner of health must establish a procedure for randomly reviewing the plans.

~~(e)~~ *(f)* The commissioner of health may require a management plan of a generator to be modified if the commissioner of health determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the infectious or pathological waste.

Sec. 6. Minnesota Statutes 1990, section 116.79, subdivision 4, is amended to read:

Subd. 4. [PLANS FOR STORAGE, DECONTAMINATION, INCINERATION, AND DISPOSAL FACILITIES.] (a) A person who stores or decontaminates infectious or pathological waste, other than at the facility where the waste was generated, or a person who incinerates or disposes of infectious or pathological waste, must submit a copy of the management plan to the commissioner of the pollution control agency with a fee of $225. ~~A person who incinerates on site at a hospital must submit a fee of $100.~~ The fee must be deposited in the state treasury and credited to the general fund. *A person who incinerates on site must submit an attachment to the generator's management plan detailing the incineration operation.*

(b) The commissioner shall review the plans and may require a plan to be modified within 180 days after the plan is submitted if the commissioner determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the waste.

Sec. 7. Minnesota Statutes 1990, section 116.80, subdivision 2, is amended to read:

Subd. 2. [PREPARATION OF MANAGEMENT PLANS.] (a) A commercial transporter in charge of a business that transports infectious waste must prepare a management plan for the infectious waste handled by the commercial transporter.

(b) The management plan must describe, to the extent the information is applicable to the commercial transporter:

(1) the type of infectious waste that the commercial transporter handles;

(2) the transportation procedures for the infectious waste that will be followed;

(3) the disposal facilities that will be used for the infectious waste;

(4) the steps that will be taken to minimize the exposure of employees to infectious agents throughout the process of transporting and disposing of infectious waste; and

(5) the name of the individual responsible for the transportation and management of the infectious waste.

(c) The management plan must be kept at the commercial transporter's principal place of business.

(d) Management plans must be accompanied by a statement of the quantity of infectious waste transported during the previous two-year period. Quantities ~~may~~ *shall* be reported ~~by weight, volume, or number and capacity of containers~~ *in gallons or pounds*.

(e) A management plan must be updated and resubmitted at least once every two years.

(f) The commissioner shall review the plans and may require a plan to be modified within 180 days after the plan is submitted if the commissioner determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the waste.

Sec. 8. [MEDICAL WASTE TASK FORCE.]

(a) The commissioner of health shall appoint a medical waste task force to include representatives of the pollution control agency, the department of health, the office of waste management, representatives of local government units, citizens groups, environmental organizations, organized labor, the academic community, medical waste generators, and persons in the business of managing medical waste. Members of the task force shall serve without compensation.

(b) The medical waste task force shall:

(1) estimate the quantity and composition of medical waste currently generated in the state;

(2) assess current infectious waste decontamination capacity in the state;

(3) design a state policy that focuses on alternatives to landfilling and incineration as the primary means of infectious waste disposal according to the order of preference in Minnesota Statutes, section 115A.02, paragraph (b); and

(4) submit, by September 1, 1992, a medical waste management strategy report to the legislative commission on waste management and to the committees on the environment and natural resources and health and human services of the legislature recommending a statewide medical waste management policy.

Sec. 9. [APPROPRIATION.]

The amount appropriated from the general fund to the pollution control agency for hazardous waste control for fiscal years 1992 and 1993 by S.F. No. 1533 is reduced by $125,000. The complement of the pollution control agency is decreased by one."

Delete the title and insert:

"A bill for an act relating to health; infectious waste control; clarifying that veterinarians are also covered by the act; clarifying requirements for management and generators' plans; allowing certain medical waste to be mixed with other waste under certain conditions; creating a medical waste task force; appropriating money; amending Minnesota Statutes 1990, sections 116.77; 116.78, subdivisions 4 and 7; 116.79, subdivisions 1, 3, and 4; and 116.80, subdivision 2."

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

Senate Conferees: (Signed) Gregory L. Dahl, Bob Lessard, Cal Larson

House Conferees: (Signed) Steve Dille, Phyllis Kahn, Roger Cooper

Mr. Dahl moved that the foregoing recommendations and Conference Committee Report on S.F. No. 783 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. 783 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnston	Metzen	Renneke
Beckman	Finn	Kelly	Moe, R.D.	Riveness
Belanger	Flynn	Knaak	Mondale	Sams
Benson, D.D.	Frank	Kroening	Morse	Samuelson
Benson, J.E.	Frederickson, D.J.	Laidig	Neuville	Spear
Berglin	Frederickson, D.R.	Langseth	Novak	Storm
Bernhagen	Gustafson	Larson	Olson	Stumpf
Bertram	Halberg	Lessard	Pappas	Traub
Chmielewski	Hottinger	Luther	Pariseau	Vickerman
Cohen	Hughes	Marty	Piper	Waldorf
Dahl	Johnson, D.E.	McGowan	Price	
Davis	Johnson, D.J.	Mehrkens	Ranum	
Day	Johnson, J.B.	Merriam	Reichgott	

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

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, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1112: A bill for an act relating to energy; providing incentives for renewable energy sources of utility power; amending Minnesota Statutes 1990, sections 216B.164, subdivision 4; and 272.02, subdivision 1.

Senate File No. 1112 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Ms. Johnson, J.B. moved that the Senate concur in the amendments by the House to S.F. No. 1112 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1112 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 60 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, J.B.	Merriam	Price
Beckman	Finn	Johnston	Metzen	Ranum
Belanger	Flynn	Kelly	Moe, R.D.	Reichgott
Benson, D.D.	Frank	Knaak	Mondale	Renneke
Benson, J.E.	Frederickson, D.J.	Kroening	Morse	Riveness
Berg	Frederickson, D.R.	Langseth	Neuville	Sams
Bernhagen	Gustafson	Larson	Novak	Samuelson
Bertram	Halberg	Lessard	Olson	Spear
Chmielewski	Hottinger	Luther	Pappas	Storm
Cohen	Hughes	Marty	Pariseau	Traub
Davis	Johnson, D.E.	McGowan	Piper	Vickerman
Day	Johnson, D.J.	Mehrkens	Pogemiller	Waldorf

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. 1224: A bill for an act relating to retirement; state unclassified employees retirement program; permitting plan participants who move to unclassified positions not covered by the plan to elect to participate in the plan; amending Minnesota Statutes 1990, section 352D.02, by adding a subdivision.

Senate File No. 1224 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Mr. Waldorf moved that the Senate concur in the amendments by the House to S.F. No. 1224 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1224 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 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, D.J.	Merriam	Reichgott
Beckman	DeCramer	Johnson, J.B.	Metzen	Renneke
Belanger	Dicklich	Johnston	Moe, R.D.	Riveness
Benson, D.D.	Finn	Kelly	Mondale	Sams
Benson, J.E.	Flynn	Knaak	Morse	Samuelson
Berg	Frank	Kroening	Novak	Solon
Berglin	Frederickson, D.J.	Langseth	Olson	Spear
Bernhagen	Frederickson, D.R.	Larson	Pappas	Traub
Bertram	Gustafson	Lessard	Pariseau	Vickerman
Chmielewski	Halberg	Luther	Piper	Waldorf
Cohen	Hottinger	Marty	Pogemiller	
Dahl	Hughes	McGowan	Price	
Davis	Johnson, D.E.	Mehrkens	Ranum	

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 Files, herewith returned: S.F. Nos. 601, 782, 1050, 861, 1127, 1231 and 1316.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

House File No. 693 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 693

A bill for an act relating to data practices; providing for classifications of government data; amending Minnesota Statutes 1990, sections 13.01, by adding a subdivision; 13.03, by adding a subdivision; 13.40; 13.43, subdivision 2 and by adding a subdivision; 13.55; 13.82, subdivisions 4 and 10; 13.83, subdivisions 4, 8, and by adding a subdivision; 13.84, by adding a subdivision; 144.335, by adding a subdivision; 169.09, subdivision 13; 260.161, subdivision 3; 383B.225, subdivision 6; 390.11, subdivision 7; 390.32, subdivision 6; 403.07, subdivision 4; 595.024, subdivision 3; and 626.556, subdivision 11c, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 13.

May 19, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes

President of the Senate

We, the undersigned conferees for H.F. No. 693, 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. 693 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 13.01, is amended by adding a subdivision to read:

Subd. 3. [SCOPE.] *This chapter regulates the collection, creation, storage, maintenance, dissemination, and access to government data in state agencies, statewide systems, and political subdivisions. It establishes a presumption that government data are public and are accessible by the public for both inspection and copying unless there is federal law, a state statute, or a temporary classification of data that provides that certain data are not public.*

Sec. 2. Minnesota Statutes 1990, section 13.03, is amended by adding a subdivision to read:

Subd. 9. [EFFECT OF CHANGES IN CLASSIFICATION OF DATA.] *Unless otherwise expressly provided by a particular statute, the classification of data is determined by the law applicable to the data at the time a request for access to the data is made, regardless of the data's classification at the time it was collected, created, or received.*

Sec. 3. Minnesota Statutes 1990, section 13.40, is amended to read:

13.40 [LIBRARY *AND HISTORICAL* DATA.]

Subdivision 1. [RECORDS SUBJECT TO THIS CHAPTER.] *(a) For purposes of this section, "historical records repository" means an archives or manuscript repository operated by any state agency, statewide system, or political subdivision whose purpose is to collect and maintain data to further the history of a geographic or subject area. The term does not include the state archives as defined in section 138.17, subdivision 1, clause (5).*

~~All records~~ *(b) Data* collected, maintained, used, or disseminated by a library *or historical records repository* operated by any state agency, political subdivision, or statewide system shall be administered in accordance with the provisions of this chapter.

Subd. 2. [PRIVATE DATA; RECORDS OF BORROWING.] That portion of ~~records~~ *data* maintained by a library which links a library patron's name with materials requested or borrowed by the patron or which links a patron's name with a specific subject about which the patron has requested information or materials is classified as private, ~~pursuant to~~ *under* section 13.02, subdivision 12, and shall not be disclosed except pursuant to a valid court order.

Subd. 3. [NONGOVERNMENTAL DATA.] *Data held in the custody of a historical records repository that were not originally created, received, maintained, or disseminated by a state agency, statewide system, or political subdivision are not government data. These data are accessible to the public unless:*

(1) the data are contributed by private persons under an agreement that restricts access, to the extent of any lawful limitation; or

(2) access would significantly endanger the physical or organizational integrity of the data.

Sec. 4. Minnesota Statutes 1990, section 13.43, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] As used in this section, "personnel data" means data on individuals collected because the individual is or was an employee of or an applicant for employment by, performs services on a voluntary basis for, or acts as an independent contractor with a state agency, statewide system or political subdivision or is a member of *or an applicant for* an advisory board or commission.

Sec. 5. Minnesota Statutes 1990, section 13.43, subdivision 2, is amended to read:

Subd. 2. [PUBLIC DATA.] (a) Except for employees described in subdivision 5, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members of advisory boards or commissions is public: name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the existence and status of any complaints or charges against the employee, whether or not the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body; the terms of any agreement settling administrative or judicial proceedings; work location; a work telephone number; badge number; honors and awards received; payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; and city and county of residence.

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings. 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.

Sec. 6. Minnesota Statutes 1990, section 13.43, subdivision 3, is amended to read:

Subd. 3. [PUBLIC EMPLOYMENT.] Except for applicants described in subdivision 5, the following personnel data on current and former applicants for employment by a state agency, statewide system or political subdivision

or appointment to an advisory board or commission is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability. Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of this subdivision, "finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection. *Names and home addresses of applicants for appointment to and members of an advisory board or commission are public.*

Sec. 7. [13.48] [AWARD DATA.]

Financial data on business entities submitted to a state agency, statewide system, or political subdivision for the purpose of presenting awards to business entities for achievements in business development or performance are private data on individuals or nonpublic data.

Sec. 8. Minnesota Statutes 1990, section 13.55, is amended to read:

13.55 [~~ST. PAUL CIVIC~~ *CONVENTION* CENTER ~~AUTHORITY~~ DATA.]

Subdivision 1. [~~NONPUBLIC~~ *NOT PUBLIC* CLASSIFICATION.] The following data received, created or maintained by ~~the St. Paul civic center authority~~ *or for publicly owned and operated convention facilities, civic center authorities, or the metropolitan sports facilities commission* are classified as nonpublic data pursuant to section 13.02, subdivision ~~9~~*; or private data on individuals pursuant to section 13.02, subdivision 12.*

(a) A letter or other documentation from any person who makes inquiry to *or who is contacted by* the ~~authority as to~~ *facility regarding* the availability of ~~authority facilities~~ *the facility* for staging events;

(b) Identity of firms and corporations which contact the ~~authority~~ *facility*;

(c) Type of event which they wish to stage in ~~authority facilities~~ *the facility*;

(d) Suggested terms of rentals; and

(e) Responses of authority staff to these inquiries.

Subd. 2. [PUBLIC DATA.] The data made ~~nonpublic~~ *not public* by the provisions of subdivision 1 shall become public upon the occurrence of any of the following:

(a) ~~A~~ *Five years elapse from the date on which the* lease or contract is entered into between the ~~authority~~ *facility* and the inquiring party or parties *or the event which was the subject of inquiry occurs at the facility, whichever occurs earlier*;

(b) The event which was the subject of inquiry does not occur; or

(c) The event which was the subject of inquiry occurs elsewhere.

Subd. 3. [EXHIBITOR DATA.] *The names, addresses, and contact persons for individual exhibitors at an exhibition may be withheld at the discretion of the facility to protect the competitive position of the facility or its customers.*

Sec. 9. Minnesota Statutes 1990, section 13.82, subdivision 4, is amended to read:

Subd. 4. [RESPONSE OR INCIDENT DATA.] The following data created or collected by law enforcement agencies which documents the agency's

response to a request for service *including, but not limited to, responses to traffic accidents,* or which describes actions taken by the agency on its own initiative shall be public government data:

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

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

(c) Any resistance encountered by the agency;

(d) Any pursuit engaged in by the agency;

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

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

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

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

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

(j) Response or incident report number*; and*

(k) Dates of birth of the parties involved in a traffic accident.

Sec. 10. Minnesota Statutes 1990, section 13.82, subdivision 10, is amended to read:

Subd. 10. [PROTECTION OF IDENTITIES.] A law enforcement agency *or a law enforcement dispatching agency working under direction of a law enforcement agency* may withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

(a) When access to the data would reveal the identity of an undercover law enforcement officer;

(b) When access to the data would reveal the identity of a victim of criminal sexual conduct or of a violation of section 617.246, subdivision 2;

(c) When access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant;

(d) When access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, and the agency reasonably determines that revealing the identity of the victim or witness would threaten the personal safety or property of the individual; ~~or~~

(e) When access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred*; or*

(f) When access to the data would reveal the identity of a person who placed a call to a 911 system or the identity or telephone number of a service

subscriber whose phone is used to place a call to the 911 system and: (1) the agency determines that revealing the identity may threaten the personal safety or property of any person; or (2) the object of the call is to receive help in a mental health emergency. For the purposes of this paragraph, a voice recording of a call placed to the 911 system is deemed to reveal the identity of the caller.

Sec. 11. Minnesota Statutes 1990, section 13.83, subdivision 4, is amended to read:

Subd. 4. [INVESTIGATIVE DATA.] Data created or collected by a county coroner or medical examiner which is part of an active investigation mandated by chapter 390, or any other general or local law relating to coroners or medical examiners is confidential data or protected nonpublic data, until the completion of the coroner's or medical examiner's final summary of findings at which point the data collected in the investigation and the final summary thereof shall become private or nonpublic data, ~~except that~~ *unless the final summary and the death certificate indicate the manner of death is homicide, undetermined, or pending investigation and there is an active law enforcement investigation, within the meaning of section 13.82, subdivision 5, relating to the death of the deceased individual. If there is an active law enforcement investigation of a possible homicide, the data remain confidential or protected nonpublic. However, upon review by the county attorney of the jurisdiction in which the law enforcement investigation is active, the data may be released to persons described in subdivision 8 if the county attorney determines release would not impede the ongoing investigation. When the law enforcement investigation becomes inactive, the data shall become private or nonpublic data.* Nothing in this subdivision shall be construed to make not public the data elements identified in subdivision 2 at any point in the investigation or thereafter.

Sec. 12. Minnesota Statutes 1990, section 13.83, subdivision 8, is amended to read:

Subd. 8. [ACCESS TO NONPUBLIC DATA.] The data made nonpublic by this section are accessible to *the physician who attended the decedent at the time of death*, the legal representative of the decedent's estate and to the decedent's surviving spouse, parents, children, and siblings and their legal representatives.

Sec. 13. Minnesota Statutes 1990, section 13.83, is amended by adding a subdivision to read:

Subd. 10. [CLASSIFICATION OF CERTAIN MEDICAL EXAMINER AND CORONER DATA.] *Data described in sections 383B.225, subdivision 6, 390.11, subdivision 7, and 390.32, subdivision 6, shall be classified as described therein.*

Sec. 14. Minnesota Statutes 1990, section 13.84, is amended by adding a subdivision to read:

Subd. 8. [CHILD ABUSE DATA; RELEASE TO CHILD PROTECTIVE SERVICES.] *A court services agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under section 626.556 to a local welfare agency if:*

(1) the local welfare agency has an active case involving a common client or clients who are the subject of the data; and

(2) the data are necessary for the local welfare agency to effectively process the agency's case, including investigating or performing other duties relating to the case required by law.

Court services data disclosed under this subdivision may be used only for purposes of the active case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

Sec. 15. Minnesota Statutes 1990, section 144.335, is amended by adding a subdivision 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. A consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law.*

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

(c) 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.

(d) A patient's consent to the release of data on the date and type of immunizations administered to the patient is effective until the patient directs otherwise, if the consent was executed before August 1, 1991.

Sec. 16. Minnesota Statutes 1990, section 169.09, subdivision 13, is amended to read:

Subd. 13. [ACCIDENT REPORTS CONFIDENTIAL.] All written reports and supplemental reports required under this section to be provided to the department of public safety shall be without prejudice to the individual so reporting and shall be for the confidential use of the department of public safety and other appropriate state, federal, county, and municipal governmental agencies for accident analysis purposes, except that the department of public safety or any law enforcement department of any municipality or county in this state shall, upon written request of any person involved in an accident or upon written request of the representative of the person's estate, surviving spouse, or one or more surviving next of kin, or a trustee appointed pursuant to section 573.02, disclose to the requester, the requester's legal counsel or a representative of the requester's insurer any information contained therein except the parties' version of the accident as set out in the written report filed by the parties or may disclose identity of a person involved in an accident when the identity is not otherwise known or when the person denies presence at the accident. No report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department of public safety shall furnish upon the demand of any person who has, or claims to have, made a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department of public safety solely to prove a compliance

or a failure to comply with the requirements that the report be made to the department of public safety. Disclosing any information contained in any accident report, except as provided herein, is unlawful and a misdemeanor.

Nothing herein shall be construed to prevent any person who has made a report pursuant to this chapter from providing information to any persons involved in an accident or their representatives or from testifying in any trial, civil or criminal, arising out of an accident, as to facts within the person's knowledge. It is intended by this subdivision to render privileged the reports required but it is not intended to prohibit proof of the facts to which the reports relate. ~~Legally qualified newspaper publications and licensed radio and television stations shall upon request to a law enforcement agency be given an oral statement covering only the time and place of the accident, the names, addresses, and dates of birth of the parties involved, whether a citation was issued, and if so, what it was for, and whether the parties involved were wearing seat belts, and a general statement as to how the accident happened without attempting to fix liability upon anyone, but said legally qualified newspaper publications and licensed radio and television stations shall not be given access to the hereinbefore mentioned confidential reports, nor shall any such statements or information so orally given be used as evidence in any court proceeding, but shall merely be used for the purpose of a proper publication or broadcast of the news.~~ *Response or incident data may be released pursuant to section 13.82, subdivision 4.*

When these reports are released for accident analysis purposes the identity of any involved person shall not be revealed. Data contained in these reports shall only be used for accident analysis purposes, except as otherwise provided by this subdivision. Accident reports and data contained therein which may be in the possession or control of departments or agencies other than the department of public safety shall not be discoverable under any provision of law or rule of court.

Notwithstanding other provisions of this subdivision to the contrary, the commissioner of public safety shall give to the commissioner of transportation the name and address of a carrier subject to section 221.031 that is named in an accident report filed under subdivision 7 or 8. The commissioner of transportation may not release the name and address to any person. The commissioner shall use this information to enforce accident report requirements under chapter 221. In addition the commissioner of public safety may give to the United States Department of Transportation commercial vehicle accident information in connection with federal grant programs relating to safety.

The department may charge authorized persons a $5 fee for a copy of an accident report.

Sec. 17. Minnesota Statutes 1990, section 260.161, subdivision 3, is amended to read:

Subd. 3. (a) *Except for records relating to an offense where proceedings are public under section 260.155, subdivision 1,* peace officers' records of children shall be kept separate from records of persons 18 years of age or older and shall not be open to public inspection or their contents disclosed to the public except (1) by order of the juvenile court, (2) as required by section 126.036, (3) as authorized under section 13.82, subdivision 2, ~~or~~ (4) to the child's parent or guardian unless disclosure of a record would interfere with an ongoing investigation; ~~except that traffic investigation reports may be open to inspection by a person who has sustained physical~~

~~harm or economic loss as a result of the traffic accident~~, *or (5) as provided in paragraph (d)*. Except as provided in paragraph (c), no photographs of a child taken into custody may be taken without the consent of the juvenile court unless the child is alleged to have violated section 169.121 or 169.129. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

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

(c) The commissioner of corrections may photograph juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles authorized by this paragraph may be used only for institution management purposes and to assist law enforcement agencies to apprehend juvenile offenders. The commissioner shall maintain photographs of juveniles in the same manner as juvenile court records and names under this section.

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

Sec. 18. Minnesota Statutes 1990, section 383B.225, subdivision 6, is amended to read:

Subd. 6. [INVESTIGATION PROCEDURE.] *(a)* Upon notification of the death of any person, as provided in subdivision 5, the county medical examiner or a designee may proceed to the body, take charge of it, and order, when necessary, that there be no interference with the body or the scene of death. Any person violating the order of the examiner is guilty of a misdemeanor. The examiner or the examiner's designee shall make inquiry regarding the cause and manner of death and prepare written findings together with the report of death and its circumstances, which shall be filed in the office of the examiner. When it appears that death may have resulted from a criminal act and that further investigation is advisable, a copy of the report shall be transmitted to the county attorney. The examiner may take possession of all property of the deceased, mark it for identification, and make an inventory. The examiner shall take possession of all articles useful in establishing the cause of death, mark them for identification and retain them securely until they are no longer needed for evidence or investigation. The examiner shall release any property or articles needed for any criminal investigation to law enforcement officers conducting the investigation. When a reasonable basis exists for not releasing property or articles to law enforcement officers, the examiner shall consult with the county attorney. If the county attorney determines that a reasonable basis exists for not releasing the property or articles, the examiner may retain them. The property or articles shall be returned immediately upon completion of the investigation. When the property or articles are no longer needed for the investigation or as evidence, the examiner shall release the property or articles to the person or persons entitled to them. Notwithstanding any other law to the contrary, when personal property of a decedent has come into

the possession of the examiner, and is not used for a criminal investigation or as evidence, and has not been otherwise released as provided in this subdivision, the name of the decedent shall be filed with the probate court, together with a copy of the inventory of the decedent's property. At that time, an examination of the records of the probate court shall be made to determine whether a will has been admitted to probate or an administration has been commenced. Property of a nominal value, including wearing apparel, may be released to the spouse or any blood relative of the decedent or to the person accepting financial responsibility for burial of the decedent. If property has not been released by the examiner and no will has been admitted to probate or administration commenced within six months after death, the examiner shall sell the property at a public auction upon notice and in a manner as the probate court may direct. If the name of the decedent is not known, the examiner shall inventory the property of the decedent and after six months may sell the property at a public auction. The examiner shall be allowed reasonable expenses for the care and sale of the property and shall deposit the net proceeds of the sale with the county administrator, or the administrator's designee, in the name of the decedent, if known. If the decedent is not known, the examiner shall establish a means of identifying the property of the decedent with the unknown decedent and shall deposit the net proceeds of the sale with the county administrator, or a designee, so, that, if the unknown decedent's identity is established within six years, the proceeds can be properly distributed. In either case, duplicate receipts shall be provided to the examiner, one of which shall be filed with the court, the other of which shall be retained in the office of the examiner. If a representative shall qualify within six years from the time of deposit, the county administrator, or a designee, shall pay the amount of the deposit to the representative upon order of the court. If no order is made within six years, the proceeds of the sale shall become a part of the general revenue of the county.

(b) For the purposes of this section, health-related records or data on a decedent, except health data defined in section 13.38, whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, shall be made promptly available to the medical examiner, upon the medical examiner's written request, by a person having custody of, possession of, access to, or knowledge of the records or data. The medical examiner shall pay the reasonable costs of copies of records or data provided to the medical examiner under this section. Data collected or created pursuant to this subdivision relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated shall remain confidential or protected nonpublic data, except that the medical examiner's report may contain a summary of such data.

Sec. 19. Minnesota Statutes 1990, section 390.11, subdivision 7, is amended to read:

Subd. 7. [REPORTS.] *(a)* Deaths of the types described in this section must be promptly reported for investigation to the coroner by the law enforcement officer, attending physician, mortician, person in charge of the public institutions referred to in subdivision 1, or other person with knowledge of the death.

(b) For the purposes of this section, health-related records or data on a

decedent, except health data defined in section 13.38, whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, shall be made promptly available to the coroner, upon the coroner's written request, by a person having custody of, possession of, access to, or knowledge of the records or data. The coroner shall pay the reasonable costs of copies of records or data provided to the coroner under this section. Data collected or created pursuant to this subdivision relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated shall remain confidential or protected nonpublic data, except that the coroner's report may contain a summary of such data.

Sec. 20. Minnesota Statutes 1990, section 390.32, subdivision 6, is amended to read:

Subd. 6. [REPORT OF DEATHS.] *(a)* Deaths of the types described in this section must be promptly reported for investigation to the sheriff by the attending physician, mortician, person in charge of the public institutions referred to in subdivision 1, or other person having knowledge of the death.

(b) For the purposes of this section, health-related records or data on a decedent, except health data as defined in section 13.38, whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, shall be made promptly available to the medical examiner, upon the medical examiner's written request, by a person having custody of, possession of, access to, or knowledge of the records or data. The medical examiner shall pay the reasonable costs of copies of records or data provided to the medical examiner under this section. Data collected or created pursuant to this subdivision relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated shall remain confidential or protected nonpublic data, except that the medical examiner's report may contain a summary of such data.

Sec. 21. Minnesota Statutes 1990, section 403.07, subdivision 4, is amended to read:

Subd. 4. [USE OF FURNISHED INFORMATION.] Names, addresses, and telephone numbers provided to a 911 system under subdivision 3 are private data and may be used only for identifying the location or identity, or both, of a person calling a 911 public safety answering point. The information furnished under subdivision 3 may not be used or disclosed by 911 system agencies, their agents, or their employees for any other purpose except under a court order. ~~This subdivision does not affect access to service data under section 13.82, subdivision 3, when data subject to that provision is sought from a law enforcement agency.~~

Sec. 22. Minnesota Statutes 1990, section 471.705, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise expressly provided by statute, all meetings, including executive sessions, of any state agency, board, commission or department when required or permitted by law to transact public business in a meeting, and the governing body of any school district however

organized, unorganized territory, county, city, town, or other public body, and of any committee, subcommittee, board, department or commission thereof, shall be open to the public, except meetings of ~~the board of pardons and~~ the commissioner of corrections. The votes of the members of such state agency, board, commission or department or of such governing body, committee, subcommittee, board, department or commission on any action taken in a meeting herein required to be open to the public shall be recorded in a journal kept for that purpose, which journal shall be open to the public during all normal business hours where such records are kept. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute. This section shall not apply to any state agency, board, or commission when exercising quasi-judicial functions involving disciplinary proceedings.

Sec. 23. Minnesota Statutes 1990, section 595.024, subdivision 3, is amended to read:

Subd. 3. [DETERMINATION; APPEAL.] The district court shall consider the nature of the proceedings, the merits of the claims and defenses, the adequacies of alternative remedies, the relevancy of the information sought, and the possibility of establishing by other means that which the source is expected or may tend to prove. The court shall make its appropriate order after making findings of fact. The order may be appealed directly to the court of appeals according to the rules of appellate procedure. The order is stayed and nondisclosure shall remain in full force and effect during the pendency of the appeal. *Where the court finds that the information sought has been published or broadcast, there shall be no automatic stay unless an appeal is filed within two days after the order is issued. Either party may request expedited consideration.*

Sec. 24. Minnesota Statutes 1990, section 626.556, is amended by adding a subdivision to read:

Subd. 10h. [CHILD ABUSE DATA; RELEASE TO FAMILY COURT SERVICES.] *The responsible authority or its designee of a local welfare agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under this section to a court services agency if:*

(1) the court services agency has an active case involving a common client or clients who are the subject of the data; and

(2) the data are necessary for the court services agency to effectively process the court services' case, including investigating or performing other duties relating to the case required by law.

The data disclosed under this subdivision may be used only for purposes of the active court services case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

Sec. 25. Minnesota Statutes 1990, section 626.556, subdivision 11c, is amended to read:

Subd. 11c. [WELFARE, *COURT SERVICES AGENCY,* AND SCHOOL RECORDS MAINTAINED.] Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, *court services agencies,* or schools under this section shall be destroyed as provided in paragraphs (a) to ~~(c)~~ *(d)* by the responsible

authority.

(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records may be maintained for a period of four years. After the individual alleged to have maltreated a child is notified under subdivision 10f of the determinations at the conclusion of the assessment or investigation, upon that individual's request, records shall be destroyed within 30 days.

(b) All records relating to reports which, upon assessment or investigation, indicate either maltreatment or a need for child protective services shall be destroyed seven years after the date of the final entry in the case record.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

Sec. 26. Minnesota Statutes 1990, section 638.02, subdivision 3, is amended to read:

Subd. 3. Upon granting a pardon extraordinary the board of pardons shall file a copy thereof with the district court of the county in which the conviction occurred, ~~whereupon~~ *and* the court shall order the conviction set aside and ~~all records pertinent to the conviction sealed. These records shall only be reopened in the case of a criminal judicial proceeding thereafter instituted~~ *include a copy of the pardon in the court file.*

Sec. 27. Minnesota Statutes 1990, section 638.04, is amended to read:

638.04 [MEETINGS.]

The board of pardons shall hold meetings at least twice each year *and shall hold a meeting whenever it takes formal action on an application for a pardon or commutation of sentence. All board meetings shall be open to the public as provided in section 471.705.*

The victim of an applicant's crime has a right to submit an oral or written statement at the meeting. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the application for a pardon or commutation should be granted or denied. In addition, any law enforcement agency may submit an oral or written statement at the meeting, giving its recommendation on whether the application should be granted or denied. The board must consider the victim's and the law enforcement agency's statement when making its decision on the application.

Sec. 28. Minnesota Statutes 1990, section 638.05, is amended to read:

638.05 [APPLICATION FOR PARDON.]

Every application for a pardon or commutation of sentence shall be in

writing, addressed to the board of pardons, signed by the convict or some one in the convict's behalf, shall state concisely the grounds upon which the pardon or commutation is sought, and in addition shall contain the following facts:

(1) The name under which the convict was indicted, and every alias by which known;

(2) The date and terms of sentence, and the names of the offense for which it was imposed;

(3) The name of the trial judge and the county attorney who participated in the trial of the convict, together with that of the county of trial;

(4) A succinct statement of the evidence adduced at the trial, with the endorsement of the judge or county attorney who tried the case that the same is substantially correct; if such statement and endorsement are not furnished, the reason thereof shall be stated;

(5) The age, birthplace, ~~parentage,~~ and occupation and residence of the convict during five years immediately preceding conviction;

(6) A statement of other arrests, indictments, and convictions, if any, of the convict.

Every application for a pardon or commutation of sentence shall contain a statement by the applicant consenting to the disclosure to the board of any private data concerning the applicant contained in the application or in any other record relating to the grounds on which the pardon or commutation is sought.

Sec. 29. Minnesota Statutes 1990, section 638.06, is amended to read:

638.06 [ACTION ON APPLICATION.]

Every such application shall be filed with the clerk of the board of pardons. If an application for a pardon or commutation has been once heard and denied on the merits, no subsequent application shall be filed without the consent of two members of the board endorsed thereon. The clerk shall, immediately on receipt of any application, mail notice thereof, and of the time and place of hearing thereon, to the judge of the court wherein the applicant was tried and sentenced, and to the prosecuting attorney who prosecuted the applicant, or a successor in office; ~~provided, pardons or commutations of sentence of persons committed to a county jail or workhouse may be granted by the board without notice~~. *The clerk shall also make all reasonable efforts to locate any victim of the applicant's crime. The clerk shall mail notice of the application and the time and place of the hearing to any victim who is located. This notice shall specifically inform the victim of the victim's right to be present at the hearing and to submit an oral or written statement to the board as provided in section 638.04.*

Sec. 30. [IMMUNITY FROM LIABILITY.]

No cause of action may arise as a result of the release of data contained in a termination or personnel settlement agreement if the data were not public data as defined in Minnesota Statutes, section 13.02, at the time the agreement was executed but become public data under a law enacted after execution.

Sec. 31. [LICENSING DATA STUDY.]

The commissioner of administration shall study and make recommendations on the appropriate treatment and classification of state licensing data. The study shall include an examination of issues related to the sale of lists of the data for commercial purposes as part of a mailing list or telephone solicitation. The commissioner shall report to the legislature by January 15, 1992.

Sec. 32. [EFFECTIVE DATES]

Sections 2 and 30 are effective the day following final enactment and apply to data collected, created, or received before, on, or after the effective date. Section 26 is effective August 1, 1992, and applies to pardons extraordinary granted on or after the effective date."

Delete the title and insert:

"A bill for an act relating to data practices; providing for classifications of government data; amending Minnesota Statutes 1990, sections 13.01, by adding a subdivision; 13.03, by adding a subdivision; 13.40; 13.43, subdivisions 1, 2, and 3; 13.55; 13.82, subdivisions 4 and 10; 13.83, subdivisions 4, 8, and by adding a subdivision; 13.84, by adding a subdivision; 144.335, by adding a subdivision; 169.09, subdivision 13; 260.161, subdivision 3; 383B.225, subdivision 6; 390.11, subdivision 7; 390.32, subdivision 6; 403.07, subdivision 4; 471.705, subdivision 1; 595.024, subdivision 3; 626.556, subdivision 11c, and by adding a subdivision; 638.02, subdivision 3; 638.04; 638.05; and 638.06; proposing coding for new law in Minnesota Statutes, chapter 13."

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

House Conferees: (Signed) Phil Carruthers, Thomas W. Pugh, Doug Swenson

Senate Conferees: (Signed) Jane B. Ranum, Fritz Knaak, Gene Merriam

Ms. Ranum moved that the foregoing recommendations and Conference Committee Report on H.F. No. 693 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. 693 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 60 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Kelly	Metzen	Ranum
Beckman	Flynn	Knaak	Moe, R.D.	Reichgott
Belanger	Frank	Kroening	Mondale	Renneke
Benson, D.D.	Frederickson, D.R.	Laidig	Morse	Riveness
Benson, J.E.	Gustafson	Langseth	Neuville	Sams
Berglin	Halberg	Larson	Novak	Samuelson
Bernhagen	Hottinger	Lessard	Olson	Solon
Bertram	Hughes	Luther	Pappas	Spear
Cohen	Johnson, D.E.	Marty	Pariseau	Stumpf
Day	Johnson, D.J.	McGowan	Piper	Traub
DeCramer	Johnson, J.B.	Mehrkens	Pogemiller	Vickerman
Dicklich	Johnston	Merriam	Price	Waldorf

Mr. Chmielewski voted in the negative.

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 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. 1179: A bill for an act relating to public finance; providing conditions and requirements for the issuance of debt and for the financial obligations of authorities; amending Minnesota Statutes 1990, sections 400.101; 429.061, subdivision 3; 447.49; 469.155, subdivision 12; 473.811, subdivision 2; 475.58, subdivision 2; 475.60, subdivision 2; 475.66, subdivision 3; and 475.67, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 462C and 469.

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

Rest, Long and Ogren.

Senate File No. 1179 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

House File No. 137 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 137

A bill for an act relating to elections; authorizing a party state executive committee to fill certain vacancies and make certain decisions; changing time for examination by judges of certain return envelopes; changing the form of an affidavit; clarifying procedures for nominating certain candidates by petition; providing for withdrawal from the general election ballot; clarifying procedures for filling certain vacancies; providing for counting write-in votes for a candidate team; amending Minnesota Statutes 1990, sections 202A.12, subdivision 3; 203B.12, subdivision 2; 203B.21, subdivision 3; 204B.12; 204B.13; 204B.41; and 204C.22, by adding a subdivision.

May 17, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 137, 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. 137 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 203B.12, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF RETURN ENVELOPES.] Two or more election judges shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. *If a ballot has been prepared under section 5 or 204B.41, the election judges shall not begin removing ballot envelopes from the return envelopes until 8:00 p.m. on election day, either in the polling place or at an absentee ballot board established under section 203B.13.*

The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges or a majority of them are satisfied that:

(a) the voter's signature on the return envelope is the genuine signature of the individual who made the application for ballots and the certificate has been completed as prescribed in the directions for casting an absentee ballot;

(b) the voter is registered and eligible to vote in the precinct or has included a properly completed registration card in the return envelope; and

(c) the voter has not already voted at that election, either in person or by absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

If all or a majority of the election judges examining return envelopes find that an absent voter has failed to meet one of the requirements prescribed in clauses (a) to (c), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," and return it to the county auditor.

Sec. 2. Minnesota Statutes 1990, section 203B.13, subdivision 3a, is amended to read:

Subd. 3a. [ABSENTEE VOTER LIST.] If the election judges of an absentee ballot board are authorized to receive, examine, validate, and count absentee ballots, the county auditor or municipal clerk shall prepare a list of all persons who have applied for absentee ballots at the election and deliver it to the election judges of the absentee ballot board along with the applications for absentee ballots. The polling place rosters must include an indicator for all persons on the absentee voter list. The county auditor may provide a supplemental list for use by the election judges after the polling place rosters have been prepared. If a person on the absentee voter list appears in the polling place, the election judges shall ~~contact~~ *notify* the election judges of the absentee ballot board. ~~If contacted by the judges of the precinct, the election judges of the absentee ballot board shall examine the absentee voter list to determine if an absentee ballot has been cast. They~~

~~shall notify the precinct election judges of their findings and, if the absentee ballot has not yet been cast, the voter shall be allowed to vote in person.~~ *When notified by the precinct election judges that the voter has voted in person,* the election judges of the absentee ballot board shall make a notation on the absentee voter list that the voter has voted and no absentee ballot may be counted for that voter.

Sec. 3. Minnesota Statutes 1990, section 203B.21, subdivision 3, is amended to read:

Subd. 3. [BACK OF RETURN ENVELOPE.] On the back of the return envelope an affidavit form shall appear with space for:

(a) The voter's address of present or former residence in Minnesota;

(b) A statement indicating the category described in section 203B.16 to which the voter belongs;

(c) A statement that the voter has not cast and will not cast another *absentee* ballot in the same election or elections;

(d) A statement that the voter personally marked the ballots without showing them to anyone, or if physically unable to mark them, that the voter directed another individual to mark them; and

(e) The voter's military identification card number, passport number, or, if the voter does not have a valid passport or identification card, the signature and certification of an individual authorized to administer oaths or a commissioned or noncommissioned officer of the military not below the rank of sergeant or its equivalent.

Sec. 4. Minnesota Statutes 1990, section 204B.04, subdivision 2, is amended to read:

Subd. 2. [CANDIDATES SEEKING NOMINATION BY PRIMARY.] No individual who seeks nomination for any partisan or nonpartisan office at a primary shall be nominated for the same office by nominating petition, except as *otherwise* provided *for partisan offices* in section 204D.10, subdivision 2, *and for nonpartisan offices in section 204B.13, subdivision 4.*

Sec. 5. Minnesota Statutes 1990, section 204B.12, is amended by adding a subdivision to read:

Subd. 2a. [AFTER PRIMARY; CANDIDATES FOR CONSTITUTIONAL OFFICE.] *(a) A candidate for a constitutional office may withdraw from the general election ballot by filing an affidavit of withdrawal with the same official who received the affidavit of candidacy. The affidavit must request that official to withdraw that candidate's name from the ballot and must be filed no later than 16 days before the general election.*

(b) A candidate for a constitutional office may withdraw after the deadline in paragraph (a) if:

(1) the candidate withdraws because of a catastrophic illness that was diagnosed after the deadline for withdrawal;

(2) the candidate's illness will permanently and continuously incapacitate the candidate and prevent the candidate from performing the duties of the office sought; and

(3) the candidate or the candidate's legal guardian files with the affidavit of withdrawal a certificate verifying that the candidate's illness meets the

requirements of clauses (1) and (2), signed by at least two licensed physicians.

Sec. 6. Minnesota Statutes 1990, section 204B.12, is amended by adding a subdivision to read:

Subd. 2b. [GOVERNOR'S RACE.] *If a candidate for governor withdraws, the secretary of state shall remove from the ballot the name of the candidate for governor and the name of that candidate's running mate for lieutenant governor.*

Sec. 7. Minnesota Statutes 1990, section 204B.12, subdivision 3, is amended to read:

Subd. 3. [TIME FOR FILING.] An affidavit of withdrawal filed ~~pursuant to subdivision 1~~ *under this section* shall not be accepted later than 5:00 p.m. on the last day for withdrawal.

Sec. 8. Minnesota Statutes 1990, section 204B.13, subdivision 1, is amended to read:

Subdivision 1. [DEATH OR WITHDRAWAL.] A vacancy in nomination may be filled in the manner provided by this section. A vacancy in nomination exists when:

(a) A major political party candidate or nonpartisan candidate who was nominated at a primary dies~~, withdraws, or for any other reason ceases to be the nominated candidate for that office~~ *or files an affidavit of withdrawal as provided in section 5*; or

(b) A candidate for a nonpartisan office, for which one or two candidates filed, dies or ~~withdraws after the last day for filing for that office~~ *files an affidavit of withdrawal as provided in section 204B.12, subdivision 1.*

Sec. 9. Minnesota Statutes 1990, section 204B.13, subdivision 2, is amended to read:

Subd. 2. [PARTISAN OFFICE; NOMINATION BY PARTY.] *(a) A vacancy in nomination for partisan office shall be filled as provided in this subdivision. A major political party has the authority to fill* a vacancy in nomination of ~~a major political party may be filled~~ *that party's candidate* by filing a nomination certificate ~~not later than four days before the general election~~ with the same official who received the affidavits of candidacy for that office.

(b) A major political party may provide in its governing rules a procedure, including designation of an appropriate committee, to fill vacancies in nomination for all offices elected statewide. The nomination certificate shall be prepared under the direction of and executed by the chair and secretary of the ~~proper committee of that~~ political party *and filed within seven days after the vacancy in nomination occurs or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the candidate's death or catastrophic illness, the nomination certificate must be filed within seven days after the vacancy in nomination occurs but no later than four days before the general election.* The chair and secretary when filing the certificate shall attach an affidavit stating that the newly nominated candidate has been selected ~~by that committee~~ *under the rules of the party* and that the individuals signing the certificate and making the affidavit are the chair and secretary of the ~~committee~~ *party*.

Sec. 10. Minnesota Statutes 1990, section 204B.13, subdivision 4, is

amended to read:

Subd. 4. [~~PARTISAN OR~~ NONPARTISAN OFFICE; FILLING VACANCY BY NOMINATING PETITIONS.] ~~If~~ A vacancy in nomination ~~cannot be filled pursuant to subdivision 2 or 3, the vacancy~~ *in a nonpartisan office* may be filled by nominating petition in the manner provided in sections 204B.06 to 204B.09. The petition shall be filed within one week after the vacancy in nomination occurs, but not later than four calendar days before the election.

An eligible voter is eligible to sign a nominating petition to fill a vacancy in nomination without regard to whether that eligible voter intends to vote or did vote for any candidate for that office at the primary or signed other nominating petitions for candidates for that office.

Sec. 11. Minnesota Statutes 1990, section 204B.13, is amended by adding a subdivision to read:

Subd. 5. [CANDIDATES FOR GOVERNOR AND LIEUTENANT GOVERNOR.] *(a) If a vacancy in nomination occurs in the race for governor, the candidate for governor determined under this section shall select the candidate for lieutenant governor. If a vacancy in nomination occurs in the race for lieutenant governor, due to a vacancy in nomination for governor or due to the withdrawal or death of the candidate for lieutenant governor, the candidate for governor shall select the candidate for lieutenant governor as provided in this subdivision.*

(b) For a vacancy in nomination that occurs before the 16th day before the general election, the name of the lieutenant governor candidate must be submitted by the governor candidate to the filing officer within seven days after the vacancy occurs, or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the death or catastrophic illness of the candidate for lieutenant governor, the candidate for governor shall submit the name of the new lieutenant governor candidate to the secretary of state within seven days after the vacancy in nomination occurs but no later than four days before the general election. If the vacancy in nomination occurs through the death or catastrophic illness of the candidate for governor, the new candidate for governor shall submit the name of the lieutenant governor candidate within seven days after the vacancy in nomination for governor is filled under section 204B.13, subdivision 2, but no later than four days before the general election.

Sec. 12. Minnesota Statutes 1990, section 204B.13, is amended by adding a subdivision to read:

Subd. 6. [VACANCY AFTER DEADLINE.] *If a candidate withdraws after the 16th day before the general election but before four days before the general election, the secretary of state shall instruct the election judges to strike the name of the withdrawn candidate from the general election ballot and shall substitute no other candidate's name. Filing officers may not accept a nomination certificate for filing to fill a vacancy in nomination resulting from the filing of an affidavit of withdrawal by a candidate after the 14th day before the general election. Vacancies occurring through death or catastrophic illness after the 16th day before the general election are governed by section 204B.41.*

Sec. 13. Minnesota Statutes 1990, section 204B.41, is amended to read:

204B.41 [VACANCY IN NOMINATION; CHANGING BALLOTS.]

When a vacancy in nomination ~~is filled pursuant to section 204B.13,~~ *occurs through the death or catastrophic illness of a candidate* after the ~~ballots have been printed~~ *16th day before the general election*, the officer in charge of preparing the ballots shall prepare and distribute a sufficient number of separate paper ballots which shall be headed with the words "OFFICIAL SUPPLEMENTAL BALLOT." This ballot shall contain the title of the office for which the vacancy in nomination has been filled and the names of all the candidates nominated for that office. The ballot shall conform to the provisions governing the printing of other official ballots as far as practicable. The title of the office and the names of the candidates for that office shall be blotted out or stricken from the regular ballots by the election judges. The official supplemental ballot shall be given to each voter when the voter is given the regular ballot or is directed to the voting machine. Regular ballots shall not be changed nor shall official supplemental ballots be prepared as provided in this section during the three calendar days before an election. Absentee ballots that have been mailed prior to the preparation of official supplemental ballots shall be counted in the same manner as if the vacancy had not occurred. Official supplemental ballots shall not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were prepared.

Sec. 14. Minnesota Statutes 1990, section 204C.22, is amended by adding a subdivision to read:

Subd. 4a. [WRITE-IN VOTE FOR CANDIDATE TEAM.] *A write-in vote cast for a candidate for governor without a write-in vote for a candidate for lieutenant governor must be counted as a vote for the candidate team including the lieutenant governor candidate selected by that candidate for governor.*

Sec. 15. Minnesota Statutes 1990, section 308A.635, subdivision 6, is amended to read:

Subd. 6. [ABSENTEE BALLOTS.] (a) A member who is absent from a members' meeting may vote by mail on the ballot prescribed in this subdivision on any motion, resolution, or amendment that the board submits for vote by mail to the members.

(b) The ballot shall be in the form prescribed by the board and contain:

(1) the exact text of the proposed motion, resolution, or amendment to be acted on at the meeting; and

(2) spaces opposite the text of the motion, resolution, or amendment in which the member may indicate an affirmative or negative vote.

(c) The member shall express a choice by marking an "X" in the appropriate space on the ballot *and mail or deliver the ballot to the cooperative in a plain, sealed envelope inside another envelope bearing the member's name*. ~~The ballot must be signed by the member.~~

(d) A properly executed ballot shall be accepted by the board and counted as the vote of the absent member at the meeting.

Sec. 16. [REPEALER.]

Minnesota Statutes 1990, section 204B.13, subdivision 3, is repealed."

Delete the title and insert:

"A bill for an act relating to elections; changing time for examination by judges of certain return envelopes; changing the form of an affidavit; providing a deadline for withdrawal from the general election ballot; changing certain withdrawal procedures; clarifying procedures for filling certain vacancies; providing for counting a write-in vote for a candidate for governor as a vote for that candidate's selection for lieutenant governor; modifying requirements for absentee ballots; amending Minnesota Statutes 1990, sections 203B.12, subdivision 2; 203B.13, subdivision 3a; 203B.21, subdivision 3; 204B.04, subdivision 2; 204B.12, subdivision 3, and by adding subdivisions; 204B.13, subdivisions 1, 2, 4, and by adding subdivisions; 204B.41; 204C.22, by adding a subdivision; and 308A.635, subdivision 6; repealing Minnesota Statutes 1990, section 204B.13, subdivision 3."

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

House Conferees: (Signed) Linda Scheid, Gil Gutknecht, Tom Osthoff

Senate Conferees: (Signed) William P. Luther, Ted A. Mondale

Mr. Luther moved that the foregoing recommendations and Conference Committee Report on H.F. No. 137 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. 137 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 56 and nays 2, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Kelly	Morse	Sams
Beckman	Flynn	Knaak	Novak	Samuelson
Belanger	Frank	Kroening	Olson	Solon
Benson, D.D.	Frederickson, D.J.	Langseth	Pappas	Spear
Benson, J.E.	Frederickson, D.R.	Lessard	Pariseau	Stumpf
Berglin	Halberg	Luther	Piper	Traub
Bernhagen	Hottinger	Marty	Pogemiller	Vickerman
Bertram	Hughes	McGowan	Price	Waldorf
Cohen	Johnson, D.E.	Mehrkens	Ranum	
Dahl	Johnson, D.J.	Metzen	Reichgott	
Day	Johnson, J.B.	Moe, R.D.	Renneke	
DeCramer	Johnston	Mondale	Riveness	

Messrs. Laidig and Larson voted in the negative.

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. 1142, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1142 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1142

A bill for an act relating to courts; regulating the use of certain tests; permitting certain punitive damages; directing the supreme court to establish an alternative dispute resolution program and adopt rules; setting conditions for alternative dispute resolution guidelines; providing for interest on arbitration awards; allowing an arbitrator or the court to modify an award based on an error of law; providing arbitration procedures; amending Minnesota Statutes 1990, sections 169.121, subdivision 6, and by adding a subdivision; 494.015; 494.03; 549.09; 572.10; 572.15; and 572.16; proposing coding for new law in Minnesota Statutes, chapter 484; repealing Minnesota Statutes 1990, sections 484.73; 484.74; and 494.01, subdivisions 3 and 5.

May 19, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1142, 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. 1142 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 65B.525, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise provided in section 72A.327, the supreme court and the several courts of general trial jurisdiction of this state shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to binding arbitration of all cases at issue where the claim at the commencement of arbitration is in an amount of ~~$5,000~~ *$10,000* or less against any insured's reparation obligor for no-fault benefits or comprehensive or collision damage coverage.

Sec. 2. Minnesota Statutes 1990, section 169.121, subdivision 6, is amended to read:

Subd. 6. [PRELIMINARY SCREENING TEST.] When a peace officer has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated subdivision 1, the officer may require the driver to provide a sample of the driver's breath for a preliminary screening test using a device approved by the commissioner of public safety for this purpose. The results of this preliminary screening test shall be used for the purpose of deciding whether an arrest should be made and whether to require the tests authorized in section 169.123, but shall not be used in any court action except *(1)* to prove that a test was properly required of a person pursuant to section 169.123, subdivision 2*; or (2) in a civil action arising out of the operation or use of the motor vehicle*. Following the screening test additional tests may be required of the driver pursuant to the provisions of section 169.123.

The driver who refuses to furnish a sample of the driver's breath is subject to the provisions of section 169.123 unless, in compliance with section 169.123, the driver submits to a blood, breath or urine test to determine the presence of alcohol or a controlled substance.

Sec. 3. Minnesota Statutes 1990, section 169.121, is amended by adding a subdivision to read:

Subd. 10a. [CIVIL ACTION; PUNITIVE DAMAGES.] *In a civil action involving a motor vehicle accident, evidence that the accident was caused by a driver (1) with a blood alcohol concentration of .10 or more, (2) who was under the influence of a controlled substance, or (3) who was under the influence of alcohol and refused to take a test required under section 169.123, subdivision 2, is sufficient for the trier of fact to consider an award of punitive damages. A criminal charge or conviction is not a prerequisite to consideration of punitive damages under this subdivision. At the trial in an action where the trier of fact will consider an award of punitive damages, evidence that the driver has been convicted of violating section 169.121, 169.129, or 609.21 is admissible into evidence.*

Sec. 4. [484.76] [ALTERNATIVE DISPUTE RESOLUTION PROGRAM.]

Subdivision 1. [GENERAL.] *The supreme court shall establish a statewide alternative dispute resolution program for the resolution of civil cases filed with the courts. The supreme court shall adopt rules governing practice, procedure, and jurisdiction for alternative dispute resolution programs established under this section. The rules must provide an equitable means for the payment of fees and expenses for the use of alternative dispute resolution processes.*

Subd. 2. [SCOPE.] *Alternative dispute resolution methods provided for under the rules must include arbitration, private trials, neutral expert fact-finding, mediation, minitrials, consensual special magistrates including retired judges and qualified attorneys to serve as special magistrates for binding proceedings with a right of appeal, and any other methods developed by the supreme court. The methods provided must be nonbinding unless otherwise agreed to in a valid agreement between the parties. Alternative dispute resolution may not be required in guardianship, conservatorship, or civil commitment matters; proceedings in the juvenile court under chapter 260; or in matters arising under section 144.651, 144.652, 518B.01, or 626.557.*

Sec. 5. Minnesota Statutes 1990, section 494.015, is amended to read:

494.015 [~~TRAINING AND~~ PROGRAM ~~CERTIFICATION~~ *AND TRAINING* GUIDELINES; *CERTIFICATION.*]

Subdivision 1. [GUIDELINES.] The state court administrator shall adopt guidelines for use by community dispute resolution programs and training programs for mediators and arbitrators for the community dispute resolution programs. The guidelines must include provisions to ensure that participation in dispute resolution is voluntary, procedures for case processing, and program certification criteria that must be met to receive court referrals. *The guidelines must include:*

(1) standards for training mediators and arbitrators to recognize matters involving violence against a person; and

(2) training in family law matters that must be completed by mediators

before acceptance of post-dissolution property distribution matters and post-dissolution visitation matters.

Subd. 2. [CERTIFICATION.] The state court administrator shall certify programs that meet the requirements for certification set under subdivision 1.

Sec. 6. Minnesota Statutes 1990, section 494.03, is amended to read:

494.03 [EXCLUSIONS.]

The guidelines shall exclude:

(1) any dispute involving violence against persons, including incidents arising out of situations that would support charges under sections 609.342 to 609.345, or 609.365;

(2) any matter involving a person who has been adjudicated incompetent or relating to guardianship, conservatorship, or civil commitment;

(3) any matter involving neglect or dependency, or involving termination of parental rights arising under sections 260.221 to 260.245; and

(4) any matter arising under section 626.557 or sections 144.651 to 144.652, or any dispute subject to chapters 518, 518A, 518B, and 518C, whether or not an action is pending, *except for post-dissolution property distribution matters and post-dissolution visitation matters*. This shall not restrict the present authority of the court or departments of the court from accepting for resolution a dispute arising under chapters 518, 518A, and 518C, or from referring disputes arising under chapters 518, and 518A to for-profit mediation.

Sec. 7. Minnesota Statutes 1990, section 549.09, is amended to read:

549.09 [INTEREST ON VERDICTS, *AWARDS,* AND JUDGMENTS.]

Subdivision 1. [WHEN OWED; RATE.] (a) When ~~the~~ *a* judgment *or award* is for the recovery of money, including a judgment for the recovery of taxes, interest from the time of the verdict, *award,* or report until judgment is finally entered shall be computed by the court administrator *or arbitrator* as provided in clause (c) and added to the judgment *or award.*

(b) Except as otherwise provided by contract or allowed by law, preverdict, *preaward,* or prereport interest on pecuniary damages shall be computed as provided in clause (c) from the time of the commencement of the action *or a demand for arbitration*, or the time of a written ~~settlement demand~~ *notice of claim*, whichever occurs first, except as provided herein. The action must be commenced within ~~60 days~~ *two years* of a written ~~settlement demand~~ *notice of claim* for interest to begin to accrue from the time of the ~~demand~~ *notice of claim*. If either party serves a written offer of settlement, the other party may serve a written acceptance or a written counteroffer within ~~60~~ *30* days. After that time, interest on the judgment *or award* shall be calculated by the judge *or arbitrator* in the following manner. The prevailing party shall receive interest on any judgment *or award* from the time *of commencement of* the action ~~was commenced~~ or a *demand for arbitration, or the time of a* written ~~settlement demand was made~~ *notice of claim*, or as to special damages from the time when special damages were incurred, if later, until the time of verdict, *award,* or report only if the amount of its offer is closer to the judgment *or award* than the amount of the opposing party's offer. If the amount of the losing party's offer was

closer to the judgment *or award* than the prevailing party's offer, the prevailing party shall receive interest only on the amount of the settlement offer or the judgment *or award*, whichever is less, and only from the time *of commencement of* the action ~~was commenced~~ or a *demand for arbitration, or the time of a* written ~~settlement demand was made~~ *notice of claim*, or as to special damages from when the special damages were incurred, if later, until the time the settlement offer was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers and counteroffers. For the purposes of clause (3), the amount of settlement offer must be allocated between past and future damages in the same proportion as determined by the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict, *preaward*, or prereport interest shall not be awarded on the following:

(1) judgments, awards, or benefits in workers' compensation cases, but not including third-party actions;

(2) judgments, *awards*, decrees, or orders in dissolution, annulment, or legal separation actions;

(3) judgments *or awards* for future damages;

(4) punitive damages, fines, or other damages that are noncompensatory in nature;

(5) judgments *or awards* not in excess of the amount specified in section 487.30; and

(6) that portion of any verdict, *award*, or report which is founded upon interest, or costs, disbursements, attorney fees, or other similar items added by the court *or arbitrator*.

(c) The interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States treasury bills, calculated on a bank discount basis as provided in this section.

On or before the 20th day of December of each year the state court administrator shall determine the rate from the secondary market yield on one year United States treasury bills for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the federal reserve system. This yield, rounded to the nearest one percent, shall be the annual interest rate during the succeeding calendar year. The state court administrator shall communicate the interest rates to the court administrators and sheriffs for use in computing the interest on verdicts *and shall make the interest rates available to arbitrators*.

When a judgment creditor, or the judgment creditor's attorney or agent, has received a payment after entry of judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process other than execution levy where a proper return has been filed with the court administrator, the judgment creditor, or the judgment creditor's attorney, before applying to the court administrator for an execution shall file with the court administrator an affidavit of partial satisfaction. The affidavit must state the dates and amounts of payments made upon the judgment after the most recent affidavit of partial satisfaction filed, if any; the part of each payment that is applied to taxable disbursements and to accrued interest and to the unpaid principal balance of the judgment; and the accrued, but the unpaid interest owing, if any, after application of each

payment.

(d) This section does not apply to arbitrations between employers and employees under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from awarding interest under chapter 179 or under section 179A.16 for essential employees.

Subd. 2. [ACCRUAL OF INTEREST.] During each calendar year, interest shall accrue on the unpaid balance of the judgment *or award* from the time that it is entered *or made* until it is paid, at the annual rate provided in subdivision 1. The court administrator shall compute and add the accrued interest to the total amount to be collected when the execution is issued and compute the amount of daily interest accruing during the calendar year. The person authorized by statute to make the levy shall compute and add interest from the date that the writ of execution was issued to the date of service of the writ of execution and shall direct the daily interest to be computed and added from the date of service until any money is collected as a result of the levy.

Subd. 3. [DEDUCTIONS.] If an affidavit is filed pursuant to subdivision 4, a judgment creditor, or the judgment creditor's attorney or agent, is entitled to deduct from any payment made upon a judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process, all disbursements that are made taxable by statute or by rule of court, that have been paid or incurred by the judgment creditor or the judgment creditor's attorney, after the entry of judgment. Any remaining portion of the payment must be applied to the interest that has accrued upon the unpaid principal balance of the judgment before any remaining part is applied to reduce the unpaid principal balance of the judgment.

Subd. 4. [AFFIDAVIT.] A judgment creditor, or the judgment creditor's attorney, may file an affidavit specifying the nature and amount of taxable disbursements paid or incurred by the judgment creditor, or the judgment creditor's attorney, after the entry of judgment. An execution issued by the court administrator must include increased disbursements as are included in the affidavit filed with the court administrator.

Sec. 8. Minnesota Statutes 1990, section 572.10, is amended to read:

572.10 [APPOINTMENT OF ARBITRATORS ~~BY COURT~~; *DISCLOSURE REQUIRED.*]

Subdivision 1. [APPOINTMENT BY THE COURT.] If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and a successor has not been duly appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

Subd. 2. [DISCLOSURE BY A NEUTRAL ARBITRATOR.] *(a) A "neutral arbitrator" is the only arbitrator in a case or is one appointed by the court, by the other arbitrators, or by all parties together in agreement. A neutral arbitrator does not include one selected by fewer than all parties even though no other party objects.*

(b) Except for arbitrations under the American Arbitration Association, prior to selection, a neutral arbitrator shall disclose any relationships the person has with any of the parties, their counsel, insurers, or representatives

and any conflict of interest, or potential conflict of interest, the person may have.

(c) In all arbitrations:

(1) after a neutral arbitrator has been selected, any relationship, conflict of interest, or potential conflict of interest that arises must be immediately disclosed by the arbitrator in writing to all parties, and a party may move the district court or the arbitration tribunal for removal of the neutral arbitrator;

(2) the disclosure required under this section is in addition to that which may be required by applicable rules of law, ethics, or procedure; and

(3) if the neutral arbitrator fails to disclose a conflict of interest or material relationship, it is grounds for vacating an award for fraud as provided in section 572.19.

Sec. 9. Minnesota Statutes 1990, section 572.15, is amended to read:

572.15 [AWARD.]

(a) The award shall be in writing and signed by the arbitrators joining in the award. *The award must include interest, except this does not apply to arbitrations between employers and employees under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from awarding interest under chapter 179 or under section 179A.16 for essential employees.* The arbitrators shall deliver a copy to each party personally or by certified mail, or as provided in the agreement.

(b) An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of an objection prior to the delivery of the award to the party.

Sec. 10. Minnesota Statutes 1990, section 572.16, is amended to read:

572.16 [CHANGE OF AWARD BY ARBITRATORS.]

Subdivision 1. [APPLICATION OF PARTY.] *On application of a party, the arbitrator may modify or correct the award:*

(1) upon the grounds stated in section 572.20, subdivision 1;

(2) for the purpose of clarifying the award; or

(3) where the award is based on an error of law.

Subd. 2. [SUBMISSION BY COURT.] ~~On application of a party or,~~ If an application to the court is pending under section 572.18, 572.19, or 572.20, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in ~~clauses (1) and (3) of subdivision 1,~~ section 572.20, *subdivision 1*, or for the purpose of clarifying the award.

Subd. 3. [PROCEDURE.] *For purposes of subdivision 1 or 2*, the application shall be made within 20 days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating that the opposing party must serve objections thereto, if any, within ten days from the notice. The award so modified or corrected is subject to the provisions of sections 572.18, 572.19 and 572.20.

Sec. 11. [REPEALER.]

Minnesota Statutes 1990, section 494.01, subdivisions 3 and 5, are repealed.

Sec. 12. [EFFECTIVE DATE.]

Sections 2 and 3 are effective August 1, 1991, and apply to convictions entered and civil actions commenced on or after that date. Sections 4 to 6 and 11 are effective the day following final enactment. Sections 7 and 9 are effective July 1, 1991, and apply to proceedings pending on or commenced on or after that date, except that the reduction in the time when a party may serve a written acceptance or written counteroffer under section 7, paragraph (b), from 60 to 30 days only applies if the written offer of settlement is made on or after July 1, 1991."

Delete the title and insert:

"A bill for an act relating to civil actions; permitting preliminary screening tests to be admitted as evidence in certain civil actions; providing that evidence of an alcohol or controlled substance violation may be sufficient to impose punitive damages; raising the dollar amount on no-fault claims that must be arbitrated; directing the supreme court to establish an alternative dispute resolution program and adopt rules; modifying community dispute resolution guidelines; providing for interest on arbitration awards and modifying prejudgment interest; requiring arbitrators to disclose conflicts of interest; modifying circumstances under which an arbitrator may change an award; amending Minnesota Statutes 1990, sections 65B.525, subdivision 1; 169.121, subdivision 6, and by adding a subdivision; 494.015; 494.03; 549.09; 572.10; 572.15; and 572.16; proposing coding for new law in Minnesota Statutes, chapter 484; repealing Minnesota Statutes 1990, section 494.01, subdivisions 3 and 5."

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

House Conferees: (Signed) Phil Carruthers, Thomas W. Pugh, Doug Swenson

Senate Conferees: (Signed) William P. Luther, Jane B. Ranum, Chuck Halberg

Mr. Luther moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1142 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. 1142 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 10, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, J.B.	Moe, R.D.	Reichgott
Beckman	DeCramer	Johnston	Mondale	Riveness
Belanger	Finn	Kelly	Morse	Sams
Benson, J.E.	Flynn	Knaak	Neuville	Samuelson
Berglin	Frank	Lessard	Novak	Solon
Bernhagen	Frederickson, D.J.	Luther	Pappas	Spear
Bertram	Frederickson, D.R.	Marty	Piper	Storm
Cohen	Halberg	Mehrkens	Pogemiller	Stumpf
Dahl	Hughes	Merriam	Price	Traub
Davis	Johnson, D.J.	Metzen	Ranum	Vickerman

Those who voted in the negative were:

Benson, D.D.	Gustafson	Johnson, D.E.	McGowan	Pariseau
Chmielewski	Hottinger	Larson	Olson	Renneke

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

House File No. 930 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 930

A bill for an act relating to economic development; changing the name of the Greater Minnesota Corporation; adding duties; providing for a new structure for the board of directors; amending Minnesota Statutes 1990, sections 116O.03, subdivision 2; 116O.04, subdivision 2; 116O.05, subdivision 2; and 116O.09, subdivision 3, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 116O; repealing Minnesota Statutes 1990, sections 116J.970; 116J.971; and 116O.03, subdivision 2a.

May 19, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 930, 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. 930 be further amended as follows:

Page 2, line 5, delete everything after "*(3)*" and insert "*the dean of the graduate school of the University of Minnesota;*"

Page 2, delete lines 6 to 8

Page 2, line 11, after "*governor*" insert ", *at least one of whom must be a person from a public post-secondary system other than the University of Minnesota*"

Page 8, delete line 22 and insert:

"*Sections 1 to 20 are effective July 1, 1991.*"

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

House Conferees: (Signed) Richard Krueger, Dave Bishop, Becky Lourey

Senate Conferees: (Signed) John Bernhagen, Roger D. Moe, Dennis R. Frederickson

Mr. Bernhagen moved that the foregoing recommendations and Conference Committee Report on H.F. No. 930 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. 930 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:

Adkins	DeCramer	Johnston	Moe, R.D.	Riveness
Beckman	Finn	Kelly	Mondale	Sams
Belanger	Flynn	Knaak	Morse	Samuelson
Benson, J.E.	Frank	Kroening	Neuville	Solon
Berg	Frederickson, D.J.	Langseth	Novak	Storm
Berglin	Frederickson, D.R.	Larson	Olson	Stumpf
Bernhagen	Gustafson	Lessard	Pariseau	Traub
Bertram	Halberg	Luther	Piper	Vickerman
Chmielewski	Hottinger	Marty	Pogemiller	Waldorf
Cohen	Hughes	McGowan	Price	
Dahl	Johnson, D.E.	Mehrkens	Ranum	
Davis	Johnson, D.J.	Merriam	Reichgott	
Day	Johnson, J.B.	Metzen	Renneke	

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

House File No. 459 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 459

A bill for an act relating to crimes; providing that a claimant in a forfeiture proceeding does not have to pay a filing fee; providing for appointment of qualified interpreters in forfeiture proceedings; amending Minnesota Statutes 1990, sections 609.5314, subdivisions 2 and 3; 611.31; and 611.32.

May 19, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 459, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment and that H.F. No. 459 be further amended as follows:

Page 3, line 13, after the period insert "*YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. YOU DO NOT HAVE TO PAY THE FILING FEE IF THE PROPERTY IS WORTH LESS THAN $500 AND YOU FILE YOUR CLAIM IN CONCILIATION COURT.*"

Page 3, lines 23 and 24, reinstate the stricken language and before the period insert "*unless the petitioner has the right to sue in forma pauperis under section 563.01*" and delete the new language

Page 3, line 25, delete everything before "*if*"

Page 3, line 26, before the period insert ", *the claimant may file an action in conciliation court for recovery of the seized property without paying the conciliation court filing fee*"

Page 4, line 14, delete "*a*"

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

House Conferees: (Signed) Lee Greenfield, Kathleen Vellenga, Bill Macklin

Senate Conferees: (Signed) Gene Merriam, Allan H. Spear, Thomas M. Neuville

Mr. Merriam moved that the foregoing recommendations and Conference Committee Report on H.F. No. 459 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. 459 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.J.	McGowan	Ranum
Beckman	Day	Johnson, J.B.	Merriam	Renneke
Belanger	Dicklich	Johnston	Metzen	Riveness
Benson, D.D.	Finn	Kelly	Moe, R.D.	Sams
Benson, J.E.	Flynn	Knaak	Mondale	Samuelson
Berg	Frank	Kroening	Morse	Solon
Berglin	Frederickson, D.J.	Laidig	Neuville	Spear
Bernhagen	Frederickson, D.R.	Langseth	Olson	Storm
Bertram	Gustafson	Larson	Pariseau	Stumpf
Chmielewski	Halberg	Lessard	Piper	Traub
Cohen	Hottinger	Luther	Pogemiller	Vickerman
Dahl	Johnson, D.E.	Marty	Price	Waldorf

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

House File No. 143 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 143

A bill for an act relating to appropriations; removing certain directions, limits, and provisos on the use of money for certain projects; amending Laws 1990, chapter 610, article 1, section 9, subdivision 1.

May 20, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 143, 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. 143 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [MINNEAPOLIS AND HASTINGS VETERANS HOMES; LONG-RANGE PLAN; RELOCATION OF RESIDENTS.]

Subdivision 1. [LONG-RANGE PLAN.] *The veterans nursing home board shall develop a long-range plan for the Minneapolis and Hastings campuses. The plan must include a physical plant assessment of all buildings on the two campuses, a proposal for the configuration of nursing and domiciliary beds on each campus or on alternative sites, and a determination of how to best meet the present and future needs of veterans. The report shall*

consider cost estimates and systemwide objectives for serving veterans. The board shall report to the legislature by February 15, 1992. Until the report is submitted to the legislature, the department of health shall not reduce the licensed bed capacity for the Minneapolis veterans home during the biennium ending June 30, 1993.

Subd. 2. [RELOCATION OF RESIDENTS.] *The board shall relocate all residents from building 6 on the Minneapolis campus by October 1, 1991.*

Sec. 2. Laws 1990, chapter 610, article 1, section 9, subdivision 1, is amended to read:

Subdivision 1. To the commissioner of administration for the purposes specified in this section	1,750,000

The appropriations in this section represent 35 percent of the estimated cost of each project.

The Minnesota Veterans Homes Board must apply for the federal money needed to complete these projects. The commissioner of administration shall receive the federal money and make the money available to the Veterans Homes Board to spend for completion of the projects. ~~Any part of the total appropriation in this section may be spent for any of the projects in this section before the federal money for that project is received, provided that the project must not be started until enough federal or other money has been committed to complete it~~ *The appropriation for a project in this section may be transferred to another project in this section to cover up to 100 percent of the cost of the project. If federal money is later received for a project to which state money was transferred in excess of the 35 percent state share, the Veterans Homes Board, in cooperation with the commissioners of administration and finance, shall return the state appropriation to the project from which it was transferred.*

Sec. 3. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to appropriations; removing certain directions, limits, and provisos on the use of money for certain projects; requiring a long-range plan for the Minneapolis and Hastings veterans homes; requiring relocation of residents; amending Laws 1990, chapter 610, article 1, section 9, subdivision 1."

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

House Conferees: (Signed) Lee Greenfield, Mary Murphy, Bob Anderson

Senate Conferees: (Signed) Don Samuelson, Jim Vickerman, Earl W. Renneke

Mr. Samuelson moved that the foregoing recommendations and Conference Committee Report on H.F. No. 143 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. 143 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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, J.B.	Merriam	Renneke
Beckman	DeCramer	Johnston	Metzen	Riveness
Belanger	Dicklich	Kelly	Moe, R.D.	Sams
Benson, D.D.	Finn	Knaak	Morse	Samuelson
Benson, J.E.	Flynn	Kroening	Neuville	Solon
Berg	Frank	Laidig	Novak	Spear
Berglin	Frederickson, D.J.	Langseth	Olson	Storm
Bernhagen	Frederickson, D.R.	Larson	Pariseau	Stumpf
Bertram	Halberg	Lessard	Piper	Traub
Chmielewski	Hottinger	Luther	Pogemiller	Vickerman
Cohen	Hughes	Marty	Price	Waldorf
Dahl	Johnson, D.E.	McGowan	Ranum	
Davis	Johnson, D.J.	Mehrkens	Reichgott	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House refuses to adopt the Conference Committee report on the following Senate File and has voted that the bill be returned to the Senate and to the Conference Committee.

S.F. No. 1535: A bill for an act relating to public administration; appropriating money for education and related purposes to the higher education coordinating board, state board of technical colleges, state board for community colleges, state university board, University of Minnesota, higher education board, and the Mayo medical foundation, with certain conditions; creating the higher education board; merging the state university, community college, and technical college systems; amending Minnesota Statutes 1990, sections 15A.081, subdivision 7b; 135A.03, subdivision 3; 135A.05; 136.11, subdivisions 3, 5, and by adding a subdivision; 136.142, subdivision 1, and by adding a subdivision; 136A.121, subdivision 10, and by adding subdivisions; 136A.233, subdivision 3; 179A.10, subdivision 2; and 298.28, subdivisions 4, 7, 10, 11, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 135A; 136; 136A; 136E; and 298; repealing Minnesota Statutes 1990, section 136A.05, subdivision 2.

Senate File No. 1535 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

Mr. Moe, R.D. moved that S.F. No. 1535 and the Conference Report thereon be laid on the table. The motion prevailed.

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

House File No. 12 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 12

A bill for an act relating to insurance; regulating reinsurance and other insurance practices, investments, guaranty funds, and holding company systems; providing examination authority and reporting requirements; adopting various NAIC model acts and regulations; prescribing penalties; amending Minnesota Statutes 1990, sections 60A.02, by adding a subdivision; 60A.03, subdivision 5; 60A.031; 60A.07, subdivision 5d, and by adding a subdivision; 60A.09, subdivision 5, and by adding a subdivision; 60A.10, subdivision 2a; 60A.11, subdivisions 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, and by adding a subdivision; 60A.12, by adding a subdivision; 60A.13, subdivision 1; 60A.14, subdivision 1; 60A.27; 60B.25; 60B.37, subdivision 2; 60C.02, subdivision 1; 60C.03, subdivisions 6, 8, and by adding a subdivision; 60C.04; 60C.06, subdivision 1; 60C.09, subdivision 1; 60C.13, subdivision 1; 60C.14, subdivision 2; 60E.04, subdivision 7; 61A.25, subdivisions 3, 5, 6, and by adding subdivisions; 61A.28, subdivisions 1, 2, 3, 6, 8, 11, 12, and by adding a subdivision; 61A.281, by adding a subdivision; 61A.283; 61A.29; 61A.31; 62E.14, by adding a subdivision; 61B.12, by adding subdivisions; 62D.044; 62D.045, subdivision 1; 68A.01, subdivision 2; 72A.061, subdivision 1; 79.34, subdivision 1; and 609.902, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 60A, 60D, 62A, and 72A; proposing coding for new law as Minnesota Statutes, chapters 60H, 60I, and 60J; repealing Minnesota Statutes 1990, sections 60A.076; 60A.09, subdivision 4; 60A.12, subdivision 2; 60D.01 to 60D.08; 60D.10 to 60D.13; and 61A.28, subdivisions 4 and 5.

May 20, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 12, 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. 12 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

REINSURANCE

Section 1. Minnesota Statutes 1990, section 60A.02, subdivision 6, is amended to read:

Subd. 6. [FOREIGN.] "Foreign," when used without limitations, shall designate those companies incorporated *or organized* in any other state or country.

Sec. 2. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 19. [ALIEN.] *"Alien" means an insurer domiciled outside of the United States, but conducting business within the United States.*

Sec. 3. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 20. [ASSUME.] *"Assume" means to accept all or part of a ceding company's insurance or reinsurance on a risk or exposure.*

Sec. 4. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 21. [CEDE.] *"Cede" means to pass on to another insurer all or part of the insurance written by an insurer for the purpose of reducing the possible liability of the insurer.*

Sec. 5. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 22. [CESSION.] *"Cession" means the unit of insurance passed to a reinsurer by an insurer which issued a policy to the insured.*

Sec. 6. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 23. [FACULTATIVE REINSURANCE.] *"Facultative reinsurance" means the reinsurance of part or all of the insurance provided by a single policy, with separate negotiation for each cession.*

Sec. 7. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 24. [REINSURER.] *"Reinsurer" means an insurer which assumes the liability of another insurer through reinsurance.*

Sec. 8. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 25. [RETROCESSION.] *"Retrocession" means a transaction in which a reinsurer cedes to another reinsurer all or part of the reinsurance that the reinsurer had previously assumed.*

Sec. 9. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 26. [UNITED STATES BRANCH.] *"United States branch" means the business unit through which business is transacted within the United States by an alien insurer.*

Sec. 10. Minnesota Statutes 1990, section 60A.09, subdivision 5, is amended to read:

Subd. 5. [REINSURANCE.] (1) [DEFINITIONS.] For the purposes of this subdivision, the word "insurer" shall be deemed to include the word "reinsurer," and the words "issue policies of insurance" shall be deemed to include the words "make contracts of reinsurance."

(2) ~~[CONDITIONS AND REQUIREMENTS.] Every insurer authorized to issue policies in this state may reinsure in any other insurer any part or all of any risk or risks assumed by it; but such reinsurance, unless effected (1) with an insurer authorized to issue policies in this state, or (2) with an insurer similarly authorized in another state, territory, or district of the United States, and showing the same standards of solvency and meeting the same statutory and departmental rules which would be required of or prescribed for such insurer were it at the time of such reinsurance authorized in this state to issue policies covering risks of the same kind or kinds as those reinsured, shall not reduce the reserve or other liability to be charged to the ceding insurer; provided, that nothing in this subdivision shall be construed to permit to a ceding insurer any reduction of reserve or liability through reinsurance effected with an unauthorized insurer. In case such reinsurance effected with an insurer so authorized or so recognized for reinsurance in this state, the ceding insurer shall thereafter be charged on the gross premium basis with an unearned premium liability representing the proportion of such obligation retained by it, and the insurer to which the business is ceded shall be charged with an unearned premium liability representing the proportion of such obligation ceded to it, calculated in the same way. The two parties to the transaction shall together carry the same reserve as the ceding insurer would have carried had it retained the risk.~~

~~(3)~~ [REINSURANCE OF MORE THAN ~~75~~ *50* PERCENT OF INSURANCE LIABILITIES.] Any contract of reinsurance whereby an insurer cedes more than ~~75~~ *50* percent of the total of its outstanding insurance liabilities shall, if such insurer is incorporated by or, if an insurer of a foreign country, has its principal office in this state, be subject to the approval, in writing, by the commissioner.

~~(4)~~ *(3)* ACTUAL UNEARNED PREMIUM RESERVE TO BE CARRIED AS LIABILITY.] Nothing in this subdivision shall be deemed to permit the ceding insurer to receive, through the cession of the whole of any risk or risks, any advantage in respect to its unearned premium reserve that would reduce the same below the actual amount thereof.

~~(5)~~ *(4)* (AIRCRAFT RISKS.] An insurer authorized to transact the business specified in section 60A.06, subdivision 1, clauses (4) and (5)(a), may through reinsurance assume any risk arising from, related to, or incident to the manufacture, ownership, or operation of aircraft and may retrocede any portion thereof; provided, however, that no insurer may undertake any such reinsurance business without the prior approval of the commissioner and such reinsurance business shall be subject to any regulations which may be promulgated by the commissioner. Any such reinsurance business may be provided through pooling arrangements with other insurers for purposes of spreading the insurance risk.

Sec. 11. [60A.091] [QUALIFIED UNITED STATES FINANCIAL INSTITUTION.]

For purposes of sections 12 and 13, "qualified United States financial institution" means an institution that:

(1) is organized or, in the case of a United States office of a foreign

banking organization, licensed, under the laws of the United States or any state;

(2) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(3) is a member of the Federal Deposit Insurance Corporation, or the National Credit Union Administration.

Sec. 12. [60A.092] [REINSURANCE CREDIT ALLOWED A DOMESTIC CEDING INSURER.]

Subdivision 1. [CREDIT ALLOWED.] *Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurance is ceded to an assuming insurer which meets the requirements specified under this section.*

Subd. 2. [LICENSED ASSUMING INSURER.] *Reinsurance is ceded to an assuming insurer if the assuming insurer is licensed to transact insurance or reinsurance in this state.*

Subd. 3. [ACCREDITED ASSUMING INSURER.] *(a) Reinsurance is ceded to an assuming insurer if the assuming insurer is accredited as a reinsurer in this state. An accredited reinsurer is one which:*

(1) files with the commissioner evidence of its submission to this state's jurisdiction;

(2) submits to this state's authority to examine its books and records;

(3) is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(4) files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(5)(i) maintains a surplus as regards policyholders in an amount not less than $20,000,000 and whose accreditation has not been denied by the commissioner within 90 days of its submission, or maintains a surplus as regards policyholders in an amount less than $20,000,000 and whose accreditation has been approved by the commissioner; or

(ii) maintains a surplus as regards policyholders in an amount not less than $50,000,000 for long-tail casualty reinsurers. For purposes of this section, "long-tail casualty reinsurance" means insurance for medical or legal malpractice, pollution liability, directors and officers liability, and products liability. The commissioner may determine that an assuming insurer that maintains a surplus as regards policyholders in an amount not less than $20,000,000 is accredited as a reinsurer if there is no detriment to policyholders and the interest of the public, and to not allow accrediting would be a hardship or detriment to the reinsurer. The commissioner shall report to the legislature on any determination to allow accrediting to a long-term casualty reinsurer maintaining a surplus in an amount less than $50,000,000.

Clause (5) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company

system.

(b) No credit shall be allowed or continue to be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the commissioner after receipt of a cease and desist order pursuant to section 45.027, subdivision 5.

Subd. 4. [SIMILAR STATE STANDARDS.] *Reinsurance is ceded to an assuming insurer if the assuming insurer is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this chapter and the assuming insurer or United States branch of an alien assuming insurer (1) maintains a surplus as regards policyholders in an amount not less than $20,000,000 or maintains a surplus as regards policyholders in an amount not less than $50,000,000 for long-tail casualty reinsurers as provided under subdivision 3, paragraph (a), clause (5), and (2) submits to the authority of this state to examine its books and records.*

Clause (1) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

Subd. 5. [TRUST FUND MAINTAINED.] *The reinsurance is ceded to an assuming insurer if the assuming insurer maintains a trust fund in a qualified United States financial institution for the payment of the valid claims, as determined by the commissioner for the purpose of determining the sufficiency of the trust fund, of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund.*

Subd. 6. [SINGLE ASSUMING INSURER; TRUST FUND REQUIREMENTS.] *In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than $20,000,000 or maintain a surplus as regards policyholders in an amount not less than $50,000,000 for long-tail casualty reinsurers as provided under subdivision 3, paragraph (a), clause (5).*

Subd. 7. [INDIVIDUAL UNINCORPORATED UNDERWRITERS GROUP; TRUST FUND REQUIREMENTS.] *In the case of a group of individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States. The group shall maintain a trusteed surplus of which $100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall make available to the commissioner an annual certification by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter.*

Subd. 8. [INCORPORATED INSURERS GROUP; TRUST FUND REQUIREMENTS.] *A group of incorporated insurers under common administration must:*

(1) comply with the filing requirements specified in subdivision 7;

(2) be under the supervision of the Department of Trade and Industry of the United Kingdom;

(3) submit to this state's authority to examine its books and records;

(4) bear the expense of the examination;

(5) maintain an aggregate policyholders' surplus of $10,000,000,000;

(6) maintain the trust in an amount equal to the group's several liabilities attributable to business written in the United States; and

(7) maintain a joint trusteed surplus of which $100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group.

Each member of the group shall make available to the commissioner an annual certification by the member's domiciliary regulator and its independent accountant of the member's solvency.

Subd. 9. |TRUST FUND GENERAL REQUIREMENTS.| *(a) The trust must be established in a form approved by the commissioner of commerce. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.*

(b) No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

Subd. 10. |OTHER JURISDICTIONS.| *The reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision 2, 3, 4, or 5, but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.*

Subd. 11. |REINSURANCE AGREEMENT REQUIREMENTS.| *(a) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit authorized under subdivisions 4 and 5 shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:*

(1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, comply with all requirements necessary to give the court jurisdiction, and abide by the final decision of the court or of any appellate court in the event of an appeal; and

(2) to designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

(b) Paragraph (a) is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if an obligation to do so is created in the agreement.

Sec. 13. [60A.093] [REDUCTION FROM LIABILITY FOR REINSURANCE CEDED BY A DOMESTIC INSURER TO AN ASSUMING INSURER.]

Subdivision 1. [REDUCTION ALLOWED.] *A reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 12 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, as security for the payment of obligations under the reinsurance contract with the assuming insurer. Such security must be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution. The funds held as security may be in any form of security acceptable to the commissioner or in the form of:*

(1) cash;

(2) securities listed by the securities valuation office of the National Association of Insurance Commissioners and qualifying as admitted assets and, with the exception of United States treasury notes, readily marketable over a national exchange or NASDAQ with maturity dates within one year; or

(3) clean, irrevocable, unconditional letters of credit issued or confirmed by a qualified United States financial institution no later than December 31 in respect of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. The financial institution must meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions as determined by either the commissioner or the securities valuation office of the National Association of Insurance Commissioners, and the financial institution's letters of credit must be acceptable to the commissioner.

Subd. 2. [LETTERS OF CREDIT CONTINUED ACCEPTANCE.] *Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation must, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever comes first, unless the issuing or confirming institution fails the following standards:*

(1) fails to maintain a minimum ratio of three percent tier 1 capital to total risk adjusted assets, leverage ratio, as required by the Federal Reserve System as disclosed by the bank in any call report required by state or federal regulatory authority and available to the ceding insurer; or

(2) has its long-term deposit rating or long-term debt rating lowered to a rating below Aa2 as found in the current monthly publication of Moody's credit opinions or its equivalent.

The letter of credit of an institution failing the standards of clause (1) or this clause continues to be acceptable for no more than 30 days.

Sec. 14. [60A.094] [RULES.]

The commissioner may adopt rules implementing the provisions of sections 11 to 13.

Sec. 15. [60A.095] [REINSURANCE AGREEMENTS AFFECTED.]

Sections 11 to 13 apply to all cessions after the effective date of this act under reinsurance agreements that have had an inception, anniversary, or renewal date not less than six months after the effective date of this article.

Sec. 16. [REPEALER.]

Minnesota Statutes 1990, section 60A.09, subdivision 4, is repealed.

ARTICLE 2

ADMINISTRATIVE SUPERVISION MODEL ACT

Section 1. [60G.01] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] *The definitions in this section apply to this chapter.*

Subd. 2. [COMMISSIONER.] *"Commissioner" means the commissioner of commerce, except that "commissioner" means the commissioner of health for administrative supervision health maintenance organizations.*

Subd. 3. [CONSENT.] *"Consent" means agreement to administrative supervision by the insurer.*

Subd. 4. [DEPARTMENT.] *"Department" means the department of commerce, except that "department" means the department of health for administrative supervision of health maintenance organizations.*

Subd. 5. [INSURER.] *"Insurer" means and includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance or of annuities as limited to:*

(1) any insurer who is doing an insurer business, or has transacted insurance in this state, and against whom claims arising from that transaction may exist now or in the future;

(2) any fraternal benefit society which is subject to chapter 64B;

(3) nonprofit health service plan corporations subject to chapter 62C;

(4) cooperative life and casualty companies subject to sections 61A.39 to 61A.52; and

(5) health maintenance organizations regulated under chapter 62D.

Sec. 2. [60G.02] [NOTICE TO COMPLY WITH WRITTEN REQUIREMENTS OF COMMISSIONER; NONCOMPLIANCE; ADMINISTRATIVE SUPERVISION.]

Subdivision 1. [ADMINISTRATIVE SUPERVISION.] *An insurer may be subject to administrative supervision by the commissioner if upon examination or at any other time it appears in the commissioner's discretion that:*

(1) the insurer's condition renders the continuance of its business hazardous to the public or to its insureds;

(2) the insurer has refused to permit examination of its books, papers, accounts, records, or affairs by the commissioner, the commissioner's deputies, employees, or duly commissioned examiners;

(3) a domestic insurer has unlawfully removed from this state books, papers, accounts, or records necessary for an examination of the insurer;

(4) the insurer has failed to promptly comply with the applicable financial reporting statutes or rules and departmental requests relating thereto;

(5) the insurer has neglected or refused to observe an order of the commissioner to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock, or surplus;

(6) the insurer is continuing to transact insurance or write business after its license has been revoked or suspended by the commissioner;

(7) the insurer, by contract or otherwise, has unlawfully or has in violation of an order of the commissioner or has without first having obtained written approval of the commissioner if approval is required by law:

(i) totally reinsured its entire outstanding business, or

(ii) merged or consolidated substantially its entire property or business with another insurer;

(8) the insurer engaged in any transaction in which it is not authorized to engage under the laws of this state;

(9) the insurer refused to comply with a lawful order of the commissioner;

(10) the insurer has failed to comply with the applicable provisions of the laws of this state;

(11) the business of the insurer is being conducted fraudulently; or

(12) the insurer gives its consent.

Subd. 2. [NOTIFICATION.] *If the commissioner determines that at least one of the conditions specified in subdivision 1 exists and places the insurer under supervision, the commissioner may:*

(1) notify the insurer of the commissioner's determination;

(2) furnish to the insurer a written list of the requirements to abate this determination; and

(3) notify the insurer that it is under the supervision of the commissioner and that the commissioner is applying and enforcing the provisions of this chapter. If placed under administrative supervision, an insurer may request review as provided under chapter 14.

Subd. 3. [REQUIREMENT COMPLIANCE.] *If placed under administrative supervision, the insurer shall have 60 days, or another period of time as designated by the commissioner, to comply with the requirements of the commissioner as provided under this chapter. If it is determined after notice and hearing that the insurer has not complied with the requirements of the commissioner at the end of the supervision period, the commissioner may extend the period. If the insurer complies with the requirements of the commissioner, the commissioner shall release the insurer from supervision.*

Sec. 3. [60G.03] [CONFIDENTIALITY OF CERTAIN PROCEEDINGS AND RECORDS.]

Subdivision 1. [CONFIDENTIALITY.] *Notwithstanding any other provision of law and except as provided in this section, proceedings, hearings, notices, correspondence, reports, records, and other information in the possession of the commissioner or the department relating to the supervision of any insurer are confidential.*

Subd. 2. [ACCESS.] *The personnel of the department shall have access to these proceedings, hearings, notices, correspondence, reports, records, or information as permitted by the commissioner.*

Subd. 3. [OPEN HEARINGS; DISCLOSURE.] *The commissioner may open the proceedings or hearings or disclose the notices, correspondence, reports, records, or information to a department, agency, or instrumentality of this or another state or the United States if the commissioner determines that the disclosure is necessary or proper for the enforcement of the laws of this or another state or the United States.*

Subd. 4. [PUBLIC DISCLOSURE.] *The commissioner may open the proceedings or hearings or make public the notices, correspondence, reports, records, or other information if the commissioner determines that it is in the best interest of the public or in the best interest of the insurer, its insureds, creditors, or the general public.*

Subd. 5. [EXEMPTION.] *This section does not apply to hearings, notices, correspondence, reports, records, or other information obtained upon the appointment of a receiver for the insurer by a court of competent jurisdiction.*

Sec. 4. [60G.04] [PROHIBITED ACTS DURING PERIOD OF SUPERVISION.]

During the period of supervision, the commissioner shall serve as the administrative supervisor. The commissioner may require that the insurer shall not do any of the following things during the period of supervision without the prior approval of the commissioner:

(1) dispose of, convey, or encumber its assets or its business in force;

(2) withdraw funds from its bank accounts;

(3) lend its funds;

(4) invest its funds;

(5) transfer its property;

(6) incur debt, obligation, or liability;

(7) merge or consolidate with another company;

(8) approve new premiums or renew policies;

(9) enter into a new reinsurance contract or treaty;

(10) terminate, surrender, forfeit, convert, or lapse an insurance policy, certificate, or contract, except for nonpayment of premiums due;

(11) release, pay, or refund premium deposits, accrued cash or loan values, unearned premiums, or other reserves on an insurance policy, certificate, or contract;

(12) make a material change in management; or

(13) increase salaries and benefits of officers or directors or make preferential payment of bonuses, dividends, or other payments determined preferential by the commissioner.

Sec. 5. [60G.05] [REVIEW AND STAY OF ACTION.]

During the period of supervision, the insurer may contest an action taken or proposed to be taken by the commissioner as provided under chapter 14. The insurer must show that the action being complained of is detrimental to the condition of the insurer.

Sec. 6. [60G.06] [ADMINISTRATIVE ELECTION OF PROCEEDINGS.]

Nothing contained in this chapter precludes the commissioner from initiating judicial proceedings to place an insurer in rehabilitation or liquidation proceedings under the laws of this state, regardless of whether the commissioner has previously initiated administrative supervision proceedings under this chapter against the insurer.

Sec. 7. [60G.07] [RULES.]

The commissioner may adopt rules necessary for the implementation of this chapter.

Sec. 8. [60G.08] [IMMUNITY.]

There shall be no liability on the part of, and no cause of action may be brought against the commissioner or the department or its employees or agents for any action taken by them in the performance of their powers and duties under this chapter.

Sec. 9. [60G.09] [APPLICATION.]

Sections 1 to 8 apply to domestic insurers and any other insurer doing business in this state whose state of domicile has requested the commissioner of commerce to apply sections 1 to 8.

ARTICLE 3

STANDARDS AND COMMISSIONER'S AUTHORITY

FOR COMPANIES CONSIDERED TO BE IN

HAZARDOUS FINANCIAL CONDITION

Section 1. [60G.20] [STANDARDS.]

Subdivision 1. [HAZARDOUS CONSIDERATION.] *The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer, whether domestic, foreign, or alien, transacting an insurance business in this state may be considered hazardous to the policyholders, creditors or the general public. The commissioner may consider:*

(1) an adverse finding reported in financial condition and market conduct examination reports;

(2) the National Association of Insurance Commissioners insurance regulatory information system and its related reports;

(3) the ratios of commission expense, general insurance expense, policy benefits, and reserve increases as to annual premium and net investment income which may lead to an impairment of capital and surplus;

(4) whether the insurer's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to assure the company's ability to meet its outstanding obligations as they mature;

(5) the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

(6) whether the insurer's operating loss in the last 12-month period or any shorter period of time, including, but not limited to, net capital gain or loss, change in nonadmitted assets, and cash dividends paid to shareholders, is greater than 50 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

(7) whether any affiliate, subsidiary, or reinsurer is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligations;

(8) contingent liabilities, pledges, or guaranties which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer;

(9) whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;

(10) the age and collectability of receivables;

(11) whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, fails to possess and demonstrate the competence, fitness, and reputation necessary to serve the insurer in the position;

(12) whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;

(13) whether management of an insurer either has filed a false or misleading sworn financial statement, or has released a false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;

(14) whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner; or

(15) whether the company has experienced or will experience in the foreseeable future cash flow or liquidity problems.

Subd. 2. [COMMISSIONER'S AUTHORITY.] *For the purposes of making a determination of an insurer's financial condition under subdivision 1, the commissioner may:*

(1) disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired, or otherwise subject to a delinquency proceeding;

(2) make appropriate adjustments to asset values attributable to investments in or transactions with the corporation's parents, subsidiaries, or affiliates;

(3) refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

(4) increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

Sec. 2. [60G.21] [COMMISSIONER'S ORDER.]

Subdivision 1. [AUTHORIZATION.] *If the commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or the general public, then the commissioner may, upon the commissioner's determination, issue an order requiring the insurer to:*

(1) reduce the total amount of present and potential liability for policy benefits by reinsurance;

(2) reduce, suspend, or limit the volume of business being accepted or renewed;

(3) reduce general insurance and commission expenses by methods specified by the commissioner;

(4) increase the insurer's capital and surplus;

(5) suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;

(6) file reports in a form acceptable to the commissioner concerning the market value of an insurer's assets;

(7) limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner considers necessary;

(8) document the adequacy of premium rates in relation to the risks insured; or

(9) file, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or in the format adopted by the commissioner.

Subd. 2. [REVIEW.] *An insurer subject to an order under subdivision 1 may request, within 30 days of issuance of the order, a hearing as provided under chapter 14 to review that order. All hearings conducted under this section are closed and private.*

Sec. 3. [60G.22] [JUDICIAL REVIEW.]

Any order or decision of the commissioner is subject to review as provided under chapter 14 at the request of a party whose interests are substantially affected by the order or decision.

ARTICLE 4

MANAGING GENERAL AGENTS ACT

Section 1. [60H.01] [SHORT TITLE.]

This chapter may be cited as the managing general agents act.

Sec. 2. [60H.02] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] *The terms defined in this section apply to this chapter.*

Subd. 2. [ACTUARY.] *"Actuary" means a person who is a member in good standing of the American Academy of Actuaries.*

Subd. 3. [INSURER.] *"Insurer" means a person, firm, association, or corporation duly licensed in this state as an insurance company.*

Subd. 4. [MANAGING GENERAL AGENT.] *(a) "Managing general agent" means a person, firm, association or corporation who: (1) negotiates and binds ceding reinsurance contracts on behalf of an insurer, or (2) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and acts as an agent for the insurer whether known as a managing general agent, manager, or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year, together with one or more of the following: (i) adjusts or pays claims in excess of an amount determined by the commissioner, or (ii) negotiates reinsurance on behalf of the insurer.*

(b) Notwithstanding paragraph (a), the following persons shall not be considered as managing general agents for the purposes of this chapter:

(1) an employee of the insurer;

(2) a United States manager of the United States branch of an alien insurer;

(3) an underwriting manager who, pursuant to contract, manages all of the insurance or reinsurance operation of the insurer, is under common control with the insurer, subject to the Insurance Holding Company Act, chapter 60D, and whose compensation is not based on the volume of premiums written; or

(4) an attorney in fact authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange under powers of attorney.

Subd. 5. [UNDERWRITE.] *"Underwrite" means the authority to accept or reject risk on behalf of the insurer.*

Sec. 3. [60H.03] [LICENSURE.]

Subdivision 1. [RISKS LOCATED IN STATE.] *A managing general agent representing an insurer licensed in this state with respect to risks located in this state must be licensed in this state.*

Subd. 2. [RISKS LOCATED OUTSIDE OF STATE.] *A managing general agent representing an insurer domiciled in this state with respect to risks located outside this state must be licensed in this state as a managing general agent. The license may be a nonresident license.*

Subd. 3. [REQUIREMENTS.] *The commissioner may require a bond in an amount acceptable for the protection of the insurer. The commissioner may require the managing general agent to maintain an errors and omissions policy.*

Sec. 4. [60H.04] [REQUIRED CONTRACT PROVISIONS.]

No person, firm, association, or corporation acting in the capacity of a managing general agent shall place business with an insurer unless there is in force a written contract between the parties. The contract must specify the responsibilities of each party and, where both parties share responsibility for a particular function, must specify the division of the responsibilities. The contract must include the following minimum provisions:

(a) The insurer may terminate the contract for cause upon written notice to the managing general agent. The insurer may suspend the underwriting authority of the managing general agent during the pendency of any dispute regarding the cause for termination.

(b) The managing general agent must give accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

(c) All funds collected for the account of an insurer must be held by the managing general agent in the name of the insurer in a fiduciary capacity in a bank which is a member of the Federal Reserve System. This account must be used for all payments on behalf of the insurer. The managing general agent may retain no more than three months' estimated claims payments and allocated loss adjustment expenses. A managing general agent shall deposit only trust funds in a trust account and shall not commingle personal funds or other funds in a trust account, except that a managing general agent may deposit and maintain a sum in a trust account from personal funds, which sum shall be specifically identified and used to pay service charges or satisfy the minimum balance requirements relating to the trust account.

(d) Separate records of business written by the managing general agent must be maintained. The insurer shall have access to and the right to copy all accounts and records related to its business in a form usable by the insurer, and the commissioner shall have access to all books, bank accounts, and records of the managing general agent in a form usable to the commissioner. The records shall be retained on a basis acceptable to the commissioner.

(e) The contract may not be assigned in whole or part by the managing general agent.

(f) Appropriate underwriting guidelines, including:

(1) the maximum annual premium volume;

(2) the basis of the rates to be charged;

(3) the types of risks which may be written;

(4) maximum limits of liability;

(5) applicable exclusions;

(6) territorial limitations;

(7) policy cancellation provisions; and

(8) the maximum policy period.

The insurer shall have the right to cancel or nonrenew any policy of insurance subject to the applicable laws and regulations concerning the cancellation and nonrenewal of insurance policies.

(g) If the contract permits the managing general agent to settle claims

on behalf of the insurer:

(1) All claims must be reported to the insurer in a timely manner.

(2) A copy of the claim file must be sent to the insurer at its request or as soon as it becomes known that the claim:

(i) has the potential to exceed an amount determined by the commissioner or exceeds the limit set by the insurer, whichever is less;

(ii) involves a coverage dispute;

(iii) may exceed the managing general agent's claim settlement authority;

(iv) is open for more than six months; or

(v) is closed by payment of an amount set by the commissioner or an amount set by the insurer, whichever is less.

(3) All claim files are the joint property of the insurer and managing general agent. However, upon an order of liquidation of the insurer the files become the sole property of the insurer or its estate. The managing general agent shall have reasonable access to and the right to copy the files on a timely basis.

(4) Any settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

(h) Where electronic claims files are in existence, the contract must address the timely transmission of the data.

(i) If the contract provides for a sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments, or in any other manner, interim profits will not be paid to the managing general agent until one year after they are earned for property insurance business and five years after they are earned on casualty business and not until the profits have been verified as provided under section 5.

(j) The managing general agent shall not:

(1) bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which the automatic agreements are in effect, the coverage and amounts or percentages that may be reinsured, and commission schedules;

(2) commit the insurer to participate in insurance or reinsurance syndicates;

(3) appoint an agent without assuring that the agent is lawfully licensed to transact the type of insurance for which that person is appointed;

(4) without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed one percent of the insurer's policyholder's surplus as of December 31 of the last completed calendar year;

(5) collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer, without prior approval of the insurer. If prior approval is given, a report must be promptly forwarded to the insurer;

(6) permit its subagent to serve on the insurer's board of directors;

(7) jointly employ an individual who is employed with the insurer; or

(8) appoint a submanaging general agent.

(k) The contract term may not be for an unreasonable period of time, but in no circumstance may the term exceed five years.

(l) The insurer may not authorize the managing general agent to establish the amount of the loss reserves.

Sec. 5. [60H.05] [DUTIES OF INSURERS.]

Subdivision 1. [INDEPENDENT FINANCIAL EXAMINATION.] *The insurer shall have on file an independent financial examination, in a form acceptable to the commissioner, of each managing general agent with which it has done business.*

Subd. 2. [ON-SITE REVIEW.] *The insurer shall periodically, at least semiannually, conduct an on-site review of the underwriting and claims processing operation of the managing general agent and maintain on its records the results of that review.*

Subd. 3. [OFFICER OF INSURER.] *Except as authorized under section 4, paragraph (j), clause (1), binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer not affiliated with the managing general agent.*

Subd. 4. [WRITTEN NOTIFICATION.] *Within 30 days of entering into or termination of a contract with a managing general agent, the insurer shall provide written notification of the appointment or termination to the commissioner. Notices of appointment of a managing general agent must include a statement of duties which the managing general agent is expected to perform on behalf of the insurer, the lines of insurance for which the managing general agent is to be authorized to act, and any other information the commissioner may request.*

Subd. 5. [REVIEW OF BOOKS AND RECORDS.] *An insurer shall review its books and records each quarter to determine if a licensed agent has become a managing general agent as defined in section 2, subdivision 4. If the insurer determines that an agent has become a managing general agent, the insurer shall promptly notify the agent and the commissioner of the determination and the insurer and agent must fully comply with this chapter within 30 days.*

Subd. 6. [PROHIBITED APPOINTMENTS.] *An insurer shall not appoint to its board of directors an officer, director, employee, subagent, or controlling shareholder of its managing general agents. This section does not apply to relationships governed by the Insurance Holding Company Act, chapter 60D, or, if applicable, the Producer Controlled Insurer Act.*

Sec. 6. [60H.06] [EXAMINATION AUTHORITY.]

A managing general agent may be examined as if it were the insurer.

Sec. 7. [60H.07] [ACTS OF MANAGING GENERAL AGENT.]

The acts of the managing general agent are considered to be the acts of

the insurer on whose behalf it is acting.

Sec. 8. [60H.08] [PENALTIES AND LIABILITIES.]

Subdivision 1. [COMMISSIONER'S AUTHORITY.] *If the commissioner finds pursuant to the procedural requirements of section 45.027 that a person has violated a provision of this chapter, the commissioner may take any action authorized under that section.*

Subd. 2. [ADDITIONAL PENALTY.] *In addition to authority granted by section 45.027 for each separate violation, the commissioner may impose a penalty of up to $10,000 for each day the violation continues and order the managing general agent to reimburse the insurer, rehabilitator, or liquidator of the insurer for any losses incurred by the insurer caused by a violation of this chapter committed by the managing general agent.*

Subd. 3. [JUDICIAL REVIEW.] *The decision, determination, or order of the commissioner under subdivision 1 is subject to judicial review as provided under chapter 14.*

Subd. 4. [IMPOSITION OF OTHER PENALTIES.] *Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for by law.*

Subd. 5. [POLICYHOLDER RIGHTS.] *Nothing contained in this chapter is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, and auditors.*

Sec. 9. [60H.09] [RULES.]

The commissioner of commerce may adopt rules for the implementation and administration of this chapter.

Sec. 10. [REPEALER.]

Minnesota Statutes 1990, section 60A.076, is repealed.

Sec. 11. [EFFECTIVE DATE.]

This article is effective August 1, 1991. No insurer may continue to utilize the services of a managing general agent on and after that date unless the utilization is in compliance with this chapter.

ARTICLE 5

LIFE AND HEALTH GUARANTY ASSOCIATION

Section 1. Minnesota Statutes 1990, section 60B.25, is amended to read:

60B.25 [POWERS OF LIQUIDATOR.]

The liquidator shall report to the court monthly, or at other intervals specified by the court, on the progress of the liquidation in whatever detail the court orders. The liquidator shall coordinate *activities with those of each guaranty association* having an interest in the liquidation and shall submit a report detailing how coordination will be achieved to the court for its approval within 30 days following appointment, or within the time which the court, in its discretion, may establish. Subject to the court's control, the liquidator may:

(1) Appoint a special deputy to act under sections 60B.01 to 60B.61 and determine the deputy's compensation. The special deputy shall have all powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

(2) Appoint or engage employees and agents, actuaries, accountants, appraisers, consultants, and other personnel deemed necessary to assist in the liquidation without regard to chapter 14.

(3) Fix the compensation of persons under clause (2), subject to the control of the court.

(4) Defray all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the liquidator may advance the costs so incurred out of the appropriation made to the department of commerce. Any amounts so paid shall be deemed expense of administration and shall be repaid for the credit of the department of commerce out of the first available money of the insurer.

(5) Hold hearings, subpoena witnesses and compel their attendance, administer oaths, examine any person under oath and compel any person to subscribe to testimony after it has been correctly reduced to writing, and in connection therewith require the production of any books, papers, records, or other documents which the liquidator deems relevant to the inquiry.

(6) Collect all debts and money due and claims belonging to the insurer, wherever located, and for this purpose institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against such debts; do such other acts as are necessary or expedient to collect, conserve, or protect its assets or property, including sell, compound, compromise, or assign for purposes of collection, upon such terms and conditions as the liquidator deems best, any bad or doubtful debts; and pursue any creditor's remedies available to enforce claims.

(7) Conduct public and private sales of the property of the insurer in a manner prescribed by the court.

(8) Use assets of the estate to transfer coverage obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 60B.44.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable, except that no transaction involving property the market value of which exceeds $10,000 shall be concluded without express permission of the court. The liquidator may also execute, acknowledge, and deliver any deeds, assignments, releases, and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation. In cases where real property sold by the liquidator is located other than in the county where the liquidation is pending, the liquidator shall cause to be filed with the county recorder for the county in which the property is located a certified copy of the order of appointment.

(10) Borrow money on the security of the insurer's assets or without security and execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation.

(11) Enter into such contracts as are necessary to carry out the order to liquidate, and affirm or disallow any contracts to which the insurer is a party.

(12) Continue to prosecute and institute in the name of the insurer or in

the liquidator's own name any suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims the liquidator deems unprofitable to pursue further. If the insurer is dissolved under section 60B.23, the liquidator may apply to any court in this state or elsewhere for leave to be substituted for the insurer as plaintiff.

(13) Prosecute any action which may exist in behalf of the creditors, members, policyholders, or shareholders of the insurer against any officer of the insurer, or any other person.

(14) Remove any records and property of the insurer to the offices of the commissioner or to such other place as is convenient for the purposes of efficient and orderly execution of the liquidation.

(15) Deposit in one or more banks in this state such sums as are required for meeting current administration expenses and dividend distributions.

(16) Deposit with the state board of investment for investment pursuant to section 11A.24, all sums not currently needed, unless the court orders otherwise.

(17) File any necessary documents for record in the office of any county recorder or record office in this state or elsewhere where property of the insurer is located.

(18) Assert all defenses available to the insurer as against third persons, including statutes of limitations, statutes of frauds, and the defense of usury. A waiver of any defense by the insurer after a petition for liquidation has been filed shall not bind the liquidator.

(19) Exercise and enforce all the rights, remedies, and powers of any creditor, shareholder, policyholder, or member, including any power to avoid any transfer or lien that may be given by law and that is not included within sections 60B.30 and 60B.32.

(20) Intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation, or dissolution of an insurer doing business in both states.

(22) Exercise all powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with sections 60B.01 to 60B.61.

(23) The enumeration in this section of the powers and authority of the liquidator is not a limitation, nor does it exclude the right to do such other acts not herein specifically enumerated or otherwise provided for as are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation.

(24) The power of the liquidator of a health maintenance organization includes the power to transfer coverage obligations to a solvent and voluntary health maintenance organization, insurer, or nonprofit health service plan, and to assign provider contracts of the insolvent health maintenance organization to an assuming health maintenance organization, insurer, or nonprofit health service plan permitted to enter into such agreements. The liquidator is not required to meet the notice requirements of section 62D.121. Transferees of coverage obligations or provider contracts shall have no liability to creditors or obligees of the health maintenance organization

except those liabilities expressly assumed.

Sec. 2. Minnesota Statutes 1990, section 61B.06, is amended by adding a subdivision to read:

Subd. 8a. [ADJUSTMENT OF LIABILITY LIMITS.] *To the extent there are any limits for particular policies covered under this act, the dollar amounts stated in subdivision 8 shall be adjusted for inflation based upon the implicit price deflator for the gross national product compiled by the United States Department of Commerce and hereafter referred to as the index. The dollar amounts stated in subdivision 8 are based upon the value of the index for January 1990, which is the reference base index for purposes of this subdivision. The dollar amounts in subdivision 8 shall change on October 1 of each year after 1992, based upon the percentage difference between the index for January of the preceding year and the reference base index, calculated to the nearest whole percentage point. The commissioner shall announce and publish, on or before April 30 of each year, the changes in the dollar amounts required by this clause to take effect on October 1 of that year.*

Sec. 3. Minnesota Statutes 1990, section 61B.06, subdivision 9, is amended to read:

Subd. 9. [POWERS OF ASSOCIATION.] *(a)* The association may:

~~(a)~~ *(1)* enter into contracts necessary or proper to carry out the provisions of sections 61B.01 to 61B.16 and their purpose;

~~(b)~~ *(2)* sue or be sued, including the taking of legal actions necessary or proper for recovery of unpaid assessments under section 61B.07;

~~(c)~~ *(3)* borrow money to effect the purposes of sections 61B.01 to 61B.16. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

~~(d)~~ *(4)* employ or retain persons necessary to handle the financial transactions of the association, and perform other necessary or proper functions;

~~(e)~~ *(5)* negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association;

~~(f)~~ *(6)* take legal action as may be necessary to avoid payment of improper claims; *and*

~~(g)~~ *(7)* exercise, for the purposes of sections 61B.01 to 61B.16 and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of an impaired insurer.

(b) The association must borrow any money necessary to effect the purposes of sections 61B.01 to 61B.16. Any notes or other evidence of indebtedness of the association not in default are legal investments for domestic insurers and may be carried as admitted assets.

Sec. 4. Minnesota Statutes 1990, section 61B.12, is amended by adding a subdivision to read:

Subd. 6. [NOTICE CONCERNING LIMITATIONS AND EXCLUSIONS.] *On and after January 1, 1992, 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 separate notice in the form the commissioner from time to time may approve for use in this state relating to coverage provided by the Minnesota Life and Health Insurance Guaranty Association. The notice must be signed by the applicant and kept on file by the person offering the policy or contract for sale. A copy of the signed notice must be given to the applicant.

Sec. 5. Minnesota Statutes 1990, section 61B.12, is amended by adding a subdivision to read:

Subd. 7. [EFFECT OF NOTICE.] *The distribution, delivery, or contents or interpretation of the notice described in subdivision 6 shall not mean that either the policy or contract, or the owner or holder thereof, would be covered in the event of the impairment of a member insurer if coverage is not otherwise provided by this chapter. Failure to receive the notice does not give the policyholder, contract holder, certificate holder, insured, owner, beneficiaries, assignees, or payees any greater rights than those provided by this chapter.*

Sec. 6. [EFFECTIVE DATE.]

Sections 2 and 3 are effective August 1, 1992.

ARTICLE 6

MINNESOTA INSURANCE GUARANTY ASSOCIATION AMENDMENTS

Section 1. Minnesota Statutes 1990, section 60B.37, subdivision 2, is amended to read:

Subd. 2. [EXCUSED LATE FILINGS.] For a good cause shown, the liquidator shall recommend and the court shall permit a claimant making a late filing to share in dividends, whether past or future, as if the claimant were not late, to the extent that any such payment will not prejudice the orderly administration of the liquidation. Good cause includes but is not limited to the following:

(a) That existence of a claim was not known to the claimant and that the claimant filed within 30 days after learning of it;

(b) That a claim for unearned premiums or for cash surrender values or other investment values in life insurance or annuities which was not required to be filed was omitted from the liquidator's recommendations to the court under section 60B.45, and that it was filed within 30 days after the claimant learned of the omission;

(c) That a transfer to a creditor was avoided under sections 60B.30 to 60B.32 or was voluntarily surrendered under section 60B.33, and that the filing satisfies the conditions of section 60B.33;

(d) That valuation under section 60B.43 of security held by a secured creditor shows a deficiency, which is filed within 30 days after the valuation; ~~and~~

(e) That a claim was contingent and became absolute, and was filed within 30 days after it became absolute~~.~~; *and*

(f) That the claim is for workers' compensation benefits and the time limitations and other requirements of chapter 176 have been met.

Sec. 2. Minnesota Statutes 1990, section 60C.02, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] This chapter applies to all kinds of direct insurance, except life, title, accident and sickness written by life insurance companies, credit, mortgage guaranty, *financial guaranty or other forms of insurance offering protection against investment risks,* and ocean marine.

Sec. 3. Minnesota Statutes 1990, section 60C.03, subdivision 6, is amended to read:

Subd. 6. "Member insurer" means any person, including reciprocals or interinsurance exchanges operating under chapter 71A, township mutual fire insurance companies operating under sections 67A.01 to 67A.26, and farmers mutual fire insurance companies operating under sections 67A.27 to 67A.39, who (a) writes any kind of insurance not excepted from the scope of Laws 1971, chapter 145 by section 60C.02, and (b) is licensed to transact insurance business in this state, except any nonprofit service plan incorporated or operating under sections 62C.01 to 62C.23 and any health plan incorporated under chapter 317A, *and includes an insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn.*

Sec. 4. Minnesota Statutes 1990, section 60C.03, is amended by adding a subdivision to read:

Subd. 10. "Financial guaranty insurance" includes any insurance under which loss is payable upon proof of occurrence of any of the following events to the damage of an insured claimant or obligee:

(1) failure of any obligor or obligors on any debt instrument or other monetary obligation, including common or preferred stock, to pay when due the principal, interest, dividend or purchase price of such instrument or obligation, whether such failure is the result of a financial default or insolvency and whether or not such obligation is incurred directly or as guarantor by, or on behalf of, another obligor which has also defaulted;

(2) changes in the level of interest rates whether short-term or long-term, or in the difference between interest rates existing in various markets;

(3) changes in the rate of exchange or currency, or from the inconvertibility of one currency into another for any reason; and

(4) changes in the value of specific assets or commodities, or price levels in general.

Sec. 5. Minnesota Statutes 1990, section 60C.04, is amended to read:

60C.04 [CREATION.]

All insurers subject to the provisions of Laws 1971, chapter 145 shall form an organization to be known as the Minnesota insurance guaranty association. All insurers defined as member insurers in section 60C.03, subdivision 6, are and shall remain members of the association as a condition of their authority to transact insurance business or to execute surety bonds in this state. *An insurer's membership obligations under this chapter shall survive any merger, consolidation, restructuring, incorporation, or reincorporation.* The association shall perform its functions under a plan of operation established and approved under section 60C.07 and shall exercise its powers through a board of directors established under section 60C.08. For purposes of administration and assessment the association shall be

divided into five separate accounts: (1) the automobile insurance account, (2) the township mutuals account, (3) the fidelity and surety bond account, (4) the account for all other insurance to which ~~Laws 1971,~~ *this* chapter ~~145~~ applies, and (5) the workers' compensation insurance account.

Sec. 6. Minnesota Statutes 1990, section 60C.06, subdivision 1, is amended to read:

Subdivision 1. [DETERMINATION OF AMOUNT.] The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance in the account bear to the net direct written premiums of all member insurers for the preceding calendar year on the kinds of insurance in the account. No member insurer may be assessed in any year on any account in an amount greater than two percent of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account. ~~All member insurers licensed to transact insurance business in this state on the date an insurer is placed in liquidation may be assessed as provided by section 60C.06 for necessary payments from the account.~~

Sec. 7. Minnesota Statutes 1990, section 60C.09, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] A covered claim is any unpaid claim, including one for unearned premium, which:

(a)(1) Arises out of and is within the coverage of an insurance policy issued by a member insurer if the insurer becomes an insolvent insurer after April 30, 1979; or

(2) Would be within the coverage of an extended reporting endorsement to a claims-made insurance policy if insolvency had not prevented the member insurer from fulfilling its obligation to issue the endorsement, if:

(i) the claims-made policy contained a provision affording the insured the right to purchase a reporting endorsement;

(ii) coverage will be no greater than if a reporting endorsement had been issued;

(iii) the insured has not purchased other insurance which applies to the claim; and

(iv) the insured's deductible under the policy is increased by an amount equal to the premium for the reporting endorsement, as provided in the insured's claims-made policy, or if not so provided, then as established by a rate service organization.

(b) Arises out of a class of business which is not excepted from the scope of this chapter by section 60C.02; and

(c) Is made by:

(i) A policyholder, or an insured beneficiary under a policy, who, at the time of the insured event, was a resident of this state; or

(ii) A person designated in the policy as having an insurable interest in or related to property situated in this state at the time of the insured event; or

(iii) An obligee or creditor under any surety bond, who, at the time of

default by the principal debtor or obligor, was a resident of this state; or

(iv) A third party claimant under a liability policy or surety bond, if: (a) the insured or the third party claimant was a resident of this state at the time of the insured event; (b) the claim is for bodily or personal injuries suffered in this state by a person who when injured was a resident of this state; or (c) the claim is for damages to real property situated in this state at the time of damage; or

(v) A direct or indirect assignee of a person who except for the assignment might have claimed under item (i), (ii), or (iii).

For purposes of paragraph (c), item (ii), unit owners of condominiums, townhouses, or cooperatives are considered as having an insurable interest.

A covered claim also includes any unpaid claim which arises or exists within 30 days after the time of entry of an order of liquidation with a finding of insolvency by a court of competent jurisdiction unless prior thereto the insured replaces the policy or causes its cancellation or the policy expires on its expiration date. A covered claim does not include claims filed with the guaranty fund after the final date set by the court for the filing of claims except for *workers' compensation claims that have met the time limitations and other requirements of chapter 176* and excused late filings permitted under section 60B.37.

Sec. 8. Minnesota Statutes 1990, section 60C.13, subdivision 1, is amended to read:

Subdivision 1. Any person having a claim ~~against an insurer under any provision in an insurance policy other than a policy of an insurer in liquidation which is also a covered claim, is required to exhaust first any rights~~ *under another policy, which claim arises out of the same facts which give rise to the covered claim, shall be first required to exhaust the person's right* under the other policy. Any amount payable on a covered claim under ~~Laws 1971,~~ *this* chapter ~~145~~ shall be reduced by the amount of any recovery under such insurance policy. *For purposes of this subdivision, another insurance policy does not include a workers' compensation policy.*

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 7 are effective the day following final enactment. Section 8 applies to all unsettled existing and future claims made after that date arising out of any past or future member insolvencies.

ARTICLE 7

STANDARD VALUATION LAW

Section 1. Minnesota Statutes 1990, section 61A.25, is amended by adding a subdivision to read:

Subd. 2a. [ACTUARIAL OPINION OF RESERVES; GENERAL.] *(a) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner may by rule define the specifics of this opinion and add any other items considered to be necessary to its scope. The opinion must be included in the company's annual statement.*

(b) The requirement to annually submit the opinion of a qualified actuary applies to service plan corporations licensed under chapter 62C, to legal service plans licensed under chapter 62G, and to all fraternal benefit societies except those societies paying only sick benefits not exceeding $250 in any one year, or paying funeral benefits of not more than $350, or aiding those dependent on a member not more than $350, nor any subordinate lodge or council which is, or whose members are, assessed for benefits which are payable by a grand body.

(c) The opinion applies to all business in force, including individual and group health insurance plans, and must be based on standards adopted by the Actuarial Standards Board. The opinion must be acceptable to the commissioner in both form and substance.

(d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements specified in the regulations.

(f) The board of directors of every insurer subject to this section shall appoint a qualified actuary to sign its actuarial opinion. The appointment of the qualified actuary shall be approved by the commissioner. The qualified actuary so appointed may be an employee of the insurer. Notice of the appointment, including a copy of the board of directors' resolution, and the date of appointment shall be filed with the commissioner. The notice may be filed before or at the time the actuarial opinion is submitted. The notice shall state the qualifications of the actuary. If the board appoints a new actuary to sign actuarial opinions during the year, the commissioner shall be notified of the new appointment and the reason for change.

(g) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(h) A memorandum, in form and substance acceptable to the commissioner based on standards adopted by the Actuarial Standards Board and on additional standards as the commissioner may by rule prescribe, must be prepared to support each actuarial opinion.

(i) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by the commissioner, or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards based on standards adopted by the Actuarial Standards Board and on additional standards as the commissioner may by rule prescribe or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the required supporting memorandum.

(j) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, must be kept confidential by the commissioner and must not be made public and is not subject to subpoena, other than for the purpose of

defending an action seeking damages from any person by reason of any action required by this section or by rules promulgated under this section. The memorandum or other material may otherwise be released by the commissioner (1) with the written consent of the company or (2) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum are no longer confidential.

Sec. 2. Minnesota Statutes 1990, section 61A.25, is amended by adding a subdivision to read:

Subd. 2b. [ACTUARIAL ANALYSIS.] *(a) Every life insurance company, except as exempted by or pursuant to regulation, shall also annually include in the opinion required under subdivision 2a, paragraph (a), an opinion of the same qualified actuary as to whether the reserves and related actuarial items, including page 3, line 10, of the annual statement, held in support of the policies and contracts specified by the commissioner, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.*

(b) The commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may consider necessary in order to give the opinion required under section 1.

Sec. 3. Minnesota Statutes 1990, section 61A.25, subdivision 5, is amended to read:

Subd. 5. [MINIMUM AGGREGATE RESERVES.] A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of Laws 1947, chapter 182, shall not be less than the aggregate reserves calculated in accordance with the methods set forth in subdivisions 4, 4a, 7, and 8, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required under section 1.

Sec. 4. Minnesota Statutes 1990, section 61A.25, subdivision 6, is amended to read:

Subd. 6. [CALCULATION OF RESERVES.] (1) Reserves for all policies and contracts issued prior to the operative date of Laws 1947, chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(2) Reserves for any category of policies, contracts or benefits as established by the commissioner, issued on or after the operative date of Laws 1947, chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(3) Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided. *For purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to give the opinion required under section 1 shall not be considered the adoption of a higher standard of valuation.*

Sec. 5. Minnesota Statutes 1990, section 61A.25, is amended by adding a subdivision to read:

Subd. 9. [MINIMUM STANDARDS FOR HEALTH, DISABILITY, ACCIDENT, AND SICKNESS PLANS.] *The commissioner may adopt a rule containing the minimum standards applicable to the valuation of health, disability, accident, and sickness plans.*

Sec. 6. [REPORT.]

The commissioner of commerce shall review the standards for the appointment of qualified actuaries under sections 1 and 2 and submit a report to the legislature relating to the effectiveness of the standards by January 1, 1994.

Sec. 7. [COMPLEMENT.]

The complement of the department of commerce is increased by one position in the classified service for the purpose of reviewing actuarial opinions and analysis submitted under sections 1 and 2.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 5 are effective for reports submitted for 1992 as required under section 60A.13.

ARTICLE 8

INVESTMENTS FOR DOMESTIC INSURERS

Section 1. Minnesota Statutes 1990, section 60A.11, subdivision 10, is amended to read:

Subd. 10. [DEFINITIONS.] The following terms have the meaning assigned in this subdivision for purposes of this section and section 60A.111:

(a) *"Adequate evidence" means a written confirmation, advice, or other verification issued by a depository, issuer, or custodian bank which shows that the investment is held for the company;*

(b) "Adequate security" means a letter of credit qualifying under subdivision 11, paragraph (f), cash, or the pledge of an investment authorized by any subdivision of this section;

(c) "Admitted assets," for purposes of computing percentage limitations on particular types of investments, means the assets as shown by the company's annual statement, required by section 60A.13, as of the December 31 immediately preceding the date the company acquires the investment;

~~(b)~~ *(d)* "Clearing corporation" means The Depository Trust Company or any other clearing agency registered with the ~~federal~~ securities and exchange commission pursuant to the ~~Federal~~ Securities Exchange Act of 1934, section 17A, Euro-clear Clearance System Limited and CEDEL S.A., and, with the approval of the commissioner, any other clearing corporation as defined in section 336.8-102;

~~(c)~~ *(e)* "Control" has the meaning assigned to that term in, and must be determined in accordance with, section 60D.01, subdivision 4;

~~(d)~~ *(f)* "Custodian bank" means a bank or trust company or a branch of a bank or trust company that is acting as custodian and is supervised and examined by state or federal authority having supervision over the bank or trust company or with respect to a company's foreign investments only by the regulatory authority having supervision over banks or trust companies in the jurisdiction in which the bank, trust company, or branch is located, and *any banking institutions qualifying as an "Eligible Foreign Custodian" under the Code of Federal Regulations, section 270.17f-5, adopted under section 17(f) of the Investment Company Act of 1940, and* specifically ~~includes~~ *including* Euro-clear Clearance System Limited and CEDEL S.A., acting as custodians;

(g) "Evergreen clause" means a provision that automatically renews a letter of credit for a time certain if the issuer of the letter of credit fails to affirmatively signify its intention to nonrenew upon expiration;

(h) "Government obligations" means direct obligations for the payment of money, or obligations for the payment of money to the extent guaranteed as to the payment of principal and interest by any governmental issuer where the obligations are payable from ad valorem taxes or guaranteed by the full faith, credit, and taxing power of the issuer and are not secured solely by special assessments for local improvements;

(i) "Noninvestment grade obligations" means obligations which, at the time of acquisition, were rated below Baa/BBB or the equivalent by a securities rating agency or which, at the time of acquisition, were not in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners;

~~(e)~~ *(j)* "Issuer" means the corporation, business trust, governmental unit, partnership, association, individual, or other entity which issues or on behalf of which is issued any form of obligation;

(k) "Licensed real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid license under chapter 82B or a substantially similar licensing requirement in another jurisdiction;

~~(f)~~ *(l)* "Member bank" means a national bank, state bank or trust company which is a member of the Federal Reserve System;

~~(g)~~ *(m)* "National securities exchange" means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada;

(n) "NASDAQ" means the reporting system for securities meeting the definition of National Market System security as provided under Part I to Schedule D of the National Association of Securities Dealers Incorporated bylaws;

~~(h)~~ *(o)* "Obligations" include bonds, notes, debentures, transportation equipment certificates, repurchase agreements, bank certificates of deposit, time deposits, bankers' acceptances, and other obligations for the payment of money not in default as to payments of principal and interest on the date of investment, whether constituting general obligations of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment. Leases are considered obligations if the lease is assigned for the benefit of the company and is nonterminable by the lessee or lessees thereunder upon foreclosure of any lien upon the leased property, and rental payments are sufficient to amortize the investment over the primary lease term;

~~(i)~~ *(p)* "Qualified assets" means the sum of (1) all investments qualified in accordance with this section other than investments in affiliates and subsidiaries, (2) investments in obligations of affiliates as defined in section 60D.01, subdivision 2 secured by real or personal property sufficient to qualify the investment under subdivision 19 or 23, (3) qualified investments in subsidiaries, as defined in section 60D.01, subdivision 9, on a consolidated basis with the insurance company without allowance for goodwill or other intangible value, and (4) cash on hand and on deposit, agent's balances or uncollected premiums not due more than 90 days, assets held pursuant to section 60A.12, subdivision 2, investment income due and accrued, funds due or on deposit or recoverable on loss payments under contracts of reinsurance entered into pursuant to section 60A.09, premium bills and notes receivable, federal income taxes recoverable, and equities and deposits in pools and associations;

~~(j)~~ *(q)* "Qualified net earnings" means that the net earnings of the issuer after elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period;

~~(k)~~ *(r)* "Required liabilities" means the sum of (1) total liabilities as required to be reported in the company's most recent annual report to the commissioner of commerce of this state, (2) for companies operating under the stock plan, the minimum paid-up capital and surplus required to be maintained pursuant to section 60A.07, subdivision 5a, (3) for companies operating under the mutual or reciprocal plan, the minimum amount of surplus required to be maintained pursuant to section 60A.07, subdivision 5b, and (4) the amount, if any, by which the company's loss and loss adjustment expense reserves exceed 350 percent of its surplus as it pertains to policyholders as of the same date. The commissioner may waive the requirement in clause (4) unless the company's written premiums exceed 300 percent of its surplus as it pertains to policyholders as of the same date. In addition to the required amounts pursuant to clauses (1) to (4), the commissioner may require that the amount of any apparent reserve deficiency that may be revealed by one to five year loss and loss adjustment expense development analysis for the five years reported in the company's most recent annual statement to the commissioner be added to required liabilities; ~~and~~

(s) "Revenue obligations" means obligations for the payment of money by a governmental issuer where the obligations are payable from revenues, earnings, or special assessments on properties benefited by local improvements of the issuer which are specifically pledged therefor;

(t) "Security" has the meaning given in section 5 of the Security Act of 1933 and specifically includes, but is not limited to, stocks, stock equivalents, warrants, rights, options, obligations, American Depository Receipts (ADR's), repurchase agreements, and reverse repurchase agreements; and

~~(t)~~ *(u)* "Unrestricted surplus" means the amount by which qualified assets exceed 110 percent of required liabilities.

Sec. 2. Minnesota Statutes 1990, section 60A.11, subdivision 11, is amended to read:

Subd. 11. [INVESTMENTS IN NAME OF COMPANY OR NOMINEE AND PROHIBITIONS.] A company's investments shall be held in its own name or the name of its nominee, except that:

(a) Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either on the following conditions:

(1) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others;

(2) Where the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee by a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the company making the deposit; ~~and~~

(3) Where a clearing corporation is to act as depository, the investment may be merged or held in bulk in the clearing corporation's or its nominee name with other investments deposited with the clearing corporation by any other person, if a written agreement provides that adequate evidence of the deposit is to be obtained and retained by the company or a custodian bank; *and*

(4) The company shall monitor current publicly available financial information and other pertinent data with respect to the custodian banks.

(b) A company may loan ~~stocks or obligations~~ *securities* held by it under this chapter to a broker-dealer registered under the Securities and Exchange Act of 1934 or a member bank. The loan must be evidenced by a written agreement which provides:

(1) That the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality thereof, and that the collateral will be adjusted each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral;

(2) That the loan may be terminated by the company at any time, and that the borrower will return the loaned ~~stocks or obligations~~ *securities* or their equivalent within five business days after termination;

(3) That the company has the right to retain the collateral or use the collateral to purchase investments equivalent to the loaned securities if the

borrower defaults under the terms of the agreement and that the borrower remains liable for any losses and expenses incurred by the company due to default that are not covered by the collateral~~;~~.

(c) A company may participate through a member bank in the Federal Reserve book-entry system, and the records of the member bank shall at all times show that the investments are held for the company or for specific accounts of the company~~; or~~.

(d) An investment may consist of an individual interest in a pool of obligations or a fractional interest in a single obligation if the certificate of participation or interest or the confirmation of participation or interest in the investment shall be issued in the name of the company or the name of the custodian bank or the nominee of either and if the certificate or confirmation must, if held by a custodian bank, be kept separate and apart from the investments of others so that at all times the participation may be identified as belonging solely to the company making the investment.

(e) Except as provided in paragraph (c), where an investment is not evidenced by a certificate, ~~except as provided in paragraph (c),~~ adequate evidence of the company's investment shall be obtained from the issuer or its transfer or recording agent and retained by the company, a custodian bank, or clearing corporation. ~~Adequate evidence, for purposes of this subdivision, shall mean a written receipt or other verification issued by the depository or issuer or a custodian bank which shows that the investment is held for the company.~~ Transfers of ownership of investments held as described in paragraphs (a), clause (3), (c) and (d) may be evidenced by bookkeeping entry on the books of the issuer of the investment or its transfer or recording agent or the clearing corporation without physical delivery of certificates, if any, evidencing the company's investment.

(f) A letter of credit may be accepted as a guaranty of other investments, as collateral to secure loans, or in lieu of cash to secure loans of securities, if it is issued by a member bank or any of the 100 largest banks in the world ranked by deposits in dollars or converted into dollar equivalents, as compiled annually by the American Bankers Association or listed in the annual publication of Moody's Bank & Finance Manual and meets the following requirements:

(1) has a long-term deposit rating or a long-term debt rating of at least Aa2 as found in the current monthly publication of Moody's Credit Opinions or its equivalent; and

(2) qualifies under the guidelines of the National Association of Insurance Commissioners as a clean, irrevocable letter of credit containing an evergreen clause or having a maturity date subsequent to the maturity date of the underlying investment or loan. The company shall monitor current publicly available financial information and other pertinent data with respect to the banks issuing the letters of credit.

Sec. 3. Minnesota Statutes 1990, section 60A.11, is amended by adding a subdivision to read:

Subd. 11a. [ADDITIONAL LIMITATIONS.] *Under the standards and procedures in article 3 for individual insurers, the commissioner may impose additional limitations on all insurers on the types and percentages of investments as the commissioner determines necessary to protect and ensure the safety of the general public.*

Sec. 4. Minnesota Statutes 1990, section 60A.11, subdivision 12, is amended to read:

Subd. 12. [INVESTMENTS.] *(a) A company must comply with section 60A.112.*

(b) A company's investments must be so diversified that the securities of a single issuer, other than the United States of America or any agency or instrumentality of the United States of America backed by the full faith and credit of the issuer, shall comprise no more than five percent of the company's admitted assets, except where otherwise specified under this chapter. In the case of insurance companies which are subsidiaries of a company, this diversification test must be applied to the assets of the insurance company subsidiary in determining the company's compliance.

(c) The investments authorized under ~~the following~~ subdivisions ~~of this section~~ *12 to 26* shall constitute admitted assets for a company.

Sec. 5. Minnesota Statutes 1990, section 60A.11, subdivision 13, is amended to read:

Subd. 13. [UNITED STATES GOVERNMENT OBLIGATIONS.] *(a)* Obligations issued or guaranteed by the United States *of America* or ~~an~~ *any* agency or instrumentality of the United States *of America backed by the full faith and credit of the issuer*, including rights to purchase *or sell* these obligations if those rights are traded upon a contract market designated and regulated by a federal agency.

(b) Obligations issued or guaranteed by an agency or instrumentality of the United States of America other than those backed by the full faith and credit thereof, including rights to purchase or sell these obligations if those rights are traded upon a contract market designated and regulated by a federal agency. The securities of a single issuer under this paragraph shall comprise no more than 20 percent of the company's admitted assets.

Sec. 6. Minnesota Statutes 1990, section 60A.11, subdivision 14, is amended to read:

Subd. 14. [CERTAIN BANK OBLIGATIONS.] (a) Certificates of deposits, time deposits, and bankers' acceptances issued by and other obligations guaranteed by*: (i)* any bank organized under the laws of the United States or any state, *commonwealth, or territory* thereof, *including the District of Columbia*, or of the Dominion of Canada or any province thereof *or (ii) any of the 100 largest banks, not a subsidiary or a holding company thereof, in the world ranked by deposits in dollars or converted into dollar equivalents, as compiled annually by the American Bankers Association or listed in the annual publication of Moody's Bank & Finance Manual, which also has a long-term deposit rating or a long-term debt rating of at least Aa2 as found in the current monthly publication of Moody's Credit Opinions or its equivalent*. A company may not invest more than five percent of its admitted assets in the obligations of any one bank and may not hold at any time more than ten percent of the outstanding obligations of any one bank. ~~A letter of credit issued by a member bank which qualifies under the guidelines of the National Association of Insurance Commissioners as a clean, irrevocable letter of credit which contains an "evergreen clause," may be accepted as a guaranty of other investments and in lieu of cash to secure loans of securities.~~

(b) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, the Asian Development Bank, the Inter-American Development Bank, the African Development Bank, the Export-Import Bank, the World Bank or any United States government sponsored organization of which the United States is a member, if the principal and interest is payable in United States dollars. A company may not invest more than five percent of its total admitted assets in the obligations of any one of these banks or organizations, and may not invest more than a total of 15 percent of its total admitted assets in the obligations of all these banks and organizations.

Sec. 7. Minnesota Statutes 1990, section 60A.11, subdivision 15, is amended to read:

Subd. 15. [STATE OBLIGATIONS.] *(a) Government* obligations issued or guaranteed by any state, *commonwealth, or territory* of the United States *of America* or by any political subdivision thereof, *including the District of Columbia*, or by any instrumentality of any state, *commonwealth, territory*, or political subdivision *thereof. The diversification requirement of subdivision 12, paragraph (b), does not apply to government obligations under this paragraph.*

(b) Revenue obligations issued by any state, commonwealth, or territory of the United States of America or by any political subdivision thereof, including the District of Columbia, or by any instrumentality of any state, commonwealth, territory, or political subdivision thereof. The diversification requirement of subdivision 12, paragraph (b), is applicable to revenue obligations under this paragraph.

Sec. 8. Minnesota Statutes 1990, section 60A.11, subdivision 16, is amended to read:

Subd. 16. [CANADIAN GOVERNMENT OBLIGATIONS.] *(a)* Obligations issued or guaranteed by the Dominion of Canada or by any agency ~~or province thereof, or by any political subdivision of any province or by an instrumentality of any province or political subdivision thereof~~ *instrumentality of the Dominion of Canada backed by the full faith and credit of the issuer. The diversification requirement of subdivision 12, paragraph (b), does not apply to government obligations under this paragraph.*

(b) Obligations issued or guaranteed by an agency or instrumentality of the Dominion of Canada other than those backed by the full faith and credit of the issuer. The securities of a single issuer under this paragraph shall comprise no more than 20 percent of the company's admitted assets.

(c) Government obligations issued or guaranteed by a province or territory of the Dominion of Canada or by a political subdivision thereof, or by an instrumentality of a province, territory, or political subdivision thereof. The diversification requirement of subdivision 12, paragraph (b), does not apply to government obligations under this paragraph.

(d) Revenue obligations issued by a province or territory of the Dominion of Canada or by a political subdivision thereof, or by an instrumentality of a province, territory, or political subdivision thereof. The diversification requirement of subdivision 12, paragraph (b), is applicable to revenue obligations under this paragraph.

Sec. 9. Minnesota Statutes 1990, section 60A.11, subdivision 17, is amended to read:

Subd. 17. [CORPORATE AND BUSINESS TRUST OBLIGATIONS.] Obligations issued, assumed or guaranteed by a corporation or business trust organized under the laws of the United States *of America* or any state, *commonwealth, or territory* of the United States, *including the District of Columbia*, or the laws of *the Dominion of* Canada or any province *or territory* of *the Dominion of* Canada, or obligations traded on a national securities exchange on the following conditions:

(a) A company may invest in any obligations traded on a national securities exchange;

(b) A company may also invest in any obligations which are secured by adequate security located in the United States or Canada;

(c) A company may also invest in previously outstanding or newly issued obligations not qualifying for investment under paragraph (a) or (b) if the corporation or business trust has qualified net earnings. If the obligations are not newly issued, neither principal nor interest payments on the obligations shall have been in arrears (1) for an aggregate of 90 days during the three-year period preceding the date of investment, or (2) where the obligations have been outstanding for less than 90 days, during the period the obligations have been outstanding;

(d) *A company may invest no more than 15 percent of its total admitted assets in noninvestment grade obligations;*

(e) A company may invest in federal farm loan bonds and may invest up to 20 percent of its total admitted assets in the obligations of farm mortgage debenture companies; and

~~(e)~~ *(f)* A company may not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust; provided, however, that a company may invest in the obligations of a corporation without regard to this paragraph *or the subdivision 12, paragraph (b), diversification requirement* if: (1) the company is wholly owned by the issuer and affiliates of the issuer of the obligations; (2) the company insures solely the issuer of the obligations and its affiliates; (3) the issuer has a net worth, determined on a consolidated basis, which equals or exceeds $100,000,000; and (4) the issuer and its affiliates forego any and all claims they may have against the Minnesota insurance guaranty association pursuant to chapter 60C in the event of the insolvency of the company. This does not affect the rights of any unaffiliated third party claimant under section 60C.09, subdivision 1.

Sec. 10. Minnesota Statutes 1990, section 60A.11, subdivision 18, is amended to read:

Subd. 18. [STOCKS *AND LIMITED PARTNERSHIPS.*] *(a)* Stocks issued or guaranteed by any corporation incorporated under the laws of the United States *of America* or any state, *commonwealth, or territory* of the United States, *including the District of Columbia*, or the laws of *the Dominion of* Canada or any province *or territory* of Canada, or stocks or stock equivalents, *including American Depository Receipts or unit investment trusts*, listed or regularly traded on a national securities exchange on the following conditions:

(1) A company may not invest more than a total of 25 percent of its total admitted assets in stocks, stock equivalents, and convertible issues. Not more than ten percent of a company's total admitted assets may be invested

in stocks, stock equivalents, and convertible issues not traded or listed on a national securities exchange or designated or approved for designation upon notice of issuance on the NASDAQ/National Market System. This limitation does not apply to investments under clause (4);

~~(a)~~ *(2)* A company may *not* invest in *more than two percent of its total admitted assets in* preferred stocks *of any corporation which are* traded on a national securities exchange and may also invest in other preferred stocks if the issuer has qualified net earnings and if current or cumulative dividends are not then in arrears;

~~(b)~~ *(3)* A company may *not* invest in *more than two percent of its total admitted assets in* common stocks, common stock equivalents, or securities convertible into common stock or common stock equivalents of any corporation or business trust~~, provided:~~ *which are traded on a national securities exchange or designated or approved for designation upon notice of issuance on the NASDAQ/National Market System, and may also invest in other common stocks, stock equivalents, and convertible issues subject to the limitations specified in clause (1);*

~~(1) The common stock, common stock equivalent or convertible issue is publicly traded on a national securities exchange, or the corporation or business trust has qualified net earnings;~~

~~(2) A company may invest up to two percent of its admitted assets in common stock, common stock equivalents or convertible issues which do not meet the requirements of clause (1);~~

~~(3) At no time may~~ *(4)* A company *may organize or* acquire ~~or~~ *and* hold voting control of a corporation or business trust through its ownership of common stock, common stock equivalents, or other securities, ~~except that a company may organize and hold, or acquire and hold more than 50 percent of the common stock of~~ *provided the corporation or business trust is:* (a) a corporation providing investment advisory, banking, management or sale services to an investment company or to an insurance company, (b) a data processing or computer service company, (c) a mortgage loan corporation engaged in the business of making, originating, purchasing or otherwise acquiring or investing in, and servicing or selling or otherwise disposing of loans secured by mortgages on real property, (d) a corporation if its business is owning and managing or leasing personal property, (e) a corporation providing securities underwriting services or acting as a securities broker or dealer, (f) a real property holding, developing, managing, brokerage or leasing corporation, (g) any domestic or foreign insurance company, (h) any alien insurance company, if the organization or acquisition and the holding of the company is subject to the prior approval of the commissioner of commerce, which approval must be given upon good cause shown and is deemed to have been given if the commissioner does not disapprove of the organization or acquisition within 30 days after notification by the company, (i) an investment subsidiary to acquire and hold investments which the company could acquire and hold directly, if the investments of the subsidiary are considered direct investments for purposes of this chapter and are subject to the same percentage limitations, requirements and restrictions as are contained herein, or (j) any corporation whose business has been approved by the commissioner as complementary or supplementary to the business of the company. ~~The percentage of common stock may be less than 50 percent if the prior approval of the commissioner is obtained.~~ A company may invest up to an aggregate of ten percent of its *total* admitted

assets under subclauses (a) to (e) of this clause ~~(3)~~. *The diversification requirement of subdivision 12, paragraph (b), does not apply to this clause*;

~~(4) A company may invest in the common stock of any corporation owning investments in foreign companies used for purposes of legal deposit, when the insurance company transacts business therein direct or as reinsurance;~~

~~(c)~~ *(5)* A company may invest in warrants and rights granted by an issuer to purchase ~~stock~~ *securities* of the issuer if ~~the stock~~ *that security* of the issuer, at the time of the acquisition of the warrant or right to purchase, would qualify as an investment under paragraph (a), *clause (2)* or ~~(b)~~ *(3)*, whichever is applicable~~. A company shall not invest more than two percent of its assets under this paragraph. Any stock actually acquired through the exercise of a warrant or right to purchase may be included in paragraph (a) or (b), whichever is applicable, only if the stock~~, *provided that security* meets the standards prescribed in the clause at the time of acquisition of the ~~stock~~ *securities*; and

~~(d)~~ *(6)(i)* A company may invest in the securities of any face amount certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the ~~Federal~~ Investment Company Act of 1940 as from time to time amended, provided that the aggregate of all these investments other than in securities of money market mutual funds or mutual funds investing primarily in United States government securities, determined at cost, shall not exceed five percent of its *total* admitted assets; investments may be made under this clause without regard to the percentage limitations applicable to investments in voting securities.

~~(e)~~ *(ii)* A company may invest in any proportion of the shares or investment units of an investment company or investment trust, whether or not registered under the ~~Federal~~ Investment Company Act of 1940, which is managed by an insurance company, member bank, trust company regulated by state or federal authority or an investment manager or adviser registered under the ~~Federal~~ Investment Advisers Act of 1940 or qualified to manage the investments of an investment company registered under the ~~Federal~~ Investment Company Act of 1940, provided that the investments of the investment company or investment trust are qualified investments made under this section and that the articles of incorporation, bylaws, trust agreement, investment management agreement, or some other governing instrument limits its investments to investments qualified under this section.

(b) A company may invest in or otherwise acquire and hold a limited partnership interest in any limited partnership formed under the laws of any state, commonwealth, or territory of the United States or under the laws of the United States of America. No limited partnership interest shall be acquired if the investment, valued at cost, exceeds two percent of the admitted assets of the company or if the investment, plus the book value on the date of the investment of all limited partnership interests then held by the company and held under the authority of this subdivision, exceeds ten percent of the company's admitted assets. Limited partnership interests traded on a national securities exchange must be classified as stock equivalents and are not subject to the percentage limitations contained in this paragraph.

Sec. 11. Minnesota Statutes 1990, section 60A.11, subdivision 19, is amended to read:

Subd. 19. [MORTGAGES ON REAL ESTATE.] *Up to 25 percent of a*

company's total admitted assets may be invested in loans or obligations secured by a mortgage or a trust deed on real estate located in any state, *commonwealth, or territory* of the United States, *including the District of Columbia*, or in any province *or territory* of the Dominion of Canada, on the following conditions:

(a) A leasehold estate constitutes real estate under this section if its unexpired term on the date of investment is at least five years longer than the term of the obligation secured by it. The obligation must be repayable within the leasehold term in annual or more frequent installments, except that obligations for commercial purposes may begin up to five years after the date of the obligations. The mortgage must entitle the company upon default to be subrogated to all rights of the lessor under the leasehold;

(b) The real estate to which the mortgage applies must be (1) improved with permanent buildings, or (2) used for agriculture or pasture, or (3) income-producing, including but not limited to parking lots and leases, royalty or other mineral interests in properties producing oil, gas or other minerals and interests in properties for the harvesting of forest products, or (4) subject to a definite plan for the commencement of development within five years;

(c) The real estate to which the mortgage applies must be otherwise unencumbered when the mortgage loan is funded except as provided in paragraph (d) and except for encumbrances which do not unreasonably interfere with the intended use of the real estate as security;

(d) The real estate to which the mortgage applies may be subject to a prior mortgage or trust deed if (1) the amount of the obligation is equal to the sum of the company's loan and the other outstanding indebtedness and (2) the company has control over the payments under the prior mortgage or trust deed;

(e) The amount of the obligation may not exceed 80 percent of the real estate. If the amount of the obligation exceeds 66-2/3 percent of the market value of the real estate, principal payments must commence within five years after the date of the mortgage loan and principal and interest on the loan shall be fully amortized by regular installments payable during the term of the loan without irregular or balloon payments, unless the schedule of irregular or balloon payments is more favorable to the insurer than regular installments of equal amount would be. The market value shall be established by the written certification of a *licensed* real estate appraiser qualified to appraise the particular type of real estate involved. *The appraisal must be required at the time the loan is made*;

(f) The maximum term of any obligation shall be 40 years, except as provided in paragraph (g) and except for obligations secured by a mortgage or trust deed which are or are to be insured by a private mortgage insurance company approved by the commissioner;

(g) The *25 percent of total admitted asset limitation in the preamble of this subdivision and the* maximum amount and term limitations in paragraphs (e) and (f) shall not apply to obligations secured by mortgage or trust deed which are insured or guaranteed by the United States *of America* or any agency or instrumentality of the United States;

(h) A company may invest in *collateralized mortgage obligations*, mortgage participation certificates and pools issued or administered by a bank or banks and secured by first mortgages or trust deeds on improved real

estate located in the United States provided the private placement memorandum, prospectus or other offering circular, or a written agreement with the issuer of the *collateralized mortgage obligations*, certificate or other pool interest provides that each loan meets the requirements of this subdivision;

(i) Notwithstanding the restrictions in paragraph (e), if a company disposes of real estate acquired by it under subdivision 20, it may take back a purchase money mortgage from its ~~vendee~~ *purchaser* in an amount up to 90 percent of the ~~purchase price~~ *appraised value*; and

(j) The vendor's equity in a contract for deed shall be treated as a mortgage for purposes of this subdivision.

Sec. 12. Minnesota Statutes 1990, section 60A.11, subdivision 20, is amended to read:

Subd. 20. [REAL ESTATE.] (a) Except as provided in paragraphs (b) to (d), a company may only acquire, hold, and convey real estate which:

(1) has been mortgaged to it in good faith by way of security for loans previously contracted, or for money due;

(2) has been conveyed to it in satisfaction of debts previously contracted in the course of its dealings;

(3) has been purchased at sales on judgments, decrees or mortgages obtained or made for the debts; and

(4) is subject to a contract for deed under which the company holds the vendor's interest to secure the payments the vendee is required to make thereunder.

All the real estate specified in clauses (1) to (3) must be sold and disposed of within five years after the company has acquired title to it, or within five years after it has ceased to be necessary for the accommodation of the company's business, and the company must not hold this property for a longer period unless the company elects to hold the real estate under another section, or unless it procures a certificate from the commissioner of commerce that its interest will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to the time the commissioner directs in the certificate. *The market value of real estate must be established by the written certification of a licensed real estate appraiser. The appraisal is required at the time the company elects to hold the real estate under this subdivision.*

(b) A company may acquire and hold real estate for the convenient accommodation of its business.

(c) A company may acquire real estate or any interest in real estate, including oil and gas and other mineral interests, as an investment for the production of income, and may hold, improve or otherwise develop, subdivide, lease, sell and convey real estate so acquired directly or as a joint venture or through a limited or general partnership in which the company is a partner.

(d) A company may also hold real estate (1) if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this section, and (2) if the company expects the real estate so acquired to qualify under paragraph (b) or (c) above within five years after acquisition.

(e) A company may, after securing the approval of the commissioner, acquire and hold real estate for the purpose of providing necessary living quarters for its employees. The company must dispose of the real estate within five years after it has ceased to be necessary for that purpose unless the commissioner agrees to extend the holding period upon application by the company.

(f) A company may not invest more than 25 percent of its total admitted assets in real estate. The cost of any parcel of real estate held for both the accommodation of business and for the production of income must be allocated between the two uses annually. *No more than ten percent of a company's total admitted assets may be invested in real estate held under paragraph (b). No more than 15 percent of a company's total admitted assets may be invested in real estate held under paragraph (c).* No more than three percent of its total admitted assets may be invested in real estate held under paragraph (e). *Upon application by a company, the commissioner of commerce may increase any of these limits up to an additional five percent.*

Sec. 13. Minnesota Statutes 1990, 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 ~~also~~ *not* invest ~~not~~ more than ~~a total of two~~ *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. 14. Minnesota Statutes 1990, section 60A.11, subdivision 22, is amended to read:

Subd. 22. [PERSONAL PROPERTY UNDER LEASE.] Personal property for intended lease or rental in the United States or Canada. A company may not invest more than five percent of its *total* admitted assets under this subdivision.

Sec. 15. Minnesota Statutes 1990, section 60A.11, subdivision 23, is amended to read:

Subd. 23. [COLLATERAL LOANS.] Obligations ~~adequately secured by a qualifying letter of credit issued by a member bank or by cash or by the~~

~~pledge of any investment authorized by any of the preceding subdivisions~~ *having adequate security* if:

(a) The collateral is legally assigned or delivered to the company;

(b) The company has the right to declare the obligation immediately due and payable if the security thereafter depreciates to the point where the investment would not qualify under paragraph (c); provided, that additional qualifying security may be pledged to allow the investment to remain qualified *at its face value*;

(c) The collateral must at the time of delivery or assignment have a market value of at least, in the case of cash, *or a letter of credit meeting the requirements of subdivision 11, paragraph (f),* equal to and, in all other cases, 1-1/4 times the amount of the unpaid balance of the obligations.

A collateral loan made by a company to its parent corporation or an affiliated party must be secured by collateral: (i) with a market value equal to the amount of the unpaid balance of the obligations, and (ii) which is issued or guaranteed by the United States of America or an agency or an instrumentality thereof, or any state or territory thereof, and is secured by the full faith and credit of the United States of America or any state or territory thereof. A company may not invest more than five percent of its total admitted assets under this subdivision.

Sec. 16. Minnesota Statutes 1990, section 60A.11, is amended by adding a subdivision to read:

Subd. 24a. [DATA PROCESSING SYSTEMS.] *Electronic computer or data processing machines or systems purchased for use in connection with the business of the company, provided that the machines or system must have an original cost of not less than $100,000 nor more than three percent of the admitted assets of the company and the cost must be amortized in full over a period not to exceed ten full calendar years.*

Sec. 17. Minnesota Statutes 1990, section 60A.11, subdivision 26, is amended to read:

Subd. 26. [RULES.] (a) The commissioner may adopt appropriate rules to carry out the purpose and provisions of this section.

(b) A company may make qualified investments in any ~~additional securities or property of any kind~~ *other type of investment or exceeding any limitations of quality, quantity, or percentage of admitted assets contained in this section* with the written order of the commissioner. This approval is at the discretion of the commissioner, *provided that the additional investments allowed by the commissioner's written order may not exceed five percent of the company's admitted assets.*

(c) Nothing authorized in this subdivision negates or reduces the investment authority granted in subdivisions 1 to 25.

Sec. 18. [REPEALER.]

Minnesota Statutes 1990, section 60A.12, subdivision 2, is repealed.

Sec. 19. [EFFECTIVE DATE.]

Section 9, paragraph (d), is effective as follows: effective January 1, 1992, noninvestment grade obligations are limited to 20 percent of admitted assets; effective January 1, 1993, noninvestment grade obligations are limited to 17.5 percent of admitted assets; effective January 1, 1994, and thereafter,

noninvestment grade obligations are limited to 15 percent of admitted assets.

ARTICLE 9

LIFE INSURANCE COMPANY INVESTMENTS

Section 1. Minnesota Statutes 1990, section 61A.28, subdivision 1, is amended to read:

Subdivision 1. [~~FUNDS TO BE INVESTED~~ *INVESTMENT GUIDELINES AND PROCEDURES.*] *Each domestic life insurance company must comply with section 60A.112.*

No investment or loan, except policy loans, shall be made by a domestic life insurance company unless authorized or approved by the board of directors or by a committee of directors, officers, or employees of the company designated by the board and charged with the duty of supervising the investment or loan. Accurate records of all authorizations and approvals must be maintained.

The capital, surplus and other funds of every domestic life insurance company, whether incorporated by special act or under the general law (in addition to investments in real estate as otherwise permitted by law) may be invested only in one or more of the following kinds of securities or property. *An investment may not be made under this section if the required interest obligation is in default.*

Sec. 2. Minnesota Statutes 1990, section 61A.28, subdivision 2, is amended to read:

Subd. 2. [GOVERNMENT OBLIGATIONS.] Bonds or other obligations of, or bonds or other obligations insured or guaranteed by~~,~~*:* (a) the United States or any state thereof; (b) the Dominion of Canada or any province thereof; (c) any county, city, town, statutory city formerly a village, organized school district, municipality, or other civil or political subdivision of this state, or of any state of the United States or of any province of the Dominion of Canada; (d) any agency or instrumentality of the foregoing, including but not limited to, debentures issued by the federal housing administrator, obligations of ~~national mortgage associations~~ *the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association*; and (e) obligations payable in United States dollars issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the Export-Import Bank, or any other United States government sponsored organization of which the United States is a member~~; provided, that~~. The life insurance company may not invest ~~more than five percent of its total admitted assets~~ in the obligations of ~~any one of~~ these banks or organizations ~~and may not invest more than 15 percent of its total admitted assets in the obligations of all banks or organizations described in paragraph (e).~~

~~As used in this subdivision with respect to the United States or any agency or instrumentality of the United States, "bonds or other obligations" shall include purchases or sales of rights or options to purchase the obligations if those rights or options are traded upon a contract market designated and regulated by a federal agency.~~ *if the investment causes the company's aggregate investments in the obligations of any one of these banks or organizations to exceed five percent of its admitted assets or if the investment causes the*

company's aggregate investments in the obligations of all banks or organizations described in clause (e) to exceed 15 percent of its admitted assets.

Sec. 3. Minnesota Statutes 1990, section 61A.28, subdivision 3, is amended to read:

Subd. 3. [LOANS OR OBLIGATIONS SECURED BY MORTGAGE.] Loans or obligations (hereinafter loans) secured by a first mortgage, or deed of trust (hereinafter mortgage), on improved real estate in the United States, if the amount of the loan secured thereby is not in excess of 66-2/3 percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is to be used for commercial purposes, and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed (a) 80 percent of the market value of the real estate at the time of the loan; (b) 90 percent of the market value of the real estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1, or, if (1) the real estate is used for commercial purposes, and (2) the loan is additionally secured by an assignment of lease or leases, and (3) the lessee or lessees under the lease or leases, or a guarantor or guarantors of the lessee's obligations, is a corporation whose obligations would qualify as an investment under subdivision ~~6(f)~~ *6, paragraph (e)*, and (4) the rents payable during the primary term of the lease or leases are sufficient to amortize at least 60 percent of the loan. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the United States or any agency or instrumentality thereof or other mortgage insurer as may be approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event may the loan exceed the market value of the property. No improvement may be included in estimating the market value of the real estate unless it is insured against fire by policies payable to the security holder or a trustee for its benefit. This requirement may be met by a program of self-insurance established and maintained by a corporation whose debt obligations would qualify for purchase under subdivision 6, paragraph (g), clause (4). Also loans secured by mortgage, upon leasehold estates in improved real property where at the date of investment the lease has an unexpired term of at least five years longer than the term of the loan secured thereby, and where the leasehold estate is unencumbered except by the lien reserved in the lease for the payment of rentals and the observance of the other covenants, terms and conditions of the lease and where the mortgagee, upon default, is entitled to be subrogated to, or to exercise, all the rights and to perform all the covenants of the lessee, provided that no loan on the leasehold estate may exceed (a) 66-2/3 percent of the market value thereof at the time of the loan, or (b) 80 percent of the market value thereof at the time of the loan if the loan is to be fully amortized by installment payments of principal which begin within five years from the date of the loan if the leasehold estate is to be used for commercial purposes, interest is payable at least annually over the period of the loan which may not exceed 40 years and the market value of the leasehold estate is shown by the sworn certificate of a competent appraiser, or (c) 90 percent of the market value of the leasehold estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1. In calculating the ratio of the amount of the loan to the value of the leasehold

estate, no part of the amount of any loan is to be included which the United States or any agency or instrumentality thereof or other mortgage insurer approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event may the loan exceed the market value of the leasehold estate. Also loans secured by mortgage, which the United States or any agency or instrumentality thereof or other mortgage insurer approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee. Also loans secured by mortgage, on improved real estate in the Dominion of Canada if the amount of the loan is not in excess of 66-2/3 percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is used for commercial purposes, and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed (a) 80 percent of the market value of the real estate at the time of the loan, or (b) 90 percent of the market value of the real estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the Dominion of Canada or any agency or instrumentality thereof has insured or guaranteed or made a commitment to insure or guarantee; provided in no event may the loan exceed the market value of the property. Also loans secured by mortgage, on real estate in the United States which may be unimproved provided there exists a definite plan for commencement of development for commercial purposes within not more than five years where the amount of the loan does not exceed 80 percent of the market value of the unimproved real estate at the time of the loan and the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan, and interest at least annually over a period of not to exceed 40 years. Also loans secured by second mortgage on improved or unimproved real estate used, or to be used, for commercial purposes; provided, that if unimproved real estate there exists a definite plan for commencement of development within not more than five years, in the United States or the Dominion of Canada under the following conditions: (a) the amount of the loan secured by the second mortgage is equal to the sum of the amount disbursed by the company and the then outstanding indebtedness under the first mortgage loan; and (b) the company has control over the payments under the first mortgage indebtedness; and (c) the total amount of the loan does not exceed 66-2/3 percent of the market value of the real estate at the date of the loan or, when the note or bond is to be fully amortized by installment payments of principal, beginning not more than five years from the date of the loan, and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed 80 percent of the market value of the real estate at the date of the loan.

A company may not invest in a mortgage loan authorized under this subdivision, if the investment causes the company's aggregate investments in mortgages secured by a single property to exceed one percent of its admitted assets.

For purposes of this subdivision, improved real estate includes real estate improved with permanent buildings, used for agriculture or pasture, or income producing real estate, including but not limited to, parking lots and leases, royalty or other mineral interests in properties producing oil, gas,

or other minerals and interests in properties for the harvesting of forest products.

A loan or obligation otherwise permitted under this subdivision must be permitted notwithstanding the fact that it provides for a payment of the principal balance prior to the end of the period of amortization of the loan.

The vendor's equity in a contract for deed qualifies as a loan secured by mortgage for the purposes of this subdivision.

~~A mortgage participation certificate evidencing an interest in a loan secured by mortgage or pools of the same qualifies under this subdivision, if the loan secured by mortgage, and in the case of pools of the same that each loan, would otherwise qualify under this subdivision.~~

Sec. 4. Minnesota Statutes 1990, section 61A.28, subdivision 6, is amended to read:

Subd. 6. [STOCKS, OBLIGATIONS, AND OTHER INVESTMENTS.] ~~Stocks, warrants or options to purchase stocks, bonds, notes, evidences of indebtedness, or other investments as set forth in this subdivision, provided that no investment may be made which will increase the aggregate investment in all common stocks under paragraphs (a) and (b) beyond 20 percent of admitted assets as of the end of the preceding calendar year. In applying the standards prescribed in paragraphs (b), (c), and (d), (f) and (g) to the stocks, bonds, notes, evidences of indebtedness, or other obligations of a corporation which in the qualifying period preceding purchase of the stocks, bonds, notes, evidences of indebtedness, or other obligations acquired its property or a substantial part thereof through consolidation, merger, or purchase, the earnings of the several predecessors or constituent corporations must be consolidated. In applying any percentage limitations of this subdivision the value of the stock, or warrant or option to purchase stock, must be based on cost. For purposes of this subdivision, National Securities Exchange means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada.~~

(a) ~~Stocks of banks, insurance companies, and municipal corporations organized under the laws of the United States or any state thereof; but not more than 15 percent of the admitted assets of any domestic life insurance company may be invested in stocks of other insurance corporations and banks.~~

~~(b)~~ Common stocks, common stock equivalents, or securities convertible into common stock or common stock equivalents of ~~any corporation or~~ *a* business ~~trust not designated in paragraph (a) of this subdivision,~~ *entity* organized under the laws of the United States or any state thereof, or ~~of~~ the Dominion of Canada or any province thereof, ~~or those traded on a National Securities Exchange,~~ if the net earnings of the ~~corporation~~ *business entity* after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period.

~~(c)~~ *(b)* Preferred stock of, or common or preferred stock guaranteed as to dividends by~~, any corporation not designated in paragraph (a),~~ *a business entity* organized under the laws of the United States or any state thereof, or ~~of~~ the Dominion of Canada or any province thereof, ~~or those traded on a National Securities Exchange,~~ under the following conditions: (1) No investment may be made under this paragraph in a stock upon which any dividend,

current or cumulative, is in arrears; ~~and~~ (2) the ~~aggregate investment~~ *company may not invest* in stocks under this paragraph and in common stocks under ~~paragraphs~~ *paragraph* (a) ~~and (b) may not~~ *if the investment causes the company's aggregate investments in the common or preferred stocks to* exceed 25 percent of the ~~life insurance~~ company's *total* admitted assets, provided that no more than 20 percent of the company's admitted assets may be invested in common stocks under ~~paragraphs~~ *paragraph* (a) ~~and (b)~~; and (3) ~~if the net earnings of the corporation after the elimination of extraordinary nonrecurring items of income and expenses and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1 1/4 times its average annual fixed charges applicable to the period~~ *the company may not invest in any preferred stock or common stock guaranteed as to dividends, which is rated in the four lowest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment causes the company's aggregate investment in the lower rated preferred or common stock guaranteed as to dividends to exceed five percent of its total admitted assets.*

~~(d)~~ *(c)* Warrants, options, and rights to purchase stock if the stock, at the time of the acquisition of the warrant, option, or right to purchase, would qualify as an investment under paragraph (a)~~,~~ *or* (b)~~, or (c)~~, whichever is applicable. A ~~domestic life insurance~~ company shall not invest ~~more than two percent of its assets under this paragraph. Any stock actually acquired through the exercise of~~ *in* a warrant ~~or~~, option, or ~~rights~~ *right* to purchase ~~may be included in paragraph (a), (b), or (c), whichever is applicable, only if the stock then meets the standards prescribed in the paragraph at the time of~~ *stock if, upon purchase and immediate exercise thereof, the* acquisition of the stock *violates any of the concentration limitations contained in paragraphs (a) and (b).*

~~(e)~~ *(d) In addition to amounts that may be invested under subdivision 8 and without regard to the percentage limitation applicable to stocks, warrants, options, and rights to purchase,* the securities of any face amount certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the ~~federal~~ Investment Company Act of 1940 as from time to time amended~~, provided that the aggregate of the investments, determined at cost, by the life insurance company may not exceed five percent of its admitted assets, and the investments may be made without regard to the percentage limitations applicable to stocks, and warrants or options or rights to purchase stock~~. In addition, the company may transfer assets into one or more of its separate accounts for the purpose of establishing, or supporting its contractual obligations under, the accounts in accordance with the provisions of sections 61A.13 to 61A.21. *A company may not invest in a security authorized under this paragraph if the investment causes the company's aggregate investments in the securities to exceed five percent of its total admitted assets, except that for a health service plan corporation operating under chapter 62C, and for a health maintenance organization operating under chapter 62D, the company's aggregate investments may not exceed 20 percent of its total admitted assets. No more than five percent of the allowed investment by health service plan corporations or health maintenance organizations may be invested in funds that invest in assets not backed by the federal government. When investing in money market mutual funds, nonprofit health service plans regulated under chapter 62C, and health maintenance organizations regulated under chapter 62D, shall establish a trustee custodial account for*

the transfer of cash into the money market mutual fund.

~~(f)~~ *(e) Investment grade obligations that are:*

(1) bonds, *obligations,* notes, debentures, repurchase agreements, or other evidences of indebtedness ~~(1) secured by letters of credit issued by a national bank, state bank or trust company which is a member of the federal reserve system or by a bank organized under the laws of the Dominion of Canada or (2) traded on a national securities exchange or (3) issued, assumed, or guaranteed by a corporation or business trust, other than a corporation designated in subdivision~~ 4 *of a business entity*, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof~~, if the net earnings of the corporation after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period. No investment may be made under this paragraph upon which any interest obligation is in default.~~*; and*

(2) rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or are rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(f) Noninvestment grade obligations: A company may acquire noninvestment grade obligations as defined in subclause (i) (hereinafter noninvestment grade obligations) which meet the earnings test set forth in subclause (ii). A company may not acquire a noninvestment grade obligation if the acquisition will cause the company to exceed the limitations set forth in subclause (iii).

(i) A noninvestment grade obligation is an obligation of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, that is not rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or is not rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(ii) Noninvestment grade obligations authorized by this subdivision may be acquired by a company if the business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has had net earnings after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence of less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period; provided, however, that if a business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has undergone an acquisition, recapitalization, or reorganization within the immediately preceding 12 months, or will use the proceeds of the obligation for an acquisition, recapitalization, or reorganization, then such business entity shall also have, on a pro forma basis, for the next succeeding 12 months, net earnings averaging 1-1/4 times its average annual fixed charges applicable to such period after elimination of extraordinary nonrecurring items of income and expense and before taxes and fixed charges; no investment may be made under this section upon which any interest obligation is in default.

(iii) Limitation on aggregate interest in noninvestment grade obligations. A company may not invest in a noninvestment grade obligation if the investment will cause the company's aggregate investments in noninvestment grade obligations to exceed the applicable percentage of admitted assets set forth in the following table:

Effective Date	*Percentage of Admitted Assets*
January 1, 1992	*20*
January 1, 1993	*17.5*
January 1, 1994	*15*

Nothing in this paragraph limits the ability of a company to invest in noninvestment grade obligations as provided under subdivision 12.

(g) Obligations for the payment of money under the following conditions: (1) The obligation must be secured, either solely or in conjunction with other security, by an assignment of a lease or leases on property, real or personal; ~~and~~ (2) the lease or leases must be nonterminable by the lessee or lessees upon foreclosure of any lien upon the leased property; ~~and~~ (3) the rents payable under the lease or leases must be sufficient to amortize at least 90 percent of the obligation during the primary term of the lease; and (4) the lessee or lessees under the lease or leases, or a governmental entity or ~~corporation which~~ *business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada, or any province thereof, that* has assumed or guaranteed any lessee's performance thereunder, must be a governmental entity or ~~corporation~~ *business entity* whose obligations would qualify as an investment under subdivision 2 or paragraph *(e) or* (f). *A company may acquire leases assumed or guaranteed by a noninvestment grade lessee unless the value of the lease, when added to the other noninvestment grade obligations owned by the company, exceeds 15 percent of the company's admitted assets.*

(h) A company may sell exchange-traded call options against stocks or other securities owned by the company and may purchase exchange-traded call options in a closing transaction against a call option previously written by the company. In addition to the authority granted by paragraph ~~(d)~~ *(c)*, to the extent and on the terms and conditions the commissioner determines to be consistent with the purposes of this chapter, a company may purchase or sell other exchange-traded call options, and may sell or purchase exchange-traded put options.

(i) A company may not invest in a security or other obligation authorized under this subdivision if the investment, valued at cost at the date of purchase, causes the company's aggregate investment in any one business entity to exceed two percent of the company's admitted assets.

(j) For nonprofit health service plan corporations regulated under chapter 62C, and for health maintenance organizations regulated under chapter 62D, a company may invest in commercial paper rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization, or rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment, valued at cost at the date of purchase, does not cause the company's aggregate investment in any one business entity to exceed six percent of the company's admitted assets.

Sec. 5. Minnesota Statutes 1990, section 61A.28, subdivision 8, is

amended to read:

Subd. 8. [~~PROMISSORY NOTES SECURED BY WAREHOUSE RECEIPTS~~ *ASSET BACKED ARRANGEMENTS.*] ~~Promissory notes maturing within six months, secured by the pledge of registered terminal warehouse receipts issued against grain deposited in terminal warehouses, as defined in section 233.01. At the time of investing in these notes, the market value of the grain shall exceed the indebtedness secured thereby, and the note or pledge agreement shall provide that the holder may call for additional like security or sell the grain without notice upon depreciation of the security; the insurance company may accept, in lieu of the deposit with it of the warehouse receipts, a trustee certificate issued by any national or state bank at a terminal point, certifying that the warehouse receipts have been deposited with it and are held as security for the notes; and the amount invested in the securities mentioned in this subdivision shall not, at any time, exceed 25 percent of the unassigned surplus and capital of the company.~~ *Investments in asset backed arrangements that meet the definitions and credit criteria provided in this subdivision. For purposes of this subdivision, "asset backed arrangement" means a loan participation or loan to or equity investment in a business entity that has as its primary business activity the acquisition and holding of financial assets for the benefit of its debt and equity holders.*

In order to qualify for investment under this subdivision:

(a) the investment in the asset backed arrangement must be secured by or represent an undivided interest in a single financial asset or a pool of financial assets; and

(b) either (1) at least 90 percent of the dollar value of the financial assets held under the asset backed arrangement qualifies for direct investment under this section; (2) the investment in the asset backed arrangement is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; or (3) the investment in the asset backed arrangement is rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

Examples of asset-backed arrangements authorized by this subdivision include, but are not limited to: general and limited partnership interests; participations under unit investment trusts such as collateralized mortgage obligations and collateralized bond obligations; shares in, or obligations of, corporations formed for holding investment assets, and contractual participation interests in a loan or group of loans.

A company may not invest in an asset backed arrangement if the investment causes the company's aggregate investment in the financial assets held under the asset backed arrangement to exceed any of the concentration limits contained in this section.

Sec. 6. Minnesota Statutes 1990, section 61A.28, is amended by adding a subdivision to read:

Subd. 9a. [HEDGING.] *A domestic life insurance company may enter into financial transactions solely for the purpose of managing the interest rate risk associated with the company's assets and liabilities and not for speculative or other purposes. For purposes of this subdivision, "financial transactions" include, but are not limited to, futures, options to buy or sell fixed income securities, repurchase and reverse repurchase agreements, and interest rate swaps, caps, and floors. This authority is in addition to any*

other authority of the insurer.

Sec. 7. Minnesota Statutes 1990, section 61A.28, subdivision 11, is amended to read:

Subd. 11. [POLICY LOANS.] Loans on the security of insurance policies issued by itself to an amount not exceeding the loan value thereof; and loans on the pledge of any of the securities eligible for investment under the provisions of subdivisions 2 to 10, *with the exception of noninvestment grade obligations as defined in subdivision 6, paragraph (f)*, but not exceeding 95 percent of the value of securities enumerated in subdivisions 2, 3, and 4 and 80 percent of the value of stocks and other securities; in case of securities enumerated in subdivisions 3, 5, and 10 "value" means principal amount unpaid thereon and in case of other securities market value thereof; in case of securities enumerated in subdivisions 3 and 10 the pledge agreement shall require principal payments by the pledgor at least equal to and concurrent with principal payments on the pledged security; in loans authorized by this subdivision, except as otherwise provided by law in regard to policy loans, the company shall reserve the right at any time to declare the indebtedness due and payable when in excess of such proportions of value or, in case of pledge of securities other than those enumerated in subdivisions 3 and 10, upon depreciation of security.

Sec. 8. Minnesota Statutes 1990, section 61A.28, subdivision 12, is amended to read:

Subd. 12. [ADDITIONAL INVESTMENTS.] Investments of any kind, without regard to the categories, conditions, standards, or other limitations set forth in the foregoing subdivisions and section 61A.31, subdivision 3, except that the prohibitions in clause (d) of subdivision 3 remains applicable, may be made by a domestic life insurance company in an amount not to exceed the lesser of the following:

(1) Five percent of the company's total admitted assets as of the end of the preceding calendar year, or

(2) Fifty percent of the amount by which its capital and surplus as of the end of the preceding calendar year exceeds $675,000. ~~Provided, however, that~~ *Except as provided in section 61A.281*, a company's total investment under this section in the common stock of any corporation, other than the stock of the types of corporations specified in subdivision 6(a), may not exceed ten percent of the common stock of the corporation. ~~Provided, further, that~~ No investment may be made under the authority of this clause or clause (1) by a company that has not completed five years of actual operation since the date of its first certificate of authority.

If, subsequent to being made under the provisions of this subdivision, an investment is determined to have become qualified or eligible under any of the other provisions of this chapter, the company may consider the investment as being held under the other provision and the investment need no longer be considered as having been made under the provisions of this subdivision.

In addition to the investments authorized by this subdivision, a domestic life insurance company may make qualified investments in any additional securities or property of the type authorized by subdivision 6, paragraph *(e)*, (f), *or (g)*, with the written order of the commissioner. This approval is at the discretion of the commissioner, *provided that the additional investments allowed by the commissioner's written order may not exceed five*

percent of the company's admitted assets. This authorization does not negate or reduce the investment authority granted in subdivision 6, paragraph *(e)*, (f), *or (g)*, or this subdivision.

Sec. 9. Minnesota Statutes 1990, section 61A.28, is amended by adding a subdivision to read:

Subd. 13. [ADDITIONAL LIMITATIONS.] *Under the standards and procedures in article 3 for individual insurers, the commissioner may impose additional limitations on all insurers on the types and percentages of investments as the commissioner determines necessary to protect and ensure the safety of the general public.*

Sec. 10. Minnesota Statutes 1990, section 61A.281, is amended by adding a subdivision to read:

Subd. 5. [CORPORATIONS ORGANIZED TO HOLD INVESTMENTS.] *A domestic life insurance company may organize one or more corporations domiciled in the United States and hold the capital stock of them, provided that it shall continuously own all of the capital stock and that the corporations so organized shall limit their activities to acquiring and holding investments, other than under subdivisions 1 to 4, that a domestic life insurance company may acquire and hold. The investments of these corporations are subject to the same restrictions and requirements as apply to domestic life insurance companies, including the applicable percentage limitations for investments in individual properties and entities and limitations on the aggregate amount to be invested in any investment category. For the purposes of calculating the amount of an investment held by the life insurance company, investments in the same property, entity, or investment category that are owned by the company and all corporations qualifying under this subdivision must be aggregated.*

Sec. 11. Minnesota Statutes 1990, section 61A.29, is amended to read:

61A.29 [~~INVESTMENTS; AUTHORIZATION;~~ FOREIGN INVESTMENTS.]

Subdivision 1. [AUTHORIZATION.] ~~No investment or loan, except policy loans, shall be made by any domestic life insurance company unless the same shall have been authorized or be approved by the board of directors or by a committee of directors, officers or employees of the company designated by the board charged with the duty of supervising the investment or loan, and in either case accurate records of all authorizations and approvals shall be maintained.~~ *In addition to the Canadian investments permitted by this chapter, a domestic life insurance company may make foreign investments authorized by subdivision 2, subject to the limitations contained in subdivision 3. Investments authorized by this section are restricted to countries where the obligations of the sovereign government are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization in the United States. All investments must be made as provided under foreign investment guidelines established and maintained by the company under section 60A.112.*

Subd. 2. [~~FOREIGN~~ *AUTHORIZED* INVESTMENTS.] ~~Any domestic life insurance company may invest in obligations of and investments in foreign countries, other than the Dominion of Canada, 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 shall be considered necessary for the convenient accommodation of foreign business only if it is demonstrably and directly related in size and purpose to such company's foreign insurance operations; and~~

~~(b) A company may also invest not more than a total of two percent of its 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 section 61A.28, subdivision 6, if the obligations, stocks, or stock equivalents are 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.~~ *A company may invest in (i) foreign assets denominated in United States dollars; (ii) foreign assets denominated in foreign currency; and (iii) United States assets denominated in foreign currency. The investments may be made in any combination of the following:*

(a) Obligations of sovereign governments and political subdivisions thereof and obligations issued or fully guaranteed by a supranational bank or organization, other than those described in section 61A.28, subdivision 2, paragraph (e), provided that the obligations are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization in the United States. For purposes of this section, "supranational bank" means a bank owned by a number of sovereign nations and engaging in international borrowing and lending.

(b) Obligations of a foreign business entity, provided that the obligation (i) is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization in the United States or by a similarly recognized statistical rating organization, as approved by the commissioner, in the country where the investment is made; or (ii) is rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(c) Stock or stock equivalents issued by a foreign entity if the stock or stock equivalents are regularly traded on the Frankfurt, London, Paris, or Tokyo stock exchange or any similar securities exchange as may be approved from time to time by the commissioner and subject to oversight by the government of the country in which the exchange is located.

(d) Financial transactions for the sole purpose of managing the foreign currency risk of investments made under this subdivision, provided that the financial transactions are entered into under a detailed plan maintained by the company. For purposes of this paragraph, "financial transactions" include, but are not limited to, the purchase or sale of currency swaps, forward agreements, and currency futures.

Subd. 3. [INVESTMENT LIMITATIONS.] *Investments authorized by subdivision 2 are subject to the following limitations:*

(a) A company shall not make an investment under this section if the investment causes the company's aggregate investments authorized under this section to exceed ten percent of its total admitted assets.

(b) Investments made under subdivision 2 must be aggregated with United States investments in determining compliance with percentage concentration limitations, if any, contained in this chapter.

(c) A company shall not invest in the obligations of one issuer under subdivision 2 in an amount greater than authorized for investments of the same class under this chapter. A company shall not invest more than two percent of its total admitted assets in the direct or guaranteed obligations of a sovereign government or political subdivision thereof, or of a supranational bank.

Sec. 12. Minnesota Statutes 1990, section 61A.31, is amended to read:

61A.31 [REAL ESTATE HOLDINGS.]

Subdivision 1. [PURPOSES.] Except as provided in subdivisions 2, 3, and 4, every domestic life insurance company may acquire, hold and convey real property only for the following purposes and in the following manner:

(1) Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due;

(2) Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings;

(3) Such as shall have been purchased at sales on judgments, decrees or mortgages obtained or made for such debts;

(4) Such as shall have been subject to a contract for deed under which the company held the vendor's interest to secure the payment by the vendee.

~~All the real property specified in clauses (1), (2), (3), and (4), which shall not be necessary for its accommodation in the convenient transaction of its business, shall be sold and disposed of within five years after the company shall have acquired title to the same, or within five years after the same shall have ceased to be necessary for the accommodation of its business, and it shall not hold this property for a longer period unless it shall hold real property pursuant to subdivision 3, or shall procure a certificate from the commissioner of commerce that its interest will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to such time as the commissioner shall direct in the certificate.~~

Subd. 2. [BUILDING PROJECTS.] In order to promote and supplement public and private efforts to provide an adequate supply of decent, safe, and sanitary dwelling accommodations for persons of low and moderate income; to relieve unemployment; to alleviate the shortage of rental residences; and to assist in relieving the emergency in the housing situation in this country through investment of funds, any life insurance company may purchase or lease from any owner or owners (including states and political subdivisions thereof), real property in any state in which such company is licensed to transact the business of life insurance; and on any real property so acquired or on real property so located and acquired otherwise in the conduct of its business, such company may erect apartment, or other dwelling houses, not including hotels, but including accommodations for retail stores, shops, offices, and other community services reasonably incident to such projects; or, to provide such housing or accommodations, may construct, reconstruct, improve, or remove any buildings or other improvements thereon. Such company may thereafter own, improve, maintain, manage, collect or receive income from, sell, lease, or convey any such real property and the improvements thereon. ~~The aggregate investment by any~~

~~such domestic life insurance company in all such projects, including the cost of all real property so purchased or leased and the cost of all improvements to be made upon such real property and upon real property otherwise acquired, shall not, at the date of purchase or other acquisition of such real property, exceed ten percent of the total admitted assets of such company on the last day of the previous calendar year.~~ *A company may not invest in the building projects if the investment causes the company's aggregate investments under this subdivision to exceed ten percent of its total admitted assets.*

Subd. 3. [ACQUISITION OF PROPERTY.] Any domestic life insurance company may:

(a) acquire real property or any interest in real property, including oil and gas and other mineral interests, in the United States or any state thereof, or in the Dominion of Canada or any province thereof, as an investment for the production of income, and hold, improve or otherwise develop, and lease, sell, and convey the same either directly or as a joint venturer or through a limited or general partnership in which the company is a partner~~, subject to the following conditions and limitations: (1) The cost to the company of each parcel of real property acquired pursuant to this paragraph, including the estimated cost to the company of the improvement or development thereof, when added to the book value of all other real property then held by it pursuant to this clause, may not exceed 15 percent of its admitted assets as of the end of the preceding calendar year, and (2) the cost to the company of each parcel of real property acquired pursuant to this paragraph, including the estimated costs to the company of the improvement or development thereof, may not exceed two percent of its admitted assets as of the end of the preceding calendar year;~~. *A company may not invest in any real property asset other than property held for the convenience and accommodation of its business if the investment causes: (1) the company's aggregate investments in the real property assets to exceed ten percent of its admitted assets; or (2) the company's investment in any single parcel of real property to exceed one-half of one percent of its admitted assets;*

(b) acquire personal property in the United States or any state thereof, or in the Dominion of Canada or any province thereof, under lease or leases or commitment for lease or leases if: (1) either the fair value of the property exceeds the company's investment in it or the lessee, or at least one of the lessees, or a guarantor, or at least one of the guarantors, of the lease is a corporation with a net worth of $1,000,000 or more; and (2) the lease provides for rent sufficient to amortize the investment with interest over the primary term of the lease or the useful life of the property, whichever is less~~; and (3) in no event does the total investment in personal property under this paragraph exceed three percent of the domestic life insurance company's admitted assets~~. *A company may not invest in the personal property if the investment causes the company's aggregate investments in the personal property to exceed three percent of its admitted assets;*

(c) acquire and hold real estate (1) if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this section and (2) if the company expects the real estate so acquired to qualify and be held by the company under paragraph (a) within five years after acquisition; and

(d) not acquire real property under paragraphs (a) to (c) if the property is to be used primarily for agricultural, horticultural, ranch, mining, or church purposes.

All real property acquired or held under this subdivision must be carried at a value equal to the lesser of (1) cost plus the cost of capitalized improvements, less normal depreciation, or (2) market value.

Subd. 4. [CONVENIENCE AND ACCOMMODATION OF BUSINESS.] ~~The real estate acquired or held by any domestic life insurance company for the convenience and accommodation of its business shall not exceed in value 25 percent of its cash and invested assets, not including real estate acquired or held for the convenience and accommodation of its business. Any domestic life insurance company, after having secured approval of the commissioner of commerce therefor, may also acquire and hold real estate for the sole purpose of providing necessary homes and living quarters for its employees. Such real estate shall never exceed three percent of the company's cash assets as shown by its annual statement last filed with the commissioner of commerce. All real property which shall not be necessary for its accommodation in the convenient transaction of its business, or the housing of its employees, shall be sold and disposed of within five years after the same shall have ceased to be necessary for the accommodation of its business, or the housing of its employees, and it shall not hold this property for a longer period unless, (a) it shall procure a certificate from the commissioner of commerce that its interest will suffer materially by the forced sale thereof, in which event the time for sale may be extended to such time as the commissioner shall direct in the certificate, or (b) such real property qualifies as an investment under the terms of subdivision 3 in which event the company may, at its option consider such real property as held under the provisions of said subdivision, subject to the conditions, standards, or other limitations of said subdivision as though it had been originally acquired thereunder.~~ *A company may acquire and hold real estate for the convenience and accommodation of its business. Without the prior approval of the department of commerce, a company may not invest in real estate authorized under this subdivision if the investment causes the company's aggregate investments under this subdivision to exceed five percent of its total admitted assets, except that a health service plan corporation operating under chapter 62C may not invest in real estate authorized under this subdivision if the investment causes the company's aggregate investments under this subdivision to exceed 25 percent of its total admitted assets.*

Sec. 13. [REPEALER.]

Minnesota Statutes 1990, section 61A.28, subdivisions 4 and 5, are repealed.

ARTICLE 10

ADMINISTRATION

Section 1. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 27. [ADMITTED ASSETS.] *"Admitted assets" means the assets as shown by the company's annual statement on December 31 valued according to valuation regulations prescribed by the National Association of Insurance Commissioners and procedures adopted by the National Association of Insurance Commissioners' financial condition Ex 4 subcommittee if not addressed in another section, unless the commissioner requires or finds another method of valuation reasonable under the circumstances.*

Sec. 2. Minnesota Statutes 1990, section 60A.03, subdivision 5, is amended to read:

Subd. 5. [EXAMINATION FEES AND EXPENSES.] When any visitation, examination, or appraisal is made by order of the commissioner, the company being examined, visited, or appraised, including fraternals, township mutuals, reciprocal exchanges, nonprofit service plan corporations, health maintenance organizations, vendors of risk management services licensed under section 60A.23, or self-insurance plans or pools established under section 176.181 or 471.982, shall pay to the department of commerce the necessary expenses of the persons engaged in the examination, visit, ~~or~~ appraisal, *or desk audits of annual statements and records performed by the department other than on the company premises* plus the per diem salary fees of the employees of the department of commerce who are conducting or participating in the examination, visitation, ~~or~~ appraisal, *or desk audit*. The per diem salary fees may be based upon the approved examination fee schedules of the National Association of Insurance Commissioners or otherwise determined by the commissioner. All of these fees and expenses must be paid into the department of commerce revolving fund.

Sec. 3. Minnesota Statutes 1990, section 60A.031, is amended to read:

60A.031 [EXAMINATIONS.]

Subdivision 1. [POWER TO EXAMINE.] (1) [INSURERS AND OTHER LICENSEES.] At any time and for any reason related to the enforcement of the insurance laws, *or to ensure that companies are being operated in a safe and sound manner and to protect the public interest*, the commissioner may examine the affairs and conditions of any foreign or domestic insurance *or reinsurance* company, including reciprocals and fraternals, licensee or applicant for a license under the insurance laws, or any other person or organization of persons doing or in the process of organizing to do any insurance business in this state, and of any licensed advisory organization serving any of the foregoing in this state.

The commissioner shall examine the affairs and conditions of every domestic insurance company at least once every five years.

(2) [WHO MAY BE EXAMINED.] The commissioner in making any examination of an insurance company as authorized by this section may, if in the commissioner's discretion, there is cause to believe the commissioner is unable to obtain relevant information from such insurance company *or that the examination or investigation is, in the discretion of the commissioner, necessary or material to the examination of the company*, examine any person, association, or corporation:

(a) transacting, having transacted, or being organized to transact the business of insurance in this state;

(b) engaged in or proposing to be engaged in the organization, promotion, or solicitation of shares or capital contributions to or aiding in the formation of a domestic insurance company;

(c) holding shares of capital stock of an insurance company for the purpose of controlling the management thereof as voting trustee or otherwise;

(d) having a contract, written or oral, pertaining to the management or control of an insurance company as general agent, managing agent, attorney-in-fact, or otherwise;

(e) which has substantial control directly or indirectly over an insurance company whether by ownership of its stock or otherwise, or owning stock in any domestic insurance company, which stock constitutes a substantial

proportion of either the stock of the domestic insurance company or of the assets of the owner thereof;

(f) which is a subsidiary or affiliate of an insurance company;

(g) which is a licensed agent or solicitor or has made application for the licenses;

(h) engaged in the business of adjusting losses or financing premiums.

Nothing contained in this clause (2) shall authorize the commissioner to examine any person, association, or corporation which is subject to regular examination by another division of the commerce department of this state. The commissioner shall notify the other division when an examination is deemed advisable.

Subd. 2a. [PURPOSE, SCOPE, AND NOTICE OF EXAMINATION.] An examination may, but need not, cover comprehensively all aspects of the examinee's affairs, practices, and conditions. The commissioner shall determine the nature and scope of each examination and in doing so shall take into account all available relevant factors concerning the financial and business affairs, practices and conditions of the examinee. For examinations undertaken pursuant to this section, the commissioner shall issue an order stating the scope of the examination and designating the person responsible for conducting the examination. A copy of the order shall be provided to the examinee.

In conducting the examination, the examiner shall observe the guidelines and procedures in the examiner's handbook adopted by the National Association of Insurance Commissioners. The commissioner may also employ other guidelines or procedures that the commissioner may consider appropriate.

Subd. 3. [ACCESS TO EXAMINEE.] *(a)* The commissioner, or the designated person, shall have *timely, convenient, and* free access ~~during normal business~~ *at all reasonable* hours to all books, records, securities, *accounts,* documents, and any or all *computer or other records and* papers relating to the property, assets, business, and affairs of any company, applicant, association, or person which may be examined pursuant to this act for the purpose of ascertaining, appraising, and evaluating the assets, conditions, affairs, operations, ability to fulfill obligations, and compliance with all the provisions of law of the company or person insofar as any of the above pertain to the business of insurance of a person, organization, or corporation transacting, having transacted, or being organized to transact business in this state. Every company or person being examined, its officers, directors, and agents, shall provide to the commissioner or the designated person *timely,* convenient, and free access at all reasonable hours at its office to all its books, records, *accounts, papers,* securities, documents, any or all ~~papers~~ *computer or other records* relating to the property, assets, business, and affairs of the company or person. The officers, directors, and agents of the company or person shall facilitate the examination and aid in the examination so far as it is in their power to do so.

The refusal of a company, by its officers, directors, employees, or agents, to submit to examination or to comply with a reasonable request of the examiners is grounds for suspension or refusal of, or nonrenewal of, a license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. The proceedings for suspension, revocation, or refusal of a license or authority must be conducted as provided

in section 45.027.

(b) The commissioner or any examiners may issue subpoenas, administer oaths, and examine under oath any person as to any matter pertinent to the examination. If a person fails or refuses to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court.

(c) When making an examination or audit under this section, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the cost of which must be paid by the company that is the subject of the examination or audit.

(d) This section does not limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to an examination are prima facie evidence in a legal or regulatory action.

(e) Nothing contained in this section shall be construed to limit the commissioner's authority to use as evidence a final or preliminary examination report, examiner or company workpapers or other documents, or other information discovered or developed during the course of an examination in the furtherance of a legal or administrative action which the commissioner may, in the commissioner's sole discretion, consider appropriate.

Subd. 4. [EXAMINATION REPORT; FOREIGN AND DOMESTIC COMPANIES.] *(a)* The commissioner shall make a full and true report of every examination conducted pursuant to this chapter, which shall include (1) a statement of findings of fact relating to the financial status and other matters ascertained from the books, papers, records, documents, and other evidence obtained by investigation and examination or ascertained from the testimony of officers, agents, or other persons examined under oath concerning the business, affairs, assets, obligations, ability to fulfill obligations, and compliance with all the provisions of the law of the company, applicant, organization, or person subject to this chapter and (2) a summary of important points noted in the report, conclusions, recommendations and suggestions as may reasonably be warranted from the facts so ascertained in the examinations. The report of examination shall be verified by the oath of the examiner in charge thereof, and shall be prima facie evidence in any action or proceedings in the name of the state against the company, applicant, organization, or person upon the facts stated therein.

(b) No later than 60 days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which provides the company examined with a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to matters contained in the examination report.

(c) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with the written submissions or rebuttals and

the relevant portions of the examiner's workpapers and enter an order:

(1) adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule, or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure the violation;

(2) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling the report as required under paragraph (b); or

(3) calling for an investigatory hearing with no less than 20 days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(d)(1) All orders entered under paragraph (c), clause (1), must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers, and any written submissions or rebuttals. The order is a final administrative decision and may be appealed as provided under chapter 14. The order must be served upon the company by certified mail, together with a copy of the adopted examination report. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(2) A hearing conducted under paragraph (c), clause (3), by the commissioner or authorized representative, must be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or by the written submission or rebuttal of the company. Within 20 days of the conclusion of the hearing, the commissioner shall enter an order as required under paragraph (c), clause (1).

(3) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing must proceed expeditiously. Discovery by the company is limited to the examiner's workpapers which tend to substantiate assertions in a written submission or rebuttal. The commissioner or the commissioner's representative may issue subpoenas for the attendance of witnesses or the production of documents considered relevant to the investigation whether under the control of the department, the company, or other persons. The documents produced must be included in the record. Testimony taken by the commissioner or the commissioner's representative must be under oath and preserved for the record.

This section does not require the department to disclose information or records which would indicate or show the existence or content of an investigation or activity of a criminal justice agency.

(4) The hearing must proceed with the commissioner or the commissioner's representative posing questions to the persons subpoenaed. Thereafter, the company and the department may present testimony relevant to the investigation. Cross-examination may be conducted only by the commissioner or the commissioner's representative. The company and the department shall be permitted to make closing statements and may be represented by counsel

of their choice.

(e)(1) Upon the adoption of the examination report under paragraph (c), clause (1), the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of 30 days except as otherwise provided in paragraph (b). Thereafter, the commissioner may open the report for public inspection if a court of competent jurisdiction has not stayed its publication.

(2) Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to the reports, to the commerce department or the insurance department of another state or country, or to law enforcement officials of this or another state or agency of the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold it confidential and in a manner consistent with this subdivision.

(3) If the commissioner determines that regulatory action is appropriate as a result of an examination, the commissioner may initiate proceedings or actions as provided by law.

(f) All working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this subdivision must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent provided in paragraph (e). Access may also be granted to the National Association of Insurance Commissioners. The parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

Subd. 5. [ORDER; FOREIGN AND DOMESTIC COMPANIES.] Within a reasonable time of receipt of an examination report the commissioner may issue an order to the examinee directing compliance within a time specified in the order or by law with one or more of the following:

(a) to restore within the time and extent prescribed by law or the commissioner's order any deficiency, whenever its capital, reserves or surplus have become impaired,

(b) to cease and desist from transaction of any business or from any business practice which if transacted or continued might result in the examinee's condition or further transaction of business being hazardous to its policyholders, its creditors, or the public,

(c) to cease and desist from any other violation of its charter or any law of the state.

Subd. 6. [PENALTY.] Notwithstanding section 72A.05, any person who violates or aids and abets any violation of a written order issued pursuant to this section may be fined not more than $10,000 *for each day the violation continues* for each violation of the order in an action commenced in Ramsey county by the attorney general on behalf of the state of Minnesota and the money so recovered shall be paid into the general fund.

Subd. 7. [ALTERNATIVES TO EXAMINATIONS.] ~~(1) [AUDITS OR ACTUARIAL EVALUATIONS.]~~ In lieu of ~~all or part of an examination~~

~~under this chapter, or in addition to it, the commissioner may require an independent audit by certified public accountants approved by the commissioner or an actuarial evaluation by actuaries approved by the commissioner of any persons subject to the examination requirement of subdivision 1.~~

~~(2) [REPORTS.] In lieu of all or part of an examination under this section, the commissioner may accept the report of an audit made by certified public accountants approved by the commissioner or actuarial evaluation by actuaries approved by the commissioner or the report of an examination made by the insurance department of another state, of the examination made by another government agency in this state, the federal government or another state.~~ *an examination under this section of a foreign or an alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port of entry state until January 1, 1994. After January 1, 1994, the reports may only be accepted if:*

(1) the insurance department is accredited under the National Association of Insurance Commissioners Financial Regulation Standards and Accreditation Program at the time of the examination; or

(2) the examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by an accredited state insurance department and who, after a review of the examination workpapers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

Subd. 7a. [CONFLICT OF INTEREST.] *The department shall establish reasonable procedures so that no examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in a person subject to examination under this chapter. This section shall not be construed to automatically preclude an examiner from being:*

(1) a policyholder or claimant under an insurance policy;

(2) a grantor of a mortgage or similar instrument on the examiner's residence to a regulated entity if done under customary terms and in the ordinary course of business;

(3) an investment owner in shares of regulated diversified investment companies; or

(4) a settlor or beneficiary of a "blind trust" into which any otherwise impermissible holdings have been placed.

Notwithstanding the requirements of this section, the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though the persons may from time to time be similarly employed or retained by persons subject to examination under this chapter.

Subd. 8. [POWER TO MAKE RULES.] The commissioner may promulgate any rules which may be necessary to the administration of subdivisions 1 to ~~7~~ 9.

Subd. 9. [IMMUNITY FROM LIABILITY.] *(a) No cause of action shall*

arise nor shall liability be imposed against the commissioner, the commissioner's authorized representatives, or an examiner appointed by the commissioner for statements made or conduct performed in good faith while carrying out the provisions of this section.

(b) No cause of action shall arise, nor shall liability be imposed against a person for the act of communicating or delivering information or data to the commissioner or the commissioner's authorized representative or examiner pursuant to an examination made under this section, if the act of communication or delivery is performed in good faith and without fraudulent intent or the intent to deceive.

(c) This section does not abrogate or modify a common law or statutory privilege or immunity enjoyed by a person identified in paragraph (a).

(d) A person identified in paragraph (a) may be awarded attorney fees and costs if the person is the prevailing party in a civil cause of action for libel, slander, or other relevant tort arising out of activities in carrying out the provisions of this section, and the party bringing the action was not substantially justified in doing so. For purposes of this section, a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

Sec. 4. Minnesota Statutes 1990, section 60A.07, is amended by adding a subdivision to read:

Subd. 5f. [CAPITAL AND SURPLUS REQUIREMENTS.] *(a) Capital and surplus requirements apply to all types of insurance transacted by the insurer, whether or not only a portion of the types of insurance are transacted in this state. The commissioner may for the protection of the public require an insurer to maintain funds in excess of the amounts required under this section, due to the amount, kind, or combination of types of insurance transacted by the insurer. Failure of an insurer to maintain funds as ordered by the commissioner is grounds for suspension or revocation of the insurer's certificate of authority.*

(b) After June 30, 1991, an insurer may not renew and continue its certificate of authority unless the insurer possesses at least the basic capital and surplus, and additional surplus required by the commissioner under this section.

Sec. 5. Minnesota Statutes 1990, section 60A.10, subdivision 2a, is amended to read:

Subd. 2a. [SPECIAL DEPOSITS.] The commissioner may require a special deposit of an individual foreign insurer for the protection of its Minnesota policyholders or claimants. ~~The special deposit may be required, to a maximum amount of $500,000.~~ In the event of the filing of a delinquency petition against the insurer in Minnesota, the deposit is subject to chapters 60B, 60C, ~~and~~ 61A, *and 61B*.

Sec. 6. Minnesota Statutes 1990, section 60A.11, subdivision 9, is amended to read:

Subd. 9. [GENERAL CONSIDERATIONS.] The following considerations apply in the interpretation of this section:

(a) This section applies to the investments of insurance companies other than life insurance companies;

(b) The purpose of this section is to protect and further the interests of

policyholders, claimants, creditors and the public by providing standards for the development and administration of programs for the investment of the assets of domestic companies. These standards and the investment programs developed by companies must take into account the safety of company's principal, investment yield and growth, stability in the value of the investment, the liquidity necessary to meet the company's expected business needs, and investment diversification;

(c) All financial terms relating to insurance companies have the meanings assigned to them under statutory accounting methods. All financial terms relating to noninsurance companies have the meanings assigned to them under generally accepted accounting principles;

(d) Investments must be valued in accordance with the valuation procedures established by the National Association of Insurance Commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances. *Other invested assets must be valued according to the procedures promulgated by the National Association of Insurance Commissioners', if not addressed in another section, unless the commissioner requires or finds another method of valuation reasonable under the circumstances*;

(e) A company may elect to hold an investment which qualifies under more than one subdivision, under the subdivision of its choice. Nothing herein prevents a company from electing to hold an investment under a subdivision different from the one in which it previously held the investment; and

(f) An investment which qualifies under any provision of the law governing investments of insurance companies when acquired will continue to be a qualified investment for as long as it is held by the insurance company.

Sec. 7. Minnesota Statutes 1990, section 60A.13, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL STATEMENTS REQUIRED.] Every insurance company, including fraternal beneficiary associations, and reciprocal exchanges, doing business in this state, shall transmit to the commissioner, annually, on or before March first, ~~in the form prescribed by the commissioner, a verified statement of its entire business and condition during the preceding calendar year~~ *the appropriate verified National Association of Insurance Commissioners' annual statement blank, prepared in accordance with the association's instructions handbook and following those accounting procedures and practices prescribed by the association's accounting practices and procedures manual, unless the commissioner requires or finds another method of valuation reasonable under the circumstances*. In addition, the commissioner may require the filing of any other information determined to be reasonably necessary for the continual enforcement of these laws. The statement may be limited to the insurer's business and condition in the United States unless the commissioner finds that the business conducted outside the United States may detrimentally affect the interests of policyholders in this state. The statements shall also contain a verified schedule showing all details required by law for assessment and taxation. The statement or schedules shall be in the form and shall contain all matters the commissioner may prescribe, and it may be varied as to different types of insurers so as to elicit a true exhibit of the condition of each insurer.

Sec. 8. Minnesota Statutes 1990, section 60A.14, subdivision 1, is

amended to read:

Subdivision 1. [FEES OTHER THAN EXAMINATION FEES.] In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies:

(1) for filing certificate of incorporation $25 and amendments thereto, $10;

(2) for filing annual statements, $15;

(3) for each annual certificate of authority, $15;

(4) for filing bylaws $25 and amendments thereto, $10.

(b) by other domestic and foreign companies including fraternals and reciprocal exchanges:

(1) for filing certified copy of certificate of articles of incorporation, $100;

(2) for filing annual statement, $225;

(3) for filing certified copy of amendment to certificate or articles of incorporation, $100;

(4) for filing bylaws, $75 or amendments thereto, $75;

(5) for each company's certificate of authority, $575, annually.

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, $15;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and $2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, $575;

(4) for receiving and forwarding each notice, proof of loss, summons, complaint or other process served upon the commissioner of commerce, as attorney for service of process upon any nonresident agent or insurance company, including reciprocal exchanges, $15 plus the cost of effectuating service by certified mail, which amount must be paid by the party serving the notice and may be taxed as other costs in the action;

(5) for valuing the policies of life insurance companies, one cent per $1,000 of insurance so valued, provided that the fee shall not exceed ~~$1,000~~ *$13,000* per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(6) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, $50;

(7) for issuing an initial license to an individual agent, $20 per license, for issuing an initial agent's license to a partnership or corporation, $50, and for issuing an amendment (variable annuity) to a license, $20, and for

renewal of amendment, $20;

(8) for each appointment of an agent filed with the commissioner, a domestic insurer shall remit $5 and all other insurers shall remit $3;

(9) for renewing an individual agent's license, $20 per year per license, and for renewing a license issued to a corporation or partnership, $50 per year;

(10) for issuing and renewing a surplus lines agent's license, $150;

(11) for issuing duplicate licenses, $5;

(12) for issuing licensing histories, $10;

(13) for filing forms and rates, $50 per filing;

(14) for annual renewal of surplus lines insurer license, $300.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 9. Minnesota Statutes 1990, section 61A.283, is amended to read:

61A.283 [ADMITTED ASSETS.]

For the purpose of applying any investment limitation based on the amount of a domestic life insurance company's admitted assets, the term "admitted assets" ~~shall mean such assets as shown by the company's annual statement, required by section 60A.13, as of the December 31 immediately preceding the date the company acquires the investment~~ *has the meaning given in section 1*, with an adjustment in ~~such~~ *the* admitted asset figure to exclude amounts which on ~~such~~ *the* December 31 *immediately preceding the date the company acquires an investment* are allocated to separate accounts; ~~and the value of stocks and warrants and options to purchase stocks owned by the company on such December 31 shall be based on cost. For other purposes the term "admitted assets" shall mean such assets as shown by the company's annual statement on such December 31, valued in accordance with the valuation regulations prescribed by the National Association of Insurance Commissioners~~.

Sec. 10. Minnesota Statutes 1990, section 72A.061, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL STATEMENTS.] Any insurance company licensed to do business in this state, including fraternals, reciprocals and township mutuals, which neglects to file its annual statement in the form prescribed and within the time specified by law shall be subject to a penalty of ~~$25~~ *$100* for each day in default. If, at the end of ~~90~~ *45* days, the default has not been corrected, the company shall be given ten days in which to show cause to the commissioner why its license should not be suspended. If the company has not made the requisite showing within the ten-day period, the license and authority of the company may, at the discretion of the commissioner, be suspended during the time the company is in default.

Any insurance company, including fraternals, reciprocals, and township mutuals, willfully making a false annual or other required statement shall pay a penalty to the state not to exceed $5,000. Either or both of the monetary penalties imposed by this subdivision may be recovered in a civil action brought by and in the name of the state.

Sec. 11. Minnesota Statutes 1990, section 62D.044, is amended to read:

62D.044 [ADMITTED ASSETS.]

"Admitted assets" includes the following:

(1) petty cash and other cash funds in the organization's principal or official branch office that are under the organization's control;

(2) immediately withdrawable funds on deposit in demand accounts, in a bank or trust company organized and regularly examined under the laws of the United States or any state, and insured by an agency of the United States government, or like funds actually in the principal or official branch office at statement date, and, in transit to a bank or trust company with authentic deposit credit given before the close of business on the fifth bank working day following the statement date;

(3) the amount fairly estimated as recoverable on cash deposited in a closed bank or trust company, if the assets qualified under this section before the suspension of the bank or trust company;

(4) bills and accounts receivable that are collateralized by securities in which the organization is authorized to invest;

(5) premiums due from groups or individuals that are not more than 90 days past due;

(6) amounts due under reinsurance arrangements from insurance companies authorized to do business in this state;

(7) tax refunds due from the United States or this state;

(8) *principal and* interest accrued on mortgage loans not exceeding in aggregate one year's total due and accrued *principal and* interest on an individual loan;

(9) the rents due to the organization on real and personal property, directly or beneficially owned, not exceeding the amount of one year's total due and accrued rent on each individual property;

(10) *principal and* interest or rents accrued on conditional sales agreements, security interests, chattel mortgages, and real or personal property under lease to other corporations that do not exceed the amount of one year's total due and accrued interest or rent on an individual investment;

(11) the fixed required *principal and* interest due and accrued on bonds and other evidences of indebtedness that are not in default;

(12) dividends receivable on shares of stock, provided that the market price for valuation purposes does not include the value of the dividend;

(13) the interest on dividends due and payable, but not credited, on deposits in banks and trust companies or on accounts with savings and loan associations;

(14) *principal and* interest accrued on secured loans that do not exceed the amount of one year's interest on any loan;

(15) interest accrued on tax anticipation warrants;

(16) the amortized value of electronic computer or data processing machines or systems purchased for use in the business of the organization, including software purchased and developed specifically for the organization's use;

(17) the cost of furniture, equipment, and medical equipment, less accumulated depreciation thereon, and medical and pharmaceutical supplies that are used to deliver health care and are under the organization's control, provided the assets do not exceed 30 percent of admitted assets;

(18) amounts currently due from an affiliate that has liquid assets with which to pay the balance and maintain its accounts on a current basis. Any amount outstanding more than three months is not current;

(19) amounts on deposit under section 62D.041;

(20) accounts receivable from participating health care providers that are not more than 60 days past due; and

(21) investments allowed by section 62D.045, except for investments in securities and properties described under section 61A.284.

Sec. 12. Minnesota Statutes 1990, section 62D.045, subdivision 1, is amended to read:

Subdivision 1. [RESTRICTIONS.] Funds of a health maintenance organization shall be invested only in securities and property designated by law for investment by domestic life insurance companies, except that money may be used to purchase real estate, including leasehold estates and leasehold improvements, for the convenient accommodation of the organization's business operations, including the home office, branch offices, medical facilities, and field office operations, on the following conditions:

(1) a parcel of real estate acquired under this subdivision may include excess space for rent to others if it is reasonably anticipated that the excess will be required by the organization for expansion or if the excess is reasonably required in order to have one or more buildings that will function as an economic unit;

(2) the real estate may be subject to a mortgage; and

(3) the purchase price of the asset, including capitalized permanent improvements, less depreciation spread evenly over the life of the property or less depreciation computed on any basis permitted under the Internal Revenue Code and its regulations, or the organization's equity, plus all encumbrances on the real estate owned by a company under this subdivision, whichever is greater, does not exceed 20 percent of its admitted assets, except if, *when calculated in combination with the assets described in section 62D.044, clause (17), the total of said assets and the real estate assets described hereunder do not exceed the total combined percent limitations allowable under this section and section 62D.044, clause (17), or, if* permitted by the commissioner upon a finding that the percentage of the health maintenance organization's admitted assets is insufficient to provide convenient accommodation for the organization's business. However, a health maintenance organization that ~~directly provides medical services~~ *owns property used in the delivery of medical services for its enrollees* may invest an additional 20 percent of its admitted assets in real estate, not requiring the permission of the commissioner.

Sec. 13. [REPORT.]

Subdivision 1. [REPORT.] *The commissioner of commerce shall submit a report on the overall effectiveness of the requirements imposed under this act to the legislature by January 1, 1994. The report must include:*

(1) the effectiveness and reliability of risk-adjusted capital formulas

applied as broadly as possible to all insurers, including a recommendation whether the formula should be adopted by the state as a formal tool for measuring surplus adequacy;

(2) the accuracy and effectiveness of the internal appraisal procedure authorized for valuing real estate and mortgages, including recommendations on any necessary internal appraisal procedure modifications;

(3) the sufficiency of the department's insurance audit complement.

Subd. 2. [INTERSTATE COMPACT AGREEMENT STUDY.] *The commissioner of commerce shall conduct a study to determine the feasibility of entering interstate compact agreements for the purpose of enhancing the regulation of insurers. The study must address the costs and benefits of state regulation and the financial and operational impact on domestic insurers. The commissioner shall submit a report on the results of the study to the legislature by January 1, 1992.*

Sec. 14. [REPORT ON GUARANTY ASSOCIATIONS.]

The commissioner of commerce shall submit a report on the life and health guaranty association and the Minnesota insurance guaranty association to the legislature by January 1, 1992. The report must include:

(1) the feasibility of prefunding each association;

(2) the capacity of each association to promptly pay benefits and continue coverages for large insolvencies; and

(3) the feasibility of using risk as a basis for establishing the amount to be assessed each member of each association.

Sec. 15. [EXAMINATION AND SELECTION CRITERIA.]

The commissioner of employee relations shall authorize the commissioner of commerce to establish examination and selection criteria for the initial appointments for the department of commerce positions specified in section 16.

Sec. 16. [APPROPRIATION.]

$1,718,000 is appropriated from the general fund to the commissioner of commerce for the purposes of this act. $858,000 is for fiscal year 1992 and $860,000 is for fiscal year 1993. The approved complement of the department of commerce is increased by 15 positions in fiscal year 1992 and 17 positions in fiscal year 1993.

$200,000 is appropriated from the general fund to the attorney general for the purposes of this act. $100,000 is for fiscal year 1992 and $100,000 is for fiscal year 1993. The approved complement of the office of attorney general is increased by two positions.

ARTICLE 11

REINSURANCE INTERMEDIARIES

Section 1. [60A.70] [TITLE.]

Sections 60A.70 to 60A.756 may be cited as the reinsurance intermediary act.

Sec. 2. [60A.705] [DEFINITIONS.]

Subdivision 1. [TERMS.] *For purposes of sections 60A.70 to 60A.756,*

the terms defined in this section have the meanings given them.

Subd. 2. [ACTUARY.] *"Actuary" means a person who is a member in good standing of the American Academy of Actuaries.*

Subd. 3. [CONTROLLING PERSON.] *"Controlling person" means a person, firm, association, or corporation who directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of the reinsurance intermediary.*

Subd. 4. [INSURER.] *"Insurer" means any person, firm, association, or corporation duly licensed in this state pursuant to the applicable provisions of the insurance law as an insurer.*

Subd. 5. [LICENSED PRODUCER.] *"Licensed producer" means an agent, broker, or reinsurance intermediary licensed pursuant to the applicable provision of the insurance law.*

Subd. 6. [REINSURANCE INTERMEDIARY.] *"Reinsurance intermediary" means a reinsurance intermediary-broker or a reinsurance intermediary-manager.*

Subd. 7. [REINSURANCE INTERMEDIARY-BROKER.] *"Reinsurance intermediary-broker" or "RB" means any person, other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of this insurer.*

Subd. 8. [REINSURANCE INTERMEDIARY-MANAGER.] *"Reinsurance intermediary-manager" or "RM" means any person, firm, association, or corporation who has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office, and acts as an agent for that reinsurer whether known as a RM, manager, or other similar term. However, the following persons are not considered a RM, with respect to that reinsurer, for the purposes of sections 60A.70 to 60A.756:*

(1) an employee of the reinsurer;

(2) a United States manager of the United States branch of an alien reinsurer;

(3) an underwriting manager which, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to the holding company act, and whose compensation is not based on the volume of premiums written; or

(4) the manager of a group, association, pool, or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

Subd. 9. [REINSURER.] *"Reinsurer" means a person, firm, association, or corporation licensed in this state as an insurer with the authority to assume reinsurance.*

Subd. 10. [TO BE IN VIOLATION.] *"To be in violation" means that the reinsurance intermediary, insurer, or reinsurer for whom the reinsurance intermediary was acting failed to substantially comply with the provisions of sections 60A.70 to 60A.756.*

Subd. 11. [QUALIFIED UNITED STATES FINANCIAL INSTITUTION.] *"Qualified United States financial institution" means an institution that:*

(1) is organized, or in the case of a United States office of a foreign banking organization, is licensed, under the laws of the United States or any state;

(2) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(3) has been determined by either the commissioner, or the securities valuation office of the National Association of Insurance Commissioners, to meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

Sec. 3. [60A.71] [LICENSURE.]

Subdivision 1. [REINSURANCE INTERMEDIARY-BROKER REQUIREMENTS.] *No person, firm, association, or corporation shall act as a RB in this state if the RB maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation:*

(1) in this state, unless the RB is a licensed producer in this state; or

(2) in another state, unless the RB is a licensed producer in this state or another state having a law substantially similar to this law or the RB is licensed in this state as a nonresident reinsurance intermediary.

Subd. 2. [REINSURANCE INTERMEDIARY-MANAGER REQUIREMENTS.] *No person, firm, association, or corporation shall act as a RM:*

(1) for a reinsurer domiciled in this state, unless the RM is a licensed producer in this state;

(2) in this state, if the RM maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation in this state, unless the RM is a licensed producer in this state; or

(3) in another state for a nondomestic insurer, unless the RM is a licensed producer in this state or another state having a law substantially similar to this law or the person is licensed in this state as a nonresident reinsurance intermediary.

Subd. 3. [BOND AND INSURANCE REQUIREMENTS FOR REINSURANCE INTERMEDIARY-MANAGER.] *The commissioner may require a RM subject to subdivision 2 to:*

(1) file a bond in an amount from an insurer acceptable to the commissioner for the protection of the reinsurer; and

(2) maintain an errors and omissions policy in an amount acceptable to the commissioner.

Subd. 4. [TERMS.] *(a) The commissioner may issue a reinsurance intermediary license to any person, firm, association, or corporation who has complied with the requirements of sections 60A.70 to 60A.756. The license issued to a firm or association will authorize all the members of the firm*

or association and any designated employees to act as reinsurance intermediaries under the license, and these persons shall be named in the application and any supplements to it. The license issued to a corporation shall authorize all of the officers, and any designated employees and directors of the corporation to act as reinsurance intermediaries on behalf of the corporation, and all these persons shall be named in the application and any supplements to it.

(b) If the applicant for a reinsurance intermediary license is a nonresident, the applicant, as a condition precedent to receiving or holding a license, shall designate the commissioner as agent for service of process in the manner, and with the same legal effect, provided for by this act for designation of service of process upon unauthorized insurers. The applicant shall also furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting the nonresident reinsurance intermediary may be served. The licensee shall promptly notify the commissioner in writing of every change in its designated agent for service of process, and the change shall not become effective until acknowledged by the commissioner.

Subd. 5. [REFUSAL TO ISSUE.] *The commissioner may refuse to issue a reinsurance intermediary license if, in the commissioner's judgment, the applicant, anyone named on the application, or any member, principal, officer, or director of the applicant, is not trustworthy, or that any controlling person of the applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of the license, or has failed to comply with any prerequisite for the issuance of the license. Upon written request, the commissioner will furnish a summary of the basis for refusal to issue a license. This document is privileged and not subject to chapter 13.*

Subd. 6. [ATTORNEYS EXEMPTION.] *Licensed attorneys at law of this state when acting in their professional capacity as such are exempt from this section.*

Sec. 4. [60A.715] [REQUIRED CONTRACT PROVISIONS; REINSURANCE INTERMEDIARY-BROKERS.]

Transactions between a RB and the insurer it represents in this capacity shall only be entered into pursuant to a written authorization, specifying the responsibilities of each party. The authorization must, at a minimum, provide that:

(1) the insurer may terminate the RB's authority at any time;

(2) the RB will render accounts to the insurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to the RB, and remit all funds due to the insurer within 30 days of receipt;

(3) all funds collected for the insurer's account will be held by the RB in a fiduciary capacity in a bank that is a qualified United States financial institution;

(4) the RB will comply with section 5;

(5) the RB will comply with the written standards established by the insurer for the cession or retrocession of all risks; and

(6) the RB will disclose to the insurer any relationship with any reinsurer

to which business will be ceded or retroceded.

Sec. 5. [60A.72] [BOOKS AND RECORDS; REINSURANCE INTERMEDIARY-BROKERS.]

Subdivision 1. [RECORDS OF TRANSACTIONS.] *For at least ten years after expiration of each contract of reinsurance transacted by the RB, the RB will keep a complete record for each transaction showing:*

(1) the type of contract, limits, underwriting restrictions, classes or risks, and territory;

(2) period of coverage, including effective and expiration dates, cancellation provisions, and notice required of cancellation;

(3) reporting and settlement requirements of balances;

(4) rate used to compute the reinsurance premium;

(5) names and addresses of assuming reinsurers;

(6) rates of all reinsurance commissioners, including the commissions on any retrocessions handled by the RB;

(7) related correspondence and memoranda;

(8) proof of placement;

(9) details regarding retrocessions handled by the RB including the identity of retrocessionaires and percentage of each contract assumed or ceded;

(10) financial records, including, but not limited to, premium and loss accounts; and

(11) when the RB procures a reinsurance contract on behalf of a licensed ceding insurer:

(i) directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or

(ii) if placed through a representative of the assuming reinsurer, other than an employee, written evidence that such reinsurer has delegated binding authority to the representative.

Subd. 2. [ACCESS BY INSURER.] *The insurer will have access and the right to copy and audit all accounts and records maintained by the RB related to its business in a form usable by the insurer.*

Sec. 6. [60A.725] [DUTIES OF INSURERS UTILIZING THE SERVICES OF A REINSURANCE INTERMEDIARY-BROKER.]

(a) An insurer shall not engage the services of a person, firm, association, or corporation to act as a RB on its behalf unless the person is licensed as required by section 3, subdivision 1.

(b) An insurer may not employ an individual who is employed by a RB with which it transacts business, unless the RB is under common control with the insurer and subject to chapter 60D.

(c) The insurer shall annually obtain a copy of statements of the financial condition of each RB with which it transacts business.

Sec. 7. [60A.73] [REQUIRED CONTRACT PROVISIONS; REINSURANCE INTERMEDIARY-MANAGERS.]

Subdivision 1. [APPROVAL BY COMMISSIONER.] *Transactions*

between a RM and the reinsurer it represents in this capacity must only be entered into pursuant to a written contract, specifying the responsibilities of each party. The contract shall be approved by the reinsurer's board of directors. At least 30 days before the reinsurer assumes or cedes business through this producer, a true copy of the approved contract must be filed with the commissioner for approval. The contract must, at a minimum, contain the provisions in subdivisions 2 to 14.

Subd. 2. [TERMINATIONS.] *The reinsurer may terminate the contract for cause upon written notice to the RM. The reinsurer may immediately suspend the authority of the RM to assume or cede business during the pendency of any dispute regarding the cause for termination.*

Subd. 3. [PERIODIC ACCOUNTING.] *The RM will render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to the RM, and remit all funds due under the contract to the reinsurer on not less than a monthly basis.*

Subd. 4. [HANDLING OF FUNDS.] *All funds collected for the reinsurer's account will be held by the RM in a fiduciary capacity in a bank which is a qualified United States financial institution as defined herein. The RM may retain no more than three months estimated claims payments and allocated loss adjustment expenses. The RM shall maintain a separate bank account for each reinsurer that it represents.*

Subd. 5. [BUSINESS RECORDS.] *For at least ten years after expiration of each contract of reinsurance transacted by the RM, the RM will keep a complete record for each transaction showing:*

(1) the type of contract, limits, underwriting restrictions, classes or risks, and territory;

(2) period of coverage, including effective and expiration dates, cancellation provisions and notice required of cancellation, and disposition of outstanding reserves on covered risks;

(3) reporting and settlement requirements of balances;

(4) rate used to compute the reinsurance premium;

(5) names and addresses of reinsurers;

(6) rates of all reinsurance commissions, including the commissions on any retrocessions handled by the RM;

(7) related correspondence and memoranda;

(8) proof of placement;

(9) details regarding retrocessions handled by the RM, as permitted by section 9, subdivision 4, including the identity of retrocessionaires and percentage of each contract assumed or ceded;

(10) financial records, including, but not limited to, premium and loss accounts; and

(11) when the RM places a reinsurance contract on behalf of a ceding insurer:

(i) directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or

(ii) if placed through a representative of the assuming reinsurer, other than an employee, written evidence that the reinsurer has delegated binding authority to the representative.

Subd. 6. [REINSURER ACCESS TO RECORDS.] *The reinsurer will have access and the right to copy all accounts and records maintained by the RM related to its business in a form usable by the reinsurer.*

Subd. 7. [NONASSIGNMENT OF CONTRACT.] *The contract cannot be assigned in whole or in part by the RM.*

Subd. 8. [UNDERWRITING AND RATING STANDARDS.] *The RM will comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection, or cession of all risks.*

Subd. 9. [CHARGES AND COMMISSIONS.] *The rates, terms and purposes of commission, charges, and other fees which the RM may levy against the reinsurer will be specified in the contract.*

Subd. 10. [CLAIMS SETTLEMENT.] *If the contract permits the RM to settle claims on behalf of the reinsurer, the contract will specify that:*

(1) all claims will be reported to the reinsurer in a timely manner;

(2) a copy of the claim file will be sent to the reinsurer at its request or as soon as it becomes known that the claim:

(i) has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the reinsurer;

(ii) involves a coverage dispute;

(iii) may exceed the RM's claims settlement authority;

(iv) is open for more than six months; or

(v) is closed by payment of the lesser of an amount set by the commissioner or an amount set by the reinsurer;

(3) all claim files will be the joint property of the reinsurer and RM. However, upon an order of liquidation of the reinsurer the files become the sole property of the reinsurer or its estate. The RM shall have reasonable access to and the right to copy the files on a timely basis; and

(4) settlement authority granted to the RM may be terminated for cause upon the reinsurer's written notice to the RM or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of the dispute regarding the cause of termination.

Subd. 11. [INTERIM PROFITS.] *If the contract provides for a sharing of interim profits by the RM, interim profits will not be paid until one year after the end of each underwriting period for property business and five years after the end of each underwriting period for casualty business, or a later period set by the commissioner for specified lines of insurance, and not until the adequacy of reserves on remaining claims has been verified pursuant to section 9, subdivision 3.*

Subd. 12. [CERTIFIED FINANCIAL STATEMENT.] *The RM will annually provide the reinsurer with a statement of its financial condition prepared by an independent certified accountant.*

Subd. 13. [ON-SITE REVIEW BY REINSURER.] *The reinsurer shall*

periodically, at least semiannually, conduct an on-site review of the underwriting and claims processing operations of the RM.

Subd. 14. [DISCLOSURE OF INSURER RELATIONSHIP.] *The RM will disclose to the reinsurer any relationship it has with any insurer before ceding or assuming any business with the insurer pursuant to this contract.*

Subd. 15. [RESPONSIBILITY OF REINSURER.] *Within the scope of its actual or apparent authority, the acts of the RM are considered to be the acts of the reinsurer on whose behalf it is acting.*

Sec. 8. [60A.735] [PROHIBITED ACTS.]

The RM shall not:

(1) cede retrocessions on behalf of the reinsurer, except that the RM may cede facultative retrocessions pursuant to obligatory facultative agreements if the contract with the reinsurer contains reinsurance underwriting guidelines for these retrocessions. These guidelines must include a list of reinsurers with which these automatic agreements are in effect, and for each reinsurer, the coverages and amounts or percentages that may be reinsured, and commission schedules;

(2) commit the reinsurer to participate in reinsurance syndicates;

(3) appoint any producer without assuring that the producer is lawfully licensed to transact the type of reinsurance for which the producer is appointed;

(4) without prior approval of the reinsurer, pay or commit the reinsurer to pay a claim, net of retrocessions, that exceeds the lesser of an amount specified by the reinsurer or one percent of the reinsurer's policyholder's surplus as of December 31 of the last complete calendar year;

(5) collect any payment from a retrocessionaire or commit the reinsurer to any claim settlement with a retrocessionaire, without prior approval of the reinsurer. If prior approval is given, a report must be promptly forwarded to the reinsurer;

(6) jointly employ an individual who is employed by the reinsurer unless such RM is under common control with the reinsurer subject to chapter 60D;

(7) appoint a sub-RM.

Sec. 9. [60A.74] [DUTIES OF REINSURER UTILIZING THE SERVICES OF A REINSURANCE INTERMEDIARY-MANAGER.]

Subdivision 1. [LICENSED PERSONS TO BE USED.] *A reinsurer shall not engage the services of any person, firm, association, or corporation to act as a RM on its behalf unless the person is licensed as required by section 3, subdivision 2.*

Subd. 2. [ANNUAL FINANCIAL STATEMENTS TO BE OBTAINED.] *The reinsurer shall annually obtain a copy of statements of the financial condition of each RM which the reinsurer has engaged prepared by an independent certified accountant in a form acceptable to the commissioner.*

Subd. 3. [LOSS RESERVE OPINIONS.] *If a RM establishes loss reserves, the reinsurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the RM. This opinion must be in addition to any*

other required loss reserve certification.

Subd. 4. [BINDING AUTHORITY.] *Binding authority for all retrocessional contracts or participation in reinsurance syndicates shall rest with an officer of the reinsurer who shall not be affiliated with the RM.*

Subd. 5. [NOTIFICATION OF TERMINATION.] *Within 30 days of termination of a contract with a RM, the reinsurer shall provide written notification of the termination to the commissioner.*

Subd. 6. [RESTRICTION ON BOARD APPOINTMENTS.] *A reinsurer shall not appoint to its board of directors, any officer, director, employee, controlling shareholder, or subproducer of its RM. This subdivision does not apply to relationships governed by chapter 60D or, if applicable, the producer controlled property/casualty insurer act, article 13.*

Sec. 10. [60A.745] [EXAMINATION AUTHORITY.]

(a) A reinsurance intermediary is subject to examination by the commissioner. The commissioner shall have access to all books, bank accounts, and records of the reinsurance intermediary in a form usable to the commissioner.

(b) A RM may be examined as if it were the reinsurer.

Sec. 11. [60A.75] [VIOLATIONS.]

Subdivision 1. [ADMINISTRATIVE AND CIVIL PENALTIES AND LIABILITIES.] *A reinsurance intermediary, insurer, or reinsurer found by the commissioner, after a hearing conducted in accordance with chapter 14, to be in violation of any provision of sections 60A.70 to 60A.756, shall:*

(1) for each separate violation, pay a penalty in an amount not exceeding $5,000; and

(2) be subject to revocation or suspension of its license.

Subd. 2. [JUDICIAL REVIEW.] *The decision, determination, or order of the commissioner pursuant to subdivision 1 is subject to judicial review pursuant to chapter 14.*

Subd. 3. [OTHER PENALTIES.] *Nothing contained in this section affects the right of the commissioner to impose any other penalties provided in the insurance laws.*

Sec. 12. [60A.755] [SCOPE.]

Nothing contained in sections 60A.70 to 60A.756 is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, creditors, or other third parties or confer any rights to these persons.

Sec. 13. [60A.756] [RULES.]

The commissioner may adopt rules for the implementation and administration of sections 60A.70 to 60A.756.

Sec. 14. [EFFECTIVE DATE.]

Sections 60A.70 to 60A.756 are effective August 1, 1991. No insurer or reinsurer may continue to utilize the services of a reinsurance intermediary on and after that date unless utilization is in compliance with this article.

ARTICLE 12

INSURANCE REGULATORY INFORMATION SYSTEM

Section 1. [60A.90] [SCOPE.]

Sections 60A.90 to 60A.94 apply to all domestic, foreign, and alien insurers who are authorized to transact business in this state.

Sec. 2. [60A.91] [FILING REQUIREMENTS.]

(a) A domestic, foreign, and alien insurer who is authorized to transact insurance in this state shall annually on or before March 1 of each year, file with the National Association of Insurance Commissioners (NAIC) a copy of its annual statement convention blank, along with additional filings prescribed by the commissioner for the preceding year. The information filed with the National Association of Insurance Commissioners must be in the same format and scope as that required by the commissioner and must include the signed jurat page and the actuarial certification. Amendments and addenda to the annual statement filing subsequently filed with the commissioner must also be filed with the NAIC.

(b) Foreign insurers that are domiciled in a state that has a law substantially similar to paragraph (a) is considered to be in compliance with this section.

Sec. 3. [60A.92] [IMMUNITY.]

In the absence of actual malice, members of the NAIC, their duly authorized committees, subcommittees, and task forces, their delegates, NAIC employees, and all others charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of the annual statement convention blanks are acting as agents of the commissioner under the authority of this act and are not subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required under sections 60A.90 to 60A.94.

Sec. 4. [60A.93] [CONFIDENTIALITY.]

All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the department by the National Association of Insurance Commissioners' Insurance Regulatory Information System are confidential and may not be disclosed by the department.

Sec. 5. [60A.94] [REVOCATION OF CERTIFICATE OF AUTHORITY.]

The commissioner may suspend, revoke, or refuse to renew the certificate of authority of an insurer failing to file its annual statement when due or within any extension of time that the commissioner, for good cause, may have granted.

Sec. 6. [EFFECTIVE DATE.]

Sections 60A.90 to 60A.94 are effective the day following final enactment.

ARTICLE 13

BUSINESS TRANSACTED WITH PRODUCER CONTROLLED PROPERTY/CASUALTY INSURER

Section 1. [60J.01] [TITLE.]

Sections 60J.01 to 60J.05 may be cited as the business transacted with producer controlled property/casualty insurer act.

Sec. 2. [60J.02] [DEFINITIONS.]

Subdivision 1. [TERMS.] *For the purposes of sections 60J.01 to 60J.05, the terms defined in this section have the meanings given them.*

Subd. 2. [PRODUCER.] *"Producer" means an insurance broker or brokers or any other person, firm, association, or corporation, when, for any compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of any insurance contract on behalf of an insured other than himself, herself, or itself.*

Subd. 3. [REINSURANCE INTERMEDIARY.] *"Reinsurance intermediary" means a person, firm, association, or corporation who acts as a producer in soliciting, negotiating, or procuring the making of a reinsurance contract or binder on behalf of a ceding insurer or acts as a producer in accepting any reinsurance contract or binder on behalf of an assuming insurer.*

Subd. 4. [CONTROL.] *"Control" or "controlled" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if a person, directly or indirectly, owns, controls, holds with the powers to vote, or holds proxies representing a majority of the outstanding voting securities of any other person. No person is considered to control another person solely by reason of being an officer or director of the other person.*

Subd. 5. [LICENSED PROPERTY/CASUALTY INSURER.] *"Licensed property/casualty insurer" or "insurer" means a person, firm, association, or corporation licensed to transact a property/casualty insurance business in this state and that issues policies covered by chapter 60C. The following are not licensed property/casualty insurers for the purposes of sections 60J.01 to 60J.05:*

(1) all nonadmitted insurers;

(2) all risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, Public Law Number 99-499, 100 Stat. 1613 (1986) and the Risk Retention Act, United States Code, title 15, section 3901 et seq. and chapter 60E;

(3) all residual market pools and joint underwriting authorities or associations; and

(4) all captive insurers. This term includes insurance companies owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks of member organizations and/or group members

and their affiliates.

Subd. 6. [INDEPENDENT CASUALTY ACTUARY.] *"Independent casualty actuary" means a casualty actuary who is a member of the American Academy of Actuaries and who is not affiliated with, nor an employee, principal, nor the direct or indirect owner of, or in any way controlled by the insurer or producer.*

Subd. 7. [VIOLATION.] *"Violation" means a finding by the commissioner that:*

(1) the controlling producer did not materially comply with section 3;

(2) the controlled insurer, with respect to business placed by the controlling producer, engaged in a pattern of charging premiums that were lower than those being charged by the insurer or other insurers for similar risks written during the same period and placed by noncontrolling producers. When determining whether premiums were lower than those prevailing in the market, the commissioner shall take into consideration applicable industry or actuarial standards at the time the business was written;

(3) the controlling producer failed to maintain records, sufficient:

(i) to demonstrate that the producer's dealings with its controlled insurer were fair and equitable and in compliance with chapter 60D; and

(ii) to accurately disclose the nature and details of its transactions with the controlled insurer, including information necessary to support the charges or fees to the respective parties;

(4) the controlled insurer, with respect to business placed by the controlling producer, either failed to establish or deviated from its underwriting procedures;

(5) the controlled insurer's capitalization at the time the business was placed by the controlling producer and with respect to this business was not in compliance with criteria established by the commissioner or with the insurance law or rules adopted under it; or

(6) the controlling producer or the controlled insurer failed to substantially comply with the insurance holding company act, chapter 60D and any rules adopted under it.

Sec. 3. [60J.03] [LIMITATION ON BUSINESS PLACED WITH CONTROLLED INSURER.]

Subdivision 1. [PRODUCER LIMITATION.] *No producer that has control of a licensed property/casualty insurer may directly or indirectly place business with the insurer in any transaction in which the producer, at the time the business is placed, is acting as such on behalf of the insured for any compensation, commission, or other thing of value, unless:*

(1) there is a written contract between the controlling producer and the insurer, which contract has been approved by the board of directors of the insurer;

(2) the producer, before the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer. The disclosure, signed by the insured, must be retained in the underwriting file until the filing of the report on examination covering the period in which the coverage is in effect. Except that, if the business is placed through a subproducer who is not a

controlling producer, the controlling producer shall retain in the producer's records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the producer and that the subproducer has or will notify the insured;

(3) all funds collected for the account of the insurer by the controlling producer must be paid, net of commissions, cancellations, and other adjustments, to the insurer no less often that quarterly;

(4) in addition to any other required loss reserve certification, the controlled insurer shall annually, on April 1 of each year, file with the commissioner an opinion of an independent casualty actuary, or other independent loss reserve specialist acceptable to the commissioner, reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end, including incurred but not reported, on business placed by the producer;

(5) the controlled insurer shall annually report to the commissioner the amount of commissions paid to the producer, the percentage the amount represents of the net premiums written and comparable amounts and percentage paid to noncontrolling producers for placements of the same kinds of insurance; and

(6) every controlled insurer shall have an audit committee of the board of directors composed of independent directors. Before approval of the annual financial statement, the audit committee shall meet with management, the insurer's independent certified public accountants, and an independent casualty actuary, or other independent loss reserve specialist acceptable to the commissioner, to review the adequacy of the insurer's loss reserves.

Subd. 2. [REINSURANCE INTERMEDIARY LIMITATION.] *No reinsurance intermediary that has control of an assuming insurer may directly or indirectly place business with the insurer in any transaction in which the reinsurance intermediary is acting as a broker on behalf of the ceding insurer. No reinsurance intermediary that has control of a ceding insurer may directly or indirectly accept business from the insurer in any transaction in which the reinsurance intermediary is acting as a producer on behalf of the assuming insurer. The prohibitions in this subdivision do not apply to a reinsurance intermediary that makes a full and complete written disclosure to the parties of its relationship with the assuming or ceding insurer before completion of the transaction.*

Sec. 4. [60J.04] [LIABILITY OF CONTROLLING PRODUCER IN THE EVENT OF INSOLVENCY OF CONTROLLED INSURER.]

Subdivision 1. [INITIATION OF ACTION.] *If the commissioner has reason to believe that a controlling producer has committed or is committing an act that could be determined to be a violation of sections 60J.01 to 60J.05, the commissioner shall serve upon the controlling producer, in the manner provided by chapter 14, a statement of the charges and notice of a hearing to be conducted in accordance with chapter 14, at a time not less than 30 days after the service of the notice and at a place fixed in the notice.*

Subd. 2. [HEARING.] *At the hearing, the commissioner shall establish that the controlling producer engaged in a violation of sections 60J.01 to 60J.05. The controlling producer shall have an opportunity to be heard and to present evidence rebutting the charges and to establish that the insolvency of the controlled insurer arose out of events not attributable to the violation.*

The decision, determination, or order of the commissioner is subject to judicial review pursuant to chapter 14.

Subd. 3. [PENALTY.] *Upon finding that the controlling producer committed a violation, and the controlling producer failed to establish that the violation did not substantially contribute to the insolvency, the controlling producer shall reimburse the state guaranty funds for all payments made for losses, loss adjustment, and administrative expenses on the business placed by the producer in excess of gross earned premiums and investment income earned on premiums and loss reserves for the business.*

Subd. 4. [OTHER PENALTIES.] *Nothing contained in this section affects the right of the commissioner to impose any other penalties provided for in the insurance laws.*

Sec. 5. [60J.05] [SCOPE.]

Nothing contained in sections 60J.01 to 60J.05 is intended to or in any manner alters or affects the rights of policyholders, claimants, creditors, or other third parties.

Sec. 6. [EFFECTIVE DATE.]

This article is effective August 1, 1992.

ARTICLE 14

INSURANCE HOLDING COMPANY SYSTEMS

Section 1. Minnesota Statutes 1990, section 60A.07, subdivision 5d, is amended to read:

Subd. 5d. [APPLICATION.] All insurance companies shall meet the requirements of subdivisions 5a to 5d, except as provided in this subdivision. Any company authorized to transact a particular kind of insurance as specified in section 60A.06, subdivision 1, on April 9, 1976 may continue until January 1, 1983 to conduct the same kind of insurance by meeting and maintaining the applicable capital, surplus, and guaranty fund requirements which were in effect immediately prior to April 9, 1976. On and after January 1, 1983, all companies shall be required to meet the applicable capital, constantly maintained surplus, and guaranty fund requirements of subdivisions 5a, 5b, and 5c.

Notwithstanding the foregoing provisions of this subdivision with respect to the deferred date of compliance, after April 9, 1976:

(1) Any insurance company which seeks authority to transact an additional kind of insurance shall, as a condition to the granting of the authority, immediately comply with the applicable capital, constantly maintained surplus, and guaranty fund requirements of subdivisions 5a, 5b, and 5c for all of its authorized kinds of business.

(2) If any person acquires control of an insurance company, the insurance company shall as of the date of the acquisition of control comply with the applicable capital, constantly maintained surplus, and guaranty fund requirements of subdivisions 5a, 5b, and 5c for all of its authorized kinds of business. For purposes of this clause, the term "control" shall be defined as provided in section ~~60D.01~~ *60D.15*, subdivision 4, and the term "person" shall be defined as provided in section ~~60D.01~~ *60D.15*, subdivision 7.

Sec. 2. [60D.15] [DEFINITIONS.]

Subdivision 1. [TERMS.] *For purposes of this article, the terms in subdivisions 2 to 10 have the meanings given them, unless the context otherwise requires.*

Subd. 2. [AFFILIATE.] *An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.*

Subd. 3. [COMMISSIONER.] *The term "commissioner" means the commissioner of commerce, the commissioner's deputies, or the commerce department, as appropriate.*

Subd. 4. [CONTROL.] *The term "control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by section 6, subdivision 11, that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.*

Subd. 5. [INSURANCE HOLDING COMPANY SYSTEM.] *An "insurance holding company system" consists of two or more affiliated persons, one or more of which is an insurer.*

Subd. 6. [INSURER.] *The term "insurer" means a company qualified and licensed by the commissioner to transact the business of insurance, but does not include an insurance solicitor, agent, or agency. The term also does not include:*

(1) agencies, authorities, or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state; or

(2) nonprofit medical and hospital service associations.

Subd. 7. [PERSON.] *A "person" is an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but does not include any joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.*

Subd. 8. [SECURITY HOLDER.] *A "security holder" of a specified person is one who owns any security of the person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any security of the person.*

Subd. 9. [SUBSIDIARY.] *A "subsidiary" of a specified person is an affiliate controlled by the person directly or indirectly through one or more intermediaries.*

Subd. 10. [VOTING SECURITY.] *The term "voting security" includes any security convertible into or evidencing a right to acquire a voting security.*

Sec. 3. [60D.16] [SUBSIDIARIES OF INSURERS.]

Subdivision 1. [AUTHORIZATION.] *A domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries engaged in the following kinds of business:*

(1) any kind of insurance business authorized by the jurisdiction in which it is incorporated;

(2) acting as an insurance broker or as an insurance agent for its parent or for any of its parent's insurer subsidiaries;

(3) investing, reinvesting, or trading in securities for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

(4) management of any investment company subject to or registered pursuant to the Investment Company Act of 1940, as amended, including related sales and services;

(5) acting as a broker-dealer subject to or registered pursuant to the Securities Exchange Act of 1934, as amended;

(6) rendering investment advice to governments, government agencies, corporations, or other organizations or groups;

(7) rendering other services related to the operations of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal, and collection services;

(8) ownership and management of assets that the parent corporation could itself own or manage;

(9) acting as administrative agent for a governmental instrumentality which is performing an insurance function;

(10) financing of insurance premiums, agents, and other forms of consumer financing;

(11) any other business activity determined by the commissioner to be reasonably ancillary to an insurance business; and

(12) owning a corporation or corporations engaged or organized to engage exclusively in one or more of the businesses specified in this section.

Subd. 2. [ADDITIONAL INVESTMENT AUTHORITY.] *In addition to investments in common stock, preferred stock, debt obligations, and other securities otherwise permitted, a domestic insurer may also:*

(a) Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts that do not exceed the lesser of ten percent of the insurer's assets or 50 percent of the insurer's surplus as regards policyholders, provided that after the investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of these investments, investments in domestic or foreign insurance subsidiaries must be excluded, and there must be included:

(1) total net money or other consideration expended and obligations

assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and

(2) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation.

(b) Invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer provided that the subsidiary agrees to limit its investments in any asset so that the investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in paragraph (a) or other statutes applicable to the insurer. For the purpose of this paragraph, "the total investment of the insurer" includes:

(1) any direct investment by the insurer in an asset; and

(2) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which must be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary.

(c) With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries, if after the investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

Subd. 3. [EXEMPTION FROM INVESTMENT RESTRICTIONS.] *Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subdivision 2 are not subject to any of the otherwise applicable restrictions or prohibitions applicable to these investments of insurers.*

Subd. 4. [QUALIFICATION OF INVESTMENT; WHEN DETERMINED.] *Whether any investment pursuant to subdivision 2 meets the applicable requirements is to be determined before the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, not including dividends.*

Subd. 5. [CESSATION OF CONTROL.] *If an insurer ceases to control a subsidiary, it shall dispose of any investment in it made pursuant to this section within three years from the time of the cessation of control or within any further time the commissioner prescribes, unless at any time after the investment has been made, the investment meets the requirements for investment under any other provision of law, and the insurer has notified the commissioner of this fact.*

Sec. 4. [60D.17] [ACQUISITION OF CONTROL OF OR MERGER WITH DOMESTIC INSURER.]

Subdivision 1. [FILING REQUIREMENTS.] *No person other than the issuer shall make a tender offer for or a request or invitation for tenders*

of, or enter into any agreement to exchange securities or, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, the person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the insurer. No person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time the offer, request, or invitation is made or the agreement is entered into, or before the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the insurer, a statement containing the information required by this section and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner in the manner prescribed in this section.

For purposes of this section, a domestic insurer includes a person controlling a domestic insurer unless the person as determined by the commissioner is either directly or through its affiliates primarily engaged in business other than the business of insurance. However, the person shall file a preacquisition notification with the commissioner containing the information set forth in section 5, subdivision 3, paragraph (b), 30 days before the proposed effective date of the acquisition. Failure to file is subject to section 5, subdivision 5. For the purposes of this section, "person" does not include any securities broker holding, in the usual and customary brokers function, less than 20 percent of the voting securities of an insurance company or of any person that controls an insurance company.

Subd. 2. [CONTENT OF STATEMENT.] *The statement to be filed with the commissioner shall be made under oath or affirmation and shall contain the following information:*

(a) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subdivision 1 is to be effected, hereinafter called "acquiring party"; and

(1) if the person is an individual, the principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years; and

(2) if the person is not an individual, a report of the nature of its business operations during the past five years or for a lesser period as the person and any predecessors have been in existence; an informative description of the business intended to be done by the person and the person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. The list must include for each individual the information required by clause (1).

(b) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for this purpose, including any pledge of the insurer's stock, or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing the consideration, provided, however, that where a source of the consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests.

(c) Fully audited financial information as to the earnings and financial

condition of each acquiring party for the preceding five fiscal years of each acquiring party, or for a lesser period as the acquiring party and any predecessors have been in existence, and similar unaudited information as of a date not earlier than 90 days before the filing of the statement.

(d) Any plans or proposals that each acquiring party may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

(e) The number of shares of any security referred to in subdivision 1 that each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in subdivision 1.

(f) The amount of each class of any security referred to in subdivision 1 that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(g) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subdivision 1 in which any acquiring party is involved, including but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description must identify the persons with whom the contracts, arrangements, or understandings have been entered into.

(h) A description of the purchase of any security referred to in subdivision 1 during the 12 calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid for it.

(i) A description of any recommendations to purchase any security referred to in subdivision 1 made during the 12 calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of the acquiring party.

(j) Copies of all tender offers for, requests, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subdivision 1 and, if distributed, of additional soliciting material relating to them.

(k) The term of any agreement, contract, or understanding made with or proposed to be made with any broker-dealer as to solicitation of securities referred to in subdivision 1 for tender, and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard to it.

(l) Additional information the commissioner may by rule prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.

If the person required to file the statement referred to in subdivision 1 is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by paragraphs (a) to (l) must be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member. If a partner, member, or person is a corporation, or the person required to file the statement referred to in subdivision 1 is a corporation the commissioner may require that the information

called for by paragraphs (a) to (l) be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of the corporation.

If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer pursuant to this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, must be filed with the commissioner and sent to the insurer within two business days after the person learns of the change.

Subd. 3. [ALTERNATIVE FILING MATERIALS.] *If any offer, request, invitation, agreement, or acquisition referred to in subdivision 1 is proposed to be made by means of a registration statement under the Securities Act of 1933, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subdivision 1 may utilize these documents in furnishing the information called for by that statement.*

Subd. 4. [APPROVAL BY COMMISSIONER; HEARINGS.] *(a) The commissioner shall approve any merger or other acquisition of control referred to in subdivision 1 unless, after a public hearing, the commissioner finds that:*

(1) After the change of control, the domestic insurer referred to in subdivision 1 would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(2) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein in applying the competitive standard in this subdivision:

(i) the informational requirements of section 5, subdivision 3, paragraph (b), and the standards of section 5, subdivision 4, paragraph (c), shall apply;

(ii) the merger or other acquisition shall not be disapproved if the commissioner finds that any of the situations meeting the criteria provided by section 5, subdivision 4, paragraph (c), exist; and

(iii) the commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(3) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(4) The plans or proposals that the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(5) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger

or other acquisition of control; or

(6) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

(b) The public hearing referred to in paragraph (a) must be held 30 days after the statement required by subdivision 1 is filed, and at least 20 days notice of it shall be given by the commissioner to the person filing the statement. Not less than seven days notice of the public hearing shall be given by the person filing the statement to the insurer and to other persons designated by the commissioner. The commissioner shall make a determination within 30 days after the conclusion of the hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected by it may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and may conduct discovery proceedings in the same manner as is presently allowed in the district courts of this state. All discovery proceedings must be concluded not later than three days before the start of the public hearing.

(c) The commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control.

Subd. 5. [EXEMPTIONS.] *This section does not apply to:*

(1) Any transaction that is subject to section 60A.16, dealing with the merger or consolidation of two or more insurers.

(2) Any offer, request, invitation, agreement, or acquisition that the commissioner by order exempts from this section as (i) not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or (ii) as otherwise not comprehended within the purposes of this section.

Subd. 6. [VIOLATIONS.] *The following are violations of this section:*

(1) the failure to file any statement, amendment, or other material required to be filed pursuant to subdivision 1 or 2; or

(2) the effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the commissioner has approved it.

Subd. 7. [JURISDICTION, CONSENT TO SERVICE OF PROCESS.] *The courts of this state have jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the commissioner under this section, and overall actions involving the person arising out of violations of this section, and the person is deemed to have performed acts equivalent to and constituting an appointment by the person of the commissioner to be the person's true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding arising out of violations of this section. Copies of all lawful process shall be served on the commissioner and transmitted by registered or certified mail by the commissioner to the person at the person's last known address.*

Sec. 5. [60D.18] [ACQUISITIONS INVOLVING INSURERS NOT OTHERWISE COVERED.]

Subdivision 1. [DEFINITIONS.] *The following definitions apply for the*

purposes of this section only:

(a) "Acquisition" means an agreement, arrangement, or activity the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes, but is not limited to, the acquisition of voting securities, the acquisition of assets, bulk reinsurance, and mergers.

(b) An "involved insurer" includes an insurer that either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger.

Subd. 2. [SCOPE.] *(a) Except as exempted in paragraph (b), this section applies to any acquisition in which there is a change in control of an insurer authorized to do business in this state.*

(b) This section does not apply to the following:

(1) an acquisition subject to approval or disapproval by the commissioner pursuant to section 4;

(2) a purchase of securities solely for investment purposes so long as such securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this state. If a purchase of securities results in a presumption of control under section 2, subdivision 4, it is not solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and such disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the commissioner of this state;

(3) the acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance, if preacquisition notification is filed with the commissioner in accordance with subdivision 3, paragraph (a), 30 days before the proposed effective date of the acquisition. However, the preacquisition notification is not required for exclusion from this section, if the acquisition would otherwise be excluded from this section by any other clause of this paragraph;

(4) the acquisition of already affiliated persons;

(5) an acquisition if, as an immediate result of the acquisition;

(i) in no market would the combined market share of the involved insurers exceed five percent of the total market;

(ii) there would be no increase in any market share; or

(iii) in no market would the combined market share of the involved insurers exceeds 12 percent of the total market; and the market share increases by more than two percent of the total market.

For the purpose of this clause, a market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state;

(6) an acquisition for which a preacquisition notification would be required pursuant to this section due solely to the resulting effect on the ocean marine insurance line of business; and

(7) an acquisition of an insurer whose domiciliary commissioner affirmatively finds that the insurer is in failing condition; there is a lack of

feasible alternative to improving the condition; the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition; and the findings are communicated by the domiciliary commissioner to the commissioner of this state.

Subd. 3. [PREACQUISITION NOTIFICATION; WAITING PERIOD.] *(a) An acquisition covered by subdivision 2 may be subject to an order pursuant to subdivision 4 unless the acquiring person files a preacquisition notification and the waiting period has expired. The acquired person may file a preacquisition notification. The commissioner shall give confidential treatment to information submitted under this section in the same manner as provided in section 9.*

(b) The preacquisition notification must be in the form and contain the information as prescribed by the National Association of Insurance Commissioners relating to those markets that, under subdivision 2, paragraph (b), clause (5), cause the acquisition not to be exempted from the provisions of this section. The commissioner may require the additional material and information as the commissioner deems necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subdivision 4. The required information may include an opinion of an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of the person indicating that person's ability to render an informed opinion.

(c) The waiting period required begins on the date of receipt of the commissioner of a preacquisition notification and ends on the earlier of the 30th day after the date of its receipt, or termination of the waiting period by the commissioner. Before the end of the waiting period, the commissioner on a one-time basis may require the submission of additional needed information relevant to the proposed acquisition, in which event the waiting period shall end on the earlier of the 30th day after receipt of the additional information by the commissioner or termination of the waiting period by the commissioner.

Subd. 4. [COMPETITIVE STANDARD.] *(a) The commissioner may enter an order under subdivision 5 with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in any line of insurance in this state or tend to create a monopoly therein or if the insurer fails to file adequate information in compliance with subdivision 3.*

(b) In determining whether a proposed acquisition would violate the competitive standard of paragraph (a), the commissioner shall consider the following:

(1) any acquisition covered under subdivision 2 involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standards:

(i) if the market is highly concentrated and the involved insurers possess the following shares of the market:

INSURER A	*INSURER B*
4 percent	*4 percent or more*
10 percent	*2 percent or more*
15 percent	*1 percent or more*

(ii) or, if the market is not highly concentrated and the involved insurers possess the following shares of the market:

INSURER A	*INSURER B*
5 percent	*5 percent or more*
10 percent	*4 percent or more*
15 percent	*3 percent or more*
19 percent	*1 percent or more*

A highly concentrated market is one in which the share of the four largest insurers is 75 percent or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two insurers are involved, exceeding the total of the two columns in the table is prima facie evidence of violation of the competitive standard in paragraph (a). For the purpose of this clause, the insurer with the largest share of the market shall be deemed to be insurer A.

(2) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market, from the two largest to the eight largest, has increased by seven percent or more of the market over a period of time extending from any base year five to ten years prior to the acquisition up to the time of the acquisition. Any acquisition or merger covered under subdivision 2 involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in clause (1) if:

(i) there is a significant trend toward increased concentration in the market;

(ii) one of the insurers involved is one of the insurers in a grouping of such large insurers showing the requisite increase in the market share; and

(iii) another involved insurer's market is two percent or more.

(3) For the purposes of paragraph (b):

(i) The term "insurer" includes any company or group of companies under common management, ownership, or control.

(ii) The term "market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the commissioner shall give due consideration to, among other things, the definitions or guidelines, if any, promulgated by the National Association of Insurance Commissioners and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, the line being that used in the annual statement required to be filed by insurers doing business in this state, and the relevant geographical market is assumed to be this state.

(iii) The burden of showing prima facie evidence of violation of the competitive standard rests upon the commissioner.

(iv) Even though an acquisition is not prima facie violative of the competitive standard under paragraph (b), clauses (1) and (2), the commissioner may establish the requisite anticompetitive effect based upon other substantial evidence. Even though an acquisition is prima facie violative of the competitive standard under paragraph (b), clauses (1) and (2), a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under this

paragraph include, but are not limited to, the following: market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry and exit into the market.

(c) An order may not be entered under subdivision 5 if:

(1) the acquisition will yield substantial economies of scale or economies in resource utilization that cannot be feasibly achieved in any other way, and the public benefits which would arise from such economies exceed the public benefits which would arise from not lessening competition; or

(2) the acquisition will substantially increase the availability of insurance, and the public benefits of such increase exceed the public benefits which would arise from not lessening competition.

Subd. 5. [ORDERS AND PENALTIES.] *If an acquisition violates the standards of this section, the commissioner may enter an order:*

(1) requiring an involved insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or

(2) denying the application of an acquired or acquiring insurer for a license to do business in this state.

The order must not be entered unless there is a hearing, the notice of the hearing is issued before the end of the waiting period and not less than 15 days before the hearing, and the hearing is concluded and the order is issued no later than 60 days after the end of the waiting period. Every order must be accompanied by a written decision of the commissioner setting forth findings of fact and conclusions of law.

An order entered under this paragraph shall not become final earlier than 30 days after it is issued, during which time the involved insurer may submit a plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon the plan or other information, the commissioner shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the standards of this section would be remedied and the order vacated or modified.

An order pursuant to this subdivision does not apply if the acquisition is not consummated.

Any person who violates a cease and desist order of the commissioner and while the order is in effect, may after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to any one or more of the following:

(1) a monetary penalty of not more than $10,000 for every day of violation;

(2) suspension or revocation of the person's license.

Any insurer or other person who fails to make any filing required by this section and who also fails to demonstrate a good faith effort to comply with the filing requirement, is be subject to a fine of not more than $50,000.

Subd. 6. [INAPPLICABLE PROVISIONS.] *Sections 11, paragraphs (b) and (c); and 13 do not apply to acquisitions covered under section 5, subdivision 2.*

Sec. 6. [60D.19] [REGISTRATION OF INSURERS.]

Subdivision 1. [REGISTRATION.] *Every insurer that is authorized to do business in this state and that is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in:*

(1) this section;

(2) section 7, subdivisions 1, paragraph (a), 2, and 4; and

(3) either section 7, subdivision 1, paragraph (b), or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within 15 days after the end of the month in which it learns of each such change or addition.

Any insurer that is subject to registration under this section shall register within 15 days after it becomes subject to registration, and annually thereafter by March 1 of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration, and then within such extended time. The commissioner may require any insurer authorized to do business in the state that is a member of a holding company system, and that is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in subdivision 3 or other information filed by the insurance company with the insurance regulatory authority of domiciliary jurisdiction.

Subd. 2. [INFORMATION AND FORM REQUIRED.] *Every insurer subject to registration shall file the registration statement on a form prescribed by the National Association of Insurance Commissioners, which shall contain the following current information:*

(1) the capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(2) the identity and relationship of every member of the insurance holding company system;

(3) the following agreements in force, and transactions currently outstanding or that have occurred during the last calendar year between the insurer and its affiliates:

(i) loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) purchases, sales, or exchange of assets;

(iii) transactions not in the ordinary course of business;

(iv) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) all management agreements, service contracts, and all cost-sharing arrangements;

(vi) reinsurance agreements;

(vii) dividends and other distributions to shareholders; and

(viii) consolidated tax allocation agreements;

(4) any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system; and

(5) other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner.

Subd. 3. [SUMMARY OF REGISTRATION STATEMENT.] *All registration statements must contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.*

Subd. 4. [MATERIALITY.] *No information need be disclosed on the registration statement filed pursuant to subdivision 2 if the information is not material for the purposes of this section. Unless the commissioner by rule or order provides otherwise; sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one percent or less of an insurer's admitted assets as of the 31st day of December next preceding shall not be deemed material for purposes of this section.*

Subd. 5. [REPORTING OF DIVIDENDS TO SHAREHOLDERS.] *Subject to section 6, subdivision 2, each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within 15 business days following the declaration thereof.*

Subd. 6. [INFORMATION OF INSURERS.] *Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer where such information is reasonably necessary to enable the insurer to comply with the provisions of this article.*

Subd. 7. [TERMINATION OF REGISTRATION.] *The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.*

Subd. 8. [CONSOLIDATED FILING.] *The commissioner may require or allow two or more affiliated insurers subject to registration to file a consolidated registration statement.*

Subd. 9. [ALTERNATIVE REGISTRATION.] *The commissioner may allow an insurer that is authorized to do business in this state and that is part of an insurance holding company system to register on behalf of any affiliated insurer that is required to register under subdivision 1 and to file all information and material required to be filed under this section.*

Subd. 10. [EXEMPTIONS.] *The provisions of this section do not apply to any insurer, information, or transaction if and to the extent that the commissioner by rule or order shall exempt the same from the provisions of this section.*

Subd. 11. [DISCLAIMER.] *Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or the disclaimer may be filed by the insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section that may arise out of the insurer's relationship with the person unless and until the commissioner disallows the disclaimer. The commissioner shall disallow*

the disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance.

Subd. 12. [VIOLATIONS.] *The failure to file a registration statement or any summary of the registration statement required by this section within the time specified for the filing is a violation of this section.*

Sec. 7. [60D.20] [STANDARDS AND MANAGEMENT OF AN INSURER WITHIN A HOLDING COMPANY SYSTEM.]

Subdivision 1. [TRANSACTIONS WITHIN A HOLDING COMPANY SYSTEM.] *(a) Transactions within a holding company system to which an insurer subject to registration is a party is subject to the following standards:*

(1) the terms shall be fair and reasonable;

(2) charges or fees for services performed shall be reasonable;

(3) expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

(4) the books, accounts, and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including this accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; and

(5) the insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) The following transactions involving a domestic insurer and any person in its holding company system may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into the transaction at least 30 days prior thereto, or a shorter period the commissioner permits, and the commissioner has not disapproved it within this period.

(1) sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments provided the transactions are equal to or exceed: (i) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets, or 25 percent of surplus as regards policyholders; (ii) with respect to life insurers, three percent of the insurer's admitted assets; each as of the 31st day of December next preceding;

(2) loans or extensions of credit to any person who is not an affiliate, where the insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit provided the transactions are equal to or exceed: (i) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders; (ii) with respect to life insurers, three percent of the insurer's admitted assets; each as of the 31st day of December next preceding;

(3) reinsurance agreements or modifications to those agreements in which the reinsurance premium or a change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus as regards policyholders, as of

the 31st day of December next preceding, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer;

(4) all management agreements, service contracts and all cost-sharing arrangements; and

(5) any material transactions, specified by regulation, which the commissioner determines may adversely affect the interests of the insurer's policyholders.

Nothing contained in this section authorizes or permits any transactions that, in the case of an insurer not a member of the same holding company system, would be otherwise contrary to law.

(c) A domestic insurer may not enter into transactions which are part of a plan or series of like transactions with persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that the separate transactions were entered into over any 12-month period for the purpose, the commissioner may exercise the authority under section 12.

(d) The commissioner, in reviewing transactions pursuant to paragraph (b), shall consider whether the transactions comply with the standards set forth in paragraph (a), and whether they may adversely affect the interests of policyholders.

(e) The commissioner shall be notified within 30 days of any investment of the domestic insurer in any one corporation if the total investment in the corporation by the insurance holding company system exceeds ten percent of the corporation's voting securities.

Subd. 2. [DIVIDENDS AND OTHER DISTRIBUTIONS.] *(a) No domestic insurer shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until: (1) 30 days after the commissioner has received notice of the declaration of it and has not within the period disapproved the payment; or (2) the commissioner has approved the payment within the 30-day period.*

(b) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the greater of (1) ten percent of the insurer's surplus as regards policyholders as of the 31st day of December next preceding; or (2) the net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding, but does not include pro rata distributions of any class of the insurer's own securities. In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two calendar years that has not already been paid out as dividends. This carry-forward is computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.

(c) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval, and the declaration shall confer no rights upon shareholders until: (1) the commissioner has approved the payment of such a dividend or distribution; or (2) the commissioner has not disapproved the payment within the 30-day period referred to above.

Subd. 3. [MANAGEMENT OF DOMESTIC INSURERS SUBJECT TO REGISTRATION.] *(a) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with this article.*

(b) Nothing in this article precludes a domestic insurer from having or sharing a common management use of personnel, property, or services with one or more other persons under arrangements meeting the standards of section 7, paragraph (a), clause (1).

(c) Not less than one-third of the directors of a publicly traded domestic insurer, and not less than one-third of the members of each committee of the board of directors of any publicly traded domestic insurer shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. At least one such person must be included in any quorum for the transaction of business at any meeting of the board of directors or any committee of the board.

(d) The board of directors of a publicly traded domestic insurer shall establish an audit committee having a majority of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee shall have responsibility for selecting independent certified public accountants and reviewing the scope and results of the independent audit and any internal audit.

(e) Paragraphs (c) and (d) do not apply to a domestic insurer if the person controlling the insurer is an insurer, or a general business corporation the principal business of which is insurance, having a board of directors and committees of the board that meet the requirements of paragraphs (c) and (d).

Subd. 4. [ADEQUACY OF SURPLUS.] *For purposes of this article, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, must be considered:*

(1) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(2) the extent to which the insurer's business is diversified among the several lines of insurance;

(3) the number and size of risks insured in each line of business;

(4) the extent of the geographical dispersion of the insurer's insured risks;

(5) the nature and extent of the insurer's reinsurance program;

(6) the quality, diversification and liquidity of the insurer's investment portfolio;

(7) the recent past and projected future trend in the size of the insurer's investment portfolio;

(8) the surplus as regards policyholders maintained by other comparable insurers;

(9) the adequacy of the insurer's reserves; and

(10) the quality and liquidity of investments in affiliates. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the commissioner's judgment the investment so warrants.

Sec. 8. [60D.21] [EXAMINATION.]

Subdivision 1. [POWER OF COMMISSIONER.] *Subject to the limitation contained in this section and in addition to the powers that the commissioner has under chapter 60A relating to the examination of insurers, the commissioner shall also have the power to order any insurer registered under section 60D.19 to produce records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to ascertain the financial condition of the insurer or to determine compliance with this article. In the event the insurer fails to comply with the order, the commissioner shall have the power to examine the affiliates to obtain the information.*

Subd. 2. [USE OF CONSULTANTS.] *The commissioner may retain at the registered insurer's expense the attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff that are reasonably necessary to assist in the conduct of the examination under subdivision 1. Any person so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.*

Subd. 3. [EXPENSES.] *Each registered insurer producing for examination records, books, and papers pursuant to subdivision 1 is liable for and shall pay the expense of the examination in accordance with section 60A.03.*

Sec. 9. [60D.22] [CONFIDENTIAL TREATMENT.]

All information, documents, and copies of them obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 7 and all information reported pursuant to sections 5 and 6, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner, the National Association of Insurance Commissioners, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected, notice and opportunity to be heard, determines that the interest of policyholders or the public will be served by the publication, in which event the commissioner may publish all or any part in the manner the commissioner considers appropriate.

Sec. 10. [60D.23] [RULES.]

The commissioner may adopt the rules and orders that are necessary to carry out the provisions of this article.

Sec. 11. [60D.24] [INJUNCTIONS, PROHIBITIONS AGAINST VOTING SECURITIES, SEQUESTRATION OF VOTING SECURITIES.]

Subdivision 1. [INJUNCTIONS.] *Whenever it appears to the commissioner that any insurer or any director, officer, employee, or agent of the insurer has committed or is about to commit a violation of this article or of any rule or order issued by the commissioner, the commissioner may apply to the district court for the county in which the principal office of the insurer is located or if the insurer has no such office in this state then to the district court for Ramsey county for an order enjoining the insurer or the director, officer, employee, or agent of the insurer from violating or continuing to violate this article or any rule or order, and for other equitable relief as the nature of the case and the interest of the insurer's policyholders or the public requires.*

Subd. 2. [VOTING OF SECURITIES; WHEN PROHIBITED.] *No security that is the subject of any agreement or arrangement regarding acquisition, or that is acquired or to be acquired, in contravention of the provisions of this article or of any rule or order issued by the commissioner may be voted at any shareholder's meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though the securities were not issued and outstanding. No action taken at the meeting shall be invalidated by the voting of the securities, unless the action would materially affect control of the insurer or unless the courts of this state have so ordered. If an insurer or the commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this article or of any rule or order issued by the commissioner, the insurer or the commissioner may apply to the district court for the county in which the insurer has its principal place of business to enjoin any offer, request, invitation, agreement, or acquisition made in contravention of section 3 or any rule or order issued by the commissioner to enjoin the voting of any security so acquired, to void any vote of the security already cast at any meeting of shareholders and for other equitable relief as the nature of the case and the interest of the insurer's policyholders or the public requires.*

Subd. 3. [SEQUESTRATION OF VOTING SECURITIES.] *In any case where a person has acquired or is proposing to acquire any voting securities in violation of this article or any rule or order issued by the commissioner, the district court for Ramsey county or the district court for the county in which the insurer has its principal place of business may, on such notice as the court considers appropriate, upon the application of the insurer or the commissioner seize or sequester any voting securities of the insurer owned directly or indirectly by the person, and issue any order with respect thereto as may be appropriate to effectuate the provisions of this article.*

Notwithstanding any other provisions of law, for the purposes of this article the sites of the ownership of the securities of domestic insurers shall be considered to be in this state.

Sec. 12. [60D.25] [RECEIVERSHIP.]

Whenever it appears to the commissioner that any person has committed a violation of this article that so impairs the financial condition of a domestic insurer as to threaten insolvency or make the further transaction of business

by it hazardous to its policyholders or the public, then the commissioner may proceed as provided in chapter 60B to take possessions of the property of the domestic insurer and to conduct the business of that insurer.

Sec. 13. [60D.26] [RECOVERY.]

(a) If an order for liquidation or rehabilitation of a domestic insurer has been entered, the receiver appointed under the order shall have a right to recover on behalf of the insurer, (1) from any parent corporation or holding company or person or affiliate who otherwise controlled the insurer, the amount of distributions, other than distributions of shares of the same class of stock, paid by the insurer on its capital stock, or (2) any payment in the form of a bonus, termination settlement or extraordinary lump sum salary adjustment made by the insurer or its subsidiary(s) to a director, officer, or employee, where the distribution or payment pursuant to clause (1) or (2) is made at any time during the one year preceding the petition for liquidation, conservation, or rehabilitation, as the case may be, subject to the limitations of paragraphs (b), (c), and (d).

(b) No such distribution shall be recoverable if the parent or affiliate shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(c) Any person who was a parent corporation or holding company or a person who otherwise controlled the insurer or affiliate at the time such distributions were paid shall be liable up to the amount of distributions or payments under paragraph (a), the person received. Any person who otherwise controlled the insurer at the time the distributions were declared is liable up to the amount of distributions the person would have received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they are jointly and severally liable.

(d) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds.

(e) To the extent that any person liable under paragraph (c) is insolvent or otherwise fails to pay claims due from it pursuant to this paragraph, its parent corporation or holding company or person who otherwise controlled it at the time the distribution was paid, is jointly and severally liable for any resulting deficiency in the amount recovered from the parent corporation or holding company or person who otherwise controlled it.

Sec. 14. [60D.27] [REVOCATION, SUSPENSION, OR NONRENEWAL OF INSURER'S LICENSE.]

Whenever it appears to the commissioner that any person has committed a violation of this article that makes the continued operation of an insurer contrary to the interests of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard, determine to suspend, revoke, or refuse to renew the insurer's license or authority to do business in this state for the period the commissioner finds is required for the protection of policyholders or the public. The determination must be accompanied by specific findings of fact and conclusions of law.

Sec. 15. [60D.28] [JUDICIAL REVIEW, MANDAMUS.]

(a) Any person aggrieved by any act, determination, rule or order, or any other action of the commissioner pursuant to this article may appeal therefrom to the district court for Ramsey county. The court shall conduct its review without a jury and by trial de novo, except that if all parties, including the commissioner, so stipulate, the review shall be confined to the record. Portions of the record may be introduced by stipulation into evidence in a trial de novo as to those parties so stipulated.

(b) The filing of an appeal pursuant to this section shall stay the application of the rule, order, or other action of the commissioner to the appealing party unless the court, after giving the party notice and an opportunity to be heard, determines that the stay would be detrimental to the interest of policyholders or the public.

(c) Any person aggrieved by any failure of the commissioner to act or make a determination required by this article may petition the district court for Ramsey county for a writ in the nature of a mandamus or a peremptory mandamus directing the commissioner to act or make this determination immediately.

Sec. 16. [60D.29] [CONFLICT WITH OTHER LAWS.]

All laws and parts of laws of this state inconsistent with this article are superseded with respect to matters covered by this article.

Sec. 17. Minnesota Statutes 1990, section 79.34, subdivision 1, is amended to read:

Subdivision 1. [CONDITIONS REQUIRING MEMBERSHIP.] The nonprofit association known as the workers' compensation reinsurance association may be incorporated under chapter 317A with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.40, sections 79.34 to 79.40 govern. Each insurer as defined by section 79.01, subdivision 2, shall, as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and is bound by the plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in ~~sections 60D.01 to 60D.13~~ *chapter 60D* are considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved under section 176.181 and each political subdivision that self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and is bound by its plan of operation; provided that:

(1) all affiliated companies within a holding company system, as determined by the commissioner in a manner consistent with the standards and definitions in ~~sections 60D.01 to 60D.13~~ *chapter 60D*, are considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association; and

(2) all group self-insurers granted authority to self-insure pursuant to section 176.181 are considered single entities for purposes of the exercise of all the rights and duties of membership in the reinsurance association. As a condition of its authority to self-insure workers' compensation liability, and for losses incurred after December 31, 1983, the state is a member of the reinsurance association and is bound by its plan of operation. The commissioner of employee relations represents the state in the exercise of

all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of employee relations. For the purposes of this section, "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner of finance may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association is not a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of labor and industry with respect to the reinsurance association are not subject to chapters 13, 14, and 15. All property owned by the association is exempt from taxation. The reinsurance association is not obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

Sec. 18. [REPEALER.]

Minnesota Statutes 1990, sections 60D.01; 60D.02; 60D.03; 60D.04; 60D.05; 60D.06; 60D.07; 60D.08; 60D.10; 60D.11; 60D.12; and 60D.13, are repealed.

Sec. 19. [EFFECTIVE DATE.]

Section 5 is effective August 1, 1992. The remainder of this article is effective August 1, 1991.

ARTICLE 15

LIFE REINSURANCE AGREEMENTS

Section 1. [60A.80] [ACCOUNTING REQUIREMENTS.]

Subdivision 1. [STANDARDS.] *No life insurer subject to this article shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:*

(1) the primary effect of the reinsurance agreement is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a "risk charge" and the agreement does not provide for significant participation by the reinsurer in one or more of the following risks: mortality, morbidity, investment, or surrender benefit;

(2) the reserve credit taken by the ceding insurer is not in compliance with the insurance law or rules, including actuarial interpretations or standards adopted by the department;

(3) the reserve credit taken by the ceding insurer is greater than the underlying reserve of the ceding company supporting the policy obligations transferred under the reinsurance agreement;

(4) the ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against prior years' losses nor payment by the ceding insurer of an amount equal to prior years' losses upon voluntary termination of in-force reinsurance by that ceding insurer shall be considered such a

reimbursement to the reinsurer for negative experience;

(5) the ceding insurer can be deprived of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums shall not be considered to be such a deprivation of surplus;

(6) the ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

(7) no cash payment is due from the reinsurer, throughout the lifetime of the reinsurance agreement, with all settlements prior to the termination date of the agreement made only in a "reinsurance account," and no funds in such account are available for the payment of benefits; or

(8) the reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies.

Subd. 2. [EXCEPTION.] *Notwithstanding subdivision 1, a life insurer subject to this article may, with the prior approval of the commissioner of commerce take such reserve credit as the commissioner considers consistent with the insurance law or rules adopted under it, including actuarial interpretations or standards adopted by the department.*

Sec. 2. [60A.801] [WRITTEN AGREEMENTS.]

Subdivision 1. [REINSURANCE AGREEMENTS AND AMENDMENTS.] *No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the department, unless the agreement, amendment, or a letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.*

Subd. 2. [LETTERS OF INTENT.] *In the case of a letter of intent, a reinsurance agreement, or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding 90 days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.*

Sec. 3. [60A.802] [EXISTING AGREEMENTS.]

Life insurers subject to this article may continue to reduce liabilities or establish assets in financial statements filed with the department for reinsurance ceded under types of reinsurance agreements that would violate section 60A.13, subdivision 1, relating to financial statements of insurers, thus, resulting in distorted financial statements which do not properly reflect the financial condition of the ceding life insurer; section 60A.09, relating to reinsurance reserve credits, thus, resulting in a ceding insurer improperly reducing liabilities or establishing assets for reinsurance ceded; and article 3, relating to creating a situation that may be hazardous to policyholders and the people of this state provided that:

(1) the agreements were executed and in force before the effective date of this article;

(2) no new business is ceded under the agreements after the effective date of this article;

(3) the reduction of the liability or the asset established for the reinsurance ceded is reduced to zero by December 31, 1992, or a later date approved by the commissioner of commerce as a result of an application made by the ceding insurer prior to December 31 of the year in which this article becomes effective;

(4) the reduction of the liability or the establishment of the asset is otherwise permissible under all other applicable provisions of the insurance law or rules adopted under it, including actuarial interpretations or standards adopted by the department; and

(5) the department is notified, within 90 days after the effective date of this chapter, of the existence of these reinsurance agreements and all corresponding credits taken in the ceding insurer's 1990 annual statement.

Sec. 4. [EFFECTIVE DATE.]

This article is effective January 1, 1992.

ARTICLE 16

LOSS RESERVE CERTIFICATION

Section 1. Minnesota Statutes 1990, section 60A.12, is amended by adding a subdivision to read:

Subd. 10. [LOSS RESERVE CERTIFICATION.] *Each domestic company engaged in providing the types of coverage described in section 60A.06, subdivision 1, clause (1), (2), (3), (5)(b), (6), (8), (9), (10), (11), (12), (13), or (14), must have its loss reserves certified to annually by a qualified actuary. The company must file the certification with the commissioner within 30 days of completion of the certification. The actuary providing the certification must not be an employee of the company. This subdivision does not apply to township mutual companies.*

ARTICLE 17

RICO

Section 1. Minnesota Statutes 1990, section 609.902, subdivision 4, is amended to read:

Subd. 4. [CRIMINAL ACT.] "Criminal act" means conduct constituting, or a conspiracy or attempt to commit, a felony violation of chapter 152, or a felony violation of section 297D.09; 299F.79; 299F.80; 299F.811; 299F.815; 299F.82; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.228; 609.235; 609.245; 609.25; 609.27; 609.322; 609.323; 609.342; 609.343; 609.344; 609.345; 609.42; 609.48; 609.485; 609.495; 609.496; 609.497; 609.498; 609.52, subdivision 2, *if the offense is punishable under subdivision* 3, clause (3)(b)~~,~~ or clause ~~(4)(c) or (f)~~ *3(d)(v) or (vi)*; 609.53; 609.561; 609.562; 609.582, subdivision 1 or 2; 609.67; 609.687; 609.713; 609.86; 624.713; or 624.74. *"Criminal act" also includes conduct constituting, or a conspiracy or attempt to commit, a felony violation of section 609.52, subdivision 2, clause (3), (4), (15), or (16) if the violation involves an insurance company as defined in section 60A.02, subdivision 4, a nonprofit health service plan corporation regulated under chapter 62C, a health maintenance organization regulated under chapter 62D, or a fraternal beneficiary association regulated under chapter 64B.*

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective August 1, 1991, and applies to crimes committed on or after that date.

ARTICLE 18

INVESTMENT POLICY

Section 1. [60A.112] [INVESTMENT POLICY REQUIRED.]

Each domestic company must have a written investment policy, designed to provide guidance for investment decisions by management. The policy must be approved by its board of directors. The policy must be reviewed by the company's board of directors and reapproved no less often than once every 12 months. The investment policy must address asset type diversification, diversification within asset types, concentration risks, interest rate risk, liquidity, foreign investments, loans secured by real estate, and investment real estate. The policy must set forth, in detail, company practices relating to internal controls regarding the delegation of investment authority within the company.

The board of directors must also determine at least annually the extent to which the company has complied with its investment policy within the preceding 12 months and shall adopt a written determination.

The company must file, as an attachment to its annual statement, a certification that:

(1) the company has a written investment policy meeting the requirements of this section;

(2) the company's board of directors has reviewed and approved or reapproved the policy within the period covered by the annual statement; and

(3) the company's board of directors performed the compliance review and made the written determination required by this section within the period covered by the annual statement.

A company's failure to meet the requirements of this section does not affect its ability to enforce its legal or equitable rights with respect to its investments.

Sec. 2. Minnesota Statutes 1990, section 62D.045, subdivision 2, is amended to read:

Subd. 2. [AUTHORIZATION *AND WRITTEN INVESTMENT POLICY* REQUIRED.] A health maintenance organization shall not make or engage in a loan or investment unless the loan or investment has been authorized or ratified by the board of directors or by a committee supervising investments and loans. *In addition, a health maintenance organization must comply with section 60A.112.*

ARTICLE 19

VALUATION OF REAL ESTATE LOANS AND INVESTMENTS

Section 1. [60A.121] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] *The definitions in this section apply to sections 60A.121 to 60A.127.*

Subd. 2. [COMMERCIAL MORTGAGE LOAN.] *"Commercial mortgage loan" means a loan by an insurer secured by a mortgage on commercial real estate. "Commercial mortgage loan" does not include loans secured*

by residential real estate containing four or fewer dwelling units or agricultural real estate.

Subd. 3. [DELINQUENT MORTGAGE LOAN.] *"Delinquent mortgage loan" means a loan 90 days delinquent on a required payment of principal or interest.*

Subd. 4. [DISTRESSED MORTGAGE LOAN.] *"Distressed mortgage loan" means a loan, other than a delinquent loan, that is determined by the management of the insurer, in the exercise of its prudent investment judgment, to involve circumstances that create a reasonable probability that the loan may become a delinquent mortgage loan or a mortgage loan in foreclosure.*

Subd. 5. [INDEPENDENT APPRAISER.] *"Independent appraiser" means a person not employed by the insurer, by an affiliate of the insurer, or by an investment advisor to the insurer who develops and communicates real estate appraisals and holds a current, valid license issued under section 82B.02, or a similar law enacted by another state.*

Subd. 6. [INTERNAL APPRAISAL.] *"Internal appraisal" means an appraisal to determine current market value made by an internal appraiser and based upon an evaluation of:*

(1) the property based upon a physical inspection of the premises;

(2) the current and expected stabilized cash flow generated by the property;

(3) the current and expected stabilized market rents in the geographic market where the property is located; and

(4) the current and stabilized occupancy rates for the geographic market where the property is located.

Subd. 7. [INTERNAL APPRAISER.] *"Internal appraiser" means an individual:*

(1) employed by an insurer, by an affiliate of the insurer, or by an investment advisor to an insurer;

(2) who has training and experience qualifying the individual to appraise the value of commercial real estate;

(3) whose direct or indirect compensation is not dependent upon the outcome of the appraisals performed under sections 60A.121 to 60A.126; and

(4) who has direct reporting access to the chief investment officer of the insurer.

Subd. 8. [INSURER.] *"Insurer" means a domestic insurance company.*

Subd. 9. [MORTGAGE LOAN IN FORECLOSURE.] *"Mortgage loan in foreclosure" means (1) a loan in the process of foreclosure including the time required for expiration of any equitable or statutory redemption rights; (2) a loan to a mortgagor who is the subject of a bankruptcy petition and who is not making regular monthly payments; or (3) a loan secured by a mortgage on real estate that is subject to a senior mortgage or other lien that is being foreclosed.*

Subd. 10. [PERFORMING MORTGAGE LOAN.] *"Performing mortgage loan" means a mortgage loan current in payment and not in distress.*

Subd. 11. [REAL ESTATE OWNED.] *"Real estate owned" means real property owned and acquired by an insurer through or in lieu of foreclosure and as to which all equitable or statutory rights of redemption have expired.*

Subd. 12. [RESTRUCTURED MORTGAGE LOAN.] *"Restructured mortgage loan" means a loan where:*

(1) material delinquent payments or accrued interest are capitalized and added to the balance of an outstanding loan; or

(2) the insurer has abated or reduced interest payments below market rates existing at the date of restructuring.

Sec. 2. [60A.122] [REQUIRED WRITTEN PROCEDURES.]

An insurer shall establish written procedures, approved by the company's board of directors, for the valuation of commercial mortgage loans and real estate owned. The procedures must be made available to the commissioner upon request. The commissioner shall review the insurer's compliance with the procedures in any examination of the insurer under section 60A.031.

Sec. 3. [60A.123] [VALUATION PROCEDURE.]

Subdivision 1. [REQUIREMENT.] *An insurer shall value its commercial mortgage loans and real estate acquired through foreclosure of commercial mortgage loans as provided in this section for the purpose of establishing reserves or carrying values of the investments and for statutory accounting purposes.*

Subd. 2. [PERFORMING MORTGAGE LOAN.] *A performing mortgage loan must be carried at its amortized acquisition cost.*

Subd. 3. [DISTRESSED MORTGAGE LOAN.] *(a) The insurer shall make an evaluation of the appropriate carrying value of its commercial mortgage loans which it classifies as distressed mortgage loans. The carrying value must be based upon one or more of the following procedures:*

(1) an internal appraisal;

(2) an appraisal made by an independent appraiser;

(3) the value of guarantees or other credit enhancements related to the loan.

(b) The insurer may determine the carrying value of its distressed mortgage loans through either an evaluation of each specific distressed mortgage loan or by a sampling methodology. Insurers using a sampling methodology shall identify a sampling of its distressed mortgage loans that represents a cross section of all of its distressed mortgage loans. The insurer shall make an evaluation of the appropriate carrying value for each sample loan. The carrying value of all of the insurer's distressed mortgage loans must be the same percentage of their amortized acquisition cost as the sample loans. The carrying value must be based upon an internal appraisal or an appraisal conducted by an independent appraiser.

(c) The insurer shall either take a charge against its surplus or establish a reserve for the difference between the carrying value and the amortized acquisition cost of its distressed mortgage loans.

Subd. 4. [DELINQUENT MORTGAGE LOAN.] *(a) The insurer shall make an evaluation of the appropriate carrying value of each delinquent mortgage loan. The carrying value must be based upon one or more of the*

following procedures:

(1) an internal appraisal;

(2) an appraisal by an independent appraiser;

(3) the value of guarantees or other credit enhancements related to the loan.

(b) The insurer shall either take a charge against its surplus or establish a reserve for the difference between the carrying value and the amortized acquisition cost of its delinquent mortgage loans.

Subd. 5. [RESTRUCTURED MORTGAGE LOAN.] *(a) The insurer shall make an evaluation of the appropriate carrying value of each restructured mortgage loan. The carrying value must be based upon one or more of the following procedures:*

(1) an internal appraisal;

(2) an appraisal by an independent appraiser;

(3) the value of guarantees or other credit enhancements related to the loan.

(b) The insurer shall either take a charge against its surplus or establish a reserve for the difference between the carrying value and the amortized acquisition cost of its restructured mortgage loans.

Subd. 6. [MORTGAGE LOAN IN FORECLOSURE.] *(a) The insurer shall make an evaluation of the appropriate carrying value of each mortgage loan in foreclosure. The carrying value must be based upon an appraisal made by an independent appraiser.*

(b) The insurer shall take a charge against its surplus for the difference between the carrying value and the amortized acquisition cost of its mortgage loans in the process of foreclosure.

Subd. 7. [REAL ESTATE OWNED.] *(a) The insurer shall make an evaluation of the appropriate carrying value of real estate owned. The carrying value must be based upon an appraisal made by an independent appraiser.*

(b) The insurer shall take a charge against its surplus for the difference between the carrying value and the amortized acquisition cost of real estate owned.

Sec. 4. [60A.124] [INDEPENDENT AUDIT.]

The audit report of the independent certified public accountant which prepares the audit of an insurer's annual statement as required under section 60A.13, subdivision 3, paragraph (a), must contain findings by the auditor that:

(1) the insurer has adopted valuation procedures meeting the minimum standards required in section 60A.123;

(2) the procedures adopted by the board of directors have been uniformly applied by the insurer in conformance with this section; and

(3) the management of the insurer has an adequate system of internal controls.

Sec. 5. [60A.125] [APPRAISAL BY INDEPENDENT APPRAISER.]

Subdivision 1. [MORTGAGE LOANS IN THE PROCESS OF FORECLOSURE.] *An insurer may rely upon an appraisal by an independent appraiser to determine the carrying value of mortgage loans in the process of foreclosure only if the date of the appraisal is within six months of the date the foreclosure procedure is begun. If no appraisal exists, the insurer shall acquire an appraisal within six months after the foreclosure proceeding has begun.*

Subd. 2. [REAL ESTATE OWNED.] *An insurer may rely upon an appraisal by an independent appraiser to determine the carrying value of real estate owned only if the date of the appraisal is within six months of the date when title to the property was acquired. If no appraisal exists, the insurer shall acquire an appraisal within six months after title to the property is acquired.*

Subd. 3. [CHARGE TAKEN.] *An insurer shall take a charge against the surplus for mortgage loans in the process of foreclosure and real estate owned in the first calendar year in which it holds a current appraisal made by an independent appraiser as provided in this section.*

Sec. 6. [60A.126] [BOARD REPORT.]

The management of the insurer shall make periodic reports, at least annually, to its board of directors, or an appropriate committee of the board, as to the application of the insurer's valuation procedures adopted under sections 60A.121 to 60A.127.

Sec. 7. [60A.127] [INDEPENDENT APPRAISALS OF CERTAIN PROPERTIES.]

Subdivision 1. [RANDOM SAMPLE APPRAISAL REQUIREMENT.] *Each domestic insurer that does not obtain independent appraisals of all distressed, delinquent, and restructured mortgage loans and use such appraisals to determine the carrying values for its annual statement shall obtain independent appraisals of a random sample of those loans for which it did not obtain and use such appraisals. The independent appraisals must be obtained by the insurer no later than 60 days after the filing of the insurer's annual statement. The loans to be sampled do not include loans for which the insurer determined the carrying value on the basis of guarantees or other credit enhancements.*

Subd. 2. [SAMPLING PROCEDURE; RULES.] *The commissioner may adopt rules specifying the percentage of distressed, delinquent, and restructured loans for which the insurer must obtain an independent appraisal. The percentage may vary between insurers or types of loans and may apply to the number of loans, the dollar value of loans, or both. The rules may also specify a procedure for determining how to identify the specific loans for which an appraisal is required. The commissioner may adopt under this subdivision only rules that would require sampling no less extensive than that required by subdivision 3.*

Subd. 3. [STATUTORY SAMPLING PROCEDURE.] *(a) Unless and until rules authorized by subdivision 2 are adopted, each domestic insurer must:*

(1) obtain an independent appraisal of five percent of its distressed, delinquent, or restructured loans required to be sampled under subdivision 1; and

(2) establish a uniform system of assigning sequential numbers to its distressed, delinquent, or restructured loans based upon the date on which

a loan first enters one of those categories, and then obtain an independent appraisal of every twentieth loan required to be sampled under subdivision 1, beginning with the tenth loan or with the loan having another number that the commissioner may announce on or within five business days after the due date for filing of the annual statement.

(b) A domestic insurer may use a sampling procedure different from that described in paragraph (a) with the prior approval of the commissioner. The commissioner may grant such approval only if the different procedure would result in a sampling that is at least as accurate and as extensive under the circumstances as the method required by paragraph (a).

Subd. 4. [RECORDKEEPING; REPORTING.] *The independent appraisals must be kept in the insurer's records and must be available to the commissioner upon request. Each insurer must file with the commissioner an annual report listing each mortgage loan for which the insurer obtained an independent appraisal under this section and showing for each of those loans the appraisal value, the carrying value determined by the insurer, and other information required by the commissioner. The report must be filed with the commissioner no later than 120 days after the filing of the annual report.*

Subd. 5. [ADDITIONAL REQUIREMENTS.] *If the commissioner determines, on the basis of the report of independent appraisals required by subdivision 4, that the carrying values shown on the annual statement, determined by methods other than an independent appraisal, overstate the market value of the loans required to be sampled, the commissioner may require any of the following procedures:*

(1) independent appraisals of additional loans from the loans required to be sampled;

(2) filing of a supplement to, or a revision of, the annual statement, showing revised carrying values for all or any appropriate portion of the loans required to be sampled; and

(3) a second independent appraisal for any loan for which an independent appraisal was obtained under this section.

Subd. 6. [SELECTION OF INDEPENDENT APPRAISER.] *The insurer shall not obtain more than one-third of the independent appraisals required under this section from any one appraiser or from any one firm.*

Subd. 7. [POWERS IN THIS SECTION NOT LIMITING.] *This section does not limit any powers otherwise available to the commissioner.*

Sec. 8. [60A.128] [RESERVE ACCOUNT.]

In computing reserves required to be held by an insurer under the provisions of section 3, subdivisions 3, 4, and 5, the commissioner may allow an insurer to take credit for any reserves held by the insurer attributable to the assets as an "asset valuation reserve" pursuant to the accounting and reserving requirements of the National Association of Insurance Commissioners. Any charges against surplus taken under section 3, subdivisions 3, 4, 5, 6, or 7, may be taken against the asset valuation reserve to the extent the asset valuation reserve is sufficient and the charge is permitted by the NAIC. To the extent the asset valuation reserve is not sufficient, or if the change is not permitted by the NAIC, the insurer shall take a charge against its surplus.

ARTICLE 20

ASSUMPTION TRANSACTIONS

Section 1. Minnesota Statutes 1990, section 60A.09, is amended by adding a subdivision 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.

ARTICLE 21

MISCELLANEOUS

Section 1. Minnesota Statutes 1990, section 60A.27, is amended to read:

60A.27 [DISCIPLINE OF INSURER BY ANOTHER STATE; NOTICE TO COMMISSIONER.]

Subdivision 1. An insurance company licensed to transact business in this state is hereby required to notify the commissioner of commerce within ~~30~~ *ten business* days of the happening of any one or more of the following:

(1) the suspension or revocation of its right to transact business in another state;

(2) the receipt by the insurance company of an order to show why its license should not be suspended or revoked; or

(3) the imposition of a penalty by any other state for any violation of the insurance laws of such other state.

Subd. 2. Any insurance company which fails to notify the commissioner of commerce within ~~30 days of the happening of any of the foregoing shall be~~ *the time period specified in subdivision 1 is* subject to a penalty of not more than $500, or suspension, or both.

Sec. 2. Minnesota Statutes 1990, section 60C.03, subdivision 8, is amended to read:

Subd. 8. "Insolvent insurer" means an insurer licensed to transact insurance in this state, either at the time the policy was issued, or when the insured event occurred, and against whom an order of liquidation with a finding of insolvency has been entered after April 30, 1979 by a court of competent jurisdiction, in the insurer's state of domicile or of this state, under the provisions of chapter 60B, and which order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order. *An insurer placed under administrative supervision under article 2 or determined to be in hazardous financial condition under article 3 is not an insolvent insurer as a result of that placement or determination.*

Sec. 3. Minnesota Statutes 1990, section 60C.14, subdivision 2, is amended to read:

Subd. 2. [OPTIONAL POWERS AND DUTIES.] The commissioner may:

(a) Require the association to notify the insureds of any insurer undergoing liquidation and any other interested parties of their possible rights under Laws 1971, chapter 145. Notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

(b) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance or to execute surety bonds in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. The fine shall not exceed five percent of the unpaid assessment per month, except that no fine shall be less than $100 per month.

(c) Revoke the designation of any servicing facility if the commissioner finds claims are being handled unsatisfactorily.

(d) Disclose to the board of directors information regarding any member insurer, or any company seeking admission to transact insurance business in this state, whose financial condition may be hazardous to policyholders or to the public. This disclosure does not violate any data privacy requirement or any obligation to treat the information as privileged. This disclosure does not change the data privacy or privileged status of the information.

Board members shall not disclose the information to anyone else or use the information for any purpose other than their duties as board members.

Sec. 4. Minnesota Statutes 1990, section 60E.04, subdivision 7, is amended to read:

Subd. 7. [EXAMINATION REGARDING FINANCIAL CONDITION.] A risk retention group must submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered has not initiated an examination or does not initiate an examination within ~~60~~ *ten business* days after a request by the commissioner of commerce. The examination must be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the National Association of Insurance Commissioner's Examiner Handbook.

Sec. 5. [62A.135] [NONCOMPREHENSIVE POLICIES; MINIMUM LOSS RATIOS.]

(a) This section applies to individual or group policies, certificates, or other evidence of coverage designed primarily to provide coverage for hospital or medical expenses on a per diem, fixed indemnity, or nonexpense incurred basis offered, issued, or renewed, to provide coverage to a Minnesota resident.

(b) Notwithstanding section 62A.02, subdivision 3, relating to loss ratios, policies must return to Minnesota policyholders in the form of aggregate benefits under the policy, for each year, on the basis of incurred claims experience and earned premiums in Minnesota and in accordance with accepted actuarial principles and practices:

(1) at least 75 percent of the aggregate amount of premiums earned in the case of group policies; and

(2) at least 65 percent of the aggregate amount of premiums earned in the case of individual policies.

(c) An insurer may only issue or renew an individual policy on a guaranteed renewable or noncancelable basis.

(d) Noncomprehensive policies, certificates, or other evidence of coverage subject to the provisions of this section are also subject to the requirements, penalties, and remedies applicable to medicare supplement policies, as set forth in section 62A.36, subdivisions 1a, 1b, and 2.

The first supplement to the annual statement required to be filed pursuant to this paragraph must be for the annual statement required to be submitted on or after January 1, 1993.

Sec. 6. Minnesota Statutes 1990, section 62E.14, is amended by adding a subdivision to read:

Subd. 4c. [INSURER INSOLVENCY; WAIVER OF PREEXISTING CONDITIONS.] *A Minnesota resident who is otherwise eligible may enroll in the comprehensive health insurance plan with a waiver of the preexisting condition limitation described in subdivision 3, if that person applies for coverage within 90 days of termination of prior coverage due to the insolvency of the insurer.*

Coverage in the comprehensive insurance plan is effective on the date of termination of prior coverage. The availability of conversion rights does

not affect a person's rights under this subdivision.

Sec. 7. Minnesota Statutes 1990, section 68A.01, subdivision 2, is amended to read:

Subd. 2. [GUARANTY FUND AND INVESTMENT THEREOF.] Before issuing any policy or other contract of guaranty or insurance, every real estate title insurance company shall set apart and keep separate a guaranty fund of $100,000 or an amount equal to two-fifths of its capital stock whichever is the greater~~, but in no event shall a company be required to deposit in excess of $2,500,000~~. The guaranty fund shall be invested according to law.

Sec. 8. [72A.206] [IMPAIRMENT OR INSOLVENCY; NOTICE OF LIMITATIONS AND EXCLUSIONS OF PROTECTION.]

(a) No person, including an insurer, agent, or affiliate of an insurer or agent shall sell, or offer for sale, a policy or contract of insurance of any kind unless a separate notice conforming to the requirements of paragraph (b) is delivered with the application for that policy or contract. The notice is considered part of the policy or contract and must be signed by the applicant and kept on file by the insurer. A copy of the signed notice must be given to the applicant. This section does not apply to renewals, unless the renewal increases the dollar amount of a coverage by more than 100 percent.

(b) The notice must clearly state the limitations and exclusions relating to the protection afforded the policy or contract holder should the insurer become financially impaired or insolvent, including coverages afforded by any guaranty fund.

(c) The notice requirements of section 61B.12, subdivision 6, supersede the requirements of this section. With respect to combination fixed-variable policies, the notice requirement of section 61B.12, subdivision 6, supersedes the requirements of this section, provided that the notice provided under section 61B.12, subdivision 6, clearly describes what portions of the policy are not covered by the guaranty fund.

(d) This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 9. [NONCOMPREHENSIVE POLICIES; RESERVES AND INVESTMENTS STUDY.]

The department of commerce shall review the adequacy of reserves of companies selling noncomprehensive policies subject to Minnesota Statutes, section 62A.135. The department shall also review the earnings generated from the investment of the premium dollars paid for these policies. The review under this section shall be treated as an examination for purposes of applying the requirements of Minnesota Statutes, section 60A.031.

The department shall report the results of its review to the chairs of the house financial institutions and insurance committee and the senate commerce committee by January 1, 1992.

Sec. 10. [EFFECTIVE DATE.]

Section 5 is effective for policies, certificates, or other evidence of coverage issued or offered to a Minnesota resident on or after August 1, 1991."

Delete the title and insert:

"A bill for an act relating to insurance; regulating reinsurance and other insurance practices, investments, guaranty funds, and holding company systems; providing examination authority and reporting requirements; adopting various NAIC model acts and regulations; prescribing penalties; amending Minnesota Statutes 1990, sections 60A.02, subdivision 6, and by adding subdivisions; 60A.03, subdivision 5; 60A.031; 60A.07, subdivision 5d, and by adding a subdivision; 60A.09, subdivision 5, and by adding a subdivision; 60A.10, subdivision 2a; 60A.11, subdivisions 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, and by adding subdivisions; 60A.12, by adding a subdivision; 60A.13, subdivision 1; 60A.14, subdivision 1; 60A.27; 60B.25; 60B.37, subdivision 2; 60C.02, subdivision 1; 60C.03, subdivisions 6, 8, and by adding a subdivision; 60C.04; 60C.06, subdivision 1; 60C.09, subdivision 1; 60C.13, subdivision 1; 60C.14, subdivision 2; 60E.04, subdivision 7; 61A.25, subdivisions 5, 6, and by adding subdivisions; 61A.28, subdivisions 1, 2, 3, 6, 8, 11, 12, and by adding subdivisions; 61A.281, by adding subdivisions; 61A.283; 61A.29; 61A.31; 61B.06, subdivision 9, and by adding a subdivision; 61B.12, by adding subdivisions; 62D.044; 62D.045, subdivisions 1 and 2; 62E.14, by adding a subdivision; 68A.01, subdivision 2; 72A.061, subdivision 1; 79.34, subdivision 1; and 609.902, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 60A, 60D, 62A, and 72A; proposing coding for new law as Minnesota Statutes, chapters 60G, 60H, and 60J; repealing Minnesota Statutes 1990, sections 60A.076; 60A.09, subdivision 4; 60A.12, subdivision 2; 60D.01 to 60D.08; 60D.10 to 60D.13; and 61A.28, subdivisions 4 and 5."

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

House Conferees: (Signed) Wesley J. "Wes" Skoglund, Ted Winter, Jerry Knickerbocker, Alice Hausman, Phil Carruthers

Senate Conferees: (Signed) William P. Luther, Sam G. Solon, Cal Larson, John C. Hottinger, Carol Flynn

Mr. Luther moved that the foregoing recommendations and Conference Committee Report on H.F. No. 12 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. 12 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:

Adkins	Day	Johnston	Metzen	Sams
Beckman	DeCramer	Kelly	Moe, R.D.	Samuelson
Belanger	Finn	Knaak	Morse	Solon
Benson, D.D.	Flynn	Kroening	Neuville	Spear
Benson, J.E.	Frank	Laidig	Olson	Storm
Berg	Frederickson, D.J.	Langseth	Pappas	Stumpf
Berglin	Frederickson, D.R.	Larson	Pariseau	Traub
Bernhagen	Gustafson	Lessard	Piper	Vickerman
Bertram	Halberg	Luther	Price	Waldorf
Chmielewski	Hottinger	Marty	Ranum	
Cohen	Hughes	McGowan	Reichgott	
Dahl	Johnson, D.E.	Mehrkens	Renneke	
Davis	Johnson, J.B.	Merriam	Riveness	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Solon moved that H.F. No. 1655 be taken from the table. The motion prevailed.

H.F. No. 1655: A bill for an act relating to taxation; authorizing the department of trade and economic development to issue obligations to finance construction of aircraft maintenance and repair facilities; authorizing the metropolitan airports commission to operate outside the metropolitan area; establishing an interagency task force; amending Minnesota Statutes 1990, sections 272.01, subdivision 2; 290.06, by adding a subdivision; 360.013, subdivision 5; 360.032, subdivision 1; 360.038, subdivision 4; 473.608, subdivision 1; and 473.667, subdivision 8a, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 297A; and 473; proposing coding for new law as Minnesota Statutes, chapter 116R.

Mr. Solon moved to amend H.F. No. 1655 as follows:

Page 1, after line 19, insert:

"Section 1. Minnesota Statutes 1990, section 3.885, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The legislative commission on planning and fiscal policy consists of ~~18~~ *20* members of the senate and the house of representatives appointed by the legislative coordinating commission. Vacancies on the commission are filled in the same manner as original appointments. The commission shall elect a chair and a vice-chair from among its members. The chair alternates between a member of the senate and a member of the house in January of each odd-numbered year."

Page 2, after line 14, insert:

"*Subd. 8.* [CASH COLLATERAL.] *"Cash collateral" means cash or securities issued or unconditionally guaranteed as to payment of principal and interest by the United States of America and maturing or callable at the option of the holder within two years.*"

Page 3, line 9, after "*the*" insert "*difference between the*"

Page 3, line 9, after "*bonds*" insert ", *and any cash collateral held in a debt service reserve account and pledged to the payment of principal and interest for the state guaranteed bonds and no other bonds*"

Page 3, line 19, delete "*thereon that is*" and after "*bonds*" insert ", *but excluding any cash collateral deducted from the outstanding state guaranteed bonds in applying the coverage test*"

Page 3, line 25, after "*bonds*" insert "*for a project*"

Page 3, line 26, delete "*projects*" and insert "*project*"

Page 3, line 34, delete "*The commissioner*"

Page 3, delete lines 35 and 36

Page 4, delete lines 1 to 3

Page 4, line 4, delete "*transaction.*"

Page 4, line 23, after "*bonds*" insert "*for a project*"

Page 4, line 25, after "*agreements*" insert "*for the project*"

Page 6, line 5, after the comma, insert "*except as otherwise provided in this article,*"

Page 7, delete lines 2 to 17

Page 8, line 10, after "*ownership*" insert "*of the facility*"

Page 8, after line 10, insert:

"*No revenues derived from the lease of the project may be used other than for a purpose related to the project, including its operation, administration, maintenance, improvement, or financing.*"

Page 8, line 24, delete "*exercisable*"

Page 9, line 7, delete "*employees,*"

Page 9, line 8, delete "*domestic and international*" and delete the first comma

Page 9, line 15, delete "*sections 1 to 15*" and insert "*article 1*"

Page 11, line 15, delete "*and*" and after "*3,*" insert "*or an order of the commissioner or indenture authorizing the bonds,*"

Page 11, line 16, delete "*16A.31*" and insert "*16A.631*"

Page 13, line 26, before the semicolon, insert "*, and amounts paid under section 23 or 24 for the payment of bonds or interest thereon*"

Page 15, line 23, delete "*refunded*" and insert "*rebated*"

Page 17, line 12, after the period, insert "*All deposits into and disbursements from accounts for the purposes and from the sources of revenue authorized by sections 1 to 15 and provided in an order of the commissioner or an indenture or other agreement authorized by the commissioner are appropriated for that purpose.*"

Page 17, line 27, after the period, insert "*If the Minnesota Constitution, article XI, section 7, applies to any series of bonds, amounts in the debt service account and any debt service reserve account established under section 13 for the bonds, regardless of who holds or invests the amounts, must be special accounts of the state bond fund, for which the state treasurer shall maintain records. Amounts in the accounts must reduce any levy otherwise required by the Minnesota Constitution for payment of principal or interest on the bonds.*"

Page 19, line 6, after the comma, insert "*the reimbursement of any advance made from another fund or account,*"

Page 19, line 31, after the period, insert "*Amounts sufficient to pay the costs of issuance of the deficiency bonds are appropriated to the commissioner from the general fund to the extent other available money is insufficient.*"

Page 20, line 2, after "*bonds*" insert "*and any investment income*"

Page 20, line 3, after the period, insert "*In any event, the proceeds of the deficiency bonds deposited in the debt service reserve account must be an amount not less than the commissioner determines is required to pay principal and interest on the state guaranteed bonds secured by the debt*

service reserve account."

Page 25, line 36, delete "2" and insert "6"

Page 27, line 12, after "DISTRICT" insert "WITH CITY FUNDS PLEDGE"

Page 27, after line 23, insert:

"*The governing body of the city of Duluth may irrevocably pledge to the payment or security for the payment of principal and interest on bonds issued for the project described in section 2, subdivision 5, any money payable to or held in any of the funds specified in section 54(a) of the Duluth city charter.*"

Page 28, line 23, before "*The*" insert "*(a)*"

Page 28, line 28, after the period, insert "*With the consent of St. Louis county,*"

Page 28, line 30, after "*located*" insert "*and any other adjoining areas into which expansion of the facility or development caused by the facility may be expected to occur*"

Page 28, after line 33, insert:

"*(b) By resolution of the governing bodies of St. Louis county and the city of Chisholm and without an election, either or both St. Louis county and the city of Chisholm may treat an obligation, or any portion thereof, of the city of Hibbing issued under Minnesota Statutes, section 469.178, subdivision 2, as a general obligation of St. Louis county or the city of Chisholm, by unconditionally and irrevocably pledging their full faith and credit and taxing power. Except for Minnesota Statutes, sections 475.61 and 475.64, the pledge is not subject to Minnesota Statutes, chapter 475. The obligations, the pledge of St. Louis county, and the pledge of the city of Chisholm are not subject to and shall not be taken into account for purposes of any debt limitation. A levy of taxes for the obligations is not subject to and shall not be taken into account for purposes of any levy limitations. The obligations may be sold at public or private sale.*"

Page 29, line 11, delete everything after "*district*" and insert ", *and the proceeds of obligations secured by or payable from the tax increments, after reduction for costs of issuance, reserves, and capitalized interest, must be used to finance, pay, or secure debt service on*"

Page 29, line 12, delete "*under section 4*"

Page 29, line 21, after "*is*" insert "*to promote the public welfare, national security, and efficient, safe, and economical air navigation, commerce, and facilities in or for the benefit of the state;*"

Page 30, line 11, after the period, insert "*Section 2, subdivision 4, paragraph (c), is effective on the day after compliance by the governing body of the city of Duluth with Minnesota Statutes, section 645.021, subdivision 3.*"

Page 30, line 13, delete "*the lease*" and insert "*an*"

Page 30, line 14, delete "*December*" and insert "*March*" and delete "*1991*" and insert "*1992, and to refunding bonds*"

Renumber the sections of article 1 in sequence and correct the internal references

Page 31, line 17, delete "*the costs of*"

Page 32, line 21, delete "*employees,*" and delete the second comma

Page 32, line 22, delete "*domestic and international,*"

Page 32, line 24, delete "*periods that may exceed*"

Page 33, after line 16, insert:

"*(d) In addition to other purposes authorized by law, the proceeds of the general obligation revenue bonds may be used to fund a debt service reserve account or other reserve account.*"

Page 33, line 27, delete "*the costs of*"

Page 34, line 15, delete "*employees,*" and delete the second comma

Page 34, line 16, delete "*domestic and international,*"

Page 34, line 18, delete "*periods that may exceed*"

Page 34, line 32, delete the semicolon and insert a period

Page 34, line 33, delete "*provided that*"

Page 34, line 34, after the period, insert "*For purposes of this subdivision, the commission may exercise any powers vested in a redevelopment agency under sections 469.152 to 469.165.*"

Page 35, line 29, after the period, insert "*Any deed granted or received by the commission and any mortgage granted by the commission in connection with the issuance of the revenue bonds is exempt from deed tax and mortgage registry tax imposed under chapter 287.*"

Page 37, delete lines 14 to 19

Page 38, line 10, after "*the*" insert "*difference between the*"

Page 38, line 11, after "*bonds*" insert "*and any cash collateral held in a debt service reserve fund and pledged to the payment of principal and interest for the general obligation revenue bonds and no other bonds*"

Page 38, line 22, after "*bonds*" insert ", *but excluding any cash collateral deducted from the outstanding general obligation revenue bonds in applying the coverage test*"

Page 38, line 25, after the period, insert "*Cash collateral means cash or securities issued or unconditionally guaranteed as to payment of principal and interest by the United States of America and maturing or callable at the option of the holder within two years.*

(c) In addition to other purposes authorized by law, the proceeds of the general obligation revenue bonds may be used to fund a debt service reserve account or other reserve account.

(d) For purposes of this subdivision, the commission may exercise any powers vested in a redevelopment agency under sections 469.152 to 469.165. Any deed granted or received by the commission and any mortgage granted by the commission in connection with the issuance of the general obligation revenue bonds is exempt from deed tax and mortgage registry tax imposed under chapter 287."

Page 39, line 11, after "*finance*" insert "*or refinance*"

Page 39, line 12, after "*facilities*" insert "*or property*" and delete "*the*

lease" and insert "*an*"

Page 39, line 13, delete "*December*" and insert "*March*" and delete "*1991*" and insert "*1992, or to bonds issued to refund the bonds*"

Page 40, line 20, after "*finance*" insert "*and the legislative commission on planning and fiscal policy, provided that the provisions of article 1, section 15, specifically apply to this approval requirement*" and delete everything after the period

Page 40, delete line 21

Page 40, line 22, delete "*airports commission.*" and delete " *the metropolitan airports*"

Page 40, lines 23 and 24, delete "*commission or*"

Amend the title as follows:

Page 1, line 3, delete "trade and economic development" and insert "finance"

Page 1, line 5, after the semicolon, insert "expanding the membership of the legislative commission on planning and fiscal policy; providing tax credits for job creation; providing an exemption from sales tax for certain equipment and materials; authorizing establishment of tax increment financing districts in the cities of Duluth and Hibbing and on property located at the Minneapolis-St. Paul International Airport; authorizing the pledge of city funds by the city of Duluth to pay debt service on certain obligations; authorizing the metropolitan airports commission to issue obligations to finance construction of aircraft maintenance facilities;"

Page 1, line 8, after "sections" insert "3.885, subdivision 1;"

Mr. Moe, R.D. moved to amend the Solon amendment to H.F. No. 1655 as follows:

Page 1, delete lines 2 to 13

Page 4, delete lines 28 and 29

Amend the title amendment as follows:

Page 6, line 25, delete "expanding the"

Page 6, delete line 26

Page 6, line 27, delete "policy;"

Page 6, delete line 36

Page 7, delete line 1

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

The question recurred on the adoption of the Solon amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

Mr. Benson, D.D. moved to amend H.F. No. 1655 as follows:

Page 8, line 35, before "*Before*" insert "*(a)*"

Page 9, line 5, delete "*: (1)*" and insert "*aircraft noise abatement.*"

Page 9, delete lines 6 to 10 and insert:

"*(b) The leases for each of the facilities described in subdivisions 5 and 6 must contain covenants and agreements by the airline corporation and any successor in interest providing for the retention and location of existing employees, operations, and facilities, including headquarters, of the airline corporation in the state until the principal and interest on the last series of deficiency bonds and general obligation revenue bonds issued under subdivision 4, paragraph (a), clause (2), are paid.*"

Page 38, line 25, after the period, insert "*The lease must contain covenants and agreements by the airline corporation and any successor in interest providing for: (1) the retention and location of existing employees, operations, and facilities, including headquarters, of the airline corporation in the state until the principal and interest on the last series of bonds are paid; and (2) aircraft noise abatement.*"

CALL OF THE SENATE

Mr. Frank imposed a call of the Senate for the balance of the proceedings on H.F. No. 1655. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the Benson, D.D. amendment. The motion prevailed. So the amendment was adopted.

Mr. Benson, D.D. then moved to amend H.F. No. 1655 as follows:

Pages 30 to 33, delete sections 1 to 4

Renumber the sections of article 2 in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

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

Those who voted in the affirmative were:

Benson, D.D.	Day	Kelly	Merriam	Ranum
Benson, J.E.	DeCramer	Kroening	Moe, R.D.	Renneke
Berg	Flynn	Laidig	Morse	Traub
Cohen	Frank	Luther	Neuville	Vickerman
Dahl	Frederickson, D.R.	Marty	Pappas	Waldorf
Davis	Hughes	McGowan	Pariseau	

Those who voted in the negative were:

Adkins	Dicklich	Johnson, J.B.	Mondale	Samuelson
Beckman	Finn	Johnston	Novak	Solon
Belanger	Frederickson, D.J.	Knaak	Olson	Spear
Berglin	Gustafson	Langseth	Piper	Storm
Bernhagen	Halberg	Larson	Price	Stumpf
Bertram	Hottinger	Lessard	Reichgott	
Brataas	Johnson, D.E.	Mehrkens	Riveness	
Chmielewski	Johnson, D.J.	Metzen	Sams	

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

Mr. Frank moved to amend H.F. No. 1655 as follows:

Page 1, after line 27, insert:

"*Subd. 4.* |CORPORATE HEADQUARTERS.| "*Corporate headquarters*" *means the principal office from which the business of the corporation is conducted and the principal office of the chief executive officer of the*

corporation."

Page 1, line 28, delete "*4*" and insert "*5*"

Page 2, line 1, delete "*5*" and insert "*6*"

Page 2, line 4, delete "*6*" and insert "*7*"

Page 2, line 12, delete "*7*" and insert "*8*"

Page 21, after line 8, insert:

"Sec. 16. [116R.16] [CORPORATE HEADQUARTERS.]

A lease agreement may be entered under sections 1 to 15 only if the affected parties provide an enforceable pledge that their corporate headquarters will remain in Minnesota for the duration of the agreement."

Renumber the sections of article 1 in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Frank then moved to amend H.F. No. 1655 as follows:

Page 21, after line 8, insert:

"Sec. 16. [116R.16] [MODERNIZATION.]

Bonds may be issued and lease agreements made under sections 1 to 15 only after findings by the state investment board and the legislative auditor that the parties to the agreements are financially able and have management that intends to make the investments necessary to maintain competitive modern equipment and a competitive business enterprise."

Renumber the sections of article 1 in sequence and correct the internal references

Amend the title accordingly

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

Mr. Luther moved to amend H.F. No. 1655 as follows:

Page 2, line 34, after "*available*" insert "*terms and*"

Page 2, line 35, after the period, insert "*The terms and security must be reasonably determined by the commissioner to be adequate and of the kind and degree which would be required by an investment banking or other financial institution.*"

Page 2, line 36, delete "*may*" and insert "*must*"

Page 3, line 32, delete "*familiar*" and insert "*having special expertise*"

Page 4, line 6, delete "*similar*" and insert "*substantially equivalent*"

Page 4, line 22, after the period, insert "*The data may also be made available as requested by the legislative commission on planning and fiscal policy.*"

Page 7, lines 20 and 28, delete "*must*" and insert "*may*"

Page 8, line 6, delete "*must not*" and insert "*may*"

Page 8, line 7, delete "*any*" and insert "*no*"

Page 8, line 8, before the period, insert "*if so determined by the commissioner*"

Page 8, lines 13 and 22, delete "*must*" and insert "*may*"

Page 9, line 16, delete "*which is*" and insert "*unless*"

Page 11, line 5, delete "*including*" and insert "*which may include*"

Page 31, line 30, after the period, insert "*The commission shall seek to obtain the best available terms and security for the lease and agreement. The terms and security must be reasonably determined by the commission to be adequate and of the kind and degree which would be required by an investment banking or other financial institution.*"

Page 34, line 2, after the period, insert "*The commission shall seek to obtain the best available terms and security for the lease and agreement. The terms and security must be reasonably determined by the commission to be adequate and of the kind and degree which would be required by an investment banking or other financial institution.*"

The motion prevailed. So the amendment was adopted.

Mr. Lessard moved to amend H.F. No. 1655 as follows:

Page 40, after line 30, insert:

"ARTICLE 4

CONSTRUCTION MATERIALS EXEMPTION

Section 1. [297A.2541] [CONSTRUCTION MATERIALS EXEMPTION; MAJOR PROJECTS.]

Construction materials and supplies are exempt from the tax under this chapter, regardless of whether purchased by the owner or a contractor, subcontractor, or builder, if the materials are used or consumed in constructing a new manufacturing facility or expanding an existing one, and the total capital investment made within a three-year period exceeds $350,000,000.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective for purchases made after June 30, 1991, and before January 1, 1995."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 10 and nays 50, as follows:

Those who voted in the affirmative were:

Chmielewski	Frank	Hughes	Lessard	Sams
Finn	Gustafson	Kelly	Price	Vickerman

Those who voted in the negative were:

Adkins	Davis	Johnson, D.J.	Merriam	Pogemiller
Belanger	Day	Johnson, J.B.	Metzen	Ranum
Benson, D.D.	DeCramer	Johnston	Moe, R.D.	Renneke
Benson, J.E.	Dicklich	Kroening	Mondale	Samuelson
Berg	Flynn	Laidig	Morse	Solon
Berglin	Frederickson, D.J.	Larson	Neuville	Spear
Bernhagen	Frederickson, D.R.	Luther	Novak	Storm
Bertram	Halberg	Marty	Pappas	Stumpf
Cohen	Hottinger	McGowan	Pariseau	Traub
Dahl	Johnson, D.E.	Mehrkens	Piper	Waldorf

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

H.F. No 1655 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 47 and nays 18, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnston	Novak	Samuelson
Beckman	Dicklich	Kroening	Olson	Solon
Belanger	Finn	Larson	Pappas	Spear
Benson, J.E.	Frederickson, D.J.	Lessard	Pariseau	Storm
Berglin	Gustafson	Luther	Piper	Stumpf
Bernhagen	Halberg	McGowan	Pogemiller	Traub
Bertram	Hottinger	Mehrkens	Price	Vickerman
Brataas	Johnson, D.E.	Metzen	Reichgott	
Chmielewski	Johnson, D.J.	Moe, R.D.	Riveness	
Dahl	Johnson, J.B.	Mondale	Sams	

Those who voted in the negative were:

Benson, D.D.	DeCramer	Hughes	Merriam	Renneke
Berg	Flynn	Kelly	Morse	Waldorf
Cohen	Frank	Knaak	Neuville	
Day	Frederickson, D.R.	Marty	Ranum	

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

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, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 707: A bill for an act relating to public safety; modifying exceptions to the requirement of inspection of boilers and pressure vessels; amending Minnesota Statutes 1990, section 183.56.

Senate File No. 707 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

CONCURRENCE AND REPASSAGE

Mr. Gustafson moved that the Senate concur in the amendments by the House to S.F. No. 707 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 707 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 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.E.	Mehrkens	Ranum
Beckman	Day	Johnson, D.J.	Metzen	Renneke
Belanger	DeCramer	Johnson, J.B.	Moe, R.D.	Sams
Benson, D.D.	Dicklich	Johnston	Mondale	Samuelson
Benson, J.E.	Finn	Kelly	Morse	Solon
Berg	Flynn	Knaak	Neuville	Spear
Berglin	Frank	Laidig	Novak	Storm
Bernhagen	Frederickson, D.J.	Langseth	Olson	Stumpf
Bertram	Frederickson, D.R.	Larson	Pappas	Traub
Brataas	Gustafson	Lessard	Pariseau	Vickerman
Chmielewski	Halberg	Luther	Piper	
Cohen	Hottinger	Marty	Pogemiller	
Dahl	Hughes	McGowan	Price	

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 that the House has adopted the recommendation and report of the Conference Committee on House File No. 702, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 702 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 702

A bill for an act relating to agriculture; transferring the rural finance authority to the department of agriculture; changing the makeup and certain duties and procedures of the authority; providing for an agricultural development bond program to finance agricultural business enterprises and beginning farmers; establishing a dairy upgrading program; appropriating funds; amending Minnesota Statutes 1990, sections 41B.025, subdivisions 1, 3, 5, and 6; 41B.211; 474A.02, subdivisions 13a and 23a; 474A.03, subdivision 1; 474A.061, subdivisions 1, 2b, 3, and 4; 474A.091; 474A.14; proposing coding for new law in Minnesota Statutes, chapter 41B; proposing coding for new law as Minnesota Statutes, chapter 41C.

May 18, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 702, 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. 702 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 41B.025, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] There is created a public body corporate and politic to be known as the "Minnesota rural finance authority," which shall perform the governmental functions and exercise the sovereign powers delegated to it in sections 41B.01 to 41B.23 *and chapter 41C* in furtherance of the public policies and purposes declared in section 41B.01. The board of the authority consists of the commissioners of agriculture, commerce, *trade and economic development,* and finance, the state auditor, and ~~three~~ *six* public members appointed by the governor with the advice and consent of the senate. No public member may reside within the metropolitan area, as defined in section 473.121, subdivision 2. Each member shall hold office until a successor has been appointed and has qualified. A certificate of appointment or reappointment of any member is conclusive evidence of the proper appointment of the member.

Sec. 2. Minnesota Statutes 1990, section 41B.025, subdivision 3, is amended to read:

Subd. 3. [CHAIR.] The commissioner of ~~finance~~ *agriculture* is the chair of the board. The commissioner of ~~agriculture~~ *finance* is the vice-chair of the board.

Sec. 3. Minnesota Statutes 1990, section 41B.025, subdivision 6, is amended to read:

Subd. 6. [ADMINISTRATIVE CONTROL.] The authority is under the administrative control of the commissioner of ~~finance~~ *agriculture*.

Sec. 4. Minnesota Statutes 1990, section 41B.03, subdivision 3, is amended to read:

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

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

(2) have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than ~~$100,000~~ *$200,000 in 1991 and an amount in subsequent years determined by multiplying $200,000 by the cumulative inflation rate in years subsequent to 1991 as determined by the United States All-Items Consumer Price Index*;

(3) demonstrate a need for the loan;

(4) demonstrate an ability to repay the loan;

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

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

(7) agree to participate in a farm management program approved by the commissioner of agriculture for at least the first five years of the loan, if an approved program is available within 45 miles from the borrower's residence; and

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

Sec. 5. Minnesota Statutes 1990, section 41B.211, is amended to read:

41B.211 [DATA PRIVACY.]

Financial information, including credit reports, financial statements, and net worth calculations, received or prepared by the authority regarding any authority loan and the name of each individual who is the recipient of a loan are private data on individuals, under chapter 13, *except that information obtained under the agricultural development bond program in sections 6 to 18 may be released as required by federal tax law.*

Sec. 6. [41C.01] [SHORT TITLE.]

This chapter shall be called and may be cited as the "Minnesota agricultural development act."

Sec. 7. [41C.02] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *The definitions in this section apply to this chapter.*

Subd. 2. [AGRICULTURAL BUSINESS ENTERPRISE.] *"Agricultural business enterprise" means an individual or partnership with a low or moderate net worth who owns or plans to own properties, real or personal, used or useful in connection with the general processing of agricultural products or in the manufacturing, assembly, or fabrication of agricultural or agriculture-related equipment.*

Subd. 3. [AGRICULTURAL IMPROVEMENTS.] *"Agricultural improvements" means improvements, buildings, structures, or fixtures suitable for use in farming located on agricultural land, including a single-family dwelling located on agricultural land that is or will be occupied by a beginning farmer and structures attached to or incidental to the use of the dwelling.*

Subd. 4. [AGRICULTURAL LAND.] *"Agricultural land" means land suitable for use in farming.*

Subd. 5. [AUTHORITY.] *"Authority" means the Minnesota rural finance authority established in section 41B.025.*

Subd. 6. [BEGINNING FARMER.] *"Beginning farmer" means an individual or partnership with a low or moderate net worth who engages in farming or plans to engage in farming.*

Subd. 7. [BONDS.] *"Bonds" means bonds, notes, or other evidence of indebtedness issued by the authority under this chapter.*

Subd. 8. [CONSERVATION FARM EQUIPMENT.] *"Conservation farm equipment" means the specialized planters, cultivators, and tillage equipment used for reduced tillage or no-till planting of row crops.*

Subd. 9. [DEPRECIABLE AGRICULTURAL PROPERTY.] *"Depreciable agricultural property" means personal property suitable for use in*

farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the Internal Revenue Code of 1986, as amended.

Subd. 10. [FARMING.] *"Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products, or other activities designated by the authority by rules.*

Subd. 11. [LENDING INSTITUTION.] *"Lending institution" includes "eligible lender" as defined in section 41B.02 and individuals.*

Subd. 12. [LOW OR MODERATE NET WORTH.] *"Low or moderate net worth" means:*

(1) for an individual, an aggregate net worth of the individual and the individual's spouse and minor children of less than $200,000; or

(2) for a partnership, an aggregate net worth of all partners, including each partner's net capital in the partnership, and each partner's spouse and minor children of less than $400,000. However, the aggregate net worth of each partner and that partner's spouse and minor children may not exceed $200,000.

Sec. 8. [41C.03] [GUIDING PRINCIPLES.]

(a) In the performance of its duties, implementation of its powers, and selection of specific programs and projects to receive its assistance under this chapter, the authority must be guided by the principles in paragraphs (b) to (e).

(b) The authority shall not become an owner of real or depreciable property, except on a temporary basis if it is necessary in order to implement its programs, to protect its investments by means of foreclosure or other means, or to facilitate transfer of real or depreciable property for the use of beginning farmers.

(c) The authority shall exercise diligence and care in selection of projects to receive its assistance and shall apply customary and acceptable business and lending standards in selection and subsequent implementation of the projects. The authority may delegate primary responsibility for determination and implementation of the projects to any federal governmental agency that assumes any obligation to repay the loan, either directly or by insurance or guarantee.

(d) The authority shall establish a beginning farmer and agricultural business enterprise loan program to aid in the acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers and real and personal property for an agricultural business enterprise.

(e) The authority shall develop programs for providing financial assistance to agricultural producers in this state.

Sec. 9. [41C.04] [COMBINATION PROGRAMS.]

Programs authorized in this chapter may be combined with any other programs authorized in this chapter or under another state or federal program in order to facilitate as far as practicable the acquisition of agricultural

land and property by beginning farmers, to facilitate the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment, and to encourage the development of agricultural business enterprises.

Sec. 10. [41C.05] [AGRICULTURAL DEVELOPMENT BOND BEGINNING FARMER AND AGRICULTURAL BUSINESS ENTERPRISE LOAN PROGRAM.]

Subdivision 1. [DEVELOPMENT OF PROGRAM.] *The authority shall develop an agricultural development bond beginning farmer and agricultural business enterprise loan program to facilitate the acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers and real and personal property by an agricultural business enterprise. The authority shall exercise the powers granted to it in this chapter in order to fulfill the goal of providing financial assistance to beginning farmers and agricultural business enterprises in the acquisition of agricultural land, agricultural improvements, depreciable agricultural property, and real and personal property for an agricultural business enterprise. The authority may participate in and cooperate with programs of the farmers home administration, federal land bank, or any other agency or instrumentality of the federal government or with any program of any other state agency in the administration of the agricultural development bond beginning farmer and agricultural business enterprise loan program and in the making or purchasing of mortgage or secured loans under this chapter.*

Subd. 2. [ELIGIBILITY; BEGINNING FARMERS.] *The authority shall provide in the agricultural development bond beginning farmer and agricultural business enterprise loan program that a mortgage or a contract on behalf of a beginning farmer may be provided if the borrower qualifies under section 41B.03 and authority rules and under federal tax law governing qualified small issue bonds.*

Subd. 3. [ELIGIBILITY; AGRICULTURAL BUSINESS ENTERPRISES.] *(a) The authority shall provide in the agricultural development bond beginning farmer and agricultural business enterprise loan program that a mortgage or contract on behalf of an agricultural business enterprise may be provided if the borrower qualifies under this chapter and rules of the authority and under federal tax law governing qualified small issue bonds.*

(b) An agricultural business enterprise is eligible for a program loan in an aggregate amount not exceeding $250,000.

(c) An agricultural business enterprise is eligible for program loans only for new or expanded operations located in a community with a population of 5,000 or less.

Subd. 4. [LOANS AND CONTRACTS FOR BEGINNING FARMERS AND AGRICULTURAL BUSINESS ENTERPRISES.] *(a) The authority may:*

(1) make loans to qualified beginning farmers for the acquisition of agricultural land, agricultural improvements, depreciable agricultural property, and real and personal property for an agricultural business enterprise. Each loan made by the authority under this program and all collateral securing the loan may be assigned as security for the authority's bond.

(2) enter into contracts to purchase agricultural land, agricultural

improvements, depreciable agricultural property, and real and personal property for an agricultural business enterprise. Each contract entered into by the authority under this program and all obligations of the authority under the contract shall be assigned to the beginning farmer or agricultural business enterprise without recourse.

(b) Loan documents and contracts entered into by the authority shall contain such terms and conditions of repayment as may be agreed to between the beginning farmer or agricultural business enterprise and the individual or agricultural lender involved, and such terms and conditions as the authority may deem necessary.

(c) Each individual or agricultural lender purchasing a bond from the authority under this program is responsible for making their own independent credit evaluation of the beginning farmer or the agricultural business enterprise involved, and for the creation and perfection of any security interest which they deem necessary for the loan or contract to be made on behalf of the beginning farmer or the agricultural business enterprise.

(d) The authority shall bear no continuing responsibility for repayment of any bond issued under the program other than the assignment of its interests under the loan document made with the proceeds of the bond or the contract entered into in connection with the bond.

Subd. 5. [OTHER TERMS.] *The authority may provide that loans and contracts made under this program may not be assumed or any interest in the agricultural land or improvements or depreciable agricultural property or real or personal property of an agricultural business enterprise may not be leased, sold, or otherwise conveyed without its prior written consent and may provide a due-on-sale clause with respect to the occurrence of any of the foregoing events without its prior written consent. The authority may provide by rule the grounds for permitted assumptions of loans and contracts or for the leasing, sale, or other conveyance of any interest in the agricultural land or improvements or real or personal property of an agricultural business enterprise. However, the authority shall provide and state in its loan documents and contracts that the interest rate of the loan or contracts shall increase to the then prevailing market rate if the loan or contract is assumed by anyone other than a qualified beginning farmer or agricultural business enterprise. This subdivision controls with respect to a loan or contract made under this program, notwithstanding other law.*

Sec. 11. [41C.06] [LOAN ALLOCATION.]

Not more than 25 percent of the total bond allocation available for beginning farmer and agricultural business enterprise loans may be used for agricultural business enterprise loans. However, any portion of the bond allocation that remains unencumbered on November 1 of each year may be made available for agricultural business enterprise loans.

Sec. 12. [41C.07] [BONDS.]

Subdivision 1. [AUTHORITY.] *The authority may issue its negotiable bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds, the establishment of reserves to secure its bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds are investment securities and negotiable instruments within the meaning of and for all purposes of the Uniform Commercial Code.*

Subd. 2. [PAYMENT OF BONDS.] *Bonds are payable solely and only out of the money, assets, or revenues of the authority and as provided in the agreement with bondholders pledging any particular money, assets, or revenues. Bonds are not an obligation of this state or any political subdivision of this state other than the authority within the meaning of any constitutional or statutory debt limitations, but are special obligations of the authority payable solely and only from the sources provided in this chapter, and the authority shall not pledge the credit or taxing power of this state or any political subdivision of this state other than the authority or make its debts payable out of any money except that of the authority.*

Subd. 3. [RESOLUTION OF AUTHORITY.] *Bonds must be authorized by a resolution of the authority. However, a resolution authorizing the issuance of bonds may delegate to an officer of the authority the power to negotiate and fix the details of an issue of bonds by an appropriate certificate of the authorized officer.*

Subd. 4. [REQUIREMENTS.] *Bonds must:*

(1) state the date and series of the issue, be consecutively numbered and state on their face that they are payable both as to principal and interest solely out of the assets of the authority and do not constitute an indebtedness of this state or any political subdivision of this state other than the authority within the meaning of any constitutional or statutory debt limit; and

(2) be either registered, registered as to principal only, issued in denominations as the authority prescribes, fully negotiable instruments under the laws of this state, signed on behalf of the authority with the manual or facsimile signature of the chair or vice-chair, attested by the manual or facsimile signature of the secretary, have impressed or imprinted on them the seal of the authority or a facsimile of it, be payable as to interest at rates and at times as the authority determines, be payable as to principal at times over a period not to exceed 50 years from the date of issuance, at places and with reserved rights of prior redemption as the authority prescribes, be sold at prices, at public or private sale, and in a manner as the authority prescribes, and the authority may pay all expenses, premiums, and commissions that it considers necessary or advantageous in connection with the issuance and sale, and be issued under and subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this chapter, as are found to be necessary by the authority for the most advantageous sale.

Subd. 5. [REFUNDING.] *The authority may issue its bonds for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premiums and any interest accrued or to accrue to the date of redemption of the outstanding bonds. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds are applied to the purchase or retirement of outstanding bonds or the redemption of outstanding bonds, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this chapter. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned to the authority for use by it in any*

lawful manner. All refunding bonds shall be issued and secured and are subject to the provisions of this chapter in the same manner and to the same extent as other bonds.

Subd. 6. [ANTICIPATION NOTES.] *The authority may issue negotiable bond anticipation notes and may renew them from time to time, but the maximum maturity of the notes, including renewals, must not exceed ten years from the date of issue of the original notes. Notes are payable from any available money of the authority not otherwise pledged or from the proceeds of the sale of bonds in anticipation of which the notes were issued. Notes may be issued for any corporate purpose of the authority. Notes must be issued in the same manner as bonds and notes and the resolution authorizing them may contain any provisions, conditions, or limitations, not inconsistent with the provisions of this subdivision, which the bonds or a bond resolution of the authority may contain. Notes may be sold at public or private sale. In case of default on its notes or violation of any obligations of the authority to the noteholders, the noteholders have all the remedies provided in this chapter for bondholders. Notes are as fully negotiable as bonds of the authority.*

Subd. 7. [FILING.] *A copy of each pledge agreement by or to the authority, including without limitation each bond resolution, indenture of trust or similar agreement, or any revisions or supplements to it must be filed with the secretary of state and no further filing or other action under article 9 of the Uniform Commercial Code or any other law of the state is required to perfect the security interest in the collateral or any additions to it or substitutions for it and the lien and trust so created are binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.*

Subd. 8. [PERSONAL LIABILITY LIMITED.] *Members of the authority and any person executing its bonds are not liable personally on the bonds or subject to personal liability or accountability by reason of the issuance of the authority's bonds.*

Subd. 9. [NOTICE.] *The authority shall publish a notice of intention to issue bonds in a newspaper published and of general circulation in the state. The notice shall include a statement of the maximum amount of bonds proposed to be issued and, in general, what net revenues will be pledged to pay the bonds and interest on them. An action may not be brought questioning the legality of the bonds or the power of the authority to issue the bonds or the legality of any proceedings in connection with the authorization or issuance of the bonds after 60 days from the date of publication of the notice.*

Sec. 13. [41C.08] [RESERVE FUNDS AND APPROPRIATIONS.]

Subdivision 1. [AUTHORITY.] *The authority may create and establish one or more special funds, each to be known as a "bond reserve fund" and shall pay into each bond reserve fund any money appropriated and made available by the state for the purpose of the fund, any proceeds of sale of bonds to the extent provided in the resolutions of the authority authorizing their issuance, and any other money that is available to the authority for the purpose of the fund from any other sources. Money held in a bond reserve fund, except as otherwise provided in this chapter, must be used as required solely for the payment of the principal of bonds secured in whole or in part by the fund or of the sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds,*

or the payments of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

Subd. 2. [WITHDRAWALS.] *Money in a bond reserve fund may not be withdrawn from it in an amount that will reduce the amount of the fund to less than the bond reserve fund requirement established for the fund, as provided in this section, except for the purpose of making payment when due of principal, interest, redemption premiums, and the sinking fund payments with respect to the bonds for the payment of which other money of the authority is not available. Any income or interest earned by, or incremental to, a bond reserve fund due to the investment of it may be transferred by the authority to other funds or accounts of the authority to the extent the transfer does not reduce the amount of that bond reserve fund below the bond reserve fund requirement for it.*

Subd. 3. [ISSUANCE OF SECURED BONDS.] *The authority may not at any time issue bonds, secured in whole or in part by a bond reserve fund if, upon the issuance of the bonds, the amount in the bond reserve fund will be less than the bond reserve fund requirement for the fund, unless the authority at the time of issuance of the bonds deposits in the fund from the proceeds of the bonds issued or from other sources an amount which, together with the amount then in the fund will not be less than the bond reserve fund requirement for the fund. For the purposes of this section, the term "bond reserve fund requirement" means, as of any particular date of computation, an amount of money required to be on deposit therein in the bond reserve fund, as provided in the resolutions of the authority authorizing the bonds with respect to which the fund is established.*

Subd. 4. [REPAYMENT.] *Amounts paid over to the authority by the state under this section constitute and must be accounted for as advances by the state to the authority and, subject to the rights of the holders of any bonds of the authority, must be repaid to the state without interest from all available operating revenues of the authority in excess of amounts required for the payment of bonds, the bond reserve fund, and operating expenses.*

Subd. 5. [ANNUAL REPORT.] *The authority shall cause to be delivered to the finance committees in the legislature within 90 days of the close of its fiscal year its annual report certified by an independent certified public accountant, who may be the accountant or a member of the firm of accountants who regularly audits the books and accounts of the authority selected by the authority. In the event that the principal amount of any bonds deposited in a bond reserve fund is withdrawn for payment of principal or interest thereby reducing the amount of that fund to less than the bond reserve fund requirement, the authority shall immediately notify the legislature of this event and take steps to restore the fund to its bond reserve fund requirement from any amounts available, other than principal of a bond issue, that are not pledged to the payment of other bonds.*

Sec. 14. [41C.09] [REMEDIES OF BONDHOLDERS.]

Subdivision 1. [DEFAULT.] *If the authority defaults in the payment of principal or interest on an issue of bonds at maturity or upon call for redemption and the default continues for a period of 30 days or if the authority fails or refuses to comply with the provisions of this chapter, or defaults in an agreement made with the holders of an issue of bonds, the holders of 25 percent in aggregate principal amount of bonds of the issue then outstanding, by instrument filed in the office of the clerk of the county in which the principal office of the authority is located and proved or acknowledged in*

the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds for the purposes provided in this section.

Subd. 2. [ACTIONS.] *The authority or any trustee appointed under the indenture under which the bonds are issued may, but upon written request of the holders of 25 percent in aggregate principal amount of the issue of bonds then outstanding shall:*

(1) enforce all rights of the bondholders including the right to require the authority to carry out its agreements with the holders and to perform its duties under this chapter;

(2) bring suit upon the bonds;

(3) by action require the authority to account as if it were the trustee of an express trust for the holders;

(4) by action enjoin any acts or things which are unlawful or in violation of the rights of the holders; and

(5) declare all the bonds due and payable and, if all defaults are made good, with the consent of the holders of 25 percent of the aggregate principal amount of the issue of bonds then outstanding, annul the declaration and its consequences.

Subd. 3. [TRUSTEE'S POWERS.] *The trustees may exercise functions specifically set forth or incident to the general representation of bondholders in the enforcement and protection of their rights.*

Subd. 4. [NOTICE.] *Before declaring the principal of bonds due and payable, the trustee shall first give 30 days' notice in writing to the governor, to the authority, and to the attorney general of the state.*

Subd. 5. [JURISDICTION.] *The district court has jurisdiction of any action by the trustee on behalf of bondholders. The venue of the action is in the county in which the principal office of the authority is located.*

The bondholders may, to the extent provided in the resolution to which the bonds were issued or in its agreement with the authority, enforce any of the remedies in subdivision 2, clauses (1) to (5), or the remedies provided in the proceedings or agreements for and on their own behalf.

Sec. 15. [41C.10] [BONDS AS LEGAL INVESTMENTS.]

Bonds are securities in which public officers, state departments and agencies, political subdivisions, insurance companies, and other persons carrying on an insurance business, banks, trust companies, savings and loan associations, investment companies, and other persons carrying on a banking business, administrators, executors, guardians, conservators, trustees, and other fiduciaries and other persons authorized to invest in bonds or other obligations of this state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also securities which may be deposited with and may be received by public officers, state departments and agencies, and political subdivisions for any purpose for which the deposit of bonds or other obligations of this state is authorized.

Sec. 16. [41C.11] [CONFLICTS OF INTEREST.]

Subdivision 1. [DISCLOSURE; PROHIBITIONS.] *If a member or employee of the authority has an interest, either direct or indirect, in a contract to which the authority is or is to be a party or in a mortgage lender*

requesting a loan from or offering to sell mortgage or secured loans to the authority, the interest must be disclosed to the authority in writing and must be set forth in the minutes of the authority. The member or employee having the interest may not participate in action by the authority with respect to that contract or mortgage lender.

Subd. 2. [CERTAIN INTERESTS.] *This section does not limit the right of a member, officer, or employee of the authority to acquire an interest in bonds or notes or to limit the right of a member or employee other than the executive director to have an interest in a bank or other financial institution in which the funds of the authority are deposited or which is acting as trustee or paying agent under a trust indenture to which the authority is a party.*

Subd. 3. [EXECUTIVE DIRECTOR'S INTEREST.] *The executive director may not have an interest in a bank or other financial institution in which the funds of the authority are deposited or which is acting as trustee or paying agent under a trust indenture to which the authority is a party. The executive director may not receive, in addition to fixed salary or compensation, any money or valuable thing, either directly or indirectly, or through any substantial interest in any other corporation or business unit, for negotiating, procuring, recommending, or aiding in any purchase or sale of property or loan made by the authority, nor shall the executive director be pecuniarily interested, either as principal, co-principal, agent, or beneficiary, either directly, indirectly, or through any substantial interest in any other corporation or business unit, in any purchase, sale, or loan.*

Sec. 17. [41C.12] [APPLICATION AND ORIGINATION FEE.]

The authority may impose a reasonable application and origination fee for each loan issued under the beginning farmer and agricultural business enterprise loan program. The origination fee initially shall be set at 1.5 percent and the application fee at $50. The authority shall review the fees annually and make adjustments as necessary. The fees must be deposited in the state treasury and credited to the general fund.

Sec. 18. [41C.13] [RULES.]

The authority may adopt rules for the efficient administration of this chapter. The rules need not be adopted in compliance with chapter 14.

Sec. 19. Minnesota Statutes 1990, section 474A.02, subdivision 13a, is amended to read:

Subd. 13a. [~~MANUFACTURING~~ *SMALL ISSUE* POOL.] "~~Manufacturing~~ *Small issue* pool" means the amount of the annual volume cap allocated under section 474A.061, that is available for the issuance of small issue bonds to finance manufacturing projects, *and the agricultural development bond beginning farmer and agricultural business enterprise loan program authorized in sections 6 to 18.*

Sec. 20. Minnesota Statutes 1990, section 474A.02, subdivision 23a, is amended to read:

Subd. 23a. [QUALIFIED BONDS.] "Qualified bonds" means the specific type or types of obligations that are subject to the annual volume cap. Qualified bonds include the following types of obligations as defined in federal tax law:

(a) "public facility bonds" means "exempt facility bonds" as defined in

federal tax law, except for residential rental project bonds, which are those obligations issued to finance airports, docks and wharves, mass commuting facilities, facilities for the furnishing of water, sewage facilities, solid waste disposal facilities, facilities for the local furnishing of electric energy or gas, local district heating or cooling facilities, and qualified hazardous waste facilities;

(b) "residential rental project bonds" which are those obligations issued to finance qualified residential rental projects;

(c) "mortgage bonds";

(d) "small issue bonds" issued to finance manufacturing projects *and the acquisition or improvement of agricultural real or personal property under sections 6 to 18*;

(e) "student loan bonds";

(f) "redevelopment bonds"; and

(g) "governmental bonds" with a nonqualified amount in excess of $15,000,000 as set forth in section 141(b)5 of federal tax law.

Sec. 21. Minnesota Statutes 1990, section 474A.03, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL VOLUME CAP UNDER FEDERAL TAX LAW; POOL ALLOCATIONS.] At the beginning of each calendar year after December 31, ~~1990~~ *1991*, the commissioner shall determine the aggregate dollar amount of the annual volume cap under federal tax law for the calendar year, and of this amount the commissioner shall make the following allocation:

(1) $75,000,000 to the ~~manufacturing~~ *small issue* pool;

(2) $46,000,000 to the housing pool;

(3) $10,000,000 to the public facilities pool; and

(4) amounts to be allocated as provided in subdivision 2a.

If the annual volume cap is greater or less than the amount of bonding authority allocated under clauses (1) to (4) and subdivision 2a, paragraph (a), clauses (1) to (3), the allocation must be adjusted so that each adjusted allocation is the same percentage of the annual volume cap as each original allocation is of the total bonding authority originally allocated.

Sec. 22. Minnesota Statutes 1990, section 474A.061, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] (a) An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, (4) an application deposit in the amount of one percent of the requested allocation before the last Monday in August, or in the amount of two percent of the requested allocation on or after the last Monday in August, and (5) a public purpose scoring worksheet for ~~small issue~~ *manufacturing project* applications. The issuer must pay the application deposit by check. The Minnesota housing finance agency *and the Minnesota rural finance authority* may apply for and receive an allocation under this section without

submitting an application deposit.

(b) An entitlement issuer may not apply for an allocation from the housing pool or from the public facilities pool unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount of bonding authority carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

(c) If an application is rejected under this section, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by a certificate of allocation.

Sec. 23. Minnesota Statutes 1990, section 474A.061, subdivision 2b, is amended to read:

Subd. 2b. [~~MANUFACTURING~~ *SMALL ISSUE* POOL ALLOCATION.] From the beginning of the calendar year until the last Monday in August, the commissioner shall allocate available bonding authority from the ~~manufacturing~~ *small issue* pool on Monday of each week to applications received on or before the Monday of the preceding week. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 474A.045. Proposed projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed projects that receive less than 50 points are eligible to receive a proportionally reduced share of the proposed authority.

If there are two or more applications for manufacturing projects from the ~~manufacturing~~ *small issue* pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 474A.081, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Sec. 24. Minnesota Statutes 1990, section 474A.061, subdivision 3, is amended to read:

Subd. 3. [ADDITIONAL DEPOSIT.] An issuer which has received an allocation under this section may retain any unused portion of the allocation after the first Tuesday in September only if the issuer has submitted to the department before the first Tuesday in September a letter stating its intent to issue obligations pursuant to the allocation before the end of the calendar year or within the time period permitted by federal tax law and a deposit in addition to that provided under subdivision 1, equal to one percent of the amount of allocation to be retained. The Minnesota housing finance agency *and the Minnesota rural finance authority* may retain an unused portion of an allocation after the first Tuesday in September without submitting an additional deposit.

Sec. 25. Minnesota Statutes 1990, section 474A.061, subdivision 4, is amended to read:

Subd. 4. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received

under this section within 90 days of allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in August, the amount of allocation is canceled and returned for reallocation through the pool from which it was originally allocated. If the issuer notifies the department or the 90-day period since allocation has expired on or after the last Monday in August, the amount of allocation is canceled and returned for reallocation through the unified pool. If the issuer notifies the department after the last Monday in November, the amount of allocation is canceled and returned for reallocation to the Minnesota housing finance agency.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of allocation shall receive within 30 days a refund equal to:

(1) one-half of the application deposit for the amount of bonding authority returned within 30 days of receiving allocation;

(2) one-fourth of the application deposit for the amount of bonding authority returned between 31 and 60 days of receiving allocation; and

(3) one-eighth of the application deposit for the amount of bonding authority returned between 61 and 90 days of receiving allocation.

No refund shall be available for allocations returned 90 or more days after receiving the allocation. This subdivision does not apply to the Minnesota housing finance agency *or the Minnesota rural finance authority*.

Sec. 26. Minnesota Statutes 1990, section 474A.091, is amended to read:

474A.091 [ALLOCATION OF UNIFIED POOL.]

Subdivision 1. [UNIFIED POOL AMOUNT.] On the day after the last Monday in August any bonding authority remaining unallocated from the ~~manufacturing~~ *small issue* pool, the housing pool, and the public facilities pool is transferred to the unified pool and must be reallocated as provided in this section.

Subd. 2. [APPLICATION.] ~~An issuer~~ *Issuers other than the Minnesota rural finance authority* may apply for an allocation under this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, (4) an application deposit in the amount of two percent of the requested allocation, and (5) a public purpose scoring worksheet for ~~small issue~~ *manufacturing* applications. The issuer must pay the application deposit by check. An entitlement issuer may not apply for an allocation for public facility bonds, residential rental project bonds, or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

The Minnesota housing finance agency may not apply for an allocation for mortgage bonds under this section until after the last Monday in September. Notwithstanding the restrictions imposed on unified pool allocations after October 1 under subdivision 3, paragraph (c)(2), the Minnesota housing

finance agency may be awarded allocations for mortgage bonds from the unified pool after October 1. The Minnesota housing finance agency may apply for and receive an allocation under this section without submitting an application deposit.

Subd. 3. [ALLOCATION PROCEDURE.] (a) The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in September through and on the last Monday in November. Applications for allocations must be received by the department by the Monday preceding the Monday on which allocations are to be made. If a Monday falls on a holiday, the allocation will be made or the applications must be received by the next business day after the holiday.

(b) On or before October 1, allocations shall be awarded from the unified pool in the following order of priority:

(1) applications for small issue bonds;

(2) applications for residential rental project bonds;

(3) applications for public facility projects funded by public facility bonds;

(4) applications for redevelopment bonds;

(5) applications for mortgage bonds; and

(6) applications for governmental bonds.

Allocations for residential rental projects may only be made during the first allocation in September. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 474A.045. Proposed manufacturing projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed manufacturing projects that receive less than 50 points under section 474A.045 are only eligible to receive a proportionally reduced share of the proposed authority. If there are two or more applications for manufacturing projects from the unified pool and there is insufficient bonding authority to provide allocations for all manufacturing projects in any one allocation period, the available bonding authority shall be awarded based on the number of points awarded a project under section 474A.045 with those projects receiving the greatest number of points receiving allocation first.

(c)(1) On the first Monday in October, $20,000,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the ~~manufacturing~~ *small issue* pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the ~~manufacturing~~ *small issue* pool for that year, whichever is less, is reserved within the unified pool for small issue bonds. On the first Monday in October, $2,500,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the public facilities pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the public facilities pool for that year, whichever is less, is reserved within the unified pool for public facility bonds. If sufficient bonding authority is not available to reserve the required amounts for both small issue bonds and public facility bonds, seven-eighths of the remaining available bonding authority is reserved for small issue bonds and one-eighth of the remaining available bonding authority is reserved for public facility bonds.

(2) The total amount of allocations for mortgage bonds from the housing pool and the unified pool may not exceed:

(i) $10,000,000 for any one city; or

(ii) $20,000,000 for any number of cities in any one county.

An allocation for mortgage bonds may be used for mortgage credit certificates.

After October 1, allocations shall be awarded from the unified pool only for the following types of qualified bonds: small issue bonds, public facility bonds, and residential rental project bonds.

(d) If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise agreed to by the respective issuers. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Subd. 4. [MORTGAGE BONDS.] All remaining bonding authority available for allocation under this section on December 1, is allocated to the Minnesota housing finance agency.

Subd. 5. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section within 90 days of the allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in November, the amount of allocation is canceled and returned for reallocation through the unified pool.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of the allocation shall receive within 30 days a refund equal to:

(1) one-half of the application deposit for the amount of bonding authority returned within 30 days of receiving the allocation;

(2) one-fourth of the application deposit for the amount of bonding authority returned between 31 and 60 days of receiving the allocation; and

(3) one-eighth of the application deposit for the amount of bonding authority returned between 61 and 90 days of receiving the allocation.

No refund of the application deposit shall be available for allocations returned on or after the last Monday in November. This subdivision does not apply to the Minnesota housing finance agency, *or the Minnesota rural finance authority*.

Subd. 6. [FINAL ALLOCATION; CARRYFORWARD.] Any bonding authority remaining unissued by the Minnesota housing finance agency after the last Monday in December is allocated to the department of finance for reallocation for qualified bonds eligible to be carried forward under federal tax law.

Sec. 27. Minnesota Statutes 1990, section 474A.14, is amended to read:

474A.14 [NOTICE OF AVAILABLE AUTHORITY.]

The department shall publish in the State Register a notice of the amount of bonding authority in the housing, ~~manufacturing~~ *small issue*, and public facilities pools as soon after January 1 as possible. The department shall publish in the State Register a notice of the amount of bonding authority available for allocation in the unified pool as soon after September 1 as possible.

Sec. 28. [APPROPRIATION.]

(a) $300,000 is appropriated from the general fund to the commissioner of agriculture for developing and promoting the agricultural development bond program. $150,000 is for fiscal year 1992 and $150,000 is for fiscal year 1993.

(b) The approved complement of the department of agriculture is increased by five general fund positions.

(c) The appropriations to the department of agriculture are increased by $330,000 for fiscal years 1992 and 1993 for operation of existing programs of the rural finance authority.

(d) The appropriations to the department of finance are reduced by $330,000 for fiscal years 1992 and 1993.

(e) The approved complement of the department of finance is reduced by three positions.

Sec. 29. [AGRICULTURAL DEVELOPMENT BONDS.]

Subdivision 1. [1991 UNIFIED POOL RESERVATION.] *Notwithstanding Minnesota Statutes, section 474A.091, for calendar year 1991, $5,000,000 must be reserved upon creation of the unified pool for use by the Minnesota rural finance authority for the agricultural development bond beginning farmer and agricultural business enterprise loan program. This reservation remains in effect until the last Monday in November.*

Subd. 2. [1992 SMALL ISSUE POOL RESERVATION.] *Notwithstanding Minnesota Statutes, section 474A.03, for calendar year 1992, $10,000,000 must be reserved from the small issue pool for use by the Minnesota rural finance authority for the agricultural development bond beginning farmer and agricultural business enterprise loan program."*

Amend the title as follows:

Page 1, line 8, delete everything before "appropriating"

Page 1, delete line 10 and insert "41B.025, subdivisions 1, 3, and 6; 41B.03, subdivision 3; 41B.211;"

Page 1, line 13, delete everything after the second semicolon

Page 1, line 14, delete everything before "proposing"

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

House Conferees: (Signed) Wally Sparby, Syd G. Nelson, Gene Hugoson

Senate Conferees: (Signed) Dallas C. Sams, Tracy L. Beckman, Earl W. Renneke

Mr. Sams moved that the foregoing recommendations and Conference Committee Report on H.F. No. 702 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. 702 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 3, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Hughes	Metzen	Ranum
Beckman	Day	Johnson, D.E.	Moe, R.D.	Reichgott
Belanger	DeCramer	Johnson, J.B.	Mondale	Renneke
Benson, D.D.	Dicklich	Johnston	Morse	Riveness
Benson, J.E.	Finn	Kelly	Neuville	Sams
Berg	Flynn	Knaak	Novak	Samuelson
Berglin	Frank	Laidig	Olson	Spear
Bernhagen	Frederickson, D.J.	Langseth	Pappas	Storm
Bertram	Frederickson, D.R.	Larson	Pariseau	Stumpf
Chmielewski	Gustafson	Lessard	Piper	Traub
Cohen	Halberg	Luther	Pogemiller	Waldorf
Dahl	Hottinger	Mehrkens	Price	

Messrs. Kroening, Merriam and Vickerman voted in the negative.

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 Senate File No. 351, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 351: A bill for an act relating to peace officers; guaranteeing peace officers certain rights when a formal statement is taken for disciplinary purposes; proposing coding for new law in Minnesota Statutes, chapter 626.

Senate File No. 351 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

S.F. No. 208: A bill for an act relating to motor vehicles; providing for seven-year, in transit license plates for motor vehicle dealers; amending Minnesota Statutes 1990, sections 168.12, subdivision 1; 168.27, subdivisions 16 and 17; and 297B.035, subdivision 2.

Senate File No. 208 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1179 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1179

A bill for an act relating to public finance; providing conditions and requirements for the issuance of debt and for the financial obligations of authorities; amending Minnesota Statutes 1990, sections 400.101; 429.061, subdivision 3; 447.49; 469.155, subdivision 12; 473.811, subdivision 2; 475.58, subdivision 2; 475.60, subdivision 2; 475.66, subdivision 3; and 475.67, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 462C and 469.

May 20, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1179, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1179 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [16A.105] [DEBT CAPACITY FORECAST.]

By January 14 of each odd-numbered year the governor shall submit to the legislature a debt capacity forecast. The debt capacity forecast must include statements of the indebtedness of the state for bonds, notes, and other forms of long-term indebtedness that are not accounted for in proprietary or fiduciary funds, including general obligation bonds, moral obligation bonds, revenue bonds, loans, grants payable, and capital leases. The forecast must show the actual amount of the debt service for at least the past two completed fiscal years, and the estimated amount for the current fiscal year and the next six fiscal years, the debt authorized and unissued, the condition of the sinking funds, and the borrowing capacity for the next six fiscal years.

Sec. 2. Minnesota Statutes 1990, section 16A.11, subdivision 1, is amended to read:

Subdivision 1. [WHEN.] The governor shall submit a ~~two-part~~ *three-part* budget to the legislature. *Parts one and two, the budget message and detailed operating budget, must be submitted* by the fourth Monday in January in each odd-numbered year. ~~It shall include~~ *Part three, the detailed* recommendations as to capital expenditure, ~~but they~~ need not be submitted until ~~April~~ *June* 15.

Sec. 3. Minnesota Statutes 1990, section 16A.11, subdivision 3, is

amended to read:

Subd. 3. [PART TWO: DETAILED BUDGET.] Part two of the budget, the detailed budget estimates both of expenditures and revenues, ~~shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service for at least the past two completed fiscal years, and the estimated amount for the current fiscal year and for the next two fiscal years, the debt authorized and unissued, the condition of the sinking funds, and the borrowing capacity. It~~ shall ~~also~~ contain any statements on the financial plan which the governor believes desirable or which may be required by the legislature. The detailed estimates shall include the budget request of each agency arranged in tabular form so it may readily be compared with the governor's budget for each agency. They shall also include, as part of each agency's organization chart, a summary of the personnel employed by the agency, showing the complement approved by the legislature for the current biennium, additional complement positions authorized through the governor or the commissioner, positions transferred into or out of the agency, additional part-time and seasonal positions and the number of employees of all kinds employed by the agency on June 30 of the last complete fiscal year. The summary of the number of employees must list employees by employment status, including but not limited to full-time unlimited, part-time unlimited, full-time or part-time seasonal, intermittent, full-time or part-time temporary, full-time or part-time emergency, and other. The summary of personnel shall also be shown for each functional division of the agency, and for each fund and type of appropriation.

Any increase in complement with the exception of federal positions, approved by the commissioner of finance as temporary positions, shall be reflected in the governor's budget recommendations to the legislature as change request items. These positions are not permanent positions until the legislature has approved the change request items.

Sec. 4. Minnesota Statutes 1990, section 16A.11, is amended by adding a subdivision to read:

Subd. 3a. [PART THREE: DETAILED CAPITAL BUDGET.] *The detailed capital budget must include recommendations for capital projects to be funded during the next six fiscal years. It must be submitted with projects rank ordered in two ways: in order of importance among all budget projects as determined by the governor, and in order of importance among that agency's requests as determined by the agency originating the request.*

Sec. 5. Minnesota Statutes 1990, section 16A.11, is amended by adding a subdivision to read:

Subd. 5. [CAPITAL FACILITIES NOTE.] *The commissioner shall prepare a facilities note on each capital project, estimating program cost impacts and efficiencies stemming from the approval of that project.*

Sec. 6. [16B.305] [CAPITAL BUDGET REQUESTS.]

Subdivision 1. [ARCHITECTURAL AND COST STANDARDS.] *The commissioner shall discuss various architectural and cost standards with experts from the public and private sector and recommend the use of appropriate design and cost standards for all capital budget requests.*

Subd. 2. [REVIEW OF REQUESTS.] *The commissioner shall review agency requests for state buildings and help agencies prepare adequate plans for use in presenting their capital budget requests to the commissioner*

of finance, the governor, and the legislature. The commissioner shall consider locational questions in siting state buildings and include answers to locational questions in the commissioner's recommendations on a request.

Subd. 3. [CONSULTATION REQUIRED.] *State agencies and other public bodies considering capitol area projects shall consult with the capitol area architectural and planning board before developing plans for capital improvements or capital budget proposals for submission to the legislature and governor. The board shall provide to the governor and legislature a statement as to the request's impact upon the capitol area and its compatibility with the comprehensive plan for the capitol area.*

Sec. 7. Minnesota Statutes 1990, section 400.101, is amended to read:

400.101 [BONDS.]

The county, by resolution, may authorize the issuance of bonds to provide funds for the acquisition or betterment of solid waste facilities, closure, postclosure, and contingency costs, related transmission facilities, or property or property rights for the facilities, for responses, as defined in section 115B.02, to releases from closed solid waste facilities, or for refunding any outstanding bonds issued for any such purpose, and may pledge to the payment of the bonds and the interest thereon, its full faith, credit, and taxing powers, or the proceeds of any designated tax levies, or the gross or net revenues or charges to be derived from any facility operated by or for the county, or any combination thereof. The proceeds of bonds issued under this section for closure, postclosure, and contingency costs and noncapital responses to releases may be used only for solid waste facilities in existence on May 15, 1989. Except as otherwise provided in this section, the bonds must be issued and sold in accordance with the provisions of chapter 475. The proceeds of the bonds may be used in part to establish a reserve as further security for the payment of the principal and interest of the bonds when due. Bonds issued under this section may be sold at public or private sale upon conditions that the county board determines~~, but any bonds issued after May 22, 1991, to which the full faith and credit and taxing powers of the county are pledged must be sold in accordance with the provisions of chapter 475~~. No election is required to authorize the issuance of bonds under this section.

Sec. 8. Minnesota Statutes 1990, section 429.061, subdivision 3, is amended to read:

Subd. 3. [TRANSMITTED TO AUDITOR, PREPAYMENT.] After the adoption of the assessment, the clerk shall transmit a certified duplicate of the assessment roll with each installment, including interest, set forth separately to the county auditor of the county to be extended on the proper tax lists of the county; but in lieu of such certification, the council may in its discretion direct the clerk to file all assessment rolls in the clerk's office and to certify annually to the county auditor, on or before ~~October 10~~ *November 30* in each year, the total amount of installments of and interest on assessments on each parcel of land in the municipality which are to become due in the following year. If any installment and interest has not been so certified prior to the year when it is due, the clerk shall forthwith certify the same to the county auditor for collection in the then succeeding year; and if the municipality has issued improvement warrants to finance the improvement, it shall pay out of its general funds into the fund of the improvement interest on the then unpaid balance of the assessment for the year or years during which the collection of such installment is postponed.

All assessments and interest thereon shall be collected and paid over in the same manner as other municipal taxes. The owner of any property so assessed may, at any time prior to certification of the assessment or the first installment thereof to the county auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the municipal treasurer, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption thereof; and, except as hereinafter provided, the owner may at any time prior to November 15 of any year, prepay to the treasurer of the municipality having levied said assessments, the whole assessment remaining due with interest accrued to December 31 of the year in which said prepayment is made. If the assessment roll is retained by the municipal clerk, the installment and interest in process of collection on the current tax list shall be paid to the county treasurer and the remaining principal balance of the assessment, if paid, shall be paid to the municipal treasurer. The council may by ordinance authorize the partial prepayment of assessments, in such manner as the ordinance may provide, prior to certification of the assessment or the first installment thereof to the county auditor.

Sec. 9. Minnesota Statutes 1990, section 447.49, is amended to read:

447.49 [MISCELLANEOUS PROVISIONS.]

Bonds issued under sections 447.45 to 447.50 must be issued and sold as provided in chapter 475. If the bonds do not pledge the credit of the county, city, or hospital district as provided in section 447.48, the governing body may negotiate their sale without advertisement for bids. They shall not be included in the net debt of any municipality, and are not subject to interest rate limitations, as defined or referred to in sections 475.51 and 475.55. *If the bonds do not pledge the credit of the county, city, or hospital district as provided in section 447.48 and are payable from rental payments to be made under a lease agreement entered into pursuant to section 447.47, the county, city, or hospital district may invest or deposit, or authorize a trustee to invest or deposit, any proceeds of the bonds, rental payments, and income from the investment of them, in any manner and upon any terms and conditions agreed to by the lessee under the lease agreement, resolution, or indenture, notwithstanding chapter 118 or section 471.56 or 475.66, but subject to any statutory provisions that govern the deposit and investment of funds of a lessee which is itself a governmental subdivision or agency.*

Sec. 10. [462C.14] [HOUSING PROGRAM AND DEVELOPMENTAL FINANCIAL SERVICES.]

Subdivision 1. [AUTHORIZATION TO PROVIDE SERVICES.] *A city, as defined in section 462C.02, subdivision 6, may provide housing program and development financial services, including mortgage banking services, for housing financed or assisted under a housing program of the city. The services provided by the city may include all housing program and development financial services, including origination of loans or other indebtedness, administration and servicing of loans or other indebtedness, arranging for mortgage insurance from private or public sources, and other related services. For this purpose, the city may exercise any of the powers relating to housing or housing finance provided in this section and the powers of a city under chapter 462C, a housing and redevelopment authority under chapter 469, or the Minnesota housing finance agency under chapter 462A. Housing program and development financial services provided by the city are determined to be for the public purpose of ensuring an adequate*

supply of affordable, decent, safe, and sanitary housing. A city may form a corporation under chapter 302A or 317A controlled by the city and delegate to it the power to exercise the powers granted to the city by this section.

Subd. 2. [BOUNDARY LIMITATIONS.] *A city may provide housing program and development financial services only within its corporate boundaries, except to the extent that a joint powers agreement or contract authorizes a city to provide the services within the boundaries of another city or within the jurisdiction of a state agency.*

Subd. 3. [JOINT ACTION.] *Two or more cities, or housing and redevelopment authorities or port authorities authorized to exercise the powers of a city under chapter 462C, or a joint powers board formed by them, may act jointly pursuant to section 471.59 and this section or may delegate the exercise of their powers under this section to a corporation controlled by them. A city as defined in section 462C.02, subdivision 6, or other political subdivision or state agency may contract with the city or a joint powers board or a corporation for housing program and development financial services for housing.*

Subd. 4. [OBLIGATIONS.] *The city may issue bonds or other obligations and apply their proceeds for any proper purpose of the city or a corporation formed by the city relating to housing program and development financial services. Bonds or other obligations issued for a specific program or development shall be issued only in accordance with sections 462C.01 to 462C.07 to the extent required by section 462C.08. Bonds or obligations issued for financial services purposes may be sold at public or private sale, without an election, on the terms and conditions the city shall determine. For that purpose, the city may exercise any of the powers that a housing and redevelopment authority may exercise under chapter 469, or the Minnesota housing finance agency may exercise under chapter 462A, in either case without limitation under the provisions of chapter 475. The city or corporation may purchase real or personal property used or useful for housing program or development financial services under an installment contract, or lease real or personal property with an option to purchase under a lease purchase agreement. The city may issue bonds or other obligations secured by obligations under an installment contract or lease, in the manner provided in this section for other bonds or obligations issued for financial services purposes.*

Sec. 11. Minnesota Statutes 1990, section 469.014, is amended to read:

469.014 [LIABLE IN CONTRACT OR TORT.]

Subject to the provisions of chapter 466, an authority shall be liable in contract or in tort in the same manner as a private corporation. The commissioners of an authority shall not be personally liable as such on its contracts, or for torts not committed or directly authorized by them. The property or funds of an authority shall not be subject to attachment, or to levy and sale on execution, but, if an authority refuses to pay a judgment entered against it in any court of competent jurisdiction, the district court for the county in which the authority is situated may, by writ of mandamus, direct the treasurer of the authority to pay the judgment.

Sec. 12. [469.0521] [LIABLE IN CONTRACT OR TORT.]

Subject to the provisions of chapter 466, a port authority shall be liable in contract or in tort in the same manner as a private corporation. The commissioners of a port authority shall not be personally liable as such on

its contracts, or for torts, not committed or directly authorized by them. The property or funds of a port authority shall not be subject to attachment, or to levy and sale on execution, but, if a port authority refuses to pay a judgment entered against it in any court of competent jurisdiction, the district court for the county in which the port authority is situated may, by writ of mandamus, direct the treasurer of the authority to pay the judgment from any unencumbered funds available for that purpose.

Sec. 13. [469.1081] [LIABLE IN CONTRACT OR TORT.]

Subject to the provisions of chapter 466, an authority shall be liable in contract or in tort in the same manner as a private corporation. The commissioners of an authority shall not be personally liable as such on its contracts, or for torts, not committed or directly authorized by them. The property or funds of an authority shall not be subject to attachment, or to levy and sale on execution, but, if an authority refuses to pay a judgment entered against it in any court of competent jurisdiction, the district court for the county in which the authority is situated may, by writ of mandamus, direct the treasurer of the authority to pay the judgment from any unencumbered funds available for that purpose.

Sec. 14. Minnesota Statutes 1990, section 469.155, subdivision 12, is amended to read:

Subd. 12. [REFUNDING.] It may issue revenue bonds to refund, in whole or in part, bonds previously issued by the municipality or redevelopment agency under authority of sections 469.152 to 469.165, and interest on them. The municipality *or redevelopment agency* may issue revenue bonds to refund, in whole or in part, bonds previously issued by any other municipality or redevelopment agency on behalf of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, ~~1986~~ *1990*, under authority of sections 469.152 to 469.155, and interest on them, but only with the consent of the original issuer of such bonds. The municipality *or redevelopment agency* may issue and sell warrants which give to their holders the right to purchase refunding bonds issuable under this subdivision prior to a stipulated date. The warrants are not required to be sold at public sale and all or any agreed portion of the proceeds of the warrants may be paid to the contracting party under the revenue agreement required by subdivision 5 or to its designee under the conditions the municipality *or redevelopment agency* shall agree upon. Warrants shall not be issued which obligate a municipality *or redevelopment agency* to issue refunding bonds that are or will be subject to federal tax law as defined in section 474A.02, subdivision 8. The warrants may provide a stipulated exercise price or a price that depends on the tax exempt status of interest on the refunding bonds at the time of issuance. The average interest rate on refunding bonds issued *upon the exercise of the warrants* to refund fixed rate bonds shall not exceed the average interest rate on fixed rate bonds to be refunded. The municipality may appoint a bank or trust company to serve as agent for the warrant holders and enter into agreements deemed necessary or incidental to the issuance of the warrants.

Sec. 15. Minnesota Statutes 1990, section 473.811, subdivision 2, is amended to read:

Subd. 2. [COUNTY FINANCING OF FACILITIES.] Each metropolitan county may by resolution authorize the issuance of bonds to provide funds for the acquisition or betterment of solid waste facilities, closure, postclosure, and contingency costs, related transmission facilities, or property or

property rights for the facilities, for responses, as defined in section 115B.02, to releases from closed solid waste facilities, or for refunding any outstanding bonds issued for any such purpose. The proceeds of bonds issued under this section for closure, postclosure, and contingency costs and noncapital responses to releases may be used only for solid waste facilities in existence on May 15, 1989. The county may pledge to the payment of the bonds and the interest thereon, its full faith, credit, and taxing powers, or the proceeds of any designated tax levies, or the gross or net revenues or charges to be derived from any facility operated by or for the county, or any combination thereof. Taxes levied for the payment of the bonds and interest shall not reduce the amounts of other taxes which the county is authorized by law to levy. The proceeds of the bonds may be used in part to establish a reserve as further security for the payment of the principal and interest of the bonds when due. Bonds issued pursuant to this section may be sold at public or private sale upon such conditions as the county board shall determine~~, but any bonds issued after May 22, 1991, to which the full faith and credit and taxing powers of the county are pledged shall be sold in accordance with the provisions of chapter 475~~. No election shall be required to authorize the issuance of the bonds. Except as otherwise provided, the bonds shall be issued and sold in accordance with the provisions of chapter 475.

Sec. 16. Minnesota Statutes 1990, section 475.58, subdivision 2, is amended to read:

Subd. 2. [FUNDING, REFUNDING.] Any *county*, city, town, or school district whose outstanding gross debt, including all items referred to in section 475.51, subdivision 4, exceed in amount 1.62 percent of its market value may issue bonds under this subdivision for the purpose of funding or refunding such indebtedness or any part thereof. A list of the items of indebtedness to be funded or refunded shall be made by the recording officer and treasurer and filed in the office of the recording officer. The initial resolution of the governing body shall refer to this subdivision as authority for the issue, state the amount of bonds to be issued and refer to the list of indebtedness to be funded or refunded. This resolution shall be published once each week for two successive weeks in a legal newspaper published in the municipality or if there be no such newspaper, in a legal newspaper published in the county seat. Such bonds may be issued without the submission of the question of their issue to the electors unless within ten days after the second publication of the resolution a petition requesting such election signed by ten or more voters who are taxpayers of the municipality, shall be filed with the recording officer. In event such petition is filed, no bonds shall be issued hereunder unless authorized by a majority of the electors voting on the question.

Sec. 17. Minnesota Statutes 1990, section 475.60, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS WAIVED.] The requirements as to public sale shall not apply to:

(1) obligations issued under the provisions of a home rule charter or of a law specifically authorizing a different method of sale, or authorizing them to be issued in such manner or on such terms and conditions as the governing body may determine;

(2) obligations sold by an issuer in an amount not exceeding the total sum of $1,200,000 in any 12-month period;

(3) obligations issued by a governing body other than a school board in anticipation of the collection of taxes or other revenues appropriated for expenditure in a single year, if sold in accordance with the most favorable of two or more proposals solicited privately;

(4) obligations sold to any board, department, or agency of the United States of America or of the state of Minnesota, in accordance with rules or regulations promulgated by such board, department, or agency;

(5) obligations issued to fund pension and retirement fund liabilities under section 475.52, subdivision 6, obligations issued with tender options under section 475.54, subdivision 5a, crossover refunding obligations referred to in section 475.67, subdivision 13, and any issue of obligations comprised in whole or in part of obligations bearing interest at a rate or rates which vary periodically referred to in section 475.56;

(6) obligations to be issued for a purpose, in a manner, and upon terms and conditions authorized by law, if the governing body of the municipality, on the advice of bond counsel or special tax counsel, determines that interest on the obligations cannot be represented to be excluded from gross income for purposes of federal income taxation;

(7) obligations issued in the form of an installment purchase contract, lease purchase agreement, or other similar agreement; ~~and~~

(8) obligations sold under a bond reinvestment program; *and*

(9) if the municipality has retained an independent financial advisor, obligations which the governing body determines shall be sold by private negotiation.

Sec. 18. Minnesota Statutes 1990, section 475.66, subdivision 3, is amended to read:

Subd. 3. Subject to the provisions of any resolutions or other instruments securing obligations payable from a debt service fund, any balance in the fund may be invested

(a) in governmental bonds, notes, bills, mortgages, and other securities, which are direct obligations or are guaranteed or insured issues of the United States, its agencies, its instrumentalities, or organizations created by an act of Congress, *or in certificates of deposit secured by letters of credit issued by federal home loan banks,*

(b) in shares of an investment company (1) registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and (2) whose only investments are in (i) securities described in the preceding clause, (ii) general obligation tax-exempt securities rated A or better by a national bond rating service, and (iii) repurchase agreements or reverse repurchase agreements fully collateralized by those securities, if the repurchase agreements or reverse repurchase agreements are entered into only with those primary reporting dealers that report to the Federal Reserve Bank of New York and with the 100 largest United States commercial banks,

(c) in any security which is (1) a general obligation of the state of Minnesota or any of its municipalities or ~~in~~ *a* general ~~obligations~~ *obligation* of ~~other~~ *another* state ~~and~~ *or* local ~~governments~~ *government* with taxing powers which ~~are~~ *is* rated A or better by a national bond rating service, or (2) a general obligation of the Minnesota housing finance agency, or (3) a

general obligation of a housing finance agency of any state if it includes a moral obligation of the state, *or (4) a general or revenue obligation of any agency or authority of the state of Minnesota other than a general obligation of the Minnesota housing finance agency*, provided that investments under clauses (2) and (3) must be in obligations that are rated A or better by a national bond rating service *and provided that investments under clause (4) must be in obligations that are rated AA or better by a national bond rating service*,

(d) in bankers acceptances of United States banks eligible for purchase by the Federal Reserve System,

(e) in commercial paper issued by United States corporations or their Canadian subsidiaries that is of the highest quality and matures in 270 days or less, or

(f) in guaranteed investment contracts issued or guaranteed by United States commercial banks or domestic branches of foreign banks or United States insurance companies or their Canadian or United States subsidiaries; provided that the investment contracts rank on a parity with the senior unsecured debt obligations of the issuer or guarantor and, (1) in the case of long-term investment contracts, either (i) the long-term senior unsecured debt of the issuer or guarantor is rated, or obligations backed by letters of credit of the issuer or guarantor if forming the primary basis of a rating of such obligations would be rated, in the highest or next highest rating category of Standard & Poor's Corporation, Moody's Investors Service, Inc., or a similar nationally recognized rating agency, or (ii) if the issuer is a bank with headquarters in Minnesota, the long-term senior unsecured debt of the issuer is rated, or obligations backed by letters of credit of the issuer if forming the primary basis of a rating of such obligations would be rated in one of the three highest rating categories of Standard & Poor's Corporation, Moody's Investors Service, Inc., or similar nationally recognized rating agency, or (2) in the case of short-term investment contracts, the short-term unsecured debt of the issuer or guarantor is rated, or obligations backed by letters of credit of the issuer or guarantor if forming the primary basis or a rating of such obligations would be rated, in the highest two rating categories of Standard and Poor's Corporation, Moody's Investors Service, Inc., or similar nationally recognized rating agency.

The fund may also be used to purchase any obligation, whether general or special, of an issue which is payable from the fund, at such price, which may include a premium, as shall be agreed to by the holder, or may be used to redeem any obligation of such an issue prior to maturity in accordance with its terms. The securities representing any such investment may be sold or hypothecated by the municipality at any time, but the money so received remains a part of the fund until used for the purpose for which the fund was created.

Sec. 19. Minnesota Statutes 1990, section 475.67, subdivision 3, is amended to read:

Subd. 3. *(a)* Any or all obligations and interest thereon may be refunded if and when and to the extent that for any reason the taxes or special assessments, revenues, or other funds appropriated for their payment are not sufficient to pay all principal and interest due or about to become due thereon.

(b) Any or all obligations of one or more issues regardless of their source

of payment and interest thereon may be refunded before their due dates, if:

(1) consistent with covenants made with the holders thereof~~, when~~; *and*

(2) determined by the governing body to be necessary or desirable:

(i) for the reduction of debt service cost to the municipality; or

(ii) for the extension or adjustment of the maturities in relation to the resources available for their payment~~,~~; *or*

(iii) for the issuance of obligations bearing a fixed rate of interest in the case of obligations bearing interest at a rate varying periodically; or

(iv) in the case of obligations payable solely from a special fund, for the more advantageous sale of additional obligations payable from the same fund or to relieve the municipality of restrictions imposed by covenants made with the holders of the obligations to be refunded~~; provided~~.

(c) The amount of interest which may be refunded from the proceeds of the refunding obligations shall not exceed the amount of proceeds estimated to be required in excess of the principal amount of refunded obligations to retire the refunded obligations in accordance with subdivision 6~~, but~~. In no event shall the aggregate principal amount of the refunding obligations exceed by more than ten percent the aggregate principal amount of the obligations to be refunded.

(d) No general obligations, for which the full faith and credit of the issuer is pledged, shall be issued to refund special obligations previously issued for any purpose, payable solely from a special fund, unless ~~such~~ *the* issuance is authorized by ~~such~~ *the* election, hearing, petition, resolution, or other procedure ~~as~~ *that* would have been required as a condition precedent to the original issuance of general obligations for the same purpose.

Sec. 20. [VALIDATION OF INDEPENDENT SCHOOL DISTRICT NO. 625 BONDS.]

Subdivision 1. [VALIDATION.] *The sale of general obligation school bonds under the authority of Laws 1990, chapter 604, article 8, section 10, by independent school district No. 625 pursuant to resolution adopted by two-thirds majority vote of all the members of its board of directors on April 16, 1991, is validated.*

Subd. 2. [EFFECTIVE DATE.] *This section is effective the day after the governing body of independent school district No. 625 complies with Minnesota Statutes, section 645.021, subdivision 3.*

Sec. 21. [ANOKA, WASHINGTON, AND DAKOTA COUNTIES; MORTGAGE TAX EXEMPTION.]

Subdivision 1. [AUTHORIZATION.] *Construction loans on publicly owned low-income or senior multifamily housing projects in Anoka, Washington, and Dakota counties shall not be subject to the tax imposed by Minnesota Statutes, section 287.04. If the construction loan is held by the same entity as the permanent financing on a publicly owned low-income or senior multifamily housing, the tax imposed by Minnesota Statutes, section 287.04, shall be imposed only once at the time of the permanent financing.*

Subd. 2. [EFFECTIVE DATE.] *This section is effective for Washington county upon approval by the Washington county board and compliance with Minnesota Statutes, section 645.021, subdivision 3. This section is effective*

for Dakota county upon approval by the Dakota county board and compliance with Minnesota Statutes, section 645.021, subdivision 3. This section is effective for Anoka county upon approval by the Anoka county board and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Sec. 22. [REPORT.]

The commissioner of administration shall study and report to the legislature by January 15, 1992, on ways to make space and building decisions impact the operating budgets of the agencies that request capital projects, as a way to increase efficiency in the management of space.

Sec. 23. [EFFECTIVE DATE.]

Sections 7 to 10, and 12 to 19 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to public finance; providing conditions and requirements for the issuance of debt and for the financial obligations of authorities; requiring a debt capacity forecast; modifying provisions relating to budget preparation; validating the sale of certain school district bonds; exempting certain construction loans from the mortgage registry tax; amending Minnesota Statutes 1990, sections 16A.11, subdivisions 1, 3, and by adding subdivisions; 400.101; 429.061, subdivision 3; 447.49; 469.014; 469.155, subdivision 12; 473.811, subdivision 2; 475.58, subdivision 2; 475.60, subdivision 2; 475.66, subdivision 3; and 475.67, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 16A, 16B, 462C, and 469."

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

Senate Conferees: (Signed) Lawrence J. Pogemiller, Ember D. Reichgott, John Bernhagen

House Conferees: (Signed) Ann H. Rest, Paul Anders Ogren, Dee Long

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1179 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. 1179 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, J.B.	Merriam	Ranum
Beckman	DeCramer	Johnston	Metzen	Reichgott
Belanger	Finn	Kelly	Mondale	Riveness
Benson, J.E.	Flynn	Knaak	Morse	Samuelson
Berg	Frank	Kroening	Neuville	Spear
Berglin	Frederickson, D.J.	Laidig	Novak	Storm
Bernhagen	Frederickson, D.R.	Langseth	Olson	Stumpf
Bertram	Gustafson	Lessard	Pappas	Traub
Brataas	Halberg	Luther	Pariseau	Vickerman
Chmielewski	Hottinger	Marty	Piper	Waldorf
Cohen	Hughes	McGowan	Pogemiller	
Dahl	Johnson, D.E.	Mehrkens	Price	

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

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

Mr. DeCramer 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 that the House has adopted the recommendation and report of the Conference Committee on House File No. 303, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 303 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 303

A bill for an act relating to waste management; making changes to state and local government responsibility and authority for waste management; placing emphasis on waste reduction and recycling; adjusting waste facility siting processes; amending Minnesota Statutes 1990, sections 3.195, subdivision 1; 16B.122; 16B.61, subdivision 3a; 115A.02; 115A.03, subdivision 17a; 115A.06, subdivision 2; 115A.14, subdivision 4; 115A.15, subdivisions 7 and 9; 115A.151; 115A.411, subdivision 1; 115A.46, subdivision 1, and by adding a subdivision; 115A.49; 115A.53; 115A.551,

subdivisions 1 and 4; 115A.552, subdivisions 1, 2, and by adding a subdivision; 115A.554; 115A.557, subdivision 4; 115A.64, subdivision 2; 115A.67; 115A.83; 115A.84, subdivision 2; 115A.86, subdivision 5, and by adding a subdivision; 115A.882; 115A.9162, subdivision 2; 115A.919; 115A.923, subdivisions 1 and 1a; 115A.931; 115A.94, subdivision 4; 115A.9561; 115A.96, subdivision 6; 115B.04, subdivision 4; 115B.22, subdivision 8; 116.07, subdivision 4j; 325E.042, subdivision 2; 325E.115, subdivision 1; 325E.1151, subdivision 3; 400.08, subdivision 1; 473.803, subdivision 2; 473.811, subdivisions 1, 3, and 5; 473.823, subdivision 5; 473.845, subdivision 4; 473.848, subdivision 2, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 115A; 116; 325E; and 473; repealing Minnesota Statutes 1990, sections 16B.125; 325E.045; and 473.844, subdivision 3; Laws 1989, chapter 325, section 72, subdivision 2.

May 20, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 303, 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. 303 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 3.195, subdivision 1, is amended to read:

Subdivision 1. [DISTRIBUTION OF REPORTS.] *(a)* A report to the legislature required of a department or agency shall be made, unless otherwise specifically required by law, by filing one copy with the secretary of the senate, one copy with the chief clerk of the house of representatives, and ~~ten~~ *six* copies with the legislative reference library. The same distribution procedure shall be followed for other reports and publications unless otherwise requested by a legislator or the legislative reference library.

(b) A public entity as defined in section 16B.122, shall not distribute a report or publication to a member or employee of the legislature, except the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library, unless the entity has determined that the member or employee wants the reports or publications published by that entity or the member or employee has requested the report or publication. This prohibition applies to both mandatory and voluntary reports and publications. A report or publication may be summarized in an executive summary and distributed as the entity chooses. Distribution of a report to legislative committee or commission members during a committee or commission hearing is not prohibited by this section.

(c) A report or publication produced by a public entity may not be sent to both the home address and the office address of a representative or senator unless mailing to both addresses is requested by the representative or senator.

(d) Reports, publications, periodicals, and summaries under this subdivision must be printed in a manner consistent with section 16B.122.

Sec. 2. Minnesota Statutes 1990, section 3.887, subdivision 5, is amended to read:

Subd. 5. [POWERS AND DUTIES.] (a) The legislative water commission shall review water policy reports and recommendations of the environmental quality board, the biennial report of the board of water and soil resources, and other water-related reports as may be required by law or the legislature.

(b) The commission shall oversee the activities of the pollution control agency under sections 116.16 to 116.181 relating to water pollution control.

~~(b)~~ *(c)* The commission may conduct public hearings and otherwise secure data and comments.

~~(c)~~ *(d)* The commission shall make recommendations as it deems proper to assist the legislature in formulating legislation.

~~(d)~~ *(e)* Data or information compiled by the legislative water commission or its subcommittees shall be made available to the legislative commission on Minnesota resources and standing and interim committees of the legislature on request of the chair of the respective commission or committee.

Sec. 3. Minnesota Statutes 1990, section 16B.122, is amended to read:

16B.122 [PURCHASE *AND USE* OF PAPER STOCK*; PRINTING*.]

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

(a) "Office paper" means notepads, loose-leaf fillers, tablets, and other paper commonly used in offices.

(b) *"Postconsumer material" means a finished material that would normally be discarded as a solid waste, having completed its life cycle as a consumer item.*

(c) "Practicable" means capable of being used, consistent with performance, in accordance with applicable specifications, and availability within a reasonable time.

~~(c)~~ *(d)* "Printing paper" means paper designed for printing, other than newsprint, such as offset and publication paper.

~~(d)~~ *(e)* "Public ~~agency~~ *entity*" means the state, an office, agency, or institution of the state, *the metropolitan council, a metropolitan agency, the metropolitan mosquito control district, the legislature, the courts,* a county, a statutory or home rule charter city, a town, a school district, another special taxing district, or any contractor acting pursuant to a contract with a public ~~agency~~ *entity*.

~~(e)~~ *(f) "Soy-based ink" means printing ink made from soy oil.*

(g) "Uncoated" means not coated with plastic, clay, or other material used to create a glossy finish.

Subd. 2. [~~PURCHASE REQUIRED~~ *PURCHASES; PRINTING.*] *(a) Whenever practicable,* a public ~~agency~~ *entity* shall*:*

(1) purchase uncoated office paper and printing paper ~~whenever practicable.~~*;*

(2) purchase recycled content paper with at least ten percent postconsumer material by weight;

(3) purchase paper which has not been dyed with colors, excluding pastel colors;

(4) purchase recycled content paper that is manufactured using little or no chlorine bleach or chlorine derivatives;

(5) use no more than two colored inks, standard or processed, except in formats where they are necessary to convey meaning;

(6) use reusable binding materials or staples and bind documents by methods that do not use glue;

(7) use soy-based inks; and

(8) produce reports, publications, and periodicals that are readily recyclable within the state resources recovery program.

(b) Paragraph (a), clause (1), does not apply to coated paper that is made with at least 50 percent fiber that has been recycled after use by a consumer.

(c) A public entity shall print documents on both sides of the paper where commonly accepted publishing practices allow.

Sec. 4. Minnesota Statutes 1990, section 16B.61, subdivision 3a, is amended to read:

Subd. 3a. [RECYCLING SPACE.] The code must require suitable space for the separation, collection, and temporary storage of recyclable materials within or adjacent to new or significantly remodeled structures that contain 1,000 square feet or more. Residential structures with ~~less~~ *fewer* than ~~12~~ *four* dwelling units are exempt from this subdivision.

Sec. 5. Minnesota Statutes 1990, section 115A.02, is amended to read:

115A.02 [LEGISLATIVE DECLARATION OF POLICY; PURPOSES.]

(a) It is the goal of this chapter to improve waste management in the state to serve the following purposes:

(1) Reduction in waste generated;

(2) Separation and recovery of materials and energy from waste;

(3) Reduction in indiscriminate dependence on disposal of waste;

(4) Coordination of solid waste management among political subdivisions; and

(5) Orderly and deliberate development and financial security of waste facilities including disposal facilities.

(b) The waste management goal of the state is to foster an integrated waste management system in a manner appropriate to the characteristics of the waste stream. The following waste management practices are in order of preference:

(1) waste reduction and reuse;

(2) waste recycling ~~and yard waste composting~~;

(3) *composting of yard waste and food waste;*

(4) resource recovery through mixed municipal solid waste composting or incineration; and

~~(4)~~ *(5)* land disposal.

Sec. 6. Minnesota Statutes 1990, section 115A.03, subdivision 17a, is amended to read:

Subd. 17a. [MAJOR APPLIANCES.] "Major appliances" means clothes washers and dryers, dishwashers, hot water heaters, *residential furnaces,* garbage disposals, trash compactors, conventional *and microwave* ovens, ranges and stoves, air conditioners, *dehumidifiers,* refrigerators, and freezers.

Sec. 7. Minnesota Statutes 1990, section 115A.03, subdivision 21, is amended to read:

Subd. 21. [MIXED MUNICIPAL SOLID WASTE.] "Mixed municipal solid waste" means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities ~~which is generated and collected in aggregate~~ *that the generator of the waste aggregates for collection*, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

Sec. 8. Minnesota Statutes 1990, section 115A.06, subdivision 2, is amended to read:

Subd. 2. [RULES.] Unless otherwise provided, the ~~office~~ *director* shall promulgate rules in accordance with chapter ~~15~~ *14* to govern its activities and implement ~~sections 115A.01 to 115A.72~~ *chapter 115A.*

Sec. 9. Minnesota Statutes 1990, section 115A.14, subdivision 4, is amended to read:

Subd. 4. [POWERS AND DUTIES.] (a) The commission shall oversee the activities of the office ~~under this chapter~~, *agency, and metropolitan council* relating to solid and hazardous waste management, ~~the activities of the agency under sections 116.16 to 116.181 relating to water pollution control, and the activities of the metropolitan council relating to metropolitan waste management under sections 473.801 to 473.848,~~ and direct such changes or additions in the work plan of the office ~~and~~, agency, *and council relating to solid and hazardous waste management* as ~~it~~ *the commission* deems fit.

(b) The commission shall make recommendations to the standing legislative committees on finance and appropriations for appropriations from:

~~(1)~~ the environmental response, compensation, and compliance account in the environmental fund under section 115B.20, subdivision 5;

~~(2) the metropolitan landfill abatement account under section 473.844; and~~

~~(3) the metropolitan landfill contingency action trust fund under section 473.845~~.

(c) The commission may conduct public hearings and otherwise secure data and expressions of opinion. The commission shall make such recommendations as it deems proper to assist the legislature in formulating legislation. Any data or information compiled by the commission shall be made available to any standing or interim committee of the legislature upon request of the chair of the respective committee.

Sec. 10. Minnesota Statutes 1990, section 115A.15, subdivision 7, is amended to read:

Subd. 7. [WASTE REDUCTION PROCUREMENT MODEL.] To reduce

the amount of solid waste generated by the state and to provide a model for other public and private procurement systems, the commissioner, in cooperation with the director of the office of waste management, shall develop waste reduction procurement programs, including an expanded life cycle costing system for procurement of durable and repairable items *by November 1, 1991*. On implementation of the model procurement system, the commissioner, in cooperation with the director, shall develop and distribute informational materials for the purpose of promoting the procurement model to other public and private entities under section 115A.072, subdivision 4.

Sec. 11. Minnesota Statutes 1990, section 115A.15, subdivision 9, is amended to read:

Subd. 9. [RECYCLING GOAL.] By December 31, 1993, the commissioner shall recycle at least 40 percent by weight of the solid waste generated by state offices and other *state* operations located in the metropolitan area. ~~The commissioner must keep records of the recycling and composting operation and share them annually with the metropolitan council and counties to assist the council and the counties in their data collection efforts.~~ *By August 1 of each year the commissioner shall report to the office and the metropolitan council the recycling rates by county for state offices and other state operations in the metropolitan area for the previous fiscal year. The office shall incorporate these figures into the reports submitted by the counties under section 115A.557, subdivision 3, to determine each county's progress toward the goal in section 115A.551, subdivision 2.*

Each state agency in the metropolitan area shall work to meet the recycling goal individually. If the goal is not met by an agency, the commissioner shall notify that agency that the goal has not been met and the reasons the goal has not been met and shall provide information to the employees in the agency regarding recycling opportunities and expectations.

Sec. 12. Minnesota Statutes 1990, section 115A.151, is amended to read:

115A.151 [STATE AND LOCAL FACILITIES.]

By January 1, 1991, a state agency or local unit of government or school district in the metropolitan area or by January 1, 1993, a state agency or local unit of government or school district outside of the metropolitan area shall:

(1) ensure that facilities under its control, from which mixed municipal solid waste is collected, have containers for at least three *of the following* recyclable materials*: paper, glass, plastic, and metal*; and

(2) transfer all recyclable materials collected to a recycler.

Sec. 13. [115A.31] [LOCAL GOVERNMENT DECISIONS; TIMELINES.]

If a county applies for or requests approval of establishment of a solid waste facility within the boundaries of a local government unit, the local government unit shall approve or disapprove the application or request within 120 days following the delivery by the county to the local government unit of the application or request completed in accordance with the requirements of applicable local ordinances.

If the proposed facility is one for which an environmental impact statement or environmental assessment worksheet is required under section 116D.04,

the local government unit shall approve or disapprove the application or request within 90 days after the final determination of adequacy of the environmental impact statement or environmental assessment worksheet.

Sec. 14. Minnesota Statutes 1990, section 115A.411, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY; PURPOSE.] The ~~office and~~ *director with assistance from* the ~~agency~~ *commissioner* shall ~~jointly~~ prepare and adopt a report on solid waste management policy excluding the metropolitan area. ~~The report must be adopted by November 15 of each even-numbered year beginning in 1988.~~ The report must be submitted by the ~~office and the agency jointly~~ *director* to the legislative commission on waste management *by November 15 of each even-numbered year and may include reports required under sections 115A.551, subdivision 4, and 115A.557, subdivision 4.*

Sec. 15. Minnesota Statutes 1990, section 115A.46, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] *(a)* Plans shall address the state policies and purposes expressed in section 115A.02 *and may not be inconsistent with state law.*

(b) Plans for the location, establishment, operation, maintenance, and postclosure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116.

(c) Plans shall address*:*

(1) the resolution of conflicting, duplicative, or overlapping local management efforts~~. Plans shall address~~*;*

(2) the establishment of joint powers management programs or waste management districts where appropriate~~. Plans shall address~~*; and*

(3) other matters as the rules of the office may require consistent with the purposes of sections 115A.42 to 115A.46.

(d) Political subdivisions preparing plans under sections 115A.42 to 115A.46 shall consult with persons presently providing solid waste collection, processing, and disposal services.

(e) Plans ~~shall~~ *must* be ~~approved by~~ *submitted to* the ~~office~~ *director*, or the metropolitan council pursuant to section 473.803, *for approval. When a county board is ready to have a final plan approved, the county board shall submit a resolution requesting review and approval by the director or the metropolitan council. After receiving the resolution, the director or the metropolitan council shall notify the county within 45 days whether the plan as submitted is complete and, if not complete, the specific items that need to be submitted to make the plan complete. Within 90 days after a complete plan has been submitted, the director or the metropolitan council shall approve or disapprove the plan. If the plan is disapproved, reasons for the disapproval must be provided.*

(f) After initial approval, each plan ~~shall~~ *must* be updated *and submitted for approval* every five years ~~and~~. *The plan must be* revised as necessary ~~for further approval~~ *so that it is not inconsistent with state law.*

Sec. 16. Minnesota Statutes 1990, section 115A.46, is amended by adding a subdivision to read:

Subd. 5. [JURISDICTION OF PLAN.] *(a) After a county plan has been submitted for approval under subdivision 1, a political subdivision within the county may not enter into a binding agreement governing a solid waste management activity that is inconsistent with the county plan without the consent of the county.*

(b) After a county plan has been approved under subdivision 1, the plan governs all solid waste management in the county and a political subdivision within the county may not develop or implement a solid waste management activity, other than an activity to reduce waste generation or reuse waste materials, that is inconsistent with the county plan that the county is actively implementing without the consent of the county.

Sec. 17. Minnesota Statutes 1990, section 115A.49, is amended to read:

115A.49 [ESTABLISHMENT; PURPOSES AND PRIORITIES.]

There is established a program to encourage and assist cities, counties, solid waste management districts, and sanitary districts in the development and implementation of solid waste management projects and to transfer the knowledge and experience gained from such projects to other communities in the state. The program must be administered to encourage local communities to develop feasible and prudent alternatives to disposal, including waste reduction; waste separation by generators, collectors, and other persons; and waste processing. The *director shall administer the* program ~~must be administered by the office~~ in accordance with the requirements of sections 115A.49 to 115A.54 and rules promulgated ~~by the office pursuant to~~ *under* chapter 14. In administering the program, the ~~office~~ *director* shall give priority to *projects in the order of preference of the waste management practices listed in section 115A.02. The director shall give special consideration to* areas where natural geologic and soil conditions are especially unsuitable for land disposal of solid waste; areas where the capacity of existing solid waste disposal facilities is determined by the ~~office~~ *director* to be less than five years; and projects serving more than one local government unit.

Sec. 18. Minnesota Statutes 1990, section 115A.53, is amended to read:

115A.53 [WASTE ~~REDUCTION AND~~ SEPARATION PROJECTS.]

The ~~office~~ *director* shall provide grants to develop and implement projects for ~~waste reduction;~~ waste separation by generators, collectors, and other persons; and collection systems for separated waste. Activities eligible for assistance under this section include legal, financial, economic, educational, marketing, social, governmental, and administrative activities related to the development and implementation of the project. Preliminary planning and development, feasibility study, and conceptual design costs are eligible activities, but no more than 20 percent of program funds shall be used to fund those activities. Projects may include the management of household hazardous waste, as defined in section 115A.96. *The director shall give priority to innovative methods for waste separation for reuse and recycling.* The ~~rules of the office~~ *director* shall prescribe *by rule* the level or levels of local funding required for grants under this section.

Sec. 19. Minnesota Statutes 1990, section 115A.551, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] (a) For the purposes of this section, "recycling" means, in addition to the meaning given in section 115A.03,

subdivision 25b, yard waste composting, and recycling that occurs through mechanical or hand separation of materials that are then delivered for reuse in their original form or for use in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

(b) For the purposes of this section, "total solid waste generation" means the total by weight of:

(1) materials separated for recycling;

(2) materials separated for yard waste composting; ~~and~~

(3) mixed municipal solid waste plus yard waste, used oil, tires, lead acid batteries, and major appliances; *and*

(4) residential waste materials that would be mixed municipal solid waste but for the fact that they are not collected as such.

Sec. 20. Minnesota Statutes 1990, section 115A.551, is amended by adding a subdivision to read:

Subd. 2a. [SUPPLEMENTARY RECYCLING GOALS.] *By July 31, 1996, each county will have as a goal to recycle the following amounts:*

(1) for a county outside of the metropolitan area, 30 percent by weight of total solid waste generation;

(2) for a metropolitan county, 45 percent by weight of total solid waste generation.

Each county will develop and implement or require political subdivisions within the county to develop and implement programs, practices, or methods designed to meet its recycling goal. Nothing in this section or in any other law may be construed to prohibit a county from establishing a higher recycling goal. For the purposes of this subdivision "total solid waste generation" has the meaning given it in subdivision 1, except that it does not include yard waste.

Sec. 21. Minnesota Statutes 1990, section 115A.551, subdivision 4, is amended to read:

Subd. 4. [INTERIM MONITORING.] The office, for counties outside of the metropolitan area, and the metropolitan council, for counties within the metropolitan area, shall monitor the progress of each county toward meeting the recycling goal in subdivision 2 and shall report to the legislative commission on waste management on the progress of the counties by November ~~1~~ *15* of each year. If the office or the council finds that a county is not progressing toward the goal in subdivision 2, it shall negotiate with the county to develop and implement solid waste management techniques designed to assist the county in meeting the goal, such as organized collection, curbside collection of source-separated materials, and volume-based pricing.

In even-numbered years the progress report may be included in the solid waste management policy report required under section 115A.411.

Sec. 22. Minnesota Statutes 1990, section 115A.552, subdivision 1, is amended to read:

Subdivision 1. [COUNTY REQUIREMENT.] Counties shall ensure that residents, *including residents of single and multifamily dwellings,* have an

opportunity to recycle. At least one recycling center shall be available in each county. Opportunity to recycle means availability of recycling and curbside pickup or collection centers for recyclable materials at sites that are convenient for persons to use. Counties shall also provide for the recycling of problem materials and major appliances. Counties shall assess the operation of existing and proposed recycling centers and shall give due consideration to those centers in ensuring the opportunity to recycle. *To the extent practicable, the costs incurred by a county for collection, storage, transportation, and recycling of major appliances must be collected from persons who discard the major appliances.*

Sec. 23. Minnesota Statutes 1990, section 115A.552, subdivision 2, is amended to read:

Subd. 2. [RECYCLING OPPORTUNITIES.] An opportunity to recycle must include:

(1) a local recycling center in the county and sites for collecting recyclable materials that are located in areas convenient for persons to use them;

(2) curbside pickup, centralized drop-off, or a local recycling center for at least four ~~kinds~~ *broad types* of recyclable materials in cities with a population of 5,000 or more persons; and

(3) monthly pickup of at least four *broad types of* recyclable materials in cities of the first and second class and cities with 5,000 or more population in the metropolitan area.

Sec. 24. Minnesota Statutes 1990, section 115A.552, is amended by adding a subdivision to read:

Subd. 4. [NONRESIDENTIAL RECYCLING.] *Each county shall encourage building owners and managers, business owners and managers, and collectors of commercial mixed municipal solid waste to provide appropriate recycling services and opportunities to generators of commercial, industrial, and institutional solid waste in the county.*

Sec. 25. Minnesota Statutes 1990, section 115A.554, is amended to read:

115A.554 [AUTHORITY OF SANITARY DISTRICTS.]

A sanitary district with the authority to regulate solid waste has the authority and duty of counties within the district's boundary for purposes of sections 115A.46, subdivision 4; *115A.48;* 115A.551; 115A.552; 115A.553; 115A.919; 115A.93; 115A.96, subdivision 6; 115A.961; 115A.991; 375.18, subdivision 14; and 400.08, subdivision 5.

Sec. 26. Minnesota Statutes 1990, section 115A.557, subdivision 4, is amended to read:

Subd. 4. [REPORT.] By November + *15* of each year, the office shall report on how the money was spent and the resulting statewide improvements in solid waste management to the house of representatives and senate appropriations and finance committees and the legislative commission on waste management. *In even-numbered years the report may be included in the solid waste management policy report required under section 115A.411.*

Sec. 27. Minnesota Statutes 1990, section 115A.64, subdivision 2, is amended to read:

Subd. 2. [PETITION CONTENTS.] *(a)* A petition requesting establishment or alteration of a waste district ~~shall~~ *must* contain the information the

~~office~~ *director* may require, including at least the following:

~~(a)~~ *(1)* the name of the proposed district;

~~(b)~~ *(2)* a description of the territory and political subdivisions within and the boundaries of the proposed district or alteration thereto, along with a map showing the district or alteration;

~~(c)~~ *(3)* resolutions of support for the district, as proposed to the office, from the governing body of each of the petitioning counties;

~~(d)~~ *(4)* a statement of the reason, necessity, and purpose for the district, plus a general description of the solid waste management improvements and facilities contemplated for the district showing how its activities will accomplish the purpose of the district and the purposes for waste resource districts stated in sections 115A.62 to 115A.72;

~~(e)~~ *(5)* articles of incorporation stating:

(i) the powers of the district consistent with sections 115A.62 to 115A.72, including a statement of powers proposed pursuant to sections 115A.70 ~~and~~, 115A.71, *and 115A.715; and*

(ii) provisions for representation and election of the board of directors of the district.

(b) After the petition has been filed, no petitioner may withdraw from it except with the written consent of all other petitioners ~~filed with the office~~ *for the district.*

Sec. 28. Minnesota Statutes 1990, section 115A.67, is amended to read:

115A.67 [ORGANIZATION OF DISTRICT.]

~~The governing body of each county wholly or partly within the district shall appoint two persons to serve on the first board of directors of the district, except that in the case of a district having territory within only two counties each county may appoint three persons. At least one person appointed by each county shall be an elected official of a local government unit having territory within the district. The first chair of the board of directors shall be appointed from outside the first board of directors by the director of the office of waste management. The first chair shall serve for a term of two years. Thereafter~~

Subdivision 1. [BOARD.] The chair shall be elected from outside the board of directors by majority vote of the board of directors. *The first chair shall serve for a term of two years.* Members of the board of directors shall be residents of the district.

Subd. 2. [FIRST MEETING.] The first meeting of the board of directors shall be held at the call of the chair, after notice, for the purpose of proposing the bylaws, electing officers and for any other business that comes before the meeting. The bylaws of the district, and amendments thereto, shall be adopted by a majority vote of the board of directors unless the certificate of incorporation requires a greater vote.

Subd. 3. [BYLAWS.] The bylaws shall state:

(a) the manner and time of calling regular meetings of the representatives and the board of directors, not less than once annually;

(b) the title, manner of selection, and term of office of officers of the district;

(c) the term of office of members of the board of directors, the manner of their removal, and the manner of filling vacancies on the board of directors;

(d) the powers and duties of the board of directors consistent with the order and articles of incorporation establishing the district;

(e) the definition of a quorum for meetings of the board of directors, which shall be not less than a majority of the members;

(f) the compensation and reimbursement for expenses for members of the board of directors, which shall not exceed that provided for in section 15.0575, subdivision 3; and

(g) such other provisions for regulating the affairs of the district as the board of directors shall determine to be necessary.

Sec. 29. [115A.715] [SOLID WASTE AUTHORITY.]

A district has all the authority of a county for solid waste management purposes that is given to counties under this chapter and chapters 400 and 473, except the authority to issue general obligation bonds or to levy property taxes. A district has the authority of a county to issue general obligation bonds and to levy property taxes only if and only to the extent that the governing body of each county that is a member of the district agrees to delegate the authority to the district. The delegation of the authority is irrevocable unless the governing body of each county that is a member of the district agrees to the revocation.

Sec. 30. Minnesota Statutes 1990, section 115A.83, is amended to read:

115A.83 [EXEMPTION.]

The designation may not apply to or include:

(1) materials that are separated from *mixed municipal* solid waste and recovered for reuse in their original form or for use in manufacturing processes; ~~or~~

(2) materials that are processed at a resource recovery facility at the capacity in operation at the time that the designation plan is approved by the reviewing authority*; or*

(3) materials that are separated at a permitted transfer station located within the boundaries of the designating authority for the purpose of recycling the materials if: (i) the transfer station was in operation on January 1, 1991; or (ii) the materials were not being separated for recycling at the designated facility at the time the transfer station began separation of the materials.

For the purposes of this section, "manufacturing processes" does not include the treatment of waste after collection for the purpose of composting.

The exemptions in this section apply to only those materials separated from mixed municipal solid waste that are managed in a manner that is preferred over the primary management method of the designated facility under section 115A.02, paragraph (b).

Sec. 31. Minnesota Statutes 1990, section 115A.84, subdivision 2, is amended to read:

Subd. 2. [DESIGNATION; PLAN CONTENTS.] (a) The designation plan must evaluate:

(1) the benefits of the designation, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local and any district or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02; and

(2) the estimated costs of the designation, including the direct capital, operating, and maintenance costs of the facility designated, the indirect costs, and the long-term effects of the designation.

(b) In particular the designation plan must evaluate:

(1) whether the designation will result in the recovery of resources or energy from materials which would otherwise be wasted;

(2) whether the designation will lessen the demand for and use of indiscriminate land disposal;

(3) whether the designation is necessary for the financial support of the facility;

(4) whether less restrictive methods for ensuring an adequate solid waste supply are available;

(5) other feasible and prudent waste management alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators; and

(6) whether the designation takes into account and promotes local, regional, and state waste management goals.

(c) When the plan proposes designation to disposal facilities, the designation plan must also evaluate:

(1) whether the disposal facility is part of an integrated waste management system involving a processing facility and the designation is necessary for the financial support of the processing facility;

(2) whether the designation will better serve to protect public health and safety;

(3) the impacts on other disposal facilities inside and outside the area;

(4) whether the designation is necessary to promote regional waste management programs and cooperation; and

(5) the extent to which the design and operation of the disposal facility protects the environment including whether it is permitted under current agency rules and whether any portion of the facility's site is listed under section 115B.17, subdivision 13.

(d) When the plan proposes designation to a disposal facility, mixed municipal solid waste that is subject to a contract between a hauler and a different facility that is in effect on the date notice is given under section 115A.85, subdivision 2, is not subject to the designation during the contract period *or for one year after the date notice is given, whichever period is shorter.*

Sec. 32. Minnesota Statutes 1990, section 115A.84, is amended by adding a subdivision to read:

Subd. 5. [EXCLUSION OF MATERIALS SEPARATED AT CERTAIN

FACILITIES.] *(a) A county or district shall exclude from the designation, subject to approval by the reviewing authority, materials that the county or district determines will be separated for recycling at a transfer station located outside of the area subject to designation if:*

(1) the residual materials left after separation of the recyclable materials are delivered to a facility designated by the county or district;

(2) each waste collector who would otherwise be subject to the designation ordinance and who delivers waste to the transfer station has not been found in violation of the designation ordinance in the six months prior to filing for an exclusion;

(3) the materials separated at the transfer station are delivered to a recycler and are actually recycled; and

(4) the owner or operator of the transfer station agrees to report and actually reports to the county or district the quantities of materials, by categories to be specified by the county or district, that are recycled by the facility that otherwise would have been subject to designation.

(b) In order to qualify for the exclusion in this subdivision, the owner of a transfer station shall file with the county or district a written description of the transfer station, its operation, location, and waste supply sources, the quantity of waste delivered to the transfer station by the owner of the transfer station, the market for the materials separated for recycling, where the recyclable materials are delivered for recycling, and other information the county or district may reasonably require. Information received by the county or district is nonpublic data as defined in section 13.02, subdivision 9.

(c) A county or district that grants an exclusion under this subdivision may revoke the exclusion if any of the conditions of paragraph (a) are not being met.

Sec. 33. Minnesota Statutes 1990, section 115A.86, subdivision 5, is amended to read:

Subd. 5. [AMENDMENTS.] (a) *Except for an amendment authorized under section 115A.86, subdivision 6,* amendments to a designation ordinance must be submitted to the reviewing authority for approval. The reviewing authority shall approve the amendment if the amendment is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02. If the reviewing authority finds that the proposed amendment is a substantive change from the existing designation plan, the reviewing authority may require that the county or solid waste management district submit a revised designation plan to the reviewing authority for approval. After receiving approval for the designation plan amendment from the reviewing authority, the county or district shall follow the procedure outlined in section 115A.85 prior to submitting the amended designation ordinance to the reviewing authority for approval. If the reviewing authority does not act within 90 days after receiving the proposed amendment to the designation ordinance, the amendment is approved.

(b) *Except for an amendment authorized under section 115A.86, subdivision 6,* prior to amending an ordinance to designate solid waste to a disposal facility, a county or district shall submit an amended designation plan to the reviewing authority for approval, and shall follow the procedures outlined in section 115A.85.

Sec. 34. Minnesota Statutes 1990, section 115A.86, is amended by adding a subdivision to read:

Subd. 6. [PENALTIES.] *(a) A county may include in its designation ordinance civil and misdemeanor penalties for violation of the ordinance. Subdivision 5 does not govern a designation ordinance amendment adopted under this paragraph.*

(b) A county may by ordinance impose civil and misdemeanor penalties for delivery of mixed municipal solid waste to a processing or disposal facility in the county that is not a facility designated to receive the waste under a designation ordinance adopted by another county under this section.

(c) A civil penalty adopted under paragraph (a) or (b) must be payable to the county and may not exceed a fine of $10,000 per day of violation plus the cost of mitigating any damages caused by the violation and the attorney fees and court costs incurred by the county to enforce the ordinance.

Sec. 35. Minnesota Statutes 1990, section 115A.882, is amended to read:

115A.882 [~~INSPECTION OF~~ RECORDS; *INSPECTION.*]

Subdivision 1. [DEFINITIONS.] *For the purposes of this section:*

(1) "origin" means a general geographical description that at a minimum names the local governmental unit within a county from which waste was collected; and

(2) "type" means a best estimate of the percentage of each truck load that consists of residential, commercial, industrial, construction, or any other general type of waste.

Subd. 2. [RECORDS; COLLECTORS; FACILITIES.] *Each person who collects solid waste in a county in which a designation ordinance is in effect shall maintain records regarding the volume or weight, type, and origin of waste collected. Each day, a record of the origin, type, and weight of the waste collected that day and the identity of the waste facility at which that day's collected waste is deposited must be kept on the waste collection vehicle. If the waste is measured by volume at the waste facility at which it is deposited, the record may show the volume rather than the weight of the waste.*

The owner or operator of a solid waste facility shall maintain records regarding the weight of the waste, or the volume of the waste if the waste is measured by volume; the general type or types of waste; the origin of the waste delivered to the facility; the date and time of delivery; and the name of the waste collector that delivered the waste to the facility.

Subd. 3. [INSPECTION.] A person authorized by a county in which a designation *ordinance* is effective may, ~~upon presentation of identification and without a search warrant, inspect or copy records of an owner or operator of any waste facility in the state that contain information regarding the volume, type, origin, and weight of the waste received by the facility, and the date and time of weighing. A person who fails to open for inspection and copying the records referred to in this section is guilty of a misdemeanor.~~ *anywhere in the state:*

(1) upon presentation of identification and without a search warrant, inspect or copy the records required to be kept on a waste collection vehicle under subdivision 2 and inspect the waste on the vehicle at the time of deposit of the waste at a facility;

(2) upon presentation of identification and without a search warrant, inspect or copy the records of an owner or operator of a solid waste facility that are required to be maintained under subdivision 2;

(3) request, in writing, copies of records of a solid waste collector that indicate the type, origin, and weight or, if applicable, the volume of waste collected, the identity of the facility at which the waste was deposited, and the date of deposit at the facility; and

(4) upon presentation of identification and without a search warrant, inspect or copy that portion of the business records of a waste collector necessary to comply with clause (3) at the central record keeping location of the waste collector only if the collector fails to provide copies of the records within 15 days of receipt of a written request for them.

Records or information received, inspected, or copied by a county under this section are classified as nonpublic data as defined in section 13.02, subdivision 9, and may be used by the county solely for enforcement of a designation ordinance. A waste collector or the owner or operator of a waste facility shall maintain business records needed to comply with this section for two years.

Sec. 36. Minnesota Statutes 1990, section 115A.9162, subdivision 2, is amended to read:

Subd. 2. [GRANTS.] The office may make grants to ~~counties~~ *local government units* for installation of storage tanks to collect used oil. To be eligible for a grant, ~~a county~~ *an applicant* must obtain approval from the commissioner of the agency for the type of tank to be used, the location and installation of the tank, and the proposed ongoing maintenance and monitoring of the collection site. A tank may be located on public or private property and must be made available to the public for used oil disposal. A grant for a single tank may not exceed $2,500 and a ~~county~~ *local government unit* may not receive more than $5,000 in grants for storage tanks.

Sec. 37. Minnesota Statutes 1990, section 115A.919, is amended to read:

115A.919 [COUNTY FEE AUTHORITY.]

Subdivision 1. [FEE.] *(a)* A county may impose a fee, by cubic yard of waste or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste *or construction debris* located within the county. The revenue from the fees shall be credited to the county general fund and shall be used only for landfill abatement purposes, or costs of closure, postclosure care, and response actions or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities.

(b) Fees for construction debris facilities may not exceed 50 cents per cubic yard. Revenues from the fees must offset any financial assurances required by the county for a construction debris facility. The maximum revenue that may be collected for a construction debris facility must be determined by multiplying the total permitted capacity of the facility by 15 cents per cubic yard. Once the maximum revenue has been collected for a facility, the fee may no longer be imposed. The limitation on the fees in this paragraph and in section 115A.921, subdivision 2, are not intended to alter the liability of the facility operator or the authority of the agency to impose financial assurance requirements.

Subd. 2. [ADDITIONAL FEE.] *A county may impose a fee, by cubic yard or the equivalent of waste collected outside the county, in addition to*

a fee imposed under subdivision 1, on operators of mixed municipal solid waste disposal facilities located within the county. The fee may not exceed $7.50 per cubic yard or the equivalent. A person licensed to collect solid waste in a county that designates the waste under sections 115A.80 to 115A.893 who is referred to a disposal facility outside the county due to temporary closure of the designated facility is exempt from the additional fee; the designated facility is responsible for the fee. Revenue generated from the additional fee must be credited to the county general fund and may be used only for the purposes listed in subdivision 1.

Subd. 3. [EXEMPTIONS.] *(a)* Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from ~~the~~ *any* fee imposed by a county under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate county.

(b) A facility permitted for the disposal of construction debris is exempt from 25 percent of a fee imposed under subdivision 1 if the facility has implemented a recycling program approved by the county and 25 percent if the facility contains a liner and leachate collection system approved by the agency.

Sec. 38. Minnesota Statutes 1990, section 115A.921, is amended to read:

115A.921 [CITY OR TOWN FEE AUTHORITY.]

Subdivision 1. [MIXED MUNICIPAL SOLID WASTE.] A city or town may impose a fee, not to exceed $1 per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste located within the city or town. The revenue from the fees must be credited to the city or town general fund. Revenue produced by 25 cents of the fee must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities. Revenue produced by the balance of the fee may be used for any general fund purpose.

Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from the fee imposed by a city or town under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate city or town.

Subd. 2. [CONSTRUCTION DEBRIS.] *(a) A city or town may impose a fee, not to exceed 50 cents per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of construction debris located within the city or town. The revenue from the fees must be credited to the city or town general fund. Two-thirds of the revenue must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects resulting from the facilities.*

(b) A facility permitted for the disposal of construction debris is exempt from 25 percent of a fee imposed under this subdivision if the facility has implemented a recycling program that has been approved by the county and 25 percent if the facility contains a liner and leachate collection system approved by the agency.

(c) Two-thirds of the revenue from fees collected under this subdivision must offset any financial assurances required by the city or town for a construction debris facility.

(d) The maximum revenue that may be collected under this subdivision must be determined by multiplying the total permitted capacity of a facility by 15 cents per cubic yard. Once the maximum revenue has been collected for a facility, the fees in this subdivision may no longer be imposed.

Sec. 39. Minnesota Statutes 1990, section 115A.923, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT OF FEE.] (a) The operator of a mixed municipal solid waste disposal facility outside of the metropolitan area shall ~~pay~~ *charge* a fee on solid waste accepted and disposed of at the facility as follows:

(1) a facility that weighs the waste that it accepts must ~~pay~~ *charge* a fee of $2 per cubic yard based on equivalent cubic yards of waste accepted at the entrance of the facility;

(2) a facility that does not weigh the waste but that measures the volume of the waste that it accepts must ~~pay~~ *charge* a fee of $2 per cubic yard of waste accepted at the entrance of the facility; and

(3) waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse is exempt from the fee imposed by this subdivision if there is at least an 85 percent volume reduction in the solid waste processed.

(b) To qualify for exemption under paragraph (a), clause (3), waste residue must be brought to a disposal facility separately. The commissioner of revenue, with the advice and assistance of the agency, shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

Sec. 40. Minnesota Statutes 1990, section 115A.923, subdivision 1a, is amended to read:

Subd. 1a. [PAYMENT OF THE GREATER MINNESOTA LANDFILL CLEANUP FEE.] The operator of a disposal facility in greater Minnesota shall ~~pay~~ *remit* the ~~fee required~~ *fees collected* under subdivision 1 to the county or sanitary district where the facility is located, except that the operator of a facility that is owned by a statutory or home rule city shall ~~pay~~ *remit* the ~~fee~~ *fees* to the city that owns the facility. The county, city, or sanitary district may use the revenue from the ~~fee~~ *fees* only for the purposes specified in section 115A.919.

Sec. 41. [115A.929] [FEES; ACCOUNTING.]

Each local government unit that collects a fee under section 115A.919, 115A.921, or 115A.923 shall account for all revenue collected from the fee,

together with interest earned on the revenue from the fee, separately from other revenue collected by the local government unit and shall report revenue collected from the fee and use of the revenue separately from other revenue and use of revenue in any required financial report or audit.

Sec. 42. Minnesota Statutes 1990, section 115A.93, subdivision 3, is amended to read:

Subd. 3. [LICENSE REQUIREMENTS.] (a) A licensing authority shall require ~~to the extent possible~~ that charges for collection of mixed municipal solid waste vary with the volume or weight of the waste collected.

(b) A licensing authority may impose requirements that are consistent with the county's solid waste policies as a condition of receiving and maintaining a license.

(c) A licensing authority shall prohibit mixed municipal solid waste collectors from imposing a greater charge on residents who recycle than on residents who do not recycle.

Sec. 43. Minnesota Statutes 1990, section 115A.93, is amended by adding a subdivision to read:

Subd. 4. [DATE CERTAIN.] *By January 1, 1993, each county shall ensure that each city or town within the county requires each mixed municipal solid waste collector that provides curbside collection service in the city or town to obtain a license under this section or the county shall directly require and issue the licenses. No person may collect mixed municipal solid waste after January 1, 1993, without a license.*

Sec. 44. Minnesota Statutes 1990, section 115A.931, is amended to read:

115A.931 [~~LAND DISPOSAL OF~~ YARD WASTE *PROHIBITION*.]

(a) Except as authorized by the agency, in the metropolitan area after January 1, 1990, and outside the metropolitan area after January 1, 1992, a person may not ~~dispose of~~ *place* yard waste:

(1) in mixed municipal solid waste;

(2) in a disposal facility; or

(3) in a resource recovery facility except for the purposes of composting or co-composting.

(b) Yard waste subject to this subdivision is garden wastes, leaves, lawn cuttings, weeds, and prunings.

Sec. 45. [115A.935] [SOLID WASTE GENERATED OUTSIDE OF MINNESOTA.]

No person shall transport into or deposit in this state, for the purpose of processing or disposal, solid waste that was generated in another state, unless the waste:

(1) meets all the solid waste management regulations of the state in which it was generated; and

(2) contains none of the items specifically banned from mixed municipal solid waste in this state, including waste tires, used motor oil, waste lead acid batteries, yard waste, major appliances, and any other item specifically banned from the waste stream under this chapter.

Sec. 46. Minnesota Statutes 1990, section 115A.94, subdivision 4, is

amended to read:

Subd. 4. [CITIES AND TOWNS; NOTICE; PLANNING.] (a) At least 180 days before implementing an ordinance, franchise, license, contract or other means of organizing collection, a city or town, by resolution of the governing body, shall announce its intent to organize collection and invite the participation of interested persons, including persons licensed to operate solid waste collection services, in planning and establishing the organized collection system.

(b) The resolution of intent must be adopted after a public hearing. The hearing must be held at least two weeks after public notice and mailed notice to persons known by the city or town to be operating solid waste collection services in the city or town. The failure to give mailed notice to persons or defect in the notice does not invalidate the proceedings, provided a bona fide effort to comply with notice requirements has been made.

(c) During a 90-day period following the resolution of intent, the city or town shall develop or supervise the development of plans or proposals for organized collection. During this 90-day planning period, the city or town shall invite and employ the assistance of persons licensed as of the date of the resolution of intent to operate solid waste collection services in the city or town. Failure of a licensed collector to participate in the 90-day planning period, when the city or town has made a bona fide effort to provide the person the opportunity to participate, does not invalidate the planning process.

(d) For 90 days after the date ending the planning period required under paragraph (c), the city or town shall discuss possible organized collection arrangements with all licensed collectors operating in the city or town who have expressed interest. If the city or town is unable to agree on an organized collection arrangement with a majority of the licensed collectors who have expressed interest, or upon expiration of the 90 days, the city or town may propose implementation of an alternate method of organizing collection as authorized in subdivision 3.

(e) The city or town shall make specific findings that:

(1) describe in detail the procedures it used to plan and to attempt implementation of organized collection through an arrangement with collectors who expressed interest; and

(2) evaluate the proposed organized collection method in light of at least the following standards: achieving the stated organized collection goals of the city or town; minimizing displacement of collectors; ensuring participation of all interested parties in the decision-making process; and maximizing efficiency in solid waste collection.

(f) Upon request, the city or town shall provide mailed notice of all proceedings on the organization of collection in the city or town.

(g) If the city or town and all the persons licensed to operate mixed municipal solid waste collection services and doing business in the city or town agree on the plan, the city or town may implement the plan without regard to the 180-day period specified in paragraph (a).

Sec. 47. [115A.941] [SOLID WASTE; REQUIRED COLLECTION.]

(a) Except as provided in paragraph (b), each city and town with a population of 5,000 or more shall ensure that every residential household

and business in the city or town has solid waste collection service. To comply with this section, a city or town may organize collection, provide collection, or require by ordinance that every household and business has a contract for collection services. An ordinance adopted under this section must provide for enforcement.

(b) A city or town with a population of 5,000 or more may exempt a residential household or business in the city or town from the requirement to have solid waste collection service if the household or business ensures that an environmentally sound alternative is used.

(c) To the extent practicable, the costs incurred by a city or town under this section must be incorporated into the collection system or the enforcement mechanisms adopted under this section by the city or town.

Sec. 48. Minnesota Statutes 1990, section 115A.9561, is amended to read:

115A.9561 [MAJOR APPLIANCES.]

Subdivision 1. [PROHIBITIONS.] A person may not:

(1) place major appliances in mixed municipal solid waste; or

(2) dispose of major appliances *in or on the land or* in a solid waste processing or disposal facility ~~after July 1, 1990~~. The agency may enforce this section pursuant to section 115.071.

Subd. 2. [RECYCLING REQUIRED.] *Major appliances must be recycled or reused. Each county shall ensure that its residents have the opportunity to recycle used major appliances. For the purposes of this section, recycling includes:*

(1) the removal of capacitors that may contain PCBs;

(2) the removal of ballasts that may contain PCBs;

(3) the removal of chlorofluorocarbon refrigerant gas; and

(4) the recycling or reuse of the metals.

Sec. 49. Minnesota Statutes 1990, section 115A.96, subdivision 6, is amended to read:

Subd. 6. [HOUSEHOLD HAZARDOUS WASTE MANAGEMENT PLANS.] (a) Each county shall include in its solid waste management plan required in section 115A.46, or its solid waste master plan required in section 473.803, a household hazardous waste management plan. The plan must at least:

(1) include a broad based public education component;

(2) include a strategy for reduction of household hazardous waste; and

(3) address separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and disposal of that waste.

(b) Each county required to submit its plan to the office under section 115A.46 shall amend its plan to comply with this subdivision within one year after October 4, 1989.

(c) Each county in the state shall implement its household hazardous waste management plan by June 30, 1992.

(d) The office shall review the plans submitted under this subdivision in

cooperation with the agency.

Sec. 50. [115A.965] [PROHIBITIONS ON SELECTED TOXICS IN PACKAGING.]

Subdivision 1. [PACKAGING.] *(a) As soon as feasible but not later than August 1, 1993, no manufacturer or distributor may sell or offer for sale or for promotional purposes in this state packaging or a product that is contained in packaging if the packaging itself, or any inks, dyes, pigments, adhesives, stabilizers, or any other additives to the packaging contain any lead, cadmium, mercury, or hexavalent chromium that has been intentionally introduced as an element during manufacture or distribution of the packaging. Intentional introduction does not include the incidental presence of any of the prohibited elements.*

(b) For the purposes of this section, "distributor" means a person who imports packaging or causes packaging to be imported into the state.

Subd. 2. [TOTAL TOXICS CONCENTRATION LEVELS.] *The total concentration level of lead, cadmium, mercury, and hexavalent chromium added together in any packaging must not exceed the following amounts:*

(1) 600 parts per million by weight by August 1, 1993;

(2) 250 parts per million by weight by August 1, 1994; and

(3) 100 parts per million by weight by August 1, 1995.

Subd. 3. [EXEMPTIONS.] *(a) The following packaging is exempt from the requirements of subdivisions 1 and 2:*

(1) packaging that has been delivered to a manufacturer or distributor prior to August 1, 1993, or packaging that contains a code or other indication of the date of manufacture and that was manufactured prior to August 1, 1993; and

(2) until August 1, 1997, packaging that would not exceed the total toxics concentration levels under subdivision 2 but for the addition in the packaging of materials that have fulfilled their intended use and have been discarded by consumers.

(b) Packaging to which lead, cadmium, mercury, or hexavalent chromium has been intentionally introduced in the manufacturing process may be exempted from the requirements of subdivisions 1 and 2 by the commissioner of the pollution control agency if:

(1) the use of the toxic element in the packaging is required by federal or state health or safety laws; or

(2) there is no feasible alternative for the packaging because the toxic element used is essential to the protection, safe handling, or function of the contents of the package.

The commissioner may grant an exemption under this paragraph for a period not to exceed two years upon application by the packaging manufacturer that includes documentation showing that the criteria for an exemption are met. Exemptions granted by the commissioner may be renewed upon reapplication every two years.

Subd. 4. [CERTIFICATE OF COMPLIANCE.] *(a) Beginning August 1, 1993, each manufacturer and distributor of packaging for sale or other distribution in this state shall certify to each of their purchasers or receivers*

that the packaging purchased or received complies with this section. The certificate of compliance must be in writing and must be signed by an official of the manufacturer or distributor. For packaging that has received an exemption under subdivision 3, the certificate of compliance must list the amount of total toxics concentration in the packaging, the specific toxics present, and the basis for the exemption.

(b) The manufacturer or distributor shall keep on file a copy of the certificate of compliance for each type of packaging manufactured or distributed and shall make copies available to the commissioner of the pollution control agency or the attorney general on request, or to any member of the public within 60 days of receipt of a written request that specifies the type of packaging for which the information is requested.

(c) Each purchaser or receiver, except a retailer, of packaging shall retain the certificate of compliance for as long as the packaging is in use.

(d) If a manufacturer or distributor of packaging reformulates the packaging or creates new packaging, the manufacturer or distributor shall provide an amended or new certificate of compliance to purchasers and receivers for the reformulated or new packaging.

Subd. 5. [ENFORCEMENT.] *This section may be enforced under sections 115.071 and 116.072. A person who fails to comply with this section is subject to a civil fine of up to $5,000 per day of violation, court costs and attorney fees, and all costs associated with the separate collection, storage, transfer, and appropriate processing or disposal of nonconforming packaging, to be determined by the true cost of those activities per ton times the approximate actual tonnage of nonconforming packaging sold or otherwise distributed in the state.*

Subd. 6. [RULES.] *The commissioner of the pollution control agency, in consultation with the director of the office of waste management, shall adopt rules to implement this section.*

Sec. 51. [115A.9651] [TOXICS IN PACKAGING AND PRODUCTS; ENFORCEMENT.]

After July 1, 1994, no person may deliberately introduce lead, cadmium, mercury, or hexavalent chromium into any dye, paint, or fungicide that is intended for use or for sale in this state. This section does not apply to art supplies.

This section may be enforced under sections 115.071 and 116.072. The attorney general or the commissioner of the agency shall coordinate enforcement of this section with the director of the office.

Sec. 52. Minnesota Statutes 1990, section 115A.97, subdivision 4, is amended to read:

Subd. 4. [INTERIM PROGRAM.] (a) Incinerator ash is considered special waste for an interim period which expires on the occurrence of the earliest of the following events:

(1) The United States Environmental Protection Agency establishes testing and disposal requirements for incinerator ash;

(2) The agency adopts the rules required in subdivision 3; or

(3) June 30, ~~1991~~ *1992*.

(b) As a special waste, incinerator ash must be stored separately from

mixed municipal solid waste with adequate controls to protect the environment as provided in agency permits. For the interim period, the agency, in cooperation with generators of incinerator ash and other interested parties, shall establish a temporary program to test, monitor, and store incinerator ash. The program must include separate testing of fly ash, bottom ash, and combined ash unless the agency determines that because of physical constraints at the facility separate samples of fly ash and bottom ash cannot be reasonably obtained in which case only combined ash must be tested. Incinerator ash stored during the interim is subject to the rules adopted pursuant to subdivision 3 and to the provisions of chapter 115B.

Sec. 53. Minnesota Statutes 1990, section 115B.04, subdivision 4, is amended to read:

Subd. 4. [LIABILITY OF POLITICAL SUBDIVISIONS.] (a) The liability of a political subdivision under this section is subject to the limits imposed under section 466.04, subdivision 1, except when the political subdivision is liable under this section as the owner or operator of a disposal facility as defined in section 115A.03, subdivision 10.

(b) When a political subdivision is liable as an owner or operator of a disposal facility, the liability of each political subdivision is limited to $400,000 at each facility unless the facility was owned or operated under a valid joint powers agreement by three or more political subdivisions, in which case the aggregate liability of all political subdivisions that are parties to the joint powers agreement is limited to $1,200,000.

(c) The limits on the liability of a political subdivision for ownership or operation of a disposal facility apply to the costs of ~~remedial~~ *response* action incurred between the date a request for response action is issued by the agency and the date one year after the construction certificate of completion is approved by the commissioner, excluding *the* costs ~~incurred during~~ *of* negotiation of a consent order agreement.

(d) When a political subdivision takes ~~remedial~~ *response* action as the owner or operator of a disposal facility between the dates in paragraph (c), it may receive, after approval by the agency, reimbursement of any amount spent pursuant to an approved work plan that exceeds the applicable liability limit specified in this subdivision.

Sec. 54. Minnesota Statutes 1990, section 115B.22, subdivision 8, is amended to read:

Subd. 8. [REVIEW OF TAX BY LCWM.] ~~After the office of waste management submits the plan required under section 115A.11 to the legislative commission on waste management,~~ The ~~commission shall~~ *legislative commission on waste management shall periodically* review the taxes and tax rates imposed under this section ~~in light of the objectives and recommendations of the plan,~~ and shall recommend to the standing tax committees of both houses of the legislature any changes in the taxes or tax rates which are needed to assist or encourage implementation of the strategies adopted by the state for management of hazardous waste.

Sec. 55. Minnesota Statutes 1990, section 116.07, subdivision 4j, is amended to read:

Subd. 4j. [PERMITS; SOLID WASTE FACILITIES.] (a) The agency may not issue a permit for new or additional capacity for a mixed municipal solid waste resource recovery or disposal facility as defined in section

115A.03 unless each county projected in the permit to use the facility has in place a solid waste management plan approved under section 115A.46 or 473.803. The agency shall issue the permit only if the capacity of the facility is consistent with the needs for resource recovery or disposal capacity identified in the approved plan or plans. Consistency must be determined by the metropolitan council for counties in the metropolitan area and by the agency for counties outside the metropolitan area. Plans approved before January 1, 1990, need not be revised if the capacity sought in the permit is consistent with the approved plan or plans.

(b) The agency shall require as part of the permit application for a waste incineration facility identification of preliminary plans for ash management and ash leachate treatment or ash utilization. The permit issued by the agency must include requirements for ash management and ash leachate treatment.

(c) Within 30 days of receipt by the agency of a permit application for a solid waste facility, the commissioner shall notify the applicant in writing whether the application is complete and if not, what items are needed to make it complete, and shall give an estimate of the time it will take to process the application. Within 180 days of receipt of a completed application, the agency shall approve, disapprove, or delay decision on the application, with reasons for the delay, in writing.

Sec. 56. [116.90] [REFUSE DERIVED FUEL.]

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

(b) "Minor modification" means a physical or operational change that does not increase the rated energy production capacity of a solid fuel fired boiler and which does not involve capital costs in excess of 20 percent of a new solid fuel fired boiler having the same rated capacity.

(c) "Refuse derived fuel" means a product resulting from the processing of mixed municipal solid waste in a manner that reduces the quantity of noncombustible material present in the waste, reduces the size of waste components through shredding or other mechanical means, and produces a fuel suitable for combustion in existing or new solid fuel fired boilers.

(d) "Solid fuel fired boiler" means a device that is designed to combust solid fuel, including but not limited to: wood, coal, biomass, or lignite to produce steam or heat water.

Subd. 2. [USE OF REFUSE DERIVED FUEL.] *(a) Existing or new solid fuel fired boilers may utilize refuse derived fuel in an amount up to 30 percent by weight of the fuel feed stream under the following conditions:*

(1) utilization of refuse derived fuel involves no modification or only minor modification to the solid fuel fired boiler;

(2) utilization of refuse derived fuel does not cause a violation of emissions limitations or ambient air quality standards applicable to the solid fuel fired boiler;

(3) the solid fuel fired boiler has a valid permit to operate; and

(4) the refuse derived fuel is produced by a facility for which a permit was issued by the agency before June 1, 1991.

(b) A facility that produces refuse derived fuel that is sold for use in a

solid fuel fired boiler may accept waste for processing only from counties that provide for the removal of household hazardous waste from the waste.

Sec. 57. Minnesota Statutes 1990, section 325E.042, subdivision 2, is amended to read:

Subd. 2. [NONDEGRADABLE PLASTIC.] A person may not sell, offer for sale, or give to consumers beverages or motor oil containers held together by *connected rings made of* nondegradable plastic material.

Sec. 58. Minnesota Statutes 1990, section 325E.115, subdivision 1, is amended to read:

Subdivision 1. [SURCHARGE; COLLECTION; NOTICE.] (a) A person selling lead acid batteries at retail or offering lead acid batteries for retail sale in this state shall:

(1) accept, at the point of transfer, lead acid batteries from customers;

(2) charge a fee of $5 per battery sold unless the customer returns a used battery to the retailer; and

(3) post written notice~~, which must be at least 8-1/2 inches by 11 inches in size and must contain the universal recycling symbol and the following language:~~

~~(i) "It is illegal to put a motor vehicle battery in the garbage.";~~

~~(ii) "Recycle your used batteries."; and~~

~~(iii) "State law requires us to accept motor vehicle batteries for recycling."~~ *in accordance with section 325E.1151.*

(b) Any person selling lead acid batteries at wholesale or offering lead acid batteries for sale at wholesale must accept, at the point of transfer, lead acid batteries from customers.

Sec. 59. Minnesota Statutes 1990, section 325E.1151, subdivision 3, is amended to read:

Subd. 3. [RETAILERS MUST POST NOTICES.] (a) A person who sells lead acid batteries at retail must post the notice in paragraph (b) in a manner clearly visible to a consumer making purchasing decisions.

(b) The notice must be at least 8-1/2 inches by 11 inches and contain the universal recycling symbol and state:

"NOTICE: USED BATTERIES

This retailer is required to accept your used lead acid batteries, EVEN IF YOU DO NOT PURCHASE A BATTERY. When you purchase a new battery, you will be charged an additional $5 unless you return a used battery within 30 days.

~~Improper disposal of a lead acid battery~~ *It* is a crime *to put a motor vehicle battery in the garbage.*"

Sec. 60. Minnesota Statutes 1990, section 400.08, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] For purposes of this section, "solid waste management services" includes *recycling and waste reduction services,* collection, processing, and disposal of solid waste, closure and postclosure care of a solid waste facility, and response, as defined in section 115B.02,

to releases from a solid waste facility or closed solid waste facility.

Sec. 61. Minnesota Statutes 1990, section 458D.07, subdivision 5, is amended to read:

Subd. 5. [~~REGULATION OF~~ COLLECTION PROCESS.] Nothing contained in this chapter shall be construed to permit the district to engage in the collection of solid waste. ~~Carlton county and St. Louis county or the local units of government designated by such counties shall continue to have the authority to regulate the collection of solid waste, and nothing in this chapter shall be construed to permit the district to regulate the collection of solid waste, unless such counties or local units of government or any of them shall adopt a resolution authorizing the district to adopt such regulations to be effective within the territory of such county or local governmental units.~~

Sec. 62. Minnesota Statutes 1990, section 458D.07, is amended by adding a subdivision to read:

Subd. 5a. [RECYCLING.] *The district may require recycling and regulate the collection of recyclable materials in the district.*

Sec. 63. Minnesota Statutes 1990, section 473.149, subdivision 2e, is amended to read:

Subd. 2e. [SOLID WASTE DISPOSAL FACILITIES DEVELOPMENT SCHEDULE.] (a) After requesting and considering recommendations from the counties, cities, and towns, the council as part of its policy plan shall determine the number of sites and the capacity of sites ~~to be acquired~~ *needed* within the metropolitan area for solid waste disposal facilities ~~in accordance with section 473.833~~.

(b) The council shall adopt a schedule of disposal capacity to be developed ~~in each county~~ within the metropolitan area in five-year increments for a period of at least 20 years from adoption of development schedule revisions. The schedule may not allow capacity in excess of the council's reduced estimate of the disposal capacity needed because of the council's land disposal abatement plan~~, except as the council deems necessary to allow reallocation of capacity as required by this subdivision~~.

(c) The council shall make the implementation of elements of the schedule~~, including the disposal capacity allocated to each county,~~ contingent on actions of each county in adopting and implementing abatement plans pursuant to section 473.803, subdivision 1b. The council may review the development schedule every year and revise the development schedule ~~and the allocation of disposal capacity required for each county~~ based on the progress made ~~in that county~~ in the implementation of the council's abatement plans and achievement of metropolitan and local abatement objectives. The council shall review and revise, by resolution following public hearing, the development schedule ~~and the allocation of disposal capacity required~~ based on significant changes in the landfill capacity of the metropolitan area. The schedule must include procedures and criteria for making revisions. ~~A site for which an environmental impact statement was being prepared as of January 1, 1989, under section 473.833, subdivision 2a, and that is not selected under section 473.833, subdivision 3, must be eliminated from the inventory of solid waste disposal sites established under section 473.149, subdivision 2b, and may not be considered as a waste disposal site in the future.~~

(d) ~~The schedule may include procedures to be used by counties in selecting sites for acquisition pursuant to section 473.833.~~ The schedule must include

standards and procedures for council certification of need pursuant to section 473.823. The schedule must *also* include a ~~facility~~ closure schedule and plans for postclosure management and disposition~~, for the use of property after acquisition and before facility development, and for the disposition of property and development rights, as defined in section 473.833, no longer needed for disposal facilities. The schedule must also include a closure schedule and plans for postclosure management for~~ *of facilities, including* facilities in existence before the adoption of the development schedule.

Sec. 64. Minnesota Statutes 1990, section 473.149, subdivision 4, is amended to read:

Subd. 4. [ADVISORY COMMITTEE.] The council shall establish an advisory committee to aid in the preparation of the policy plan, the performance of the council's responsibilities under subdivisions 2 to 2e, the review of county master plans and reports and applications for permits for waste facilities, under sections 473.151, 473.801 to 473.823, *and* 473.831, ~~and 473.833,~~ and other duties determined by the council. The committee shall consist of one-third citizen representatives, one-third representatives from metropolitan counties and municipalities, and one-third representatives from private waste management firms. ~~From at least the date that the council adopts the inventory under subdivision 2b to the date that the council adopts a development schedule under subdivision 2e, for the purpose only of participating in the preparation of the legislative report required by subdivision 2c, the land disposal abatement plan required by subdivision 2d, and the development schedule required by subdivision 2e, additional members shall be included on the advisory committee sufficient to assure that at least one-third of the members of the committee are residents of cities or towns containing eligible solid waste disposal sites included in the council's disposal site inventory, and that counties containing three sites have at least two additional members and counties containing one or two sites have at least one additional member.~~ A representative from the pollution control agency, one from the office of waste management established under section 115A.04, and one from the Minnesota health department shall serve as ex officio members of the committee.

Sec. 65. [473.8011] [METROPOLITAN AGENCY RECYCLING GOAL.]

By December 31, 1993, the metropolitan council, each metropolitan agency as defined in section 473.121, and the metropolitan mosquito control district established in section 473.702 shall recycle at least 40 percent by weight of the solid waste generated by their offices or other operations. The council shall provide information and technical assistance to the agencies and the district to implement effective recycling programs.

By August 1 of each year, the council, each agency, and the district shall submit to the office of waste management a report for the previous fiscal year describing recycling rates, specified by the county in which the agency or operation is located, and progress toward meeting the recycling goal. The office shall incorporate the recycling rates reported in the respective county's recycling rates for the previous fiscal year.

If the goal is not met, the council, agency, or district must include in its 1994 report reasons for not meeting the goal and a plan for meeting it in the future.

Sec. 66. Minnesota Statutes 1990, section 473.803, subdivision 2, is

amended to read:

Subd. 2. [COUNCIL REVIEW.] The council shall review each master plan or revision thereof to determine whether it is consistent with the council's policy plan. If it is not consistent, the council shall disapprove and return the plan with its comments to the county for revision and resubmittal. The county shall have 90 days to revise and resubmit the plan for council approval. Any county solid waste plan or report approved by the council prior to April 9, 1976, shall remain in effect until a new master plan is submitted to and approved by the council in accordance with this section.

The council shall review the household hazardous waste management portion of each county's plan in cooperation with the agency.

Sec. 67. Minnesota Statutes 1990, section 473.803, subdivision 4, is amended to read:

Subd. 4. [ADVISORY COMMITTEE.] By July 1, 1984, each county shall establish a solid waste management advisory committee to aid in the preparation of the county master plan, any revisions thereof, and such additional matters as the county deems appropriate. The committee must consist of citizen representatives, representatives from towns and cities within the county, and representatives from private waste management firms. The committee must include residents of towns or cities within the county containing solid waste disposal facilities ~~and eligible solid waste disposal sites included in the council's disposal site inventory~~. Members of the council's solid waste advisory committee who reside in the county are ex officio members of the county advisory committee. A representative of the metropolitan council is an ex officio member of the committee.

Sec. 68. Minnesota Statutes 1990, section 473.811, subdivision 1, is amended to read:

Subdivision 1. [COUNTY ACQUISITION OF FACILITIES.] To accomplish the purpose specified in section 473.803, each metropolitan county may acquire by purchase, lease, gift or condemnation as provided by law, upon such terms and conditions as it shall determine, including contracts for deed and conditional sales contracts, solid waste facilities or properties or easements ~~or development rights, as defined in section 473.833,~~ for solid waste facilities which are in accordance with rules adopted by the agency, the policy plan adopted by the council and the county master plan as approved by the council, and may improve or construct improvements on any property or facility so acquired. No metropolitan city, county or town shall own or operate a hazardous waste facility, *except a facility to manage household hazardous waste*. Each metropolitan county is authorized to levy a tax in anticipation of need for expenditure for the acquisition and betterment of solid waste facilities. If a tax is levied in anticipation of need, the purpose must be specified in a resolution of the county directing that the levy and the proceeds of the tax may be used only for that purpose. Until so used, the proceeds shall be retained in a separate fund or invested in the same manner as surplus in a sinking fund may be invested under section 475.66. The right of condemnation shall be exercised in accordance with chapter 117.

For the purposes of this section "solid waste facility" includes a facility to manage household hazardous waste.

Sec. 69. Minnesota Statutes 1990, section 473.811, subdivision 1a, is

amended to read:

Subd. 1a. [RIGHT OF ACCESS.] Whenever the county ~~or county site selection authority~~ deems it necessary to the evaluation of a waste facility for enforcement purposes ~~or to the evaluation of a site or buffer area for inclusion in the inventory of disposal sites pursuant to section 473.149, subdivision 2b, and section 473.803, subdivision 1a, or for selection or final acquisition under section 473.833,~~ or for the accomplishment of any ~~other~~ purpose under sections 473.149, 473.153, and 473.801 to 473.834, the county, ~~county site selection authority~~ or any ~~member,~~ employee~~,~~ or agent thereof~~,~~ when authorized by it, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damage to the property caused by the entrance and activity.

Sec. 70. Minnesota Statutes 1990, section 473.811, subdivision 3, is amended to read:

Subd. 3. [COUNTY OPERATION OF FACILITIES.] Each metropolitan county may operate and maintain solid waste facilities, and for this purpose may employ all necessary personnel, may adopt regulations governing operation, and may establish and collect reasonable, nondiscriminatory rates and charges, *except as authorized under section 115A.919*, for the use of the facilities by any local government unit or person, estimated to be sufficient, with any other moneys appropriated for the purpose, to pay all costs of acquisition, operation and maintenance. Each metropolitan county may use itself or sell all or any part of materials or energy recovered from solid waste to private interests or public agencies for consumption or reuse by them. Section 471.345 and Laws 1951, chapter 556, as amended shall not apply to the sale of the materials or energy.

Sec. 71. Minnesota Statutes 1990, section 473.811, subdivision 4a, is amended to read:

Subd. 4a. [ORDINANCES; GENERAL CONDITIONS; RESTRICTIONS; APPLICATION.] Ordinances of counties and local government units related to or affecting waste management shall embody plans, policies, rules, standards and requirements adopted by any state agency authorized to manage or plan for or regulate the management of waste and the waste management plans adopted by the council and shall be consistent with county master plans approved by the council. Except as provided in this subdivision, ~~a metropolitan county may acquire a site and buffer area for a solid waste disposal facility anywhere within the county without complying with local ordinances, if the action is approved by the council as being taken pursuant to the policy plan and the development schedule adopted under section 473.149, subdivision 2e, and the provisions of section 473.833, and the~~ *a* county may establish and operate or contract for the establishment or operation of a *solid waste* disposal facility ~~at the site~~ without complying with local ordinances~~,~~ if the council certifies need under section 473.823, subdivision 6. With the approval of the council, local government units may impose and enforce reasonable conditions respecting the construction, operation, inspection, monitoring, and maintenance of the disposal facilities. No local government unit shall prevent the establishment or operation of any solid waste facility in accordance with the council's decision under section 473.823, subdivision 5, except that, with the approval of the council,

the local government unit may impose reasonable conditions respecting the construction, inspection, monitoring, and maintenance of a facility.

Sec. 72. Minnesota Statutes 1990, section 473.811, subdivision 5, is amended to read:

Subd. 5. [ORDINANCES; SOLID WASTE COLLECTION AND TRANSPORTATION.] Each metropolitan county may adopt ordinances governing the collection of solid waste. A county may adopt, but may not be required to adopt, an ordinance that requires the separation from mixed municipal waste, by generators before collection, of materials that can readily be separated for use or reuse as substitutes for raw materials or for transformation into a usable soil amendment. Each local unit of government within the metropolitan area shall adopt an ordinance governing the collection of solid waste within its boundaries. If the county within which it is located has adopted a collection ordinance, the local unit shall adopt either the county ordinance by reference or a more strict ordinance. If the county within which it is located has adopted a separation ordinance, the ordinance applies in all local units within the county that have failed to meet the local abatement performance standards, as stated in the most recent annual county report. Ordinances of counties and local government units may establish reasonable conditions respecting but shall not prevent the transportation of solid waste by a licensed collector through and between counties and local units, except as required for the enforcement of any designation of a facility by ~~the council pursuant to section 473.827~~ *a county under chapter 115A*. A licensed collector or a metropolitan county or local government unit may request review by the council of an ordinance adopted under this subdivision. The council shall approve or disapprove the ordinance within 60 days of the submission of a request for review. The ordinance shall remain in effect unless it is disapproved. Ordinances of counties and local units of government shall provide for the enforcement of any designation of facilities by the ~~council under section 473.827~~ *counties under chapter 115A*. Nothing in this subdivision shall be construed to limit the authority of the local government unit to regulate and license collectors of solid waste or to require review or approval by the council for ordinances regulating collection.

Sec. 73. Minnesota Statutes 1990, section 473.811, subdivision 6, is amended to read:

Subd. 6. [GRANTS AND LOANS TO COUNTIES.] Each metropolitan county may accept gifts, may apply for and accept grants or loans of money or other property from the United States, the state, the metropolitan council, any local government unit, or any person, to accomplish the purposes specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, ~~473.833,~~ and 473.834, may enter into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement relating thereto.

Sec. 74. Minnesota Statutes 1990, section 473.811, subdivision 7, is amended to read:

Subd. 7. [JOINT ACTION.] Any local governmental unit or metropolitan agency may act together with any county, city, or town within or without the metropolitan area, or with the pollution control agency or the office of waste management under the provisions of section 471.59 or any other

appropriate law providing for joint or cooperative action between government units, to accomplish any purpose specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, ~~473.833,~~ 473.834, 116.05 and 115A.06.

Any agreement regarding data processing services relating to the generation, management, identification, labeling, classification, storage, collection, treatment, transportation, processing or disposal of waste and entered into pursuant to section 471.59, or other law authorizing joint or cooperative action may provide that any party to the agreement may agree to defend, indemnify and hold harmless any other party to the agreement providing the services, including its employees, officers or volunteers, against any judgments, expenses, reasonable attorney's fees and amounts paid in settlement actually and reasonably incurred in connection with any third party claim or demand arising out of an alleged act or omission by a party to the agreement, its employees, officers or volunteers occurring in connection with any exchange, retention, storage or processing of data, information or records required by the agreement. Any liability incurred by a party to an agreement under this subdivision shall be subject to the limitations set forth in section 3.736 or 466.04.

Sec. 75. Minnesota Statutes 1990, section 473.811, subdivision 8, is amended to read:

Subd. 8. [COUNTY SALE OR LEASE.] Each metropolitan county may sell or lease any facilities or property or property rights previously used or acquired to accomplish the purposes specified by sections 473.149, 473.151, 473.801 to 473.823, 473.831, ~~473.833,~~ and 473.834. Such property may be sold in the manner provided by section 469.065, or may be sold in the manner and on the terms and conditions determined by the county board. Each metropolitan county may convey to or permit the use of any such property by a local government unit, with or without compensation, without submitting the matter to the voters of the county. No real property or property rights acquired pursuant to this section, may be disposed of in any manner unless and until the county shall have submitted to the agency and the metropolitan council for review and comment the terms on and the use for which the property will be disposed of. The agency and the council shall review and comment on the proposed disposition within 60 days after each has received the data relating thereto from the county.

Sec. 76. Minnesota Statutes 1990, section 473.811, subdivision 9, is amended to read:

Subd. 9. [SOLID AND HAZARDOUS WASTE FUND.] All money received by any metropolitan county from any source specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, ~~473.833,~~ and 473.834 shall be paid into the county treasury, placed in a special fund designated as the county solid and hazardous waste fund, and used only for the purposes authorized in those sections, as appropriated by the county board, subject to any lawful restrictions, conditions, or pledges applicable thereto.

Sec. 77. Minnesota Statutes 1990, section 473.823, subdivision 5, is amended to read:

Subd. 5. [REVIEW OF WASTE PROCESSING FACILITIES.] *(a)* A metropolitan county may establish a waste processing facility within the county without complying with local ordinances, if the action is approved by the council in accordance with the review process established by this

subdivision. A county requesting review by the council shall show that:

(1) the required permits for the proposed facility have been or will be issued by the agency~~, that~~;

(2) the facility is consistent with the council's policy plan and the approved county master plan; and ~~that~~

(3) a local government unit has refused to approve the establishment or operation of the facility, *has failed to deny or approve establishment or operation of the facility within the time period required in section 115A.31, or has approved the application or request with conditions that are unreasonable or impossible for the county to meet.*

(b) The council shall meet to commence the review within 90 days of the submission of a request determined by the council to satisfy the requirements for review under this subdivision. At the meeting commencing the review the chair shall recommend and the council establish a scope and procedure, *including criteria*, for its review and final decision on the proposed facility. The procedure shall require the council to make a final decision on the proposed facility within 120 days following the commencement of review. *For facilities other than waste incineration and mixed municipal solid waste composting facilities, the council shall meet to commence the review within 45 days of submission of the request and shall make a final decision within 75 days following commencement of review.*

(c) The council shall conduct at least one public hearing in the city or town within which the proposed facility would be located. Notice of the hearing shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing. The notice shall describe the proposed facility, its location, the proposed permits, and the council's scope ~~and~~, procedure, *and criteria* for review. The notice shall identify a location or locations within the local government unit and county where the permit applications and the council's scope ~~and~~, procedure, *and criteria* for review are available for review and where copies may be obtained.

(d) In its review and final decision on the proposed facility, the council shall consider at least the following matters:

~~(a)~~ *(1)* the risk and effect of the proposed facility on local residents, units of government, and the local public health, safety, and welfare, and the degree to which the risk or effect may be alleviated;

~~(b)~~ *(2)* the consistency of the proposed facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

~~(c)~~ *(3)* the adverse effects of the facility on agriculture and natural resources and opportunities to mitigate or eliminate such adverse effects by additional stipulations, conditions, and requirements respecting the design and operation of the proposed facility at the proposed site;

~~(d)~~ *(4)* the need for the proposed facility and the availability of alternative sites;

~~(e)~~ *(5)* the consistency of the proposed facility with the county master plan adopted pursuant to section 473.803 and the council's policy plan adopted pursuant to section 473.149; *and*

~~(f)~~ *(6)* transportation facilities and distance to points of waste generation.

(e) In its final decision in the review, the council may either approve or disapprove the proposed facility at the proposed site. The council's approval shall embody all terms, conditions, and requirements of the permitting state agencies, provided that the council may require more stringent permit terms, conditions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site.

Sec. 78. Minnesota Statutes 1990, section 473.823, subdivision 6, is amended to read:

Subd. 6. [COUNCIL; CERTIFICATION OF NEED.] No new mixed municipal solid waste disposal facility or capacity shall be permitted in the metropolitan area without a certificate of need issued by the council indicating the council's determination that the additional disposal capacity planned for the facility is needed in the metropolitan area. The council shall amend its policy plan, adopted pursuant to section 473.149, to include standards and procedures for certifying need that conform to the certification standards stated in this subdivision. The standards and procedures shall be based on the council's disposal abatement plan adopted pursuant to section 473.149, subdivision 2d, the council's solid waste disposal facilities development schedule adopted under section 473.149, subdivision 2e, and the provisions of any master plans of counties that have been approved by the council under section 473.803, subdivision 2, and that are consistent with the council's abatement plan and development schedule. The council shall certify need only to the extent that there are no feasible and prudent alternatives to the disposal facility, including waste reduction, source separation and resource recovery which would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the certification of need or the rejection of alternatives. ~~In its certification the council shall not consider alternatives which have been eliminated from consideration by the adoption of the inventory pursuant to section 473.149, subdivision 2b, or the selection of sites under section 473.833, subdivision 3.~~

Sec. 79. Minnesota Statutes 1990, section 473.845, subdivision 3, is amended to read:

Subd. 3. [EXPENDITURES FROM THE FUND.] Money in the fund may only be appropriated to the agency for expenditure for:

(1) reasonable and necessary expenses for closure and postclosure care of a mixed municipal solid waste disposal facility in the metropolitan area for a 20-year period after closure, if the agency determines that the operator or owner will not take the necessary actions requested by the agency for closure and postclosure in the manner and within the time requested; *and*

(2) reasonable and necessary response and postclosure costs at a mixed municipal solid waste disposal facility in the metropolitan area that has been closed for 20 years in compliance with the closure and postclosure rules of the agency; ~~or~~

~~(3) reasonable and necessary response costs resulting from county actions required under section 473.833, subdivision 2a, when those actions are done under the supervision of the agency~~.

Sec. 80. Minnesota Statutes 1990, section 473.845, subdivision 4, is

amended to read:

Subd. 4. [EXPENDITURE NOTIFICATION ~~AND COMMISSION RECOMMENDATION~~.] ~~(a)~~ The commissioner shall notify the chair and the director of the legislative commission on waste management before making expenditures from the fund.

~~(b) The legislative commission on waste management shall make recommendations to the standing legislative committees on finance and appropriations about appropriations from the fund.~~

Sec. 81. Minnesota Statutes 1990, section 473.848, subdivision 2, is amended to read:

Subd. 2. [COUNTY CERTIFICATION; COUNCIL APPROVAL.] (a) Each county ~~that has not implemented designation of all or a portion of its mixed municipal solid waste to a resource recovery facility~~ shall submit a semiannual certification report to the council detailing:

(1) the quantity of waste generated in the county that was not processed prior to transfer to a disposal facility during the six months preceding the report;

(2) the reasons the waste was not processed;

(3) a strategy for development of techniques to ensure processing of waste including a specific timeline for implementation of those techniques; and

(4) any progress made by the county in reducing the amount of unprocessed waste.

(b) The council shall approve a county's report if it determines that the county is reducing and will continue to reduce the amount of unprocessed waste, based on the report and the county's progress in development and implementation of techniques to reduce the amount of unprocessed waste transferred to disposal facilities. If the council does not approve a county's report, it shall negotiate with the county to develop and implement specific techniques to reduce unprocessed waste. If the council does not approve three or more consecutive reports from any one county, the council shall develop specific reduction techniques that are designed for the particular needs of the county. The county shall implement those techniques by specific dates to be determined by the council.

Sec. 82. Minnesota Statutes 1990, section 473.848, is amended by adding a subdivision to read:

Subd. 5. [DEFINITION.] *For the purpose of this section, waste is "unprocessed" if it has not, after collection and before disposal, undergone at least one process, as defined in section 115A.03, subdivision 25, excluding storage, exchange, and transfer of the waste.*

Sec. 83. [473.849] [PROHIBITION; SOLID WASTE DISPOSAL.]

No person may place processed or unprocessed mixed municipal solid waste that is generated in the metropolitan area in a disposal facility that does not comply with the minimum requirements for design, construction, and operation of a new mixed municipal solid waste disposal facility under Minnesota Rules in effect on January 1, 1991. Each metropolitan county shall, and each county in which is located a disposal facility may, enforce this prohibition and may impose penalties and recover attorney fees and court costs to the same extent as for enforcement of a designation ordinance

under section 115A.86, subdivision 6. The commissioner of the pollution control agency may enforce this section under section 115.071 or 116.072.

Sec. 84. [METROPOLITAN DISPOSAL SITES; MORATORIUM; REPLACEMENT SITING PROCESS; DISPOSAL PROHIBITION ENFORCEMENT PLAN; STATEWIDE FACILITY SITING PROCEDURES.]

Subdivision 1. [MORATORIUM.] *The metropolitan council and each of the metropolitan counties shall discontinue all activities under Minnesota Statutes, sections 473.149, subdivision 2b; 473.803, subdivision 1a; 473.806; 473.831; 473.833; and 473.840 related to the siting of mixed municipal solid waste disposal facilities, except activities governed by sections 85 to 87.*

Subd. 2. [REPLACEMENT SITING PROCESS.] *The seven metropolitan counties, in consultation with the metropolitan council and the office of waste management, shall develop a specific process for siting and developing a disposal facility within the metropolitan area to accommodate all of the ash produced or projected to be produced by facilities in operation or planned to be in operation by August 1, 1996 that process or will process mixed municipal solid waste generated in the metropolitan area, and for siting and developing a mixed municipal solid waste disposal facility within the metropolitan area unless each county and the council agrees that a mixed municipal solid waste facility will not be needed within the next 15 years to adequately manage metropolitan waste. The counties shall design the siting process to avoid siting facilities where those facilities could have relatively strong negative impacts on aquifers. The counties shall report the proposed process to the legislative commission on waste management by December 1, 1991, including any necessary recommendations for legislation to implement the process. The report shall also include descriptions of how the counties will share the costs and liabilities of new and existing waste facilities and how the counties intend to share the waste stream to ensure that each portion of the waste is most appropriately managed. The report must also include a detailed description of how each county plans to enforce the disposal prohibition in section 83, with copies of any enforcement ordinances adopted.*

Subd. 3. [STATEWIDE WASTE FACILITY SITING PROCEDURES.] *The legislative commission on waste management shall study statewide solid waste management facility siting procedures and shall recommend legislation by January 1, 1992, to ensure that environmental and public review of potential sites and technologies occur early enough in the process to adequately address environmental and social concerns related to siting and operation of the facilities.*

Subd. 4. [COMMISSION RECOMMENDATION.] *After hearing the report and plans required under subdivision 2, the legislative commission on waste management shall make a formal recommendation to either allow the repeal of the existing metropolitan landfill siting process to take effect as scheduled or to reinstate that process. The commission shall recommend allowing the repeal to take effect if it finds that:*

(1) the metropolitan counties have designed a workable replacement process that includes adequate sharing of costs, liabilities, and waste streams;

(2) each county has an adequate plan and has adopted adequate ordinances to enforce the disposal prohibition in section 83; and

(3) each county has implemented a household hazardous waste collection program required under Minnesota Statutes, section 473.804, notwithstanding the effective date in that section.

The commission shall also work with the metropolitan counties, the metropolitan council, and the office of waste management to recommend legislation to implement a replacement process for siting and developing facilities in the metropolitan area for the disposal of mixed municipal solid waste and ash produced by that waste. The recommended replacement siting process must be designed to avoid, to the greatest extent possible, siting facilities in locations where the facilities could have relatively strong negative impacts on aquifers.

Sec. 85. [TEMPORARY DEVELOPMENT RIGHTS.]

If temporary development rights have been purchased by a county under Minnesota Statutes, section 473.806, subdivision 2, the landowner may elect to repurchase the development rights from the county for a price equal to the compensation paid by the county prorated over the remaining period of the development rights.

Sec. 86. [CONTINUED LEVY AUTHORITY OF METROPOLITAN COUNCIL.]

The metropolitan council may continue to levy ad valorem taxes for debt service of the council's solid waste bonds issued before the effective date of section 90, paragraph (b), in accordance with Minnesota Statutes 1990, section 473.831, subdivision 1.

Sec. 87. [USE OF BOND PROCEEDS.]

Until December 1, 1992, with the approval of the metropolitan council, counties engaged in environmental analysis of solid waste disposal sites as of January 1, 1989, under Minnesota Statutes, section 473.833, subdivision 2a, may use proceeds of the council's solid waste bonds issued before the effective date of section 90, paragraph (b), for sealing of monitoring wells and other measures to restore the candidate sites for productive use.

Sec. 88. [ADDITION TO REPORT.]

The director of the office of waste management shall include in the 1992 solid waste management policy report required under Minnesota Statutes, section 115A.411, an analysis of progress made toward the implementation of nationwide labeling of products and packaging to address environmental concerns. Unless implementation of a nationwide uniform labeling system is imminent at that time, the director shall recommend a statewide product and packaging environmental labeling system that is as consistent as possible with proposed or existing labeling programs in other states.

Sec. 89. [AIR QUALITY ADVISORY TASK FORCE.]

Subdivision 1. [CREATION.] *(a) The air quality advisory task force consists of 24 members. The speaker of the house of representatives and the majority leader of the senate shall each appoint four members from their respective bodies. The commissioner of the pollution control agency shall serve as the chair of the task force. The governor shall appoint the 15 other members as follows:*

(1) a representative of a major industrial facility holding an air emission permit issued by the pollution control agency;

(2) a representative of a mining facility holding an air emission permit issued by the pollution control agency;

(3) a representative of a petroleum refining facility holding an air emission permit issued by the pollution control agency;

(4) a representative of a manufacturing facility holding an air emission permit issued by the pollution control agency;

(5) a representative of a fossil fuel combustion facility holding an air emission permit issued by the pollution control agency;

(6) a representative of forest products manufacturing facilities holding air emissions permits issued by the pollution control agency;

(7) three representatives of environmental and natural resource groups;

(8) three members of the public;

(9) the commissioner of the department of health or the commissioner's designee;

(10) the commissioner of the department of transportation or the commissioner's designee; and

(11) the commissioner of the department of natural resources or the commissioner's designee.

(b) The task force terminates on January 1, 1993.

Subd. 2. [DUTIES.] *(a) The task force shall conduct a comprehensive review of the state's air quality. In conducting the review the task force shall:*

(1) identify the air pollution issues of importance to the state; the past, present, and projected changes in pollution levels by source category; and the results of existing pollution prevention and control programs; and

(2) examine all federal and state laws and regulations related to the identified air quality issues, including the state's strategies to implement the federal Clean Air Act, the Minnesota acid deposition control act, the Minnesota toxic pollution prevention act, and other relevant laws and regulations, and resources required to implement these programs.

(b) The task force shall report to the legislature on the results of the review required in paragraph (a) and shall include recommendations on how best to address the identified air quality issues, including ways to improve implementation of existing programs. The recommendations must be based on sound scientific principles and cost-effective approaches to pollution prevention and reduction.

(c) The task force shall submit an interim report to the legislature by January 31, 1992, and a final report by January 1, 1993. The commissioner shall ensure that staff resources devoted to the task force do not impair the permitting, enforcement, or rulemaking activities of the air quality division of the agency.

Sec. 90. [REPEALER.]

(a) Minnesota Statutes 1990, sections 16B.125; 115A.953; 325E.045; and 473.844, subdivision 3, are repealed. Laws 1989, chapter 325, section 71, subdivision 2, is repealed.

(b) Minnesota Statutes 1990, sections 473.149, subdivision 2b; 473.803,

subdivision 1a; 473.806; 473.831; 473.833; and 473.840, are repealed.

Sec. 91. [EFFECTIVE DATES.]

Sections 2, 8, 10, 15, 19, 25, 31, 33, 34, 36, 46, 49, 56, 57, 60, 61, 62, 66, 84, and 86 are effective the day following final enactment.

Section 13 is effective the day following final enactment and applies to applications or requests received by a local government unit on or after the effective date of that section.

Sections 37, subdivision 1, and 38 are effective October 1, 1991.

Section 47 is effective July 1, 1992.

Section 52 is effective June 30, 1991.

Section 53 is effective June 2, 1989, and applies to all response actions initiated or pending on or after that date.

Sections 63, 64, 67, 69, 71, 73 to 76, 78, 79, 85, 87, and 90, paragraph (b), are effective August 1, 1992.

Section 83 is effective January 1, 1992 for disposal facilities located outside the metropolitan area, as defined in section 473.121, and January 1, 1995 for all disposal facilities regardless of location.

Section 79 does not affect appropriations for response costs resulting from county actions taken before the effective date of this act."

Delete the title and insert:

"A bill for an act relating to waste management; making changes to state and local government responsibility and authority for waste management; placing emphasis on waste reduction and recycling; establishing specifications for recycled CFCs; adjusting waste facility siting processes; abolishing the inventory process for solid waste disposal facilities in the metropolitan area; providing for an air quality review; amending Minnesota Statutes 1990, sections 3.195, subdivision 1; 3.887, subdivision 5; 16B.122; 16B.61, subdivision 3a; 115A.02; 115A.03, subdivisions 17a and 21; 115A.06, subdivision 2; 115A.14, subdivision 4; 115A.15, subdivisions 7 and 9; 115A.151; 115A.411, subdivision 1; 115A.46, subdivision 1, and by adding a subdivision; 115A.49; 115A.53; 115A.551, subdivisions 1, 4, and by adding a subdivision; 115A.552, subdivisions 1, 2, and by adding a subdivision; 115A.554; 115A.557, subdivision 4; 115A.64, subdivision 2; 115A.67; 115A.83; 115A.84, subdivision 2, and by adding a subdivision; 115A.86, subdivision 5, and by adding a subdivision; 115A.882; 115A.9162, subdivision 2; 115A.919; 115A.921; 115A.923, subdivisions 1 and 1a; 115A.93, subdivision 3, and by adding a subdivision; 115A.931; 115A.94, subdivision 4; 115A.9561; 115A.96, subdivision 6; 115A.97, subdivision 4; 115B.04, subdivision 4; 115B.22, subdivision 8; 116.07, subdivision 4j; 325E.042, subdivision 2; 325E.115, subdivision 1; 325E.1151, subdivision 3; 400.08, subdivision 1; 458D.07, subdivision 5, and by adding a subdivision; 473.149, subdivisions 2e and 4; 473.803, subdivisions 2 and 4; 473.811, subdivisions 1, 1a, 3, 4a, 5, 6, 7, 8, and 9; 473.823, subdivisions 5 and 6; 473.845, subdivisions 3 and 4; 473.848, subdivision 2, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 115A; 116; and 473; repealing Minnesota Statutes 1990, sections 16B.125; 115A.953; 325E.045; 473.149, subdivision 2b; 473.803, subdivision 1a; 473.806; 473.831; 473.833; 473.840; 473.844, subdivision 3; and Laws 1989, chapter 325, section 72, subdivision

2."

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

House Conferees: (Signed) Jean Wagenius, Tom Rukavina, Dennis Ozment, Mary Jo McGuire, Alice Hausman

Senate Conferees: (Signed) Gene Merriam, John Marty, Gen Olson, Gregory L. Dahl, Ted A. Mondale

Mr. Merriam moved that the foregoing recommendations and Conference Committee Report on H.F. No. 303 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.

Pursuant to Rule 22, Mr. Laidig moved that he be excused from voting on H.F. No. 303. The motion prevailed.

H.F. No. 303 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:

Adkins	Davis	Johnson, J.B.	Metzen	Renneke
Beckman	Day	Johnston	Moe, R.D.	Riveness
Belanger	DeCramer	Kelly	Mondale	Sams
Benson, D.D.	Dicklich	Knaak	Morse	Samuelson
Benson, J.E.	Finn	Kroening	Neuville	Spear
Berg	Flynn	Langseth	Novak	Storm
Berglin	Frank	Larson	Olson	Stumpf
Bernhagen	Frederickson, D.J.	Lessard	Pappas	Traub
Bertram	Frederickson, D.R.	Luther	Pariseau	Vickerman
Brataas	Halberg	Marty	Pogemiller	
Chmielewski	Hottinger	McGowan	Price	
Cohen	Hughes	Mehrkens	Ranum	
Dahl	Johnson, D.E.	Merriam	Reichgott	

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. 578 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 578: A bill for an act relating to Dakota county; permitting cities and towns to transfer assessment review duties to the county; proposing coding for new law in Minnesota Statutes, chapter 383D.

Mr. Metzen moved to amend H.F. No. 578, the unofficial engrossment, as follows:

Page 1, after line 6, insert:

"Section 1. [383D.09] [AUDITOR; TREASURER; RECORDER.]

Subdivision 1. The Dakota county board of commissioners may, by resolution, merge the offices of county treasurer and county auditor. The board may provide, by resolution, that the office of county recorder shall not be elective but shall be filled by appointment by the county board as provided in this section. These offices will be referred to as treasurer/auditor and property records.

Subd. 2. As provided by a resolution by the Dakota county board of commissioners and subject to subdivisions 3 and 4, the duties of the elected county treasurer and county auditor required by statute shall be combined and performed by one elected official to be referred to as the county treasurer/auditor. The treasurer/auditor shall perform all duties required by statute to be performed by either a county treasurer or auditor and shall be elected in the manner as provided by statute for those officials. A vacancy in the office of treasurer/auditor shall be filled in accordance with section 375.08.

Upon adoption of a resolution by the Dakota county board of commissioners and subject to subdivisions 3 and 4, the duties of the elected county recorder whose office is made appointive under this section shall be discharged by the board of commissioners acting through a department head appointed by the board for that purpose. The appointed department head shall serve at the pleasure of the board. The board may reorganize, consolidate, reallocate, or delegate the duties to promote efficiency in county government. A reorganization, reallocation, or delegation or other administrative change or transfer shall not impair the discharge of duties required by statute to otherwise be performed by a county recorder.

Subd. 3. The persons elected to be county treasurer, county auditor, and county recorder at the last county general election preceding action under this section shall serve in those capacities and perform their duties, functions, and responsibilities until the completion of the term of office to which each was elected, or until a vacancy occurs in the office, whichever occurs earlier.

Subd. 4. The county board, before action as permitted by subdivision 2 and before any appointment permitted by subdivision 1 or 2, but after adopting a resolution permitted by subdivision 1 or 2, shall publish the resolution once each week for two consecutive weeks in the official publication of the county. The resolution may be implemented without the submission of the question to the voters of the county, unless within 21 days after the second publication of the resolution a petition requesting a referendum, signed by at least 15 percent of the voters in the county voting in the last general election, is filed with the county auditor. If a petition is filed, the resolution may be implemented unless disapproved by a majority of the voters of the county, voting on the question at a regular or special election."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "permitting the combination of the offices of treasurer and auditor; permitting appointment of the county recorder; authorizing the reorganization of county offices;"

The motion prevailed. So the amendment was adopted.

H.F. No. 578 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 56 and nays 3, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.J.	Metzen	Ranum
Beckman	Day	Johnson, J.B.	Moe, R.D.	Reichgott
Belanger	Dicklich	Johnston	Mondale	Sams
Benson, D.D.	Finn	Kelly	Morse	Samuelson
Benson, J.E.	Flynn	Knaak	Neuville	Spear
Berg	Frank	Kroening	Novak	Storm
Berglin	Frederickson, D.J.	Laidig	Olson	Traub
Bernhagen	Frederickson, D.R.	Langseth	Pappas	Vickerman
Bertram	Halberg	Lessard	Pariseau	
Chmielewski	Hottinger	Marty	Piper	
Cohen	Hughes	McGowan	Pogemiller	
Dahl	Johnson, D.E.	Mehrkens	Price	

Messrs. DeCramer, Larson and Renneke voted in the negative.

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

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 1652 and 635.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

FIRST READING OF HOUSE BILLS

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

H.F. No. 1652: A resolution memorializing the Postmaster General to issue a postal stamp in commemoration of Wanda Gag, American Author and Illustrator.

Referred to the Committee on Veterans and General Legislation.

H.F. No. 635: A bill for an act relating to elections; authorizing a mail levy referendum; authorizing certain experimental procedures; setting certain redistricting goals and deadlines; authorizing certain actions by voters; limiting certain special elections; setting times and procedures for certain boundary changes; imposing duties on the secretary of state; changing requirements for polling places; appropriating money; amending Minnesota Statutes 1990, sections 10A.01, subdivisions 10 and 10c; 10A.02, subdivisions 5, 8, 9, 10, 12, and 13; 10A.065, subdivisions 1 and 5; 10A.20, subdivisions 3 and 5; 10A.25, subdivisions 5, 7, and 10; 10A.255, subdivision 3; 10A.27, subdivision 1; 10A.30, subdivision 2; 10A.31, subdivisions 3 and 10; 10A.324, subdivision 3; 10A.43, subdivisions 1, 3, and 4; 10A.44, subdivisions 1, 4, and 6; 201.091, subdivision 4; 202A.14, subdivision 1; 204B.135; 204B.14, subdivisions 3, 4, and 6, and by adding

a subdivision; 204B.16, subdivisions 1 and 2; 205.84, subdivision 2; 205A.12, subdivision 6; and 375.025, subdivisions 2 and 4; proposing coding for new law in Minnesota Statutes, chapter 204B.

Mr. Moe, R.D. moved that H.F. No. 635 be laid on the table. The motion prevailed.

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 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. 1300: A bill for an act relating to agriculture; allowing exemption of certain garbage from requirements for feeding to livestock or poultry; amending Minnesota Statutes 1990, section 35.73, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 35.

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

Girard, Steensma and Omann.

Senate File No. 1300 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

S.F. No. 506: A bill for an act relating to lawful gambling; lotteries; providing for teleracing and its operation and regulation; expanding requirements relating to compulsive gambling; exempting lawful gambling profits from the tax on unrelated business income; regulating manufacturers and distributors of gambling devices; changing certain requirements relating to record keeping, reports, audits, and expenditures of gambling profits by licensed gambling organizations; modifying certain licensing, training, and operating requirements for licensed gambling organizations; changing requirements relating to posting of pull-tab winners; authorizing the director of the lottery to enter into joint lotteries outside the United States; expanding certain provisions relating to lottery retailers; designating certain data on lottery prize winners as private; changing requirements relating to lottery advertising; clarifying the prohibitions on video games of chance and lotteries; authorizing dissemination of information about lotteries conducted by adjoining states; imposing surcharges on lawful gambling premises permit fees; establishing a task force on compulsive gambling assessments; appropriating money; amending Minnesota Statutes 1990, sections 240.01,

subdivisions 1, 10, and by adding subdivisions; 240.02, subdivision 3; 240.03; 240.05, subdivision 1; 240.06, subdivision 1; 240.09, subdivision 2; 240.10; 240.11; 240.13, subdivisions 1, 2, 3, 4, 5, 6, and 8; 240.15, subdivision 6; 240.16, subdivision 1a; 240.18; 240.19; 240.23; 240.24, subdivision 2; 240.25; 240.27; 240.28, subdivision 1; 240.29; 245.98, by adding a subdivision; 290.05, subdivision 3; 290.92, subdivision 27; 299L.01, subdivision 1; 349.12, subdivision 25, and by adding subdivisions; 349.15; 349.151, subdivision 4; 349.154, subdivision 2; 349.16, subdivision 3; 349.165, subdivisions 1 and 3; 349.167, subdivisions 1, 2, and 4; 349.17, subdivision 5; 349.172; 349.18, subdivision 1; 349.19, subdivisions 2, 5, 9, and by adding subdivisions; 349A.02, subdivision 3; 349A.06, subdivisions 3, 5, and 11; 349A.08, by adding a subdivision; 349A.09, subdivision 2; 349A.10, subdivision 3; 609.115, by adding a subdivision; 609.75, subdivisions 1, 4, and by adding a subdivision; 609.755; 609.76, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 240; and 299L; repealing Minnesota Statutes 1990, sections 240.01, subdivision 13; 240.13, subdivision 6a; 240.14; subdivision 1a; 349.154, subdivision 3; 349A.02, subdivision 5; and 349A.03, subdivision 3.

Senate File No. 506 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

House File No. 606 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 606

A bill for an act relating to transportation; authorizing state departments to cancel uncollectible debts up to $200 in certain cases; allowing department of transportation to employ debt collection services; allowing department of transportation to make direct expenditures from state aid funds for administrative expenses; providing penalty for failure to pay fee for sign permit more than 30 days after fee is due; providing when estimates of certain construction projects are nonpublic data; directing the commissioner of transportation to adopt rules governing the location and breakaway standards for mailbox installations; allowing white strobe lamps to be used on highway maintenance vehicles; authorizing exchange of lands with Grand Portage Band of Chippewa Indians; abolishing conflicting requirements related to market artery highways; adding a route and changing the description of a route in the state highway system; providing a penalty; amending Minnesota Statutes 1990, sections 10.12; 13.72, subdivision 1; 161.20, subdivision

4; 162.06, subdivision 2; 162.12, subdivision 2; 169.64, by adding a subdivision; and 173.13, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 1990, section 169.833.

May 20, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 606, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and H.F. No. 606 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 10.12, is amended to read:

10.12 [UNCOLLECTIBLE DRAFTS CANCELED.]

Subdivision 1. [OVER ~~$100~~ *$200*.] When any draft or account for a sum in excess of ~~$100~~ *$200* due to the state is found to be uncollectible by any department, it shall report such fact to the executive council, and the executive council may cancel such draft or account upon the approval of the attorney general.

Subd. 2. [TO ~~$100~~ *$200*.] When any draft or account for a sum of not more than ~~$100~~ *$200* due to the state is found to be uncollectible by an agency, the agency head may cancel the draft or account upon the approval of the attorney general. When drafts or accounts are canceled under this subdivision the head of the canceling agency shall send a certified list of them to the commissioner of finance, who shall enter the cancellations on the department of finance's records.

Subd. 3. [TO $100.] *When any draft or account for a sum of not more than $100 due to the state is found to be uncollectible by an agency, the agency head or authorized representative may cancel the draft or account. When drafts or accounts are canceled under this subdivision the agency head shall send a certified list of them to the commissioner of finance, who shall enter the cancellations on the department of finance's records.*

Sec. 2. Minnesota Statutes 1990, section 13.72, subdivision 1, is amended to read:

Subdivision 1. [ESTIMATES FOR CONSTRUCTION PROJECTS.] ~~Estimates~~ *An estimate* of the cost of *a* construction ~~projects~~ *project* of the Minnesota department of transportation prepared by department employees ~~are~~ *is* nonpublic data and ~~are~~ *is* not available to the public from the time of final design until the ~~bids are opened for the~~ project *is awarded.*

Sec. 3. Minnesota Statutes 1990, section 161.20, subdivision 4, is amended to read:

Subd. 4. [DEBT COLLECTION.] The commissioner shall make reasonable and businesslike efforts to collect money owed for licenses, fines, penalties, and permit fees or arising from damages to state-owned property or other causes related to the activities of the department of transportation.

~~When a debt has been reduced to a money judgment,~~ The commissioner may contract for debt collection services for the purpose of collecting ~~the~~ *a money* judgment *or legal indebtedness*. The commissioner may enter into an agreement with the commissioner of public safety to use debt collection services authorized by this subdivision when civil penalties relating to the use of highways have been reduced to money judgment. Money received as full or partial payment shall be deposited to the appropriate fund. When money is collected through contracted services, the commissioner may make payment for the service from the money collected. The amount necessary for payment of contractual collection costs is appropriated from the fund in which money so collected is deposited.

Sec. 4. Minnesota Statutes 1990, section 162.06, subdivision 2, is amended to read:

Subd. 2. [~~REIMBURSEMENT OF~~ ADMINISTRATIVE COSTS OF STATE DEPARTMENT OF TRANSPORTATION.] From the total of such sums the commissioner shall deduct a sum equal to 1-1/2 percent of the total sum. The sum so deducted shall be set aside in a separate account and shall be used ~~to reimburse the trunk highway fund~~ for administrative costs incurred by the state transportation department in carrying out the provisions relating to the county state-aid highway system. On the 31st day of December of each year any money remaining in the account not needed ~~to reimburse the trunk highway fund as heretofore provided~~ *for administrative costs* shall be transferred to the county state-aid highway fund.

Sec. 5. Minnesota Statutes 1990, section 162.12, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATIVE COSTS OF STATE TRANSPORTATION DEPARTMENT.] From the total of such sums the commissioner, each year, shall deduct a sum of money equal to one and one-half percent of the total sums. The sum so deducted shall be set aside in a separate account and shall be used ~~to reimburse the trunk highway fund~~ for administration costs incurred by the state transportation department in carrying out the provisions relating to the municipal state-aid street system. On the 31st day of December of each year, any money remaining in the account not needed ~~to reimburse the trunk highway fund as heretofore provided~~ *for administrative costs* shall be transferred to the municipal state-aid street fund.

Sec. 6. [169.072] [UNAUTHORIZED MAILBOX INSTALLATIONS.]

Subdivision 1. [PUBLIC HAZARD.] *A mailbox installation or support on a public highway that does not meet the breakaway and location standards contained in rules adopted under subdivision 2 is declared to be a public nuisance, a road hazard, and a danger to the health and safety of the traveling public.*

Subd. 2. [STANDARDS; RULEMAKING.] *The commissioner shall by January 1, 1993, adopt rules that provide for standards and permissible locations of mailbox installations and supports on a street or highway. The commissioner shall base the rules substantially on federal highway administration regulations or recommendations, or other national standards or recommendations regarding the location and construction of safe, breakaway mailbox installations or supports. In adopting the rules, the commissioner shall consider the safety of the traveling public relative to the convenience and expense of owners of nonconforming mailbox installations or supports. The commissioner may provide for alternative standards to allow variances*

from the rules.

Subd. 3. [REMOVAL, NOTICE.] *(a) After adoption of the rules authorized under subdivision 2, the commissioner or a road authority as defined in section 160.02, subdivision 9, may remove and replace a mailbox installation or support that is (1) located on a street or highway under the jurisdiction of the commissioner or road authority, and (2) does not conform to the rules adopted under subdivision 2. The commissioner or road authority may remove and replace a nonconforming mailbox installation or support not less than 60 days after giving notice, by personal notice or certified mail to the owner or the resident at the address served by the mailbox, of its intent to remove and replace the installation or support. The commissioner or road authority may charge the owner or resident not more than $75 for the cost of the removal and replacement.*

(b) The notice must at a minimum:

(1) inform the owner of the nonconforming installation or support;

(2) inform the owner or resident of the applicable law and rules, including the rules that contain the standards for mailbox installations and supports on public streets and highways;

(3) inform the owner or resident that the owner or resident must remove the installation or support or bring it into compliance with the rules within 60 days of the date of the notice;

(4) inform the owner or resident of the applicable laws and rules and the standards for mailbox installations and supports on public streets and highways, and provide plans or diagrams of examples of conforming installations or supports;

(5) inform the owner or resident that if the nonconforming installation or support is not removed or replaced within 60 days of the date of the notice, the commissioner or road authority may remove and replace the installation or support at a cost of up to $75 to the owner or resident; and

(6) inform the owner or resident that where the replacement is made in conjunction with certain federally aided highway construction projects the replacement may be made at partial or no cost to the owner or resident.

Sec. 7. Minnesota Statutes 1990, section 169.64, is amended by adding a subdivision to read:

Subd. 6a. [WHITE STROBE LAMPS.] *Notwithstanding sections 169.55, subdivision 1, 169.57, subdivision 3, clause (b), or any other law to the contrary, a vehicle may be equipped with a 360-degree flashing strobe lamp that emits a white light with a flash rate of 60 to 120 flashes a minute, and the lamp may be used as provided in this subdivision, if the vehicle is:*

(1) a school bus that is subject to and complies with the color and equipment requirements of section 169.44, subdivision 1a. The lamp shall be permanently mounted on the longitudinal center line of the bus roof not less than five feet nor more than seven feet forward of the rear roof edge. It shall operate from a separate switch containing an indicator lamp to show when the strobe lamp is in use. The strobe lamp may be lighted only when atmospheric conditions or terrain restrict the visibility of school bus lamps and signals so as to require use of the bright strobe lamp to alert motorists to the presence of the school bus. A strobe lamp may not be lighted unless the school bus is actually being used as a school bus; or

(2) a road maintenance vehicle owned or under contract to the department of transportation or a road authority of a county, home rule or statutory city, or town, but the strobe lamp may only be operated while the vehicle is actually engaged in snow removal during daylight hours.

The strobe lamp shall be of a double flash type certified to the commissioner of public safety by the manufacturer as being weatherproof and having a minimum effective light output of 200 candelas as measured by the Blondel-Rey formula.

Sec. 8. Minnesota Statutes 1990, section 173.13, subdivision 7, is amended to read:

Subd. 7. A penalty equal to one-half the annual fee shall be charged upon failure to pay the annual permit fee for renewal on or before ~~August~~ *July* 1 of each year.

Sec. 9. [LAND EXCHANGE WITH CHIPPEWA INDIANS.]

Subdivision 1. [AUTHORITY; CONSIDERATION.] *Notwithstanding contrary provisions of Minnesota Statutes, sections 94.341 to 94.349, 161.20, 161.23, and 161.44, or other law, and subject to approval of the land exchange board, the commissioner of the department of transportation shall convey a part of State Pit 174, as described in subdivision 3, to the United States of America, on behalf of and as trustee for the Grand Portage Band of Chippewa Indians and with the concurrence of the Grand Portage Reservation Business Committee, for a consideration of lands and interests in real property described in subdivision 4. Upon executing the necessary deeds, grants, resolutions, or other forms required by Minnesota Statutes, sections 161.20, subdivision 2, and 161.44, subdivision 1, and Code of Federal Regulations, title 25, parts 151, 152, and 169, the parties shall exchange lands and interests in lands, described in subdivisions 3 and 4, without additional monetary consideration and in recognition of the substantially equal values of the parcels being exchanged.*

Subd. 2. [FORM.] *The conveyance authorized by this section must be in a form approved by the attorney general, after the attorney general has determined, in the manner provided for in Minnesota Statutes, section 94.343, subdivision 9, that the title to the land proposed to be conveyed to the state is good and marketable.*

Subd. 3. [LAND TO BE CONVEYED.] *In exchange and for consideration of lands and interests in real property described in subdivision 4, the commissioner of transportation shall convey that part of tract A of State Pit 174, S.P. 1604 (61 = 1-47-3), in Cook county, described as follows:*

That part of Tract A described below:

Tract A. Government Lot 8 of Section 6, Township 62 North, Range 5 East, Cook County, Minnesota;

which lies southerly of a line run parallel with and distant 200 feet southeasterly of Line 1 described below:

Line 1. Beginning at a point on the east line of said Section 6, distant 150.9 feet north of the east quarter corner thereof; thence run southwesterly at an angle of 72 degrees 08 minutes 00 seconds from said east section line

(measured from south to west) for 25.7 feet; thence deflect to the left on a 00 degree 30 minute 00 second curve (delta angle 06 degrees 48 minutes 00 seconds) for 1360 feet; thence on tangent to said curve for 200 feet and there terminating;

containing 19.16 acres, more or less.

Subd. 4. [LAND AND INTERESTS TO BE ACQUIRED.] *The commissioner of transportation shall convey the land described in subdivision 3 in exchange for land and property interests in certain tracts in parcel 301, S.P. 1604 (61 = 1-47-4), in Cook county, described as follows:*

All of Tracts A and B described below:

Tract A. That part of Government Lots 2 and 3 of Section 4, Township 63 North, Range 6 East, Cook County, Minnesota, which lies northerly of the northwesterly right-of-way line of Trunk Highway No. 61 as now located and established and easterly of a line run parallel with and distant 650 feet westerly of the east line of said Government Lot 3; excepting therefrom that part contained within the following described tract: Beginning at the northwest corner of said Government Lot 2; thence east 363 feet; thence south 360 feet; thence west 363 feet; thence north 360 feet to the point of beginning;

Tract B. The southerly 450 feet of the Southwest Quarter of the Southeast Quarter and the southerly 450 feet of the easterly 650 feet of the Southeast Quarter of the Southwest Quarter, both in Section 33, Township 64 North, Range 6 East, Cook County, Minnesota; excepting therefrom the right-of-way of Trunk Highway No. 61 as now located and established;

containing 22.09 acres, more or less;

together with a grant of Right-of-Way for sewer and water purposes in perpetuity over that part of Tract C described below:

Tract C. The North Half of the Southwest Quarter of the Northeast Quarter and that part of Government Lot 2, lying southerly of the southerly right of way line of Trunk Highway No. 61 as now located and established, both in Section 4, Township 63 North, Range 6 East, Cook County, Minnesota;

which lies within a distance of 50 feet southwesterly and westerly and 60 feet northeasterly and easterly of Line 1 described below:

Line 1. Beginning at a point on the north line of said Section 4, distant 335 feet east of the north quarter corner thereof; thence run southeasterly at an angle of 52 degrees 40 minutes 00 seconds from said north section line (measured from east to south) for 660 feet; thence run southerly along a line which intersects the south line of said Government Lot 2 at a point thereon, distant 680 feet east of the southwest corner thereof, for 1240 feet and there terminating;

together with that part of Tract C hereinbefore described, adjoining and northeasterly of the last above described strip, which lies westerly of a line run parallel with and distant 60 feet easterly of the following described

line: Beginning at a point on Line 1 described above, distant 1140 feet north of its point of termination; thence run north on said Line 1 for 100 feet; thence continue north on the last described course for 400 feet and there terminating;

containing 4.26 acres, more or less.

Subd. 5. [LEGISLATIVE FINDINGS AND DECLARATION.] *The legislature finds that the department of transportation has constructed a tourist information center under permit adjacent to trunk highway marked No. 61 at Grand Portage, Minnesota (Grand Portage Bay rest area) and requires certain lands within the reservation of the Grand Portage Band of Chippewa Indians, now owned by the United States in trust for the Grand Portage Band, for a rest area site together with a sewer and water easement in perpetuity; that the United States presently owns land in trust for the Grand Portage Band on both sides of that part of State Pit 174 lying southeasterly of trunk highway marked No. 61 and wishes to obtain ownership of that part of State Pit 174, now owned by the state, for the benefit of the Grand Portage Band; and, that a land exchange would be mutually beneficial. The legislature declares that the exchange authorized by this section is in the public interest and for a public purpose.*

Sec. 10. [TRUNK HIGHWAY SYSTEM; NEW ROUTE SUBSTITUTED FOR EXISTING ROUTE.]

Subdivision 1. [ROUTE.] *There is added to the trunk highway system a new route in Minnesota Statutes, section 161.115, described as follows:*

Route No. 297. Beginning at a point on Route No. 392 northwest of Fergus Falls; thence extending in a general southeasterly direction to a point at or near the intersection of West Fir Avenue and North Oak Street in the city of Fergus Falls; thence in a general northwesterly direction into and through the grounds of the Fergus Falls Regional Treatment Center; thence in a general southeasterly direction to a point at or near the intersection of West Fir Avenue and North Union Avenue in the city of Fergus Falls.

Subd. 2. [SUBSTITUTION; AGREEMENT REQUIRED.] *The route established in subdivision 1 is substituted for Route No. 297 as contained and described in Minnesota Statutes 1990, section 161.115. Route No. 297 as contained and described in that section is discontinued and removed from the trunk highway system. No transfer is effective until an agreement to transfer jurisdiction of a portion of the old route has been agreed to by the commissioner of transportation and Otter Tail county and the city of Fergus Falls and signed by the commissioner and the chair of the Otter Tail county board and the mayor of Fergus Falls and filed in the office of the commissioner.*

Subd. 3. [REVISOR INSTRUCTION.] *The revisor of statutes, in compiling the next and subsequent editions of Minnesota Statutes, shall substitute the route established in subdivision 1 for the route discontinued and removed from the trunk highway system according to subdivision 2.*

Sec. 11. [TRUNK HIGHWAY SYSTEM; ROUTE NO. 336 ADDED.]

Subdivision 1. [ADDITIONAL ROUTE.] *On execution of the agreement required by subdivision 2, there is added to the trunk highway system a new route in Minnesota Statutes, section 161.115, described as follows:*

Route No. 336. Beginning at a point on Route No. 2 at or near Dilworth;

thence extending in a general southerly direction following generally the location of present County State-Aid Highway No. 11 to a point on Route No. 392.

Subd. 2. [AGREEMENT REQUIRED.] *Legislative Route No. 336 is added to the trunk highway system only when an agreement to transfer jurisdiction has been approved by the commissioner of transportation and the Clay county board and a copy of the agreement, signed by the commissioner and the chair of the Clay county board, has been filed in the office of the commissioner.*

Subd. 3. [REVISOR INSTRUCTION.] *Following execution of the agreement required in subdivision 2, the revisor of statutes, in compiling the next and subsequent editions of Minnesota Statutes, shall add the route identified in subdivision 1.*

Sec. 12. [REPEALER.]

Minnesota Statutes 1990, section 169.833, is repealed.

Sec. 13. [EFFECTIVE DATE.]

Sections 10 and 11 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to transportation; authorizing state departments to cancel uncollectible debts up to $200 in certain cases; allowing department of transportation to employ debt collection services; allowing department of transportation to make direct expenditures from state aid funds for administrative expenses; providing penalty for failure to pay fee for sign permit more than 30 days after fee is due; providing when estimates of certain construction projects are nonpublic data; directing the commissioner of transportation to adopt rules governing the location and breakaway standards for mailbox installations; allowing white strobe lamps to be used on highway maintenance vehicles; authorizing exchange of lands with Grand Portage Band of Chippewa Indians; abolishing conflicting requirements related to market artery highways; adding a route and changing the description of a route in the state highway system; amending Minnesota Statutes 1990, sections 10.12; 13.72, subdivision 1; 161.20, subdivision 4; 162.06, subdivision 2; 162.12, subdivision 2; 169.64, by adding a subdivision; and 173.13, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 1990, section 169.833."

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

House Conferees: (Signed) Chuck Brown, Henry J. Kalis, Art Seaberg

Senate Conferees: (Signed) Terry D. Johnston, Gary M. DeCramer, Keith Langseth

Ms. Johnston moved that the foregoing recommendations and Conference Committee Report on H.F. No. 606 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. 606 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 54 and nays 5, as follows:

Those who voted in the affirmative were:

Adkins	Flynn	Kroening	Moe, R.D.	Renneke
Beckman	Frederickson, D.J.	Laidig	Mondale	Riveness
Benson, J.E.	Frederickson, D.R.	Langseth	Morse	Sams
Berglin	Halberg	Larson	Neuville	Samuelson
Bernhagen	Hottinger	Lessard	Pappas	Spear
Bertram	Hughes	Luther	Pariseau	Storm
Chmielewski	Johnson, D.E.	Marty	Piper	Stumpf
Cohen	Johnson, J.B.	McGowan	Pogemiller	Traub
Day	Johnston	Mehrkens	Price	Vickerman
DeCramer	Kelly	Merriam	Ranum	Waldorf
Finn	Knaak	Metzen	Reichgott	

Those who voted in the negative were:

Berg	Dahl	Davis	Frank	Olson

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

House File No. 2 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2

A bill for an act relating to health care; creating a bureau of health care access; establishing the Minnesotans' health care plan; establishing an office of rural health; requiring rural health initiatives; requiring data and research initiatives; restricting underwriting and premium rating practices; providing a health insurance plan for small employees; requiring initiatives related to health professional education; appropriating money; amending Minnesota Statutes 1990, sections 16A.124, subdivision 4; 43A.17, subdivision 9; 43A.23, by adding a subdivision; 136A.1355, subdivisions 2 and 3; 144.147, subdivisions 1 and 4; 144.581, subdivision 1; 144.698, subdivision 1; 144.8093; 145.61, subdivision 5; 145.64; 176.011, subdivision 9; 256.969, subdivision 6a; 290.01, subdivision 19b; and 447.31, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapters 16B; 62A; 62J; 144; and 144A; proposing coding for new law as Minnesota Statutes, chapter 62K.

May 20, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 2, 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. 2 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

BUREAU OF HEALTH CARE ACCESS

Section 1. [16B.065] [STATE CONTRACTORS AND VENDORS; HEALTH COVERAGE FOR EMPLOYEES.]

To participate in a state contract or otherwise provide goods or services to a state agency, the contractor, vendor, or service provider must offer health coverage to its employees that meets the terms and conditions for employer eligibility in the Minnesotans' health care plan in article 2, section 6. The contractor, vendor, or service provider may obtain health coverage through the Minnesotans' health care plan or an alternative source.

Sec. 2. [62A.301] [UNIFORM POLICY FORMS.]

The commissioner shall adopt rules prescribing uniform policy and claims forms for all policies of accident and health insurance, health maintenance contracts regulated under chapter 62D, health benefit certificates offered through a fraternal beneficiary association regulated under chapter 64B, and group subscriber contracts offered by nonprofit health service plan corporations regulated under chapter 62C, in order to give the insurance purchaser a reasonable opportunity to compare the cost of insuring with various insurers. This section does not apply to policies designed primarily to provide coverage payable on a per diem, fixed indemnity, or nonexpense incurred basis, or policies that provide only accident coverage.

Sec. 3. [62J.03] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *For purposes of this chapter, the following terms have the meanings given them.*

Subd. 2. [GROUPS; DEFINITIONS.] *The definitions of small group, medium-sized group, large group, and group sponsor in this section are subject to United States Code, title 26, sections 414(b), 414(c), and 414(m), and federal regulations related to those sections, when a group sponsor or sponsors alter, reform, or redefine a group or groups to avoid or to take advantage of community rating. The commissioners of commerce and health may adopt rules to supplement those federal statutes and regulations to prevent qualification as a large, medium-sized, or small group through the use of separate organizations, multiple organizations, employee leasing, or other arrangements.*

Subd. 3. [ADULT.] *"Adult" means a person 18 years of age or older.*

Subd. 4. [CHILD.] *"Child" means a person under 18 years of age.*

Subd. 5. [COMMISSIONER.] *"Commissioner" means the commissioner of health.*

Subd. 6. [DEPARTMENT.] *"Department" means the department of health.*

Subd. 7. [FAMILY.] *For purposes of a state premium subsidy for participants in the state plan, "family" means two legally married adults, two*

legally married adults with one or more dependent children, or one adult with one or more dependent children. "Dependent child" means an unmarried child residing in Minnesota who is under the age of 19 years, a student under the age of 25 years and financially dependent upon one or both adult policyholders, or an unmarried child of any age who is disabled; and the biological or adopted child of one or both of the adult policyholders, or a legally designated stepchild or foster child for whom one or both of the adult policyholders is the primary source of support.

Subd. 8. [GROUP SPONSOR.] *"Group sponsor" means an employer or other entity described in section 62A.10, subdivision 1, as an eligible purchaser of health coverage.*

Subd. 9. [HEALTH COVERAGE.] *"Health coverage" means a policy or contract providing health and accident benefit under chapter 62A, 62C, 62D, 62E, 62H, or 64B; under section 471.617, subdivision 2; or through the state plan. Health coverage does not include a policy or contract designed primarily to provide coverage on a per diem, fixed annuity, or nonexpense-incurred basis, or that provides only accident coverage.*

Subd. 10. [HEALTH PLAN COMPANY.] *"Health plan company" means any entity governed by chapter 62A, 62C, 62D, 62E, 62H, or 64B, or section 471.617, subdivision 2, that offers, sells, issues, or renews health coverage in this state, and the state plan. Health plan company does not include an entity that sells only policies designed primarily to provide coverage on a per diem, fixed annuity, or nonexpense-incurred basis, or policies that provide only accident coverage.*

Subd. 11. [HEALTH PROFESSIONAL.] *In benefit set descriptions, references to services performed by "health professionals" include services performed by any qualified health professionals acting within their licensed, certified, or registered scope of practice, including but not limited to: medical doctors, nurse practitioners, physician assistants, certified nurse midwives, chiropractors, podiatrists, physical therapists, occupational therapists, speech therapists, and audiologists.*

Subd. 12. [INDIVIDUAL.] *"Individual" means a person or family that applies to a health plan company or the state plan for health coverage on a one person basis, as a two-person family or as a family of three or more persons.*

Subd. 13. [INTERMEDIATE BENEFIT SET.] *"Intermediate benefit set" means the health care benefits specified in article 3, sections 2 to 11.*

Subd. 14. [INTERMEDIATE BENEFIT SET, PART A.] *"Intermediate benefit set, part A" means the health care benefits specified in article 3, sections 2 to 7, as limited by section 11.*

Subd. 15. [INTERMEDIATE BENEFIT SET, PART B.] *"Intermediate benefit set, part B" means the health care benefits specified in article 3, sections 8 to 10, as limited by section 11.*

Subd. 16. [LARGE GROUP.] *"Large group" means a group of 100 or more employees or members of a group sponsor that applies for or obtains health coverage from a health plan company or the state plan. Owners of sole proprietorships, partnerships, and other unincorporated entities are employees for purposes of this definition. Dependents of employees or members do not count for purposes of this definition.*

Subd. 17. [MEDIUM-SIZED GROUP.] *"Medium-sized group" means a*

group of not fewer than 30 nor more than 99 employees or members of a group sponsor that applies for or obtains health coverage from a health plan company or the state plan. Owners of sole proprietorships, partnerships, and other unincorporated entities are employees for purposes of this definition. Dependents of employees or members do not count for purposes of this definition.

Subd. 18. [MINIMUM INSURANCE BENEFIT SET.] *"Minimum insurance benefit set" means the health care benefits that must be included in health coverage offered, sold, issued, or renewed by health plan companies, as specified in article 3, section 14.*

Subd. 19. [MINNESOTA RESIDENT.] *"Minnesota resident" means a person whose principal place of residence is Minnesota and who (1) is employed in Minnesota; or (2) has resided in Minnesota for at least 90 consecutive days.*

Subd. 20. [SMALL GROUP.] *"Small group" means a group of not fewer than two nor more than 29 employees or members of a group sponsor that applies for or obtains health coverage from a health plan company or the state plan. Owners of sole proprietorships, partnerships, and other unincorporated entities are employees for purposes of this definition. Dependents of employees or members do not count for purposes of this definition.*

Subd. 21. [STATE PLAN.] *"State plan" means the Minnesotans' health care plan administered by the commissioner of health.*

Subd. 22. [SUPPLEMENTAL BENEFIT SET.] *"Supplemental benefit set" means the health care benefits available through the state plan that exceed the intermediate benefit set, as specified in article 3, section 15.*

Subd. 23. [UNIVERSAL BASIC BENEFIT SET.] *"Universal basic benefit set" means the health care benefits specified in article 3, section 12.*

Sec. 4. [62J.04] [BUREAU OF HEALTH CARE ACCESS.]

Subdivision 1. [POWERS AND DUTIES.] *The bureau of health care access is under the supervision of a deputy commissioner appointed by the commissioner of health. The bureau of health care access in the department of health shall:*

(1) design, implement and administer the Minnesotans' health care plan;

(2) contract with providers, insurers, and health plans to provide coverage or health care to participants in state health programs administered by the bureau and specify or negotiate the terms of the contracts;

(3) coordinate the health care programs administered by the bureau with the medical assistance program;

(4) have the authority to clarify and refine the terms of the intermediate benefit set, the supplemental benefit set, the minimum insurance benefit set, and the universal basic benefit set, including the authority to waive copayments, or establish a sliding scale copayment schedule that will result in reduced copayments, for enrollees with federal adjusted gross incomes below 185 percent of the federal poverty guideline;

(5) coordinate the mental health benefits of the health care programs administered by the bureau with county-based mental health programs provided under the adult and children's community mental health services acts and community social services act, and recommend changes to the state

plan and to adult and children's community mental health services act and community social services act programs that will improve the state plan's mental health benefits and minimize duplication with county-based programs;

(6) provide assistance to the commissioner of human services in order to secure waivers of federal requirements for federally subsidized health care programs as necessary to further the state's health care access goals and improve coordination between governmental health care programs;

(7) coordinate the health care programs administered by the commissioner with other state and local health care programs in order to make the most effective use of the state's market leverage and expertise in contracting and working with health plans and health care providers, and recommend to the legislature any changes needed to: (i) improve the effectiveness of public health care purchasing; and (ii) streamline and consolidate government health care programs;

(8) with the advice of the health care expenditure advisory committee, establish an overall, statewide limit on annual total public and private health care spending increases, require compliance of all participants in the health care system with the spending limits, and make recommendations to the governor and the legislature regarding legislation or other actions that are needed to contain health care spending within the limits established by the commissioner. All participants in the health care system are required to take action necessary to ensure that total health care spending increases remain within the limits established by the commissioner;

(9) incorporate practice parameters developed or adopted by the health care analysis unit established under article 6, section 1, into the administration of the Minnesotans' health care plan and specifications for contracts with health plans and providers for coverage and services to enrollees; and

(10) use any powers granted under other laws to carry out the duties assigned in this chapter.

Subd. 2. [CONTRACTS.] *When entering into contracts with health plans and health care providers, the bureau is not subject to the competitive bidding requirements in section 16B.07. The commissioner may contract for information systems and related services or other technical or research services necessary to design, implement, or administer the programs and initiatives required under this chapter without complying with the requirements in sections 16B.40 to 16B.42. The commissioner shall, whenever practical and cost effective, contract with the commissioner of human services for services necessary to administer the Minnesotans' health care plan, including services related to eligibility determination, claims processing, and health care utilization review.*

Subd. 3. [EMPLOYEES.] *The commissioner shall hire employees to carry out the duties of the department specified under this chapter.*

Subd. 4. [RULES.] *The commissioner of health may adopt permanent and emergency rules as necessary to carry out the duties assigned in this chapter.*

Subd. 5. [MONITORING OF EMPLOYERS.] *The commissioner shall conduct surveys and other activities to monitor changes over time, if any, in employers' behavior in providing subsidized health coverage. Detailed surveys of employer behavior must be conducted at least annually. After*

each survey is completed, the findings and an analysis of the positive or negative impact, if any, on the costs of the Minnesotans' health care plan resulting from changes in employers' behavior, and recommendations regarding actions necessary to address changes, must be reported to the commissioners of finance and revenue and to the chairs of the senate finance and house of representatives appropriations committees and the senate and house of representatives tax committees.

Sec. 5. [62J.05] [TECHNOLOGY AND BENEFITS ADVISORY COMMITTEE.]

Subdivision 1. [MEMBERSHIP.] *The commissioner shall convene a technology and benefits advisory committee consisting of 15 members including consumers, health care providers and payors, a representative of the medical technology industry, and experts in medical ethics. Advisory committee members are appointed by the governor. The governor shall ensure that appointments result in a balance of interests on the committee. The commissioner shall make recommendations for appointments. The advisory committee is governed by section 15.059 except that it does not expire.*

Subd. 2. [DUTIES.] *The technology and benefits advisory committee is responsible for periodically reviewing, analyzing, and evaluating health care technology, benefits, and coverage and making recommendations to the commissioner and the legislature. The committee's recommendations must be based on the following principles: (1) universal and equitable access to health care procedures and technologies; (2) maintenance of an appropriate balance between expenditures for primary and preventive care, and expenditures for high-cost cases; (3) promotion of high quality and cost-effective health care; and (4) adherence to budget targets. The committee shall solicit comments and recommendations from interested persons during its deliberations. The committee is responsible for reviewing, analyzing, and making recommendations concerning at least the following:*

(i) the universal basic benefit set;

(ii) the intermediate benefit set;

(iii) the supplemental benefit set;

(iv) the minimum insurance benefit set;

(v) coverage for new procedures and technologies;

(vi) state mandated benefits applicable to insurers and other health plan companies; and

(vii) benefit levels in other state health coverage programs.

Subd. 3. [REPORT.] *The technology and benefits advisory committee shall study issues related to the rising cost of new medical technology. The committee shall evaluate different methods of controlling health care costs associated with the adoption of new medical technology, and shall present recommendations to the commissioner, and to the health care analysis unit, by January 1, 1993.*

Sec. 6. [62J.06] [HEALTH CARE EXPENDITURES ADVISORY COMMITTEE.]

Subdivision 1. [MEMBERSHIP.] *The health care expenditures advisory committee is a permanent committee consisting of 15 members appointed*

by the governor. Committee members include representatives of health insurers, health maintenance organizations, and other health plan companies; state agencies that administer government health programs; health care providers; labor; business; and consumer groups. The commissioner shall make recommendations to the governor regarding appointments to the committee. The governor shall ensure that appointments result in a balance of interests on the committee. The committee is governed by section 15.059, except that it does not expire.

Subd. 2. [DUTIES.] *The health care expenditures advisory committee shall make recommendations to the commissioner for an overall statewide limit on total public and private health care spending in Minnesota and limits on annual health care spending increases.*

Subd. 3. [STAFF AND SUPPLIES.] *The commissioner shall provide the advisory committee with staff support and supplies.*

Sec. 7. [62J.07] [IMPLEMENTATION.]

Subdivision 1. [NEW PROGRAM PLANNING AND DEVELOPMENT.] *The commissioner, through the bureau of health care access, shall begin planning and development for the state plan July 1, 1991. The commissioner shall use an implementation schedule that will lead to enrollment of eligible individuals, families, and employee groups statewide beginning October 1, 1992. Planning and development activities include:*

(1) development of outreach, enrollment, and eligibility determination procedures;

(2) commencement of outreach activities;

(3) planning, development, and acquisition of necessary computer systems, including forms, software, and training;

(4) development of health plan contractor specifications and issuance of requests for proposals;

(5) negotiating and executing health plan contracts;

(6) planning, development, and preparation of systems for direct health care delivery management by the state or contracting for the use of existing administrative systems in the department of human services, as necessary;

(7) preparations, requests for proposals, contract negotiations, and other activities relating to the reinsurance pool; and

(8) other appropriate planning and development activities.

Subd. 2. [SUBMISSION AND APPROVAL REQUIRED.] *(a) The commissioner, through the bureau of health care access, shall coordinate the provision and management of health care by other state agencies, in order to improve health care efficiency and quality. State agencies that administer the health care programs listed in this subdivision shall submit, to the commissioner of health, the information requested by the commissioner on the methods and procedures used to provide and manage health care. The commissioner shall review the information presented and approve or disapprove the methods and procedures used by each agency. If the commissioner does not approve the methods used by an agency, the commissioner shall recommend appropriate changes in these methods and procedures, and shall require the agency to make these changes in order to obtain approval. Each agency shall submit information on methods and procedures*

to the commissioner of health by the date specified in this subdivision. The commissioner of health shall approve or disapprove the methods and procedures submitted within 45 days of the date specified for submission.

(b) By October 1, 1993, or one year after the state plan begins enrollment, whichever is later, the commissioner of human services shall provide the commissioner of health with requested information on the methods and procedures used to provide and manage health care through the consolidated chemical dependency fund programs.

(c) By October 1, 1992, or when the state plan begins enrollment, whichever is later, the commissioner of commerce shall provide the commissioner of health with requested information on the methods and procedures used to provide and manage health care through the Minnesota comprehensive health association.

(d) By July 1, 1995, the commissioner of human services shall provide the commissioner of health with requested information on the methods and procedures used to provide and manage health care through the medical assistance programs.

(e) By July 1, 1995, the commissioners of employee relations, corrections, and other affected agencies shall provide the commissioner of health with requested information on the methods and procedures used to provide and manage health care through state and local government employee health benefits programs, corrections system health programs, and the health care component of the Minnesota crime victims reparations board program, and other health care and health coverage programs sponsored by state or local government.

(f) By July 1, 1995, the commissioners of labor and industry, commerce, and other affected agencies shall provide the commissioner of health with requested information on the methods and procedures used to provide and manage health care through the health care component of workers' compensation coverage and the health care component of motor vehicle and motorcycle coverage.

Subd. 3. [TERMS OF PROGRAM CONSOLIDATION.] *(a) In carrying out the merger, transfer, or reconfiguration of existing health care and health coverage programs, as described in this section, the commissioner shall:*

(1) ensure that health care benefits will not be diminished for enrollees and clients of current programs;

(2) assist current program enrollees and clients with the procedures necessary to maintain comparable health care benefits;

(3) ensure that financial obligations for public hospitals and other health care providers that serve the enrollees and clients of current programs will not increase as a result of the merger or transfer; and

(4) ensure coordination between the state plan, local public health departments, public hospitals, and other health care providers that serve the enrollees and clients of current programs in the areas of outreach, patient education, case management, and related services.

(b) By April 1, 1993, or six months after the state plan begins statewide enrollment, whichever is later, the commissioner, with assistance from the commissioner of human services, shall take action necessary to merge the children's health plan into the state plan.

(c) By July 1, 1994, the commissioner, with assistance from the commissioner of human services, shall take action necessary to merge the general assistance medical care program into the state plan.

Subd. 4. [HEALTH DEPARTMENT PROGRAMS.] *By July 1, 1993, the commissioner of health shall review the methods and procedures used to provide and manage health care through the services for children with handicaps program and the maternal and child health program, and shall implement any changes needed to improve health care efficiency and quality.*

Subd. 5. [MINNESOTA COMPREHENSIVE HEALTH ASSOCIATION.] *By January 1, 1992, the commissioner, with assistance from the commissioner of commerce, shall make recommendations to the legislature on whether to continue to allow new enrollees in the Minnesota comprehensive health association after October 1, 1992, or the date of statewide enrollment in the state plan.*

Subd. 6. [CHANGES IN FEDERAL HEALTH CARE PROGRAMS.] *The commissioner, in cooperation with the commissioner of human services, shall identify and pursue changes in federal health care programs that would allow them to be merged or more effectively coordinated with the health care programs administered by the department of commerce. The commissioner of commerce and the commissioner of human services may seek federal waivers, develop partnerships with federal health programs, and seek changes in federal programs.*

Subd. 7. [LEGISLATION.] *If the commissioner determines that additional legislation is necessary to fully implement the Minnesotans' health care plan and other activities and requirements established in this chapter, or to more effectively provide and manage health care throughout the state, the commissioner shall submit proposed legislation to the legislature. The proposed legislation must include, but is not limited to, technical changes necessary to:*

(1) merge into the state plan the children's health plan, to be submitted by January 1, 1992, and the general assistance medical care program, to be submitted by January 1, 1993;

(2) enforce the spending limits established under section 5, subdivision 1, clause (8), to be submitted by January 1, 1992;

(3) support the state's efforts to secure waivers of federal requirements for federally subsidized health care programs, to be submitted by January 1, 1994.

Subd. 8. [ASSISTANCE FROM OTHER AGENCIES.] *At the request of the commissioner, the commissioners of human services, commerce, state planning, employee relations, labor and industry, corrections, finance, and other affected agencies shall provide assistance in planning, development, and implementation.*

Sec. 8. [STUDIES AND REPORTS.]

Subdivision 1. [HEALTH CARE DELIVERY SYSTEM REFORM.] *The health care expenditures advisory committee shall study and make recommendations regarding further reforms to the health care delivery system in Minnesota. The advisory committee shall solicit the comments, advice, and participation from communities with an interest in accessible, affordable health care. The commissioner shall submit a report on the recommendations of the advisory committee to the legislature by January 1, 1993.*

Subd. 2. [HEALTH PLAN REGULATION.] *The commissioner of health and the commissioner of commerce shall develop a plan for the functional division of regulatory authority over health plans. This plan must be presented to the legislature by January 1, 1992. The plan must allow each commissioner to exercise independent authority to the greatest extent possible and must minimize jurisdictional overlaps. The plan must provide the commissioner of commerce with primary authority for regulating the financial integrity and corporate structure of health plans and must provide the commissioner of health with primary authority for regulating health care delivery and health care quality.*

Subd. 3. [STANDARD CLAIM FORMS AND UTILIZATION REVIEW PROCEDURES.] *The commissioner shall recommend to the legislature a standard claim form for ambulatory care by January 1, 1994, and standards for certain types of utilization review procedures by January 1, 1994. These recommendations must not have the effect of limiting innovation and improvement in health care delivery management, or compromising the purposes for which information is collected.*

Sec. 9. [EFFECTIVE DATES.]

Section 1 is effective July 1, 1996, and applies to contracts entered into or renewed, or goods or services provided, after that date. Section 4, creating the bureau of health care access, is effective July 1, 1991. Sections 5 and 6 are effective January 1, 1992.

ARTICLE 2

MINNESOTANS' HEALTH CARE PLAN

Section 1. [62J.07] [CREATION.]

The Minnesotans' health care plan is created to provide health coverage to individuals, families, and employers who do not have access to other affordable health coverage.

Sec. 2. [62J.08] [COVERAGE REQUIRED FOR MINNESOTA RESIDENTS.]

(a) *All Minnesota residents must obtain health coverage equal to or greater than the universal basic benefit set or the minimum insurance benefit set. Coverage may be obtained through the state plan, an employer, an individual policy with a private health plan company, or any other source of coverage. Minnesota residents must provide proof of coverage in the manner required by the commissioner of health care access.*

(b) Paragraph (a) is effective only if, and only as long as, the Minnesotans health care plan is funded at a level that is sufficient to provide subsidized coverage to all eligible persons who seek it.

Sec. 3. [62J.09] [ELIGIBILITY OF INDIVIDUALS AND FAMILIES.]

To be eligible to obtain coverage through the state plan, individuals and families must be Minnesota residents and have no other health coverage or must have coverage that primarily supplements, rather than duplicates, the intermediate benefit set. A Minnesota resident individual or family may switch from private health coverage to the state plan provided the transfer does not result in simultaneous coverage under both the state plan and another health care plan. The individual or family must contribute to the cost of health coverage as provided in section 4.

Sec. 4. [62J.10] [INDIVIDUAL AND FAMILY PREMIUMS.]

Subdivision 1. [SLIDING SCALE AND ENROLLEE PREMIUMS.] *Each individual and family enrolled in the state plan shall pay a premium set in relation to income and family size. The commissioner shall establish a sliding scale to determine the amount of the premium each individual or family must pay to obtain health coverage through the state plan. The sliding scale must use the federal poverty guidelines as the primary unit of measurement, and must be based on an individual's or family's income, as defined in section 290A.03, subdivision 3, clauses (1) and (2). The commissioner shall determine income on the basis of a period of time, such as the prior four months, which takes into account an applicant's current financial status. The sliding scale must be designed so that individuals and families with incomes less than 25 percent of the federal poverty level pay 0.75 percent of their income, and those with incomes between 250 percent and 275 percent of the federal poverty level pay 4.5 percent of their income. Individuals and families with incomes over 275 percent of the federal poverty guideline or $40,000, whichever is less, are not eligible for a subsidized premium and must pay 100 percent of the cost of coverage through the state plan. In addition to payments under the sliding scale, enrollees may be required to make greater payments depending on the health plan chosen. The commissioner shall pass on differences in premiums between health plans to enrollees, except that the commissioner may limit differences in charges to enrollees if necessary to prevent enrollment that exceeds the capacity of certain plans.*

Subd. 2. [ADJUSTMENTS TO THE INCOME LIMIT AND SLIDING SCALE.] *The commissioner shall adjust the sliding scale and the maximum income limit for subsidized coverage to reflect changes in prevailing income levels, health coverage costs, and benefit levels.*

Subd. 3. [MUST NOT HAVE ACCESS TO EMPLOYER-SUBSIDIZED COVERAGE.] *To be eligible for subsidized coverage, an individual or family must not have access to subsidized health coverage through an employer, unless the amount of employer subsidy toward the cost of coverage is less than an amount determined by the commissioner of health. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The commissioner must treat employer contributions to Internal Revenue Code Section 125 plans as qualified employer subsidies toward the cost of health coverage for employees for purposes of this section.*

Subd. 4. [NO SUBSIDY AVAILABLE FOR MEDICARE SUPPLEMENT COVERAGE.] *An individual eligible for Medicare benefits must pay 100 percent of the cost of obtaining Medicare supplement coverage through the state plan, regardless of income.*

Subd. 5. [STATE FUNDS MAY NOT BE USED FOR ABORTION.] *State funds must not be used to pay for an abortion and abortion related services, except as allowed under section 256B.0625, subdivision 16.*

Subd. 6. [COVERAGE MUST NOT DISPLACE FEDERALLY SUBSIDIZED HEALTH COVERAGE.] *Subsidized state plan coverage must not displace subsidized health coverage through a federally supported health program, such as medical assistance, for which an individual, child, or family is eligible. The commissioner shall establish procedures and requirements to allow coordinated, limited, or supplemental participation in the Minnesotans' health care plan, including limited subsidies, of participants in federally supported health programs to the extent necessary to provide*

coverage comparable to coverage provided to other state plan enrollees without displacing federal benefits.

Subd. 7. [MUST BE A PERMANENT MINNESOTA RESIDENT.] *To be eligible for a subsidy, individuals and families must be permanent residents of Minnesota. A permanent Minnesota resident is a Minnesota resident who considers Minnesota to be the person's principal place of residence and intends to remain in the state permanently or for a long period of time and not as a temporary or short-term resident. An individual or family that moved to Minnesota primarily to obtain medical treatment or health coverage for a preexisting condition is not a permanent resident and is not entitled to subsidized coverage through the state plan.*

Subd. 8. [PERIOD UNINSURED.] *To be eligible for a subsidy, individuals must have had no health coverage for at least four months prior to application. The commissioner may change this eligibility criterion for subsidized coverage without complying with rulemaking requirements in order to remain within the limits of available appropriations.*

Subd. 9. [STUDY OF ASSET LIMITATIONS AND TRANSFER PROHIBITIONS.] *The commissioner shall study asset limitations and transfer prohibitions to be applied in determining an individual's or family's eligibility for a subsidy. By January 1, 1992, the commissioner shall submit to the legislature in a report, recommendations for asset limitations, transfer prohibitions, and random verification.*

Sec. 5. [62J.11] [SUBSIDIZED COVERAGE.]

From October 1, 1992 through June 30, 1997, the intermediate benefit set, part A, shall be provided on a subsidized basis through the state plan to qualified individuals and families. Effective July 1, 1997, the universal basic benefit set shall be provided on a subsidized basis through the state plan if funding is provided to cover the costs of converting to the universal basic benefit set. The provision of, and terms of eligibility for, subsidized health coverage are subject to the limits of available appropriations. The commissioner shall make a quarterly assessment of the expected expenditures for the covered services for the remainder of the fiscal year and the amount of the appropriation remaining to cover the expenditures. Based on this assessment, the commissioner shall limit enrollments or adjust the uninsured period that is required for eligibility, or both, as necessary to remain within the limits of available appropriations. The commissioner has the authority to adopt permanent rules and emergency rules related to modifying the terms of provision of, and terms of eligibility for, the receipt of subsidized coverage.

Sec. 6. [62J.12] [ELIGIBILITY OF EMPLOYERS.]

Subdivision 1. [GROUP COVERAGE.] *An employer is eligible to enroll its employees in the state plan as a group in order to offer its employees health coverage under the Minnesotans' health care plan. To be eligible to participate, an employer must pay Minnesota unemployment insurance premiums and have two or more covered employees, including the owner, or, if a sole proprietor, have at least one employee covered by unemployment insurance and include himself or herself in the group for purposes of health coverage. A self-employed person with no employees may not participate as an employer but may participate as an individual or family. The employer*

must collect employees' share of premiums and remit them to the commissioner along with the employer's contribution. Sliding scale premium subsidies as described in section 3 do not apply to group coverage. The commissioner shall establish conditions for enrollment of employer groups. Conditions may include, but are not limited to, minimum employer contributions toward coverage for employees and their families, minimum standards for employee eligibility, and eligibility waiting periods for new employees. The commissioner may establish special conditions and procedures for employers who are health care providers participating in state health care programs after considering the impact of article 1, section 1, and of different levels of employer contributions toward employee health coverage, on state health care program reimbursement rates and obligations. The commissioner shall make use of administrative systems for group coverage for employers that will identify and enroll enrollees in a manner comparable to individual, nongroup enrollment in order to enhance the portability of coverage to an individual policy or to another employer covered through the state plan, and to minimize administrative costs associated with frequent reissuing of policies.

Subd. 2. [COVERAGE OF PART-TIME AND SEASONAL EMPLOYEES.] *The commissioner shall establish conditions, procedures, and a special accounting mechanism to allow employers to defray the cost of coverage for part-time and seasonal employees through the state plan without including these employees in the employer's health benefits program. This is the only circumstance under which an employer subsidy toward the cost of employee health coverage and a state subsidy for health coverage through the state plan may be combined. Employers that have terminated health benefits for part-time or seasonal employees within the three years before application are not eligible to participate in the part-time or seasonal employee enrollment system. Part-time or seasonal employees on whose behalf employer contributions have been submitted must obtain coverage through the state plan as individuals or families rather than as an employee group. The employer contributions must be used to reduce the premium that the employee would otherwise have owed, and will be in addition to any individual premium subsidy to which the employee would otherwise be entitled. The commissioner shall establish definitions and standards for part-time and seasonal employees as necessary to implement this subdivision.*

PROGRAM ADMINISTRATION

Sec. 7. [62J.13] [PROVISION OF HEALTH CARE SERVICES; MANAGED CARE.]

In areas of the state where managed care health plans operate, the commissioner must deliver health care through contracts with managed care health plans. The commissioner may require contractors to provide all services under the intermediate benefit set, or may contract separately for certain services if the commissioner determines this to be in the best interests of the state plan. In order to qualify for participation in the state plan, a managed care health plan must meet the specifications in this section.

(a) The health plan must demonstrate to the satisfaction of the commissioner that it is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees.

(b) The health plan must have sufficient provider network capacity to adequately serve enrollees and prospective enrollees.

(c) The health plan must have established procedures adequate to manage the delivery of health care. The procedures must incorporate clear standards of practice or protocols where they exist. The procedures must also require enrollees to register with a specific primary care clinic which will coordinate referrals, hospitalizations, and other health care delivery. A plan that has not established these procedures may participate in the program if the plan demonstrates to the satisfaction of the commissioner that an alternative, comparably effective system of case management has been established. A managed care health plan that has not established procedures satisfactory to the commissioner may participate in the program if the plan agrees to implement satisfactory procedures within three years from the date it is accepted for participation by the commissioner.

(d) The health plan must demonstrate a long-term commitment to improving the quality and efficiency of health care.

(e) The health plan must have established programs to educate enrollees about appropriate use of the health care system. The programs may include self-care education, telephone nurse access, encouragement of healthy lifestyles, and encouragement of conformance to prescribed courses of treatment.

(f) Health plans must notify enrollees by mail when coverage limits under the intermediate benefit set have been reached and explain that payment for future services in excess of the coverage limits are the responsibility of the patient.

(g) The health plan must include appropriate use of nonphysician providers within its overall framework of managed care. Nothing in this section is intended to limit direct access to chiropractic care under article 3, section 3, subdivision 2, subject to reasonable managed care protocols and criteria for determining appropriate use of chiropractic care.

Sec. 8. [62J.14] [AREAS WITHOUT SATISFACTORY MANAGED CARE HEALTH PLANS.]

In areas of the state where the commissioner determines satisfactory managed care health plans are not available, the commissioner shall make health care available using one or more of the options specified in this section.

(a) The commissioner may recruit or encourage managed care health plans to serve the area.

(b) The commissioner may establish managed care health plans through direct contracts with existing clinics or other health care providers in the area consistent with the specifications and objectives of the state plan.

(c) The commissioner may pay providers on a fee-for-service basis, using managed care procedures, and may contract with the department of human services for claims processing and health care utilization review. When developing the payment system, the commissioner shall investigate the proposed Medicare resource-based relative value scale as the basis for a new fee schedule and the possibility of collective bargaining with health care providers. Participating providers must be required to operate under the department's managed care standards and procedures. Providers must be required to accept program enrollees as a condition of serving patients covered by any health coverage program financed by state or local government, including public employee health benefit programs. Providers must

be prohibited from billing enrollees for any portion of health care charges not reimbursed by the commissioner, except to collect copayments and deductibles or to charge for services that exceed coverage limits, to the extent these are specified in the state plan.

Sec. 9. [62J.15] [ENCOURAGEMENT OF PARTICIPATION OF PROVIDERS SERVING LOW-INCOME PERSONS.]

The commissioner shall encourage expansion or development of health plans that include providers currently serving low-income, uninsured state residents, including nonprofit community clinics, public health departments, and public hospitals. The commissioner's managed care specifications must apply to these providers when serving program enrollees.

Sec. 10. [62J.16] [HEALTH PLAN COMPENSATION; RESERVE FUND; PREMIUM DETERMINATION.]

Subdivision 1. [HEALTH PLAN COMPENSATION.] *The commissioner shall establish health plan payment arrangements in order to create financial incentives to improve the effectiveness and efficiency of health care delivery. Health plan companies under contract with the state plan may not vary the benefits included in the intermediate benefit set in order to reduce the cost of premiums. Participating health plan companies must assume responsibility for health care delivery and must assume financial risk, subject to the limits established through the reinsurance pool. To prevent uncertainty regarding the mix and cost of enrollees from resulting in higher charges in the state plan during the plan's first three years of operation, the commissioner may share risk above or below the health plan company's expected costs for state plan enrollees, to the extent that such risk sharing would reduce charges in the state plan. The risk sharing must not alter the community-rated basis, or limited rate variations, required under other laws. The commissioner is responsible for collecting premium payments from individuals, families, and employers, and health plan reimbursement may not be linked to collection of premium payments.*

Subd. 2. [RESERVE FUND.] *The commissioner shall establish a reserve fund to ensure that state funding will be available to fully satisfy the state's payment and risk-sharing obligations in the event the costs of coverage through the state plan are higher than expected. The reserve fund shall be established as an account within the general fund, and shall not exceed 8.33 percent of estimated total premiums for state plan coverage in the current fiscal year. The reserve fund shall include funds appropriated for this purpose, and any excess of state plan revenues more than expenses. The reserve fund shall remain available from year to year and does not cancel, except for funds in excess of the designated limit at the end of each fiscal year.*

Subd. 3. [PREMIUM DETERMINATION.] *The commissioner shall establish the premium rates charged in the state plan. In establishing premium rates the commissioner shall take into account differences in administrative costs for different classes of enrollment, and the need to maintain rates in the state plan that are competitive with the private market. The premium rates shall include: (1) an amount for health care delivery and health plan administration determined for each health plan company through bids or negotiations; (2) an amount for state plan administrative services provided by the department or other state agencies, not to exceed five percent of total premium; and (3) any additional amount determined to be necessary by the commissioner to ensure that funds will be available to fully satisfy*

the state's payment and risk-sharing obligations.

Sec. 11. [62J.17] [OUTREACH ACTIVITIES.]

Subdivision 1. [OUTREACH TO INDIVIDUALS.] *The commissioner shall establish outreach activities to inform state residents about public and private sources of health coverage and to assist them in obtaining coverage. Outreach activities must include the following:*

(1) health coverage information and counseling services provided throughout the state and through a toll-free telephone number; and

(2) ongoing publicity and advertising activities.

Subd. 2. [OUTREACH TO EMPLOYERS.] *The commissioner shall establish outreach activities to inform employers about the Minnesotans' health care plan and other sources of health care coverage and to assist them to obtain or expand coverage for their employees. Outreach activities must be directed at the types of employers determined by the commissioner to be most interested in joining the state plan.*

Sec. 12. [62J.18] [ENROLLMENT EDUCATION AND ASSISTANCE.]

The commissioner shall provide enrollment education and assistance to state residents. The assistance may include written materials, workshops, and individual assistance. Educational programs and assistance must be designed to serve persons who are not proficient in English or who have special communication needs. The program must provide information on the following topics in addition to information provided at the discretion of the commissioner:

(1) basic and supplemental coverage offered by the state plan;

(2) features of specific health plans offered by the state plan, including information on obtaining health care within health plans and descriptions of provider networks;

(3) differences between individual and group coverage;

(4) premiums associated with each plan and premium payment procedures and obligations; and

(5) actions enrollees must take if eligibility status changes.

Sec. 13. [62J.19] [APPLICATION FORMS AND PROCEDURES.]

Subdivision 1. [PROCEDURES.] *The commissioner shall accept application forms submitted by mail or in person. Applicants must include payment equal to one month of premium costs with the completed application. Applicants who are employed full-time by an employer who participates in the state plan must apply through the employer. Part-time and seasonal employees of an employer who participates in the state plan may participate on an individual basis as provided in section 6, subdivision 2.*

Subd. 2. [FORMS.] *Application must be made on forms supplied by the commissioner. The commissioner shall design the form in order to collect the minimum amount of information necessary to administer the program. A more detailed form may be designed for use by applicants potentially eligible for federally subsidized health care programs and other state programs.*

Subd. 3. [AVAILABILITY OF FORMS.] *The commissioner shall make application forms available throughout Minnesota at state government*

offices; at hospitals, clinics, and other health care provider offices, especially where large numbers of low-income persons are served; with individual income tax forms; with applications for a driver's license, state identification card, or motor vehicle registration; with school and college registration materials; at food shelves; at the offices of insurers, health maintenance organizations, and other health plan companies; at school district offices; at public and private elementary schools; at community health offices; and at women, infants, and children (WIC) program sites.

Sec. 14. [62J.20] [ELIGIBILITY DETERMINATION.]

Subdivision 1. [ELIGIBILITY VERIFICATION.] *Confirmation of income and other information provided by the applicant shall occur primarily through use of personal data that the state gathers, such as income tax and property tax records, for other purposes. The commissioner may use individuals' social security numbers as identifiers for purposes of administering the plan. At the request of the commissioner, a health plan shall provide a list of all persons covered by the health plan at any time during the 12 months preceding the request. To the extent possible, the commissioner shall allow health plans to provide the information in a manner or form that is convenient and efficient for the health plan. The commissioner shall require applicants for subsidized coverage to provide, as a condition of receiving subsidized coverage, a signed consent form authorizing health plans to release information indicating whether the applicant was covered by the health plan at any time during the six months preceding the date of application, the benefits and scope of coverage, the premium for coverage, the amount of any employer contribution, and other information identified by the commissioner that is necessary to determine or verify an applicant's eligibility for subsidized coverage. At the request of the commissioner and upon receiving a signed consent form, a health plan shall verify whether coverage was provided by the health plan to an individual identified by the commissioner during a period specified by the commissioner. If coverage was provided, the health plan shall also provide the information requested by the commissioner for which consent was granted. Data received by the commissioner are private data on individuals. The commissioner shall request lists of enrollees and verify coverage or a random check or special case basis.*

Subd. 2. [APPLICANT INFORMATION.] *Applicants shall submit evidence of family income, earned and unearned, for use in determining the amount of the premium and eligibility for a subsidy. Enrollees shall report changes in eligibility status as they occur.*

Subd. 3. [FRAUD.] *If an enrollee in the state plan is found to have provided false information or failed to update required information, the commissioner shall disenroll the enrollee. In all cases, the commissioner may recover premiums not paid due to fraud.*

Subd. 4. [REVERIFICATION.] *Eligibility for the state plan must be redetermined annually. The commissioner must use mail and other, simple means of obtaining information from enrollees, then engage in random checkups of the accuracy of information provided.*

Sec. 15. [62J.21] [ENROLLMENT.]

Subdivision 1. [COVERAGE EFFECTIVE DATE.] *Coverage becomes effective on the next first or 15th of a month, whichever comes first, after the commissioner transfers enrollment information to the health plan selected*

by the applicant. The transfer to the health plan must occur no later than two weeks after the commissioner receives a completed application and payment of one month of premium costs.

Subd. 2. [ENROLLMENT CONFIRMATION.] *No more than two weeks shall elapse between the time the commissioner receives a completed application and the applicant is notified of acceptance, rejection, or unusual delay and the reasons why. Refusal to provide a health history will not disqualify an applicant from the state plan. The commissioner shall operate a toll-free telephone service to confirm individual enrollment in the state plan. The service must be available to assist enrollees, health plans, and providers.*

Sec. 16. [62J.22] [OPEN ENROLLMENT.]

The commissioner shall establish an annual open enrollment period during which enrollees must be allowed to transfer between health plans. Enrollees may not transfer between plans during other periods unless their place of residence changes and their current plan does not provide coverage in the new location.

Sec. 17. [62J.23] [PREMIUM PAYMENTS; APPLICATION.]

The premium payment procedures established in sections 18 and 19 apply to coverage purchased through the Minnesotans' health care plan by an individual or an employer. Until universal health coverage is required, failure by individuals to pay premiums shall result in cancellation of state plan coverage.

Sec. 18. [62J.24] [PAYMENTS FROM INDIVIDUALS.]

Subdivision 1. [AUTOMATIC PAYMENTS.] *The commissioner shall establish an automatic premium payment system and shall require enrollees not receiving group coverage through an employer to make payments through the automatic system whenever practical. The system may include automatic payment through:*

(1) automatic bank account debiting;

(2) automatic income withholding for employees, modeled after the system used for child support enforcement;

(3) automatic collections through the state income tax system, including automatic deductions for employees and estimated payments for self-employed enrollees;

(4) automatic deductions from unemployment compensation benefits; or

(5) other methods developed by the commissioner.

Subd. 2. [MANUAL PAYMENTS.] *The commissioner may allow manual payments directly from enrollees to the commissioner for enrollees:*

(1) making their initial premium payment with their application form;

(2) expected to remain on the program for a short period of time; or

(3) for whom automatic payments are impractical.

Subd. 3. [PAYMENT PERIODS.] *Premiums shall be paid on a monthly basis. The commissioner shall encourage enrollees to make premium payments covering longer periods of time whenever practical.*

Sec. 19. [62J.25] [EMPLOYER ENROLLMENT.]

Subdivision 1. [ENROLLMENT OF EMPLOYEES.] *Employers seeking to participate in the state plan must apply to the commissioner to enroll their employees. A person enrolled under this method ceases to be covered as a member of the employer's group when employment with the employer is discontinued. The commissioner shall establish procedures to convert enrollees from group coverage to individual coverage when they cease employment with an employer who participates in the program unless the enrollee can provide evidence of coverage through a new employer or through some other plan.*

Subd. 2. [COLLECTION OF PREMIUMS.] *The commissioner shall require employers participating in the state plan to collect the employees' share of premiums and pay the employees' share and the employers' share directly to the commissioner.*

Subd. 3. [TECHNICAL ASSISTANCE TO EMPLOYERS.] *The commissioner must provide technical assistance to employers participating in the state plan. Technical assistance must be targeted to employers who do not currently offer employee health benefits or for whom technical assistance services are not readily available. The assistance must be provided at cost and may include assistance on the following:*

(1) designing and establishing a health benefit program;

(2) administering state and federal continuation coverage requirements; and

(3) establishing tax-sheltered premium accounts for employees.

Sec. 20. [62J.26] [ENFORCEMENT PROCEDURES.]

Subdivision 1. [EVIDENCE OF COVERAGE REQUIRED.] *The commissioner shall enforce the requirement that all state residents must maintain and show evidence of health insurance coverage.*

Subd. 2. [RESTRICTION ON TERMINATING COVERAGE.] *The commissioner shall prohibit an enrollee from terminating coverage in the Minnesotans' health care plan except when the enrollee provides evidence of alternative coverage.*

Subd. 3. [NONPAYMENT OF PREMIUM.] *(a) Prior to July 1, 1997, the commissioner may cancel an enrollee's participation in the state plan for failure to pay premiums.*

(b) Beginning July 1, 1997, the commissioner may not cancel an enrollee's participation in the state plan for failure to pay premiums. The commissioner shall attempt to collect unpaid premiums through the following methods:

(1) automatic income withholding, modeled after the child support enforcement system;

(2) automatic payroll deductions; or

(3) other methods identified or developed by the commissioner.

Subd. 4. [IDENTIFICATION OF UNINSURED PERSONS.] *The commissioner shall develop and implement a system to identify state residents who have not obtained health care coverage. The system may include a survey question added to driver's license applications, income tax forms, school registration forms, and other similar forms. The system may include additional methods developed by the commissioner.*

Subd. 5. [PROVISION OF COVERAGE.] *The commissioner shall enroll state residents identified under subdivision 4 in the state plan and collect the appropriate premium from them.*

Subd. 6. [IMPLEMENTATION.] *In developing procedures to implement this section, the commissioner shall consult with the attorney general.*

Sec. 21. [EFFECTIVE DATES.]

Sections 2 and 20, relating to mandatory universal coverage, are effective July 1, 1997.

ARTICLE 3

COVERED SERVICES

THE INTERMEDIATE BENEFIT SET

Section 1. [62J.27] [AUTHORITY TO OFFER COVERAGE.]

Health plan companies participating in the state plan are authorized to offer, sell, issue, and renew the intermediate

benefit set, parts A and B, and the supplemental benefit set subject to the terms established by the commissioner, notwithstanding any contrary provisions of chapter 62A, 62C, 62D, 62E, 62J, or other laws governing health coverage.

Sec. 2. [62J.30] [PART A COVERED SERVICES: PREVENTIVE CARE.]

(a) The intermediate benefit set covers expenses for the following preventive care services for all intermediate benefit set enrollees:

(1) prenatal and postnatal care;

(2) well baby exams for children under one year of age;

(3) immunizations; and

(4) selected tests, screenings, and examinations that are demonstrated to be cost-effective components of a preventive care program, including but not limited to: Pap tests for women age 18 and older at intervals recommended by the American Cancer Society; and mammograms for women age 50 and older at intervals recommended by the American Cancer Society.

(b) The intermediate benefit set covers the following services for children, if the services are provided as part of an early and periodic screening, diagnosis, and treatment (EPSDT) regimen:

(1) routine physical exams and well child exams, including the cost of laboratory and X-ray services associated with the exam;

(2) eye exams conducted by a licensed ophthalmologist or optometrist;

(3) hearing exams; and

(4) speech exams.

Sec. 3. [62J.31] [PART A COVERED SERVICES: PRIMARY MEDICAL CARE; CHIROPRACTIC AND PODIATRIC CARE; PRESCRIPTION DRUGS; INJECTIONS; SUPPLIES.]

Subdivision 1. [PRIMARY MEDICAL CARE.] *The intermediate benefit set covers a total of up to eight visits per year provided by primary care*

physicians, nurse practitioners, and physician assistants. "Visits" include office visits, home visits, and visits in a custodial facility. For the purpose of this benefit, "primary care physicians" include only general and family practitioners, internists, pediatricians, obstetricians, and gynecologists, when serving in a primary care, rather than a consultative, capacity. Additional visits are covered when they are an alternative to inpatient care. The limit on visits does not apply to children.

Subd. 2. [CHIROPRACTIC AND PODIATRIC CARE.] *The intermediate benefit set covers care provided by doctors of chiropractic and podiatry. The total number of visits provided by doctors of chiropractic, podiatry, and health professionals is subject to the visit limits in section 4, subdivision 1.*

Subd. 3. [PRESCRIPTION DRUGS.] *The intermediate benefit set covers outpatient prescription drugs ordered by an authorized prescriber, including the dispensing fee, from a formulary specified by the commissioner. Adult prescriptions are subject to a $5 copayment. The commissioner shall establish a broader formulary for children. There is no copayment for prescriptions for children.*

Subd. 4. [THERAPEUTIC INJECTIONS.] *The intermediate benefit set covers therapeutic injections administered by a qualified health professional from a formulary specified by the commissioner. Therapeutic injections administered to adults are subject to a $5 copayment. The commissioner shall establish a broader formulary for children. There is no copayment for therapeutic injections administered to children.*

Subd. 5. [MEDICAL EQUIPMENT AND SUPPLIES FOR CHILDREN.] *The intermediate benefit set covers the following medical equipment and supplies for children:*

(1) appliances and equipment, including but not limited to orthotics, canes, crutches, glucosan, glucometers, intermittent positive pressure machines, rib belts for the treatment of an accident or illness, walkers, and wheelchairs;

(2) prosthetics and artificial parts that replace missing body parts or improve body function;

(3) one pair of eyeglasses every two years, unless more often if recommended by a qualified health professional. Contact lenses are not covered; and

(4) hearing aids.

Sec. 4. [62J.32] [PART A COVERED SERVICES: ADDITIONAL OUTPATIENT SERVICES.]

Subdivision 1. [OUTPATIENT SPECIALIST AND THERAPY SERVICES.] *The intermediate benefit set covers a total of up to eight visits and consultations per year, excluding visits as defined in section 3, subdivision 1, provided by qualified*

health professionals, including but not limited to: medical doctors, nurse practitioners, physician assistants, certified nurse midwives, chiropractors, podiatrists, physical therapists, occupational therapists, speech therapists, and audiologists. Additional visits are covered when they are an alternative to inpatient care. The limit on visits and consultations does not apply to

children.

Subd. 2. [OUTPATIENT SURGICAL SERVICES.] *The intermediate benefit set covers health professional and institutional outpatient surgical services, including surgery performed in a hospital outpatient department, the office of a qualified health professional, or freestanding surgical facility. This benefit includes services by an anesthesiologist or anesthetist for outpatient surgeries.*

Subd. 3. [RADIOLOGY AND PATHOLOGY SERVICES.] *The intermediate benefit set covers radiology and pathology services performed by a hospital outpatient department or a freestanding surgical facility. This benefit also provides for professional*

services provided by a qualified health professional when X rays and laboratory procedures are performed in the office of a qualified health professional, a hospital outpatient department, or a freestanding surgical facility.

Subd. 4. [CARDIOVASCULAR TESTS AND PROCEDURES.] *The intermediate benefit set covers therapeutic services, cardiography, cardiac catheterization, and other cardiovascular services performed or ordered by a qualified health professional.*

Subd. 5. [ALLERGY TESTING AND IMMUNOTHERAPY FOR CHILDREN.] *The intermediate benefit set covers professional services and materials associated with allergy testing and immunotherapy provided to children, when administered by a qualified health professional.*

Subd. 6. [DIALYSIS PROCEDURES.] *The intermediate benefit set covers services by a qualified health professional for dialysis treatment, including hemodialysis, peritoneal dialysis, and miscellaneous dialysis procedures.*

Subd. 7. [MISCELLANEOUS TESTS AND PROCEDURES.] *The intermediate benefit set covers the following additional professional services: biofeedback services, gastroenterology services, otorhinolaryngology services, vestibular functions tests, noninvasive peripheral vascular diagnostic studies, pulmonary services, neurology services, chemotherapy services, and dermatology services.*

Sec. 5. [62J.33] [PART A COVERED SERVICES: MENTAL HEALTH AND ALCOHOL OR DRUG DEPENDENCY CARE; OUTPATIENT.]

Subdivision 1. [OUTPATIENT MENTAL HEALTH.] *The intermediate benefit set covers up to ten hours per year of outpatient mental health therapy by a qualified professional. Two hours of group therapy count as one hour of individual therapy. Additional hours are covered when they are an alternative to inpatient care.*

Subd. 2. [OUTPATIENT ALCOHOL AND DRUG DEPENDENCY TREATMENT.] *The intermediate benefit set covers up to ten hours per year of outpatient treatment of alcohol or drug dependency by a qualified health professional or outpatient treatment program. Two hours of group treatment count as one hour of individual treatment.*

Sec. 6. [62J.32] [PART A COVERED SERVICES: MATERNITY.]

Subdivision 1. [INPATIENT MATERNITY; HOSPITAL SERVICES.] *The intermediate benefit set covers 80 percent of the cost of maternity inpatient care, consisting of room, board, and ancillary services. After a patient's total copayment for covered hospital services for inpatient maternity care*

reaches $500 per pregnancy, the intermediate benefit set covers 100 percent of additional services. This copayment is separate from the copayment for nonmaternity inpatient care. This benefit covers vaginal and caesarean deliveries, complications of pregnancy, miscarriages, and other medically necessary services. This subdivision includes only hospital inpatient services. This subdivision does not cover neonatal care or services associated with premature birth.

Subd. 2. [OUTPATIENT MATERNITY; HOSPITAL SERVICES.] *The intermediate benefit set covers outpatient treatment of miscarriages, testing procedures such as amniocentesis and ultrasound, and other medically necessary procedures. This subdivision covers only use of hospital facilities and services by hospital employees.*

Subd. 3. [HEALTH PROFESSIONALS; OBSTETRICAL CARE.] *The intermediate benefit set covers health professional services for vaginal and caesarean deliveries, complications of pregnancy, miscarriages, and other medically necessary procedures. This benefit includes delivery care, surgical care, and anesthesia. This benefit does not include standard prenatal and postnatal visits, which the intermediate benefit set covers as preventive care in section 2.*

Sec. 7. [62J.35] [PART A COVERED SERVICES: CHILDREN'S DENTAL CARE.]

This benefit provides for preventive and nonpreventive services for children.

(a) The intermediate benefit set covers preventive services which include oral examinations, X rays, fluoride applications, teeth cleaning, and other laboratory and diagnostic tests.

(b) The intermediate benefit set covers 80 percent of the cost of basic nonpreventive services which include emergency treatment, space maintainers, simple extractions, surgical extractions, oral surgery, anesthesia services, restorations, periodontics, and endodontics.

(c) The intermediate benefit set covers 50 percent of the cost of major nonpreventive services which include inlays and crowns, dentures and other removable prosthetics, bridges and other fixed prosthetics, denture and bridge repair, and other prosthetics.

Sec. 8. [62J.36] [PART B COVERED SERVICES: MENTAL HEALTH AND ALCOHOL OR DRUG DEPENDENCY CARE; INPATIENT.]

Subdivision 1. [INPATIENT HOSPITAL SERVICES.]

The intermediate benefit set covers 80 percent of the cost of inpatient hospitalization for treatment of mental disorders. After a family's total copayment for all covered inpatient benefits, including mental health and all other categories of covered inpatient care, except maternity, exceeds $2,500 in one calendar year, the intermediate benefit set covers 100 percent of additional services. After the intermediate benefit set has paid $70,000 in inpatient benefits of any kind except maternity for a person within a calendar year, the intermediate benefit set will cover no further inpatient benefits, except maternity, of any kind for that person for that calendar year.

Subd. 2. [INPATIENT HEALTH PROFESSIONAL SERVICES; VISITS AND CONSULTATIONS.] *The intermediate benefit set covers, subject to*

subdivision 1, physician services for visits, consultations,

and other care provided for treatment of mental disorders and alcohol and drug dependency on an inpatient basis at a hospital or approved extended care facility. This benefit also provides for the care of critically ill patients in a variety of settings that require the constant attention of a qualified health professional. Consultations by nonphysicians are covered if provided by appropriate health professionals.

Sec. 9. [62J.37] [PART B COVERED SERVICES: EMERGENCY CARE.]

Subdivision 1. [HOSPITAL EMERGENCY ROOM.] *After a $50 copayment paid by the insured, the intermediate benefit set covers hospital or clinic services for outpatient emergency medical care performed on an emergency basis in the emergency area of a hospital outpatient department or urgent care center, or a freestanding medical clinic that provides 24-hour emergency care. The $50 copayment is waived if the person is admitted to a hospital within 24 hours for a condition related to the emergency care. This subdivision does not include health professional services, which are covered in subdivision 2.*

Subd. 2. [HEALTH PROFESSIONALS; EMERGENCY ROOM CARE.] *The intermediate benefit set covers emergency services by qualified health professionals performed in the emergency area of a hospital outpatient department or urgent care center, or a freestanding medical clinic that provides 24-hour emergency care.*

Subd. 3. [AMBULANCE.] *The intermediate benefit set covers 80 percent of the cost of licensed ambulance service. Ambulance service for maternity care is not covered except when medically necessary.*

Sec. 10. [62J.38] [PART B COVERED SERVICES: HOSPITAL INPATIENT AND HOME HEALTH CARE.]

Subdivision 1. [GENERAL COPAYMENT AND BENEFIT LIMIT; HOSPITALIZATION.] *The intermediate benefit set covers 80 percent of the cost of general inpatient hospitalization. After a family's total copayment for all covered inpatient benefits, including mental health and all other categories of covered inpatient care, except maternity, exceeds $2,500 in one calendar year, the intermediate benefit set covers 100 percent of additional services. After the intermediate benefit set has paid $70,000 in inpatient benefits of any kind except maternity for a person within a calendar year, the intermediate benefit set will cover no further inpatient benefits, except maternity, of any kind for that person for that calendar year.*

Subd. 2. [HOSPITAL INPATIENT SERVICES.] *The intermediate benefit set covers, subject to subdivision 1, hospital services, including inpatient room, board, and ancillary services. The covered room charges are for a semiprivate room, except as otherwise provided in section 62E.06, subdivision 1, paragraph (c), clause (4). Ancillary services include use of surgical and intensive care facilities, inpatient nursing care, pathology and radiology procedures, drugs, supplies, physical therapy, and other services normally provided by hospitals. Ancillary services do not include care by health professionals, whether or not employed by the hospital. This subdivision does not include maternity and related neonatal care, alcohol and drug abuse treatment, or inpatient confinement for nursing or custodial care.*

Subd. 3. [INPATIENT HEALTH PROFESSIONAL SURGERY.] *The intermediate benefit set covers, subject to subdivision 1, services by surgeons, assistant surgeons, anesthesiologists, anesthetists, and other qualified health professionals for surgery and related procedures, including normal presurgical and postsurgical examinations, for inpatient nonmaternity surgery.*

Subd. 4. [INPATIENT HEALTH PROFESSIONAL RADIOLOGY AND PATHOLOGY.] *The intermediate benefit set covers, subject to subdivision 1, services by physicians for radiology and pathology evaluation performed on an inpatient basis.*

Subd. 5. [INPATIENT HEALTH PROFESSIONAL SERVICES; VISITS AND CONSULTATIONS.] *The intermediate benefit set covers, subject to subdivision 1, physician services for visits, consultations, and other care provided on an inpatient basis at a hospital or approved extended care facility. This benefit also provides for the care of critically ill patients in a variety of settings that require the constant attention of the physician. Consultations by nonphysicians are covered if provided by appropriate health professionals.*

Subd. 6. [EXTENDED CARE FACILITIES.] *The intermediate benefit set covers, subject to subdivision 1, room, board, and ancillary services at an approved extended care facility that is the extended care unit of a hospital or an independent skilled nursing facility. This benefit covers only noncustodial care.*

Subd. 7. [PRIVATE DUTY NURSING; HOME HEALTH CARE.] *The intermediate benefit set covers, subject to subdivision 1, private duty nursing and home health visits by a home health professional if prescribed by the attending physician. Custodial care is not covered.*

Sec. 11. [62J.37] [EXCLUDED SERVICES.]

Subdivision 1. [MEDICAL NECESSITY.] *The intermediate benefit set does not cover services that are not medically necessary.*

Subd. 2. [OTHER EXCLUDED SERVICES.] *Regardless of medical necessity, the intermediate benefit set does not cover the following services:*

(1) expenses listed under section 62E.06, subdivision 1, paragraph (c);

(2) inpatient treatment of alcoholism, chemical dependency, or drug addiction;

(3) treatment of temporomandibular joint disorder;

(4) treatment of craniomandibular disorder;

(5) orthodontia care;

(6) experimental procedures;

(7) custodial care;

(8) personal comfort or beautification;

(9) treatment for obesity;

(10) in vitro fertilization;

(11) artificial insemination;

(12) reversal of voluntary sterilization; and

(13) transsexual surgery.

Sec. 12. [62J.40] [UNIVERSAL BASIC BENEFIT SET.] *The universal basic benefit set is a uniform standard of health coverage that will be available to all Minnesotans. The commissioner shall determine the content of the universal basic benefit set, with the advice of the technology and benefits advisory committee. The universal basic benefit set must include:*

(1) the benefits contained in the intermediate benefit set, including but not limited to full coverage for prenatal care, immunizations, and other preventive care as currently mandated for health maintenance organizations; and

(2) other health care services of demonstrated effectiveness, consistent with the following principles: (i) universal and equitable access to health care procedures and technologies; (ii) maintenance of an appropriate balance between expenditures for primary and preventive care, and expenditures for high cost cases; (iii) promotion of high quality and cost-effective health care; and (iv) adherence to budget targets.

Subd. 2. [CONVERSION TO THE UNIVERSAL BASIC BENEFIT SET.] *The following changes will occur on July 1, 1997, subject to available appropriations:*

(1) the universal basic benefit set will replace the intermediate benefit set, part A, as the benefit set made available on a subsidized basis through the state plan;

(2) the supplemental benefit set will no longer be available through the state plan;

(3) the state plan may make available optional coverage that exceeds the universal basic benefit set;

(4) the intermediate benefit set will no longer be available in the private market;

(5) the universal basic benefit set will replace the mandated benefits currently required under chapters 60A, 62A, 62C, 62D, and 62E; and

(6) any health coverage programs sponsored by state or local government will be required to provide benefits equal to or better than the universal basic benefit set.

Sec. 13. [62J.39] [AVAILABILITY OF INTERMEDIATE BENEFIT SET.]

The intermediate benefit set is available only to individuals and to small groups containing no more than 15 employees or members. The intermediate benefit set may be offered through the state plan, and through the private market only by health plan companies participating in the state plan. Health plan companies participating in the state plan and providing dental coverage only may offer through the private market the dental care component of the intermediate benefit set or the universal basic benefit set without being required to offer the nondental components of the benefit sets.

The intermediate benefit set, part A, is available only to individuals and families who receive a state premium subsidy for participation in the state plan. Individuals and families covered by the intermediate benefit set, part A, may purchase the intermediate benefit set, part B, at their own expense, under terms established by the commissioner.

Sec. 14. [62J.40] [MINIMUM INSURANCE BENEFIT SET.]

For all health plan companies except those governed by chapter 62D, the minimum insurance benefit set is a number two qualified plan, as defined in section 62E.06, subdivision 2. For the purposes of this requirement, actuarial equivalence must not be used. For health plan companies governed by chapter 62D, the minimum insurance benefit set is the set of benefits required under chapter 62D. Except as provided in section 13 or chapter 62K, no health coverage may be offered, sold, issued, or renewed to any Minnesota resident or to any group in Minnesota unless the coverage meets or exceeds the requirements of the minimum insurance benefit set.

Sec. 15. [62J.41] [SUPPLEMENTAL BENEFIT SET.]

The supplemental benefit set includes the benefits commonly included in group health coverage offered by health maintenance organizations operating under chapter 62D that are not included

in the intermediate benefit set. The commissioner of health shall establish, by rule, uniform provisions for the supplemental benefit set. The state plan and health plan companies participating in the state plan must make the supplemental benefit set available as an option to any individual or group covered by the intermediate benefit set, parts A and B. For groups too large to qualify for the intermediate benefit set, the intermediate benefit set combined with the supplemental benefit set will be the only benefit set available through the state plan.

Sec. 16. [MEDICARE SUPPLEMENT COVERAGE.]

The commissioner shall make arrangements for medicare supplement coverage to be offered through the state plan, subject to the managed care and other provisions of article 2.

Sec. 17. [EFFECTIVE DATE.]

Sections 1 to 16 are effective on October 1, 1992.

ARTICLE 4

RURAL HEALTH INITIATIVES

Section 1. Minnesota Statutes 1990, section 144.147, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] "Eligible rural hospital" means any nonfederal, general acute care hospital that:

(1) is either located in a rural area, as defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 405.1041, or located in a community with a population of less than 5,000, according to United States Census Bureau statistics, outside the seven-county metropolitan area;

(2) has 100 or fewer beds;

(3) ~~has experienced net income losses in at least two of the three most recent consecutive hospital fiscal years for which audited financial information is available;~~

~~(4)~~ is not for profit; and

~~(5)~~ *(4)* has not been awarded a grant under the federal rural health transition grant program.

Sec. 2. Minnesota Statutes 1990, section 144.147, subdivision 3, is amended to read:

Subd. 3. [CONSIDERATION OF GRANTS.] In determining which hospitals will receive grants under this section, the commissioner shall take into account:

(1) improving community access to hospital or health services;

(2) changes in service populations;

(3) demand for ambulatory and emergency services;

(4) the extent that the health needs of the community are not currently being met by other providers in the service area;

(5) the need to recruit and retain health professionals; ~~and~~

(6) the involvement and extent of support of the community and local health care providers; *and*

(7) the financial condition of the hospital.

Sec. 3. Minnesota Statutes 1990, section 144.147, subdivision 4, is amended to read:

Subd. 4. [ALLOCATION OF GRANTS.] (a) Eligible hospitals must apply to the commissioner no later than September 1, ~~1990,~~ *of each year* for grants awarded ~~in the 1991 state fiscal year; and no later than September 1, 1990, for grants awarded in the 1992 state~~ *for the* fiscal year *beginning the following July 1*.

(b) ~~The commissioner may award at least two grants for each fiscal year.~~ The commissioner must make a final decision on the funding of each application within 60 days of the deadline for receiving applications.

(c) Each relevant community health board has 30 days in which to review and comment to the commissioner on grant applications from hospitals in their community health service area.

(d) In determining which hospitals will receive grants under this section, the commissioner shall consider the following factors:

(1) Description of the problem, description of the project, and the likelihood of successful outcome of the project. The applicant must explain clearly the nature of the health services problems in their service area, how the grant funds will be used, what will be accomplished, and the results expected. The applicant should describe achievable objectives, a timetable, and roles and capabilities of responsible individuals and organizations.

(2) The extent of community support for the hospital and this proposed project. The applicant should demonstrate support for the hospital and for the proposed project from other local health service providers and from local community and government leaders. Evidence of such support may include past commitments of financial support from local individuals, organizations, or government entities; and commitment of financial support, in-kind services or cash, for this project.

(3) The comments, if any, resulting from a review of the application by the community health board in whose community health service area the

hospital is located.

(e) In evaluating applications, the commissioner shall score each application on a 100 point scale, assigning the maximum of 70 points for an applicant's understanding of the problem, description of the project, and likelihood of successful outcome of the project; and a maximum of 30 points for the extent of community support for the hospital and this project. The commissioner may also take into account other relevant factors.

(f) A grant to a hospital, including hospitals that submit applications as consortia, may not exceed $50,000 a year and may not exceed a term of two years. Prior to the receipt of any grant, the hospital must certify to the commissioner that at least one-half of the amount, which may include in-kind services, is available for the same purposes from nonstate sources. A hospital receiving a grant under this section may use the grant for any expenses incurred in the development of strategic plans or the implementation of transition projects with respect to which the grant is made. Project grants may not be used to retire debt incurred with respect to any capital expenditure made prior to the date on which the project is initiated.

Sec. 4. [144.1481] [RURAL HEALTH ADVISORY COMMITTEE.]

Subdivision 1. [ESTABLISHMENT; MEMBERSHIP.] *The commissioner of health shall establish a 15-member rural health advisory committee. The committee shall consist of the following individuals, all of whom must reside outside the seven-county metropolitan area:*

(1) two members from the house of representatives of the state of Minnesota, one from the majority party and one from the minority party;

(2) two members from the senate of the state of Minnesota, one from the majority party and one from the minority party;

(3) a volunteer member of an ambulance service based outside the seven-county metropolitan area;

(4) a representative of a hospital located outside the seven-county metropolitan area;

(5) a representative of a nursing home located outside the seven-county metropolitan area;

(6) a medical doctor or doctor of osteopathy licensed under chapter 147;

(7) a midlevel practitioner;

(8) a registered nurse or licensed practical nurse;

(9) a licensed health care professional from an occupation not otherwise represented on the committee;

(10) a representative of an institution of higher education located outside the seven-county metropolitan area that provides training for rural health care providers; and

(11) three consumers, at least one of whom must be an advocate for persons who are mentally ill or developmentally disabled.

The commissioner will make recommendations for committee membership. Committee members will be appointed by the governor. In making appointments, the governor shall ensure that appointments provide geographic balance among those areas of the state outside the seven-county metropolitan area. The chair of the committee shall be elected by the members. The terms,

compensation, and removal of members are governed by section 15.059. The advisory committee does not expire as provided in section 15.059, subdivision 5.

Subd. 2. [DUTIES.] *The advisory committee shall:*

(1) advise the commissioner and other state agencies on rural health issues;

(2) provide a systematic and cohesive approach toward rural health issues and rural health care planning, at both a local and statewide level;

(3) develop and evaluate mechanisms to encourage greater cooperation among rural communities and among providers;

(4) recommend and evaluate approaches to rural health issues that are sensitive to the needs of local communities;

(5) develop methods for identifying individuals who are underserved by the rural health care system; and

(6) evaluate the Minnesotans' health care plan and recommend program changes needed to better address problems and needs in rural health care.

Subd. 3. [STAFFING; OFFICE SPACE; EQUIPMENT.] *The commissioner shall provide the advisory committee with staff support, office space, and access to office equipment and services.*

Sec. 5. [144.1482] [OFFICE OF RURAL HEALTH.]

Subdivision 1. [ESTABLISHMENT; FEDERAL GRANT APPLICATION.] *The commissioner of health shall establish an office of rural health within the department. The commissioner shall also apply for a federal grant to establish the office of rural health, as provided under the federal Public Health Service Act, Public Law Number 101-597.*

Subd. 2. [DUTIES.] *(a) The office of rural health in conjunction with the University of Minnesota medical schools and other organizations in the state which are addressing rural health care problems shall:*

(1) establish and maintain a clearinghouse for collecting and disseminating information on rural health care issues, research findings, and innovative approaches to the delivery of rural health care;

(2) coordinate the activities relating to rural health care that are carried out by the state to avoid duplication of effort;

(3) identify federal and state rural health programs and provide technical assistance to public and nonprofit entities, including community and migrant health centers, to assist them in participating in these programs;

(4) assist rural communities in improving the delivery and quality of health care in rural areas and in recruiting and retaining health professionals;

(5) work with the bureau of health care access in the department of health to provide access to health care in rural Minnesota; and

(6) carry out the duties assigned in section 6.

(b) To carry out these duties, the office may contract with or provide grants to public and private, nonprofit entities.

Sec. 6. [144.1483] [RURAL HEALTH INITIATIVES.]

The commissioner of health, through the office of rural health, and consulting as necessary with the commissioner of human services, the commissioner of commerce, the higher education coordinating board, and other state agencies, shall:

(1) develop a detailed plan regarding the feasibility of coordinating rural health care services by organizing individual medical providers and smaller hospitals and clinics into referral networks with larger rural hospitals and clinics that provide a broader array of services. Where possible, this plan will guide the bureau of health care access as established under article 1 in contracting for health care delivery throughout Minnesota;

(2) administer the planning and transition grant program for rural hospitals established under sections 144.1465 and 144.147, and develop and administer planning and transition grant programs for health care providers and communities. Grants may be used for planning regarding the use of facilities, recruitment of health personnel, and coordination of health services;

(3) administer the program of financial assistance established under section 7 for rural hospitals in isolated areas of the state that are in danger of closing without financial assistance, and that have exhausted local sources of support;

(4) develop recommendations regarding health education and training programs in rural areas, including but not limited to a physician assistants' training program, continuing education programs for rural health care providers, and rural outreach programs for nurse practitioners within existing training programs;

(5) develop a statewide, coordinated recruitment strategy for health care personnel;

(6) develop and administer technical assistance programs to assist rural communities in: (i) planning and coordinating the delivery of local health care services; and (ii) hiring physicians, nurse practitioners, public health nurses, physician assistants, and other health personnel;

(7) study and recommend changes in the regulation of health care personnel, such as nurse practitioners and physician assistants, related to scope of practice, the amount of on-site physician supervision, and dispensing of medication, to address rural health personnel shortages;

(8) support efforts to ensure continued funding for medical and nursing education programs that will increase the number of health professionals serving in rural areas;

(9) support efforts to secure higher reimbursement for rural health care providers from the Medicare and medical assistance programs; and

(10) carry out other activities necessary to address rural health problems.

Sec. 7. [144.1484] [RURAL HOSPITAL FINANCIAL ASSISTANCE GRANTS.]

The commissioner of health shall award financial assistance grants to rural hospitals in isolated areas of the state. To qualify for a grant, a hospital must: (1) be eligible to be classified as a sole community hospital according to the criteria in Code of Federal Regulations, title 42, section 412.92; (2) have experienced net income losses in the two most recent consecutive hospital fiscal years for which audited financial information is

available; (3) consist of 20 or fewer licensed beds; and (4) have exhausted local sources of support. Before applying for a grant, the hospital must have developed a strategic plan. The commissioner shall award grants in equal amounts.

Sec. 8. [144.1485] [DATA BASE ON HEALTH PERSONNEL.]

The commissioner of health shall develop and maintain a data base on health services personnel. The commissioner shall use this information to assist local communities and units of state government to develop plans for the recruitment and retention of health personnel. Information collected in the data base must include, but is not limited to, data on levels of educational preparation, specialty, and place of employment. The commissioner may collect information through the registration and licensure systems of the state health licensing boards.

Sec. 9. Minnesota Statutes 1990, section 144.698, subdivision 1, is amended to read:

Subdivision 1. [YEARLY REPORTS.] Each hospital and each outpatient surgical center, which has not filed the financial information required by this section with a voluntary, nonprofit reporting organization pursuant to section 144.702, shall file annually with the commissioner of health after the close of the fiscal year:

(1) a balance sheet detailing the assets, liabilities, and net worth of the hospital;

(2) a detailed statement of income and expenses;

(3) a copy of its most recent cost report, if any, filed pursuant to requirements of Title XVIII of the United States Social Security Act;

(4) a copy of all changes to articles of incorporation or bylaws;

(5) information on services provided to benefit the community, including services provided at no cost or for a reduced fee to patients unable to pay, teaching and research activities, or other community or charitable activities;

(6) information required on the revenue and expense report form set in effect on July 1, 1989, *or as amended by the commissioner in rule*; and

(7) other information required by the commissioner in rule.

Sec. 10. [144.99] [SPECIAL ACCOUNT; PURPOSE.]

A special account is created within the department of health, to be known as the special account for pediatric access and training. All money in the account is annually appropriated to the department of pediatrics, University of Minnesota school of medicine. Money in the account is to be used by the department of pediatrics to implement section 11.

Sec. 11. [144.991] [PROGRAM FOR PEDIATRIC ACCESS AND TRAINING.]

Subdivision 1. [ADMINISTRATION.] *The department of pediatrics in the University of Minnesota school of medicine shall administer a program for pediatric access and training.*

Subd. 2. [PROGRAM COMPONENTS.] *Components of the program shall include, but are not limited to:*

(1) specialized training in a variety of outpatient settings;

(2) recruitment of individuals with a high probability of establishing a pediatric practice in a rural or small urban, nonmetropolitan setting;

(3) rural training rotations; and

(4) development of peer support mechanisms for rural pediatric practitioners.

Sec. 12. [SPECIAL STUDIES.]

The commissioner of health, through the office of rural health, shall conduct the following investigations:

(1) investigate, develop recommendations, and prepare a report to the legislature by January 15, 1993, regarding the use of advanced telecommunications technologies to improve rural health education and health care delivery;

(2) investigate the adequacy of access to perinatal services in rural Minnesota and report findings and recommendations to the legislature by February 1, 1993; and

(3) study the impact of current reimbursement provisions for midlevel practitioners on the use of midlevel practitioners in rural practice settings, examining reimbursement provisions in state programs, federal programs, and private sector health plans, and report findings and recommendations to the legislature by February 1, 1992.

Sec. 13. [REPORT ON RURAL HOSPITAL FINANCIAL ASSISTANCE GRANTS.]

The commissioner of health shall examine the eligibility criteria for rural hospital financial assistance grants under section 7 and report to the legislature by February 1, 1992, on any needed modifications.

Sec. 14. [EFFECTIVE DATE.]

Section 4 creating the rural health advisory committee is effective January 1, 1992.

ARTICLE 5

HOSPITALS; EMERGENCY MEDICAL SERVICES

Section 1. Minnesota Statutes 1990, section 16A.124, is amended by adding a subdivision to read:

Subd. 4a. [INVOICE ERRORS: DEPARTMENT OF HUMAN SERVICES.] *For purposes of department of human services payments to hospitals receiving reimbursement under the medical assistance and general assistance medical care programs, if an invoice is incorrect, defective, or otherwise improper, the department of human services must notify the hospital of all errors, within 30 days of discovery of the errors.*

Sec. 2. Minnesota Statutes 1990, section 43A.17, subdivision 9, is amended to read:

Subd. 9. [POLITICAL SUBDIVISION SALARY LIMIT.] The salary of a person employed by a statutory or home rule charter city, county, town, school district, metropolitan or regional agency, or other political subdivision of this state, or employed under section 422A.03, may not exceed 95 percent of the salary of the governor as set under section 15A.082, except as provided in this subdivision. Deferred compensation and payroll

allocations to purchase an individual annuity contract for an employee are included in determining the employee's salary. The salary of a medical doctor *or doctor of osteopathy* occupying a position that the governing body of the political subdivision has determined requires an M.D. *or D.O.* degree is excluded from the limitation in this subdivision. The commissioner may increase the limitation in this subdivision for a position that the commissioner has determined requires special expertise necessitating a higher salary to attract or retain a qualified person. The commissioner shall review each proposed increase giving due consideration to salary rates paid to other persons with similar responsibilities in the state. The commissioner may not increase the limitation until the commissioner has presented the proposed increase to the legislative commission on employee relations and received the commission's recommendation on it. The recommendation is advisory only. If the commission does not give its recommendation on a proposed increase within 30 days from its receipt of the proposal, the commission is deemed to have recommended approval.

Sec. 3. Minnesota Statutes 1990, section 43A.23, is amended by adding a subdivision to read:

Subd. 4. [STATE HEALTH PLAN.] *The commissioner of employee relations shall provide flexibility in interpreting policies and procedures for implementing and administering the state health plan, to ensure adequate access throughout the state to the state health plan.*

Sec. 4. Minnesota Statutes 1990, section 144.581, subdivision 1, is amended to read:

Subdivision 1. [NONPROFIT CORPORATION POWERS.] A municipality, political subdivision, state agency, or other governmental entity that owns or operates a hospital authorized, organized, or operated under chapters 158, 250, 376, and 397, or under sections 246A.01 to 246A.27, 412.221, 447.05 to 447.13, 447.31, or 471.59, or under any special law authorizing or establishing a hospital or hospital district shall, relative to the delivery of health care services, have, in addition to any authority vested by law, the authority and legal capacity of a nonprofit corporation under chapter 317A, including authority to

(a) enter shared service and other cooperative ventures,

(b) join or sponsor membership in organizations intended to benefit the hospital or hospitals in general,

(c) enter partnerships,

(d) incorporate other corporations,

(e) have members of its governing authority or its officers or administrators serve as directors, officers, or employees of the ventures, associations, or corporations,

(f) own shares of stock in business corporations,

(g) offer, directly or indirectly, products and services of the hospital, organization, association, partnership, or corporation to the general public, *and*

(h) ~~provide funds for payment of educational expenses of up to $20,000 per individual, if the hospital or hospital district has at least $1,000,000 in reserve and depreciation funds at the time of payment, and these reserve and depreciation funds were obtained solely from the operating revenues of the~~

~~hospital or hospital district, and~~

~~(i) provide funds of up to $50,000 per year per individual for a maximum of two years to supplement the incomes of family practice physicians, up to a maximum of $100,000 in annual income, if the hospital or hospital district has at least $250,000 in reserve and depreciation funds at the time of payment, and these reserve and depreciation funds were obtained solely from the operating revenues of the hospital or hospital district.~~ *expend funds, including public funds in any form, or devote the resources of the hospital or hospital district, to recruit or retain physicians whose services are necessary or desirable for meeting the health care needs of the population, and for successful performance of the hospital or hospital district's public purpose of the promotion of health. Allowable uses of funds and resources include the retirement of medical education debt, payment of one time amounts in consideration of services rendered or to be rendered, payment of recruitment expenses, payment of moving expenses, and the provision of other financial assistance necessary for the recruitment and retention of physicians, provided that the expenditures in whatever form are reasonable under the facts and circumstances of the situation.*

Sec. 5. Minnesota Statutes 1990, section 144.581, is amended by adding a subdivision to read:

Subd. 6. [WORKERS' COMPENSATION POOLS.] *Notwithstanding section 144.581, subdivision 2, and any other law to the contrary, public hospitals or organizations established under this section, and nursing homes, including those owned and operated by the state, a county, a municipality, or other governmental entity, may join with one another and with private hospitals or nursing homes to form and operate a group workers' compensation self-insured pool. A group self-insured pool that includes both governmental and private employers as authorized by this section is deemed to be organized and under the authority of sections 176.181 and 79A.03 and the administrative rules relating to private self-insured employers and groups. In the case of governmental employers, the joint and several liability of the employers shall be limited to the earned revenue and assets of the hospital or nursing home and shall not to any greater extent be a liability of the governmental entity or subject to its full faith and credit. In the event of the financial inability of the self-insured group to pay its claims, claims attributable to private hospital or nursing home employers shall be covered by the self-insurers' security fund and claims attributable to governmental hospital or nursing home employers shall be covered by the special compensation fund. Only private employers covered by this section shall be subject to assessment by the self-insurers' security fund.*

Sec. 6. Minnesota Statutes 1990, section 144.8093, is amended to read:

144.8093 [EMERGENCY MEDICAL SERVICES FUND.]

Subdivision 1. [CITATION.] This section is the "Minnesota emergency medical services system support act."

Subd. 2. [ESTABLISHMENT AND PURPOSE.] In order to develop, maintain, and improve regional emergency medical services systems, the department of health shall establish an emergency medical services system fund. The fund shall be used for the general purposes of promoting systematic, cost-effective delivery of emergency medical care throughout the state; identifying common local, regional, and state emergency medical

system needs and providing assistance in addressing those needs; ~~undertaking special projects of statewide significance that will enhance the provision of emergency medical care in Minnesota~~ *providing discretionary grants for emergency medical service projects with potential regionwide significance*; providing for public education about emergency medical care; promoting the exchange of emergency medical care information; ensuring the ongoing coordination of regional emergency medical services systems; and establishing and maintaining training standards to ensure consistent quality of emergency medical services throughout the state.

Subd. 3. [USE AND RESTRICTIONS.] Designated regional emergency medical services systems may use emergency medical services system funds to support local and regional emergency medical services as determined within the region, with particular emphasis given to supporting and improving emergency trauma and cardiac care and training. No part of a region's share of the fund may be used to directly subsidize any ambulance service operations or rescue service operations or to purchase any vehicles or parts of vehicles for an ambulance service or a rescue service.

Subd. 4. [DISTRIBUTION.] Money from the fund shall be distributed according to this subdivision. ~~Eighty~~ *Ninety-three and one-third* percent of the fund shall be distributed annually on a contract for services basis with each of the eight regional emergency medical services systems designated by the commissioner of health. The systems shall be governed by a body consisting of appointed representatives from each of the counties in that region and shall also include representatives from emergency medical services organizations. The commissioner shall contract with a regional entity only if the contract proposal satisfactorily addresses proposed emergency medical services activities in the following areas: personnel training, transportation coordination, public safety agency cooperation, communications systems maintenance and development, public involvement, health care facilities involvement, and system management. If each of the regional emergency medical services systems submits a satisfactory contract proposal, then this part of the fund shall be distributed evenly among the regions. If one or more of the regions does not contract for the full amount of its even share or if its proposal is unsatisfactory, then the commissioner may reallocate the unused funds to the remaining regions on a pro rata basis. Six and two-thirds percent of the fund shall be used by the commissioner to support regionwide reporting systems and to provide other regional administration and technical assistance. ~~Thirteen and one-third percent shall be distributed by the commissioner as discretionary grants for special emergency medical services projects with potential statewide significance.~~

Sec. 7. Minnesota Statutes 1990, section 176.011, subdivision 9, is amended to read:

Subd. 9. [EMPLOYEE.] "Employee" means any person who performs services for another for hire including the following:

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, constable, marshal, police officer, firefighter, county highway engineer, and peace officer while engaged in the enforcement of peace or in the pursuit or capture of a person charged with or suspected of crime;

(4) a person requested or commanded to aid an officer in arresting or

retaking a person who has escaped from lawful custody, or in executing legal process, in which cases, for purposes of calculating compensation under this chapter, the daily wage of the person shall be the prevailing wage for similar services performed by paid employees;

(5) a county assessor;

(6) an elected or appointed official of the state, or of a county, city, town, school district, or governmental subdivision in the state. An officer of a political subdivision elected or appointed for a regular term of office, or to complete the unexpired portion of a regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(7) an executive officer of a corporation, except those executive officers excluded by section 176.041;

(8) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioners of human services and corrections similar to those of officers and employees of the institutions, and whose services have been accepted or contracted for by the commissioner of human services or corrections as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(9) a voluntary uncompensated worker engaged in peace time in the civil defense program when ordered to training or other duty by the state or any political subdivision of it. The daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed by paid employees;

(10) a voluntary uncompensated worker participating in a program established by a county welfare board. In the event of injury or death of the worker, the wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid in the county at the time of the injury or death for similar services performed by paid employees working a normal day and week;

(11) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 84.089. The daily wage of the worker for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(12) a member of the military forces, as defined in section 190.05, while in state active service, as defined in section 190.05, subdivision 5a. The daily wage of the member for the purpose of calculating compensation under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

(13) a voluntary uncompensated worker, accepted by the director of the Minnesota historical society, rendering services as a volunteer, pursuant to chapter 138. The daily wage of the worker, for the purposes of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(14) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota state academy for the deaf or the Minnesota state academy for the blind, and whose services have been accepted or contracted for by the state board of education, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(15) a voluntary uncompensated worker, other than a resident of the veterans home, who renders services at a Minnesota veterans home, and whose services have been accepted or contracted for by the commissioner of veterans affairs, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(16) a worker who renders in-home attendant care services to a physically handicapped person, and who is paid directly by the commissioner of human services for these services, shall be an employee of the state within the meaning of this subdivision, but for no other purpose;

(17) students enrolled in and regularly attending the medical school of the University of Minnesota in the graduate school program or the post-graduate program. The students shall not be considered employees for any other purpose. In the event of the student's injury or death, the weekly wage of the student for the purpose of calculating compensation under this chapter, shall be the annualized educational stipend awarded to the student, divided by 52 weeks. The institution in which the student is enrolled shall be considered the "employer" for the limited purpose of determining responsibility for paying benefits under this chapter;

(18) a faculty member of the University of Minnesota employed for an academic year is also an employee for the period between that academic year and the succeeding academic year if:

(a) the member has a contract or reasonable assurance of a contract from the University of Minnesota for the succeeding academic year; and

(b) the personal injury for which compensation is sought arises out of and in the course of activities related to the faculty member's employment by the University of Minnesota;

(19) a worker who performs volunteer ambulance driver or attendant services is an employee of the political subdivision, nonprofit hospital, nonprofit corporation, or other entity for which the worker performs the services. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(20) a voluntary uncompensated worker, accepted by the commissioner of administration, rendering services as a volunteer at the department of administration. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(21) a voluntary uncompensated worker rendering service directly to the

pollution control agency. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees; ~~and~~

(22) a voluntary uncompensated worker while volunteering services as a first responder or as a member of a law enforcement assistance organization while acting under the supervision and authority of a political subdivision. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees; *and*

(23) a voluntary uncompensated worker while volunteering services as a member of a rescue squad organized under the authority of a political subdivision. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees.

If it is difficult to determine the daily wage as provided in this subdivision, the trier of fact may determine the wage upon which the compensation is payable.

Sec. 8. Minnesota Statutes 1990, section 256.969, subdivision 6a, is amended to read:

Subd. 6a. [SPECIAL CONSIDERATIONS.] (a) In determining the payment rates, the commissioner shall consider whether the following circumstances exist:

(1) [MINIMAL MEDICAL ASSISTANCE USE.] Minnesota hospitals with 30 or fewer annualized admissions of Minnesota medical assistance recipients in the base year, excluding Medicare crossover admissions, may have the base year operating rates, as adjusted by the case mix index, and property payment rates established at the 70th percentile of hospitals in the peer group in effect during the base year as established by the Minnesota department of health for use by the rate review program. Rates within a peer group shall be adjusted for differences in fiscal years and outlier percentage payments before establishing the 70th percentile. The operating payment rate portion of the 70th percentile shall be adjusted by the hospital cost index. To have rates established under this paragraph, the hospital must notify the commissioner in writing by November 1 of the year preceding the rate year. This paragraph shall be applied to all payment rates of the affected hospital.

(2) [UNUSUAL COST OR LENGTH OF STAY EXPERIENCE.] The commissioner shall establish day and cost outlier thresholds for each diagnostic category established under subdivision 2 at two standard deviations beyond the geometric mean length of stay or allowable cost. Payment for the days and cost beyond the outlier threshold shall be in addition to the operating and property payment rates per admission established under subdivisions 2, 2b, and 2c. Payment for outliers shall be at 70 percent of the allowable operating cost calculated by dividing the operating payment rate per admission, after adjustment by the case mix index, hospital cost index, relative values and the disproportionate population adjustment, by the arithmetic mean length of stay for the diagnostic category. The outlier threshold for neonatal and burn diagnostic categories shall be established at one

standard deviation beyond the geometric mean length of stay or allowable cost, and payment shall be at 90 percent of allowable operating cost calculated in the same manner as other outliers. A hospital may choose an alternative percentage outlier payment to a minimum of 60 percent and a maximum of 80 percent if the commissioner is notified in writing of the request by October 1 of the year preceding the rate year. The chosen percentage applies to all diagnostic categories except burns and neonates. The percentage of allowable cost that is unrecognized by the outlier payment shall be added back to the base year operating payment rate per admission. Cost outliers shall be calculated using hospital specific allowable cost data. If a stay is both a day and a cost outlier, outlier payments shall be based on the higher outlier payment.

(3) [DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS SERVED.] For admissions occurring on or after July 1, 1989, the medical assistance disproportionate population adjustment shall comply with federal law at fully implemented rates. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. For admissions occurring on or after the rate year beginning January 1, 1991, the disproportionate population adjustment shall be derived from base year Medicare cost report data and may be adjusted by data reflecting actual claims paid by the department.

(4) [SEPARATE BILLING BY CERTIFIED REGISTERED NURSE ANESTHETISTS.] Hospitals may exclude certified registered nurse anesthetist costs from the operating payment rate as allowed by section 256B.0625, subdivision 11. To be eligible, a hospital must notify the commissioner in writing by October 1 of the year preceding the rate year of the request to exclude certified registered nurse anesthetist costs. The hospital must agree that all hospital claims for the cost and charges of certified registered nurse anesthetist services will not be included as part of the rates for inpatient services provided during the rate year. In this case, the operating payment rate shall be adjusted to exclude the cost of certified registered nurse anesthetist services. Payments made through separate claims for certified registered nurse anesthetist services shall not be paid directly through the hospital provider number or indirectly by the certified registered nurse anesthetist to the hospital or related organizations.

(5) [SPECIAL RATES.] The commissioner may establish special rate-setting methodologies, including a per day operating and property payment system, for hospice, ventilator dependent, and other services on a hospital and recipient specific basis taking into consideration such variables as federal designation, program size, and admission from a medical assistance waiver or home care program. The data and rate calculation method shall conform to the requirements of paragraph (7), except that hospice rates shall not exceed the amount allowed under federal law and payment shall be secondary to any other medical assistance hospice program. Rates and payments established under this paragraph must meet the requirements of section 256.9685, subdivisions 1 and 2, and must not exceed payments that would otherwise be made to a hospital in total for rate year admissions under subdivisions 2, 2b, 2c, 3, 4, 5, and 6. The cost and charges used to establish rates shall only reflect inpatient medical assistance covered services. Hospital and claims data that are used to establish rates under this paragraph shall not be used to establish payments or relative values under subdivisions 2, 2b, 2c, 3, 4, 5, and 6.

(6) [REHABILITATION DISTINCT PARTS.] Units of hospitals that are

recognized as rehabilitation distinct parts by the Medicare program shall have separate provider numbers under the medical assistance program for rate establishment and billing purposes only. These units shall also have operating and property payment rates and the disproportionate population adjustment established separately from other inpatient hospital services, based on the methods of subdivisions 2, 2b, 2c, 3, 4, 5, and 6. The commissioner may establish separate relative values under subdivision 2 for rehabilitation hospitals and distinct parts as defined by the Medicare program. For individual hospitals that did not have separate medical assistance rehabilitation provider numbers or rehabilitation distinct parts in the base year, hospitals shall provide the information needed to separate rehabilitation distinct part cost and claims data from other inpatient service data.

(7) [NEONATAL TRANSFERS.] For admissions occurring on or after July 1, 1989, neonatal diagnostic category transfers shall have operating and property payment rates established at receiving hospitals which have neonatal intensive care units on a per day payment system that is based on the cost finding methods and allowable costs of the Medicare program during the base year. Other neonatal diagnostic category transfers shall have rates established according to paragraph (8). The rate per day for the neonatal service setting within the hospital shall be determined by dividing base year neonatal allowable costs by neonatal patient days. The operating payment rate portion of the rate shall be adjusted by the hospital cost index and the disproportionate population adjustment. The cost and charges used to establish rates shall only reflect inpatient services covered by medical assistance. Hospital and claims data used to establish rates under this paragraph shall not be used to establish payments or relative values under subdivisions 2, 2b, 2c, 3, 4, 5, and 6.

(8) [TRANSFERS.] Except as provided in paragraphs (5) and (7), operating and property payment rates for admissions that result in transfers and transfers shall be established on a per day payment system. The per day payment rate shall be the sum of the adjusted operating and property payment rates determined in subdivisions 2b and 2c, divided by the arithmetic mean length of stay for the diagnostic category. Each admission that results in a transfer and each transfer is considered a separate admission to each hospital, and the total of the admission and transfer payments to each hospital must not exceed the total per admission payment that would otherwise be made to each hospital under paragraph (2) and subdivisions 2b and 2c.

(b) The computation of each hospital's payment rate and the relative values of the diagnostic categories are not subject to the routine service cost limitation imposed under the Medicare program.

(c) Indian health service facilities are exempt from the rate establishment methods required by this section and shall be reimbursed at the facility's usual and customary charges to the general public. This exemption is not effective for payments under general assistance medical care.

(d) Except as provided in paragraph (a), clauses (1) and (3), out-of-state hospitals that are located within a Minnesota local trade area shall have rates established using the same procedures and methods that apply to Minnesota hospitals. Hospitals that are not required by law to file information in a format necessary to establish rates shall have rates established based on the commissioner's estimates of the information. Relative values of the diagnostic categories shall not be redetermined under this paragraph until required by rule. Hospitals affected by this paragraph shall then be

included in determining relative values. However, hospitals that have rates established based upon the commissioner's estimates of information shall not be included in determining relative values. This paragraph is effective for hospital fiscal years beginning on or after July 1, 1988. A hospital shall provide the information necessary to establish rates under this paragraph at least 90 days before the start of the hospital's fiscal year.

(e) Hospitals that are not located within Minnesota or a Minnesota local trade area shall have operating and property rates established at the average of statewide and local trade area rates or, at the commissioner's discretion, at an amount negotiated by the commissioner. Relative values shall not include data from hospitals that have rates established under this paragraph. Payments, including third party liability, established under this paragraph may not exceed the charges on a claim specific basis for inpatient services that are covered by medical assistance.

(f) Medical assistance inpatient payment rates must include the cost incurred by hospitals to pay the department of health for metabolic disorder testing of newborns who are medical assistance recipients, if the cost is not recognized by another payment source.

(g) Medical assistance inpatient payments shall increase 20 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

(h) Medical assistance inpatient payments shall increase 15 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

(i) Medical assistance inpatient payments shall increase 7.25 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between April 1, 1991, and the implementation date of the upgrade to the Medicaid management information system, if: (i) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

(j) Medical assistance inpatient payments shall increase 4.4 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between April 1, 1991, and the implementation date

of the upgrade to the Medicaid management information system, if: (i) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

~~(i)~~ *(k)* Admissions occurring on or after July 1, 1990, that are classified to a diagnostic category of mental health or chemical dependency shall have rates established according to the methods of paragraph (a), clause (8), except the per day rate shall be multiplied by a factor of 2, provided that the total of the per day rates shall not exceed the per admission rate. This methodology shall also apply when a hold or commitment is ordered by the court for the days that inpatient hospital services are medically necessary. Stays which are medically necessary for inpatient hospital services and covered by medical assistance shall not be billable to any other governmental entity. Medical necessity shall be determined under criteria established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b).

Sec. 9. Minnesota Statutes 1990, section 447.31, subdivision 1, is amended to read:

Subdivision 1. [RESOLUTIONS.] Any ~~four~~ *two* or more cities and towns, however organized, except cities of the first class, may create a hospital district. They must do so by resolutions adopted by their respective governing bodies or electors. A hospital district may be reorganized according to sections 447.31 to 447.37. Reorganization must be by resolutions adopted by the district's hospital board and the governing body or voters of each city and town in the district.

Sec. 10. Minnesota Statutes 1990, section 447.31, subdivision 3, is amended to read:

Subd. 3. [CONTENTS OF RESOLUTION.] A resolution under subdivision 1 must state that a hospital district is authorized to be created under sections 447.31 to 447.37, or that an existing hospital district is authorized to be reorganized under sections 447.31 to 447.37, in order to acquire, improve, and run hospital and nursing home facilities that the hospital board decides are necessary and expedient in accordance with sections 447.31 to 447.37. The resolution must name the ~~four~~ *two* or more cities or towns included in the district. The resolution must be adopted by a two-thirds majority of the members-elect of the governing body or board acting on it, or by the voters of the city or town as provided in this section.

Each resolution adopted by the governing body of a city or town must be published in its official newspaper and takes effect 40 days after publication, unless a petition for referendum on the resolution is filed with the governing body within 40 days. A petition for referendum must be signed by at least five percent of the number of voters voting at the last election of officers. If a petition is filed, the resolution does not take effect until approved by a majority of voters voting on it at a regular municipal election or a special election which the governing body may call for that purpose.

The resolution may also be initiated by petition filed with the governing body of the city or town, signed by at least ten percent of the number of

voters voting at the last general election. A petition must present the text of the proposed resolution and request an election on it. If the petition is filed, the governing body shall call a special election for the purpose, to be held within 30 days after the filing of the petition, or may submit the resolution to a vote at a regular municipal election that is to be held within the 30-day period. The resolution takes effect if approved by a majority of voters voting on it at the election. Only one election shall be held within any given 12-month period upon resolutions initiated by petition. The notice of the election and the ballot used must contain the text of the resolution, followed by the question: "Shall the above resolution be approved?"

Sec. 11. [STUDY OF BASIC AND ADVANCED LIFE SUPPORT REIMBURSEMENT.]

The commissioner of human services, in consultation with the commissioner of health, shall study the mechanisms and rates of reimbursement for advanced and basic life support ambulance and special transportation service calls under medical assistance and general assistance medical care. The study shall examine methods of simplifying the claims process, interpretation of the "medically necessary" criteria and prior approval in light of the statutory mandate that ambulance service may not be denied, as well as other issues that create impediments to reasonable and fair reimbursement. The commissioner shall report findings and offer recommendations to the legislature by February 1, 1992, on means of maximizing potential reimbursement levels.

Sec. 12. [STUDY OF AMBULANCE SUBSCRIPTION PLANS.]

The commissioner of commerce and the commissioner of health shall study prepaid ambulance service plans that allow a person to prepay for ambulance services on a yearly basis. The commissioners shall study plans offered in other states and shall study the cost effectiveness and feasibility of offering these plans in Minnesota. The commissioners shall study methods of funding the plans. The commissioners shall also address the issue of whether these plans should be regulated as insurance, health maintenance organizations, or as another type of entity. The commissioners shall conduct the study in conjunction with the attorney general. The commissioners shall report the findings of the study to the legislature by January 1, 1992.

Sec. 13. [EFFECTIVE DATE.]

Section 1 is effective for the department of human services July 1, 1992 or on the implementation date of the upgrade to the Medicaid management information system, whichever is later.

ARTICLE 6

DATA COLLECTION AND RESEARCH INITIATIVES

Section 1. [62J.42] [HEALTH CARE ANALYSIS UNIT.]

Subdivision 1. [ESTABLISHMENT.] *The commissioner of health shall establish a health care analysis unit to conduct data and research initiatives in order to improve the efficiency and effectiveness of health care in Minnesota.*

Subd. 2. [GENERAL DUTIES; IMPLEMENTATION DATE.] *The commissioner, through the health care analysis unit, shall:*

(1) conduct applied research using existing and newly established health care data bases, and promote applications based on existing research;

(2) establish the condition-specific data base required under section 2;

(3) develop and implement data collection procedures to ensure a high level of cooperation from health care providers and health plans;

(4) work closely with health plans and health care providers under contract with the commissioner of health care access to promote improvements in health care efficiency and effectiveness;

(5) periodically evaluate the state's existing health care financing and delivery programs, and the health programs created or administered by the commissioner;

(6) regularly prepare estimates, specific to Minnesota, of total health service expenditures and sources of payment;

(7) participate as a partner or sponsor of private sector initiatives that promote publicly disseminated applied research on health care delivery, outcomes, costs, quality, and management;

(8) conduct periodic surveys, including those required by section 5;

(9) provide technical assistance to health plan and health care purchasers, as required by section 6;

(10) develop outcome-based practice parameters as required under section 7; and

(11) provide technical assistance as needed to the department of health.

The commissioner shall begin implementation of these data collection and research initiatives by July 1, 1992.

Subd. 3. [CRITERIA FOR UNIT INITIATIVES.] *Data and research initiatives by the health care analysis unit must:*

(1) serve the needs of the general public, public sector health care programs, employers and other purchasers of health care, health care providers, including providers serving large numbers of low-income people, and health plan companies;

(2) promote a significantly accelerated pace of publicly disseminated, applied research on health care delivery, outcomes, costs, quality, and management;

(3) conduct research and promote health care applications based on scientifically sound and statistically valid methods;

(4) be statewide in scope, in order to benefit health care purchasers and providers in all parts of Minnesota and to ensure a broad and representative data base for research, comparisons, and applications;

(5) emphasize data that is useful, relevant, and nonredundant of existing data. The initiatives may duplicate existing private activities, if this is necessary to ensure that the data collected will be in the public domain;

(6) be structured to minimize the administrative burden on health plans, health care providers, and the health care delivery system; and

(7) promote continuous improvement in the efficiency and effectiveness of health care delivery.

Subd. 4. [CRITERIA FOR PUBLIC SECTOR HEALTH CARE PROGRAMS.] *Data and research initiatives related to public sector health care*

programs must:

(1) assist the state's current health care financing and delivery programs, and the state plan, to deliver and purchase health care in a manner that promotes improvements in health care efficiency and effectiveness;

(2) assist the state in its public health activities, including the analysis of disease prevalence and trends and the development of public health responses;

(3) assist the state in developing and refining its overall health policy, including policy related to health care costs, quality, and access; and

(4) provide a data source that allows the evaluation of state health care financing and delivery programs.

Subd. 5. [DATA COLLECTION PROCEDURES.] *The health care analysis unit shall collect data from health care providers, health plan companies, and individuals in the most cost-effective manner, which does not unduly burden providers. The unit may require health care providers and health plan companies to collect and provide patient health data, provide mailing lists of patients who have consented to the data request, and cooperate in other ways with the data collection process. All patient-identifying information is classified as private data. For purposes of this section, the health care analysis unit shall assign, or require health care providers and health plan companies to assign, a unique identification number to each patient to safeguard patient identity.*

Subd. 6. [DATA CLASSIFICATION.] *(a) Data collected through the large-scale data base initiatives of the health care analysis unit required by section 62J.45 that identify individuals are private data on individuals. Data not on individuals are nonpublic data. The commissioner may release private data on individuals and nonpublic data to researchers affiliated with university research centers or departments who are conducting research on health outcomes, practice parameters, and medical practice style; researchers working under contract with the bureau of health care access; and individuals purchasing health care services for health plan companies and groups. Prior to releasing any nonpublic data under this paragraph that identify or relate to a specific health plan, medical provider, or health care facility, the commissioner shall provide at least 30 days' notice to the subject of the data, including a copy of the relevant data, and allow the subject of the data to provide a brief explanation or comment on the data which must be released with the data.*

(b) Data collected through the survey research initiatives of the health care analysis unit required by section 4 are classified as public data under section 13.03, except that any patient or enrollee identifying information is private data.

(c) Summary data derived from data collected through the large-scale data base and survey research initiatives of the health care analysis unit may be provided under section 13.05, subdivision 7, and may be released in studies produced by the bureau of health care access.

(d) The commissioner shall adopt rules to establish criteria and procedures to govern access to and the use of data collected through the initiatives of the health care analysis unit.

Subd. 7. [DATA COLLECTION ADVISORY COMMITTEE.] *The commissioner shall convene a 15 member data collection advisory committee*

consisting of health service researchers, health care providers, health plan company representatives, representatives of businesses that purchase health coverage, and consumers. The advisory committee shall evaluate methods of data collection and shall recommend to the commissioner methods of data collection that minimize administrative burdens, address data privacy concerns, and meet the needs of health service researchers. The advisory committee is governed by section 15.059.

Subd. 8. |FEDERAL AND OTHER GRANTS.| *The commissioner of health shall seek federal funding, and funding from private and other nonstate sources, for the initiatives of the health care analysis unit.*

Sec. 2. |62J.43| |LARGE-SCALE DATA BASE.|

Subdivision 1. |ESTABLISHMENT.| *The health care analysis unit shall establish a large-scale data base for a limited number of health conditions. This initiative must meet the requirements of this section.*

Subd. 2. |SPECIFIC HEALTH CONDITIONS.| *(a) The data must be collected for specific health conditions, rather than specific procedures, types of health care providers, or services. The health care analysis unit shall designate a limited number of specific health conditions for which data shall be collected during the first year of operation. For subsequent years, data may be collected for additional specific health conditions. The number of specific conditions for which data is collected is subject to the availability of appropriations.*

(b) The initiative must emphasize conditions that account for significant total costs, when considering both the frequency of a condition and the unit cost of treatment. The initial emphasis must be on the study of conditions commonly treated in hospitals on an inpatient or outpatient basis, or in freestanding outpatient surgical centers. As improved data collection and evaluation techniques are incorporated, this emphasis shall be expanded to include entire episodes of care for a given condition, whether or not treatment includes use of a hospital or a freestanding outpatient surgical center.

Subd. 3. |INFORMATION TO BE COLLECTED.| *The data collected must include information on health outcomes, including information on mortality, morbidity, patient functional status and quality of life, symptoms, and patient satisfaction. The data collected must include information necessary to measure and make adjustments for differences in the severity of patient condition across different health care providers, and may include data obtained directly from the patient or from patient medical records. The data must be collected in a manner that allows comparisons to be made between providers, health plan companies, public programs, and other entities.*

Subd. 4. |DATA COLLECTION AND REVIEW.| *Data collection for any one condition must continue for a sufficient time to permit: adequate analysis by researchers and appropriate providers, including providers who will be impacted by the data; feedback to providers; and monitoring for changes in practice patterns. The health care analysis unit shall annually review all specific health conditions for which data is being collected, in order to determine if data collection for that condition should be continued.*

Subd. 5. |USE OF EXISTING DATA BASES.| *(a) The health care analysis unit shall negotiate with private sector organizations currently collecting data on specific health conditions of interest to the unit, in order to obtain*

required data in a cost-effective manner and minimize administrative costs. The unit shall attempt to establish linkages between the large scale data base established by the unit and existing private sector data bases and shall consider and implement methods to streamline data collection in order to reduce public and private sector administrative costs.

(b) The health care analysis unit shall use existing public sector data bases, such as those existing for medical assistance and Medicare, to the greatest extent possible. The unit shall establish linkages between existing public sector data bases and consider and implement methods to streamline public sector data collection in order to reduce public and private sector administrative costs.

Sec. 3. [62J.44] [ANALYSIS AND USE OF DATA COLLECTED THROUGH THE LARGE-SCALE DATA BASE.]

Subdivision 1. [DATA ANALYSIS.] *The health care analysis unit shall analyze the data collected on specific health conditions using existing practice parameters and newly researched practice parameters, including those established through the medical effectiveness studies of the federal government. The unit may use the data collected to develop new practice parameters, if development and refinement is based upon input from and analysis by practitioners, particularly those practitioners knowledgeable about and impacted by practice parameters. The unit may also refine existing practice parameters, and may encourage or coordinate private sector research efforts designed to develop or refine practice parameters.*

Subd. 2. [EDUCATIONAL EFFORTS.] *The health care analysis unit shall maintain and improve the quality of health care in Minnesota by providing practitioners in the state with information about practice parameters. The unit shall promote, support, and disseminate parameters for specific, appropriate conditions, and the research findings on which these parameters are based, to all practitioners in the state who diagnose or treat the medical condition.*

Subd. 3. [PEER REVIEWS.] *The unit may require peer reviews for specific medical conditions for which medical practice in all or part of the state deviates from practice parameters. The unit may also require peer reviews for specific medical conditions for which there are large variations in treatment method or frequency of treatment in all or part of the state. Peer reviews may be required for all medical practitioners statewide, or limited to medical practitioners in specific areas of the state. The peer reviews shall determine if the procedures conducted by medical practitioners are medically necessary and appropriate, and within acceptable and prevailing practice parameters that have been disseminated by the health care analysis unit in conjunction with the appropriate professional organizations. If a medical practitioner's practice style does not change and the practitioner continues to perform procedures that are medically inappropriate, even after educational efforts by the review panel, the practitioner may be reported to the appropriate professional licensing board.*

Subd. 4. [PEER REVIEW ADVISORY COMMITTEE.] *The commissioner shall convene a 15 member peer review advisory committee comprised of representatives of health care professional organizations, health licensing boards, and organizations such as the Foundation for Health Care Evaluation that conduct peer reviews. The advisory committee shall present recommendations for legislation to the health care analysis unit by January 1,*

1992. These recommendations must address issues related to the establishment and composition of peer review panels, and the procedures to be followed by peer review panels. The advisory committee is governed by section 15.059.

Sec. 4. [62J.45] [SURVEY RESEARCH.]

The health care analysis unit shall conduct periodic surveys to accomplish the data and research goals listed in section 1. These surveys shall include, but are not limited to:

(1) surveys of enrollee satisfaction with health plans and health care providers;

(2) surveys to monitor changes over time in financial and geographic access and sources of health coverage;

(3) surveys of health service prices, especially for services less commonly covered by health insurance, or for which patients commonly face significant out-of-pocket expenses;

(4) surveys of health plan prices, especially for health plans sold on a community-rated or table-rated basis; and

(5) surveys of new procedures and treatments performed by health care providers, as a basis for considering changes in the benefits provided by state health coverage programs.

Sec. 5. [62J.46] [TECHNICAL ASSISTANCE FOR PURCHASERS.]

The health care analysis unit shall provide technical assistance to health plan and health care purchasers. The unit shall collect information about:

(1) premiums, benefit levels, managed care procedures, health care outcomes, and other features of popular health plans and health plan companies; and

(2) prices, outcomes, provider experience, and other information for services less commonly covered by insurance or for which patients commonly face significant out-of-pocket expenses.

The commissioner shall publicize this information in an easily understandable format.

Sec. 6. [62J.481] [OUTCOME-BASED PRACTICE STANDARDS.]

The health care analysis unit may develop, revise, and disseminate practice parameters, and disseminate research findings, that are supported by medical literature and appropriately controlled studies to minimize unnecessary, unproven, or ineffective care. Among other appropriate activities relating to the development of practice guidelines, the health care analysis unit shall:

(1) determine uniform specifications for the collection, transmission, and maintenance of health outcomes data; and

(2) conduct studies and research on the following subjects:

(i) new and revised practice guidelines to be used in connection with the Minnesotans' health care plan and other settings;

(ii) the comparative effectiveness of alternative modes of treatment, medical equipment, and drugs;

(iii) the relative satisfaction of participants with their care, determined with reference to both provider and mode of treatment;

(iv) the cost versus the effectiveness of health care treatments; and

(v) the impact on cost and effectiveness of health care of the management techniques and administrative interventions used in the Minnesotans' health care plan and other settings.

Sec. 7. Minnesota Statutes 1990, section 145.61, subdivision 5, is amended to read:

Subd. 5. "Review organization" means a nonprofit organization acting according to clause (k) or a committee whose membership is limited to professionals and administrative staff, except where otherwise provided for by state or federal law, and which is established by a hospital, by a clinic, by one or more state or local associations of professionals, by an organization of professionals from a particular area or medical institution, by a health maintenance organization as defined in chapter 62D, by a nonprofit health service plan corporation as defined in chapter 62C, by a professional standards review organization established pursuant to United States Code, title 42, section 1320c-1 et seq., or by a medical review agent established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), or by the department of human services, to gather and review information relating to the care and treatment of patients for the purposes of:

(a) evaluating and improving the quality of health care rendered in the area or medical institution;

(b) reducing morbidity or mortality;

(c) obtaining and disseminating statistics and information relative to the treatment and prevention of diseases, illness and injuries;

(d) developing and publishing guidelines showing the norms of health care in the area or medical institution;

(e) developing and publishing guidelines designed to keep within reasonable bounds the cost of health care;

(f) reviewing the quality or cost of health care services provided to enrollees of health maintenance organizations;

(g) acting as a professional standards review organization pursuant to United States Code, title 42, section 1320c-1 et seq.;

(h) determining whether a professional shall be granted staff privileges in a medical institution or whether a professional's staff privileges should be limited, suspended or revoked;

(i) reviewing, ruling on, or advising on controversies, disputes or questions between:

(1) health insurance carriers or health maintenance organizations and their insureds or enrollees;

(2) professional licensing boards acting under their powers including disciplinary, license revocation or suspension procedures and health providers licensed by them when the matter is referred to a review committee by the professional licensing board;

(3) professionals and their patients concerning diagnosis, treatment or

care, or the charges or fees therefor;

(4) professionals and health insurance carriers or health maintenance organizations concerning a charge or fee for health care services provided to an insured or enrollee;

(5) professionals or their patients and the federal, state, or local government, or agencies thereof;

(j) providing underwriting assistance in connection with professional liability insurance coverage applied for or obtained by dentists, or providing assistance to underwriters in evaluating claims against dentists;

(k) acting as a medical review agent under section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b); ~~or~~

(l) providing recommendations on the medical necessity of a health service, or the relevant prevailing community standard for a health service; *or*

(m) reviewing a provider's professional practice as requested by the health care analysis unit under section 3.

Sec. 8. Minnesota Statutes 1990, section 145.64, is amended to read:

145.64 [CONFIDENTIALITY OF RECORDS OF REVIEW ORGANIZATION.]

Subdivision 1. [DATA AND INFORMATION.] All data and information acquired by a review organization, in the exercise of its duties and functions, shall be held in confidence, shall not be disclosed to anyone except to the extent necessary to carry out one or more of the purposes of the review organization, and shall not be subject to subpoena or discovery. No person described in section 145.63 shall disclose what transpired at a meeting of a review organization except to the extent necessary to carry out one or more of the purposes of a review organization. The proceedings and records of a review organization shall not be subject to discovery or introduction into evidence in any civil action against a professional arising out of the matter or matters which are the subject of consideration by the review organization. Information, documents or records otherwise available from original sources shall not be immune from discovery or use in any civil action merely because they were presented during proceedings of a review organization, nor shall any person who testified before a review organization or who is a member of it be prevented from testifying as to matters within the person's knowledge, but a witness cannot be asked about the witness' testimony before a review organization or opinions formed by the witness as a result of its hearings. ~~The provisions of this section shall not apply to a review organization of the type described in section 145.61, subdivision 5, clause (h).~~

Subd. 2. [PROVIDER DATA.] *The restrictions in subdivision 1 shall not apply to judicial proceedings in which a health care provider contests the denial, restriction, or termination of clinical privileges by a health care facility. However, any data so disclosed in such proceedings shall not be admissible in any other judicial proceeding.*

Sec. 9. [STUDY OF ADMINISTRATIVE COSTS.]

The health care analysis unit shall study costs and requirements incurred by health plan companies and health care providers that are related to the collection and submission of information to the state and federal government.

insurers, and other third parties. The unit shall recommend to the commissioner by January 1, 1993, any reforms that may reduce these costs without compromising the purposes for which the information is collected.

ARTICLE 7

HEALTH INSURANCE REFORM

Section 1. [62A.135] [NONCOMPREHENSIVE POLICIES; MINIMUM LOSS RATIOS.]

(a) This section applies to individual or group policies, certificates, or other evidence of coverage designed primarily to provide coverage for hospital or medical expenses on a per diem, fixed indemnity, or nonexpense incurred basis offered, issued, or renewed, to provide coverage to a Minnesota resident.

(b) Notwithstanding section 62A.02, subdivision 3, relating to loss ratios, policies must return to Minnesota policyholders in the form of aggregate benefits under the policy, for each year, on the basis of incurred claims experience and earned premiums in Minnesota and in accordance with accepted actuarial principles and practices:

(1) at least 75 percent of the aggregate amount of premiums earned in the case of group policies; and

(2) at least 65 percent of the aggregate amount of premiums earned in the case of individual policies.

(c) An insurer may only issue or renew an individual policy on a guaranteed renewable or noncancelable basis.

(d) Noncomprehensive policies, certificates, or other evidence of coverage subject to the provisions of this section are also subject to the requirements, penalties, and remedies applicable to medicare supplement policies, as set forth in section 62A.36, subdivisions 1a, 1b, and 2.

The first supplement to the annual statement required to be filed pursuant to this paragraph must be for the annual statement required to be submitted on or after January 1, 1993.

Sec. 2. [62J.51] [PROVISION OF COVERAGE.]

Subdivision 1. [SMALL GROUPS.] *No health plan company may deny an application for health coverage submitted to it by a small group, if the health plan company offers, sells, issues, or renews health coverage to other small groups.*

Subd. 2. [INDIVIDUALS.] *No health plan company may deny an application for health care coverage submitted to it by an individual based on that individual's occupation, geographic location, marital status, age, sex, national origin, religion, employment status, the results of any genetic testing, status as a tenant, race, parentage, or family medical history other than the medical history of persons to be covered by the health coverage.*

Subd. 3. [MEDICARE SUPPLEMENT.] *When a health plan company has denied an application for coverage, the health plan company must inform the applicant of the specific reason for the denial. The state plan shall not deny an application from an individual for health coverage for any reason if the applicant qualifies for a premium subsidy. This section does not apply to Medicare supplemental coverage.*

Sec. 3. [62J.52] [CANCELLATION.]

No health plan company may cancel or fail to renew health coverage that it provides to an individual, small group, or except for nonpayment of a legally permitted premium or copayment, fraud or misrepresentation, noncompliance with plan provisions, or failure to maintain legally permitted participation requirements. This section does not apply to Medicare supplemental coverage.

Sec. 4. [62J.53] [PREEXISTING CONDITIONS.]

Subdivision 1. [SMALL GROUP COVERAGE.] *No health plan company may limit health coverage provided to a small group on the basis of the past or present health status of any person, except as allowed by this section. On and after July 1, 1997, a health plan company may not exclude or limit health coverage for pre-existing conditions for small groups. Prior to July 1, 1997, a health plan company may not exclude but may limit health coverage of pre-existing conditions for small groups to a total benefit of $1,500 per person for outpatient services for the first 12 months of coverage. This total benefit of $1,500 is based upon coverage providing benefits equivalent to those commonly included in group health coverage offered by health maintenance organizations operating under chapter 62D. The commissioner of commerce shall adopt rules specifying an actuarially equivalent total benefit limitation that may be used with other levels of health coverage. A health plan company may not apply a pre-existing condition limitation if the person enrolled in new health coverage after having other health coverage, including medical assistance under chapter 256B or general assistance medical care under chapter 256D, that would have covered the condition, so long as coverage for the condition was continuous. An unexpired pre-existing condition limitation period under previous coverage may be applied under the person's new health coverage until it would have expired if the person had not switched coverage.*

Subd. 2. [INDIVIDUAL COVERAGE.] *For coverage provided to an individual, a preexisting condition may be excluded by a health plan company for a period not to exceed six months from the effective date of coverage for that individual.*

Subd. 3. [MEDICARE SUPPLEMENTAL COVERAGE; NONAPPLICABILITY.] *This section does not apply to Medicare supplemental coverage.*

Sec. 5. [62J.54] [LEVEL COMMISSIONS.]

No health plan company may pay commissions or other compensation to an agent or broker, with respect to the sale of health coverage, unless payment of the commissions is spread evenly over a period of at least five years from the date of purchase of the coverage.

Sec. 6. [62J.55] [COMMUNITY RATING REQUIRED.]

Subdivision 1. [COMMUNITY RATING.] *No health plan company may offer, sell, issue, or renew health coverage to any individual or small group, unless the premium charged for the coverage is community rated. If the health plan company participates in the state plan, the community rate charged in the private market for a plan with the same set of benefits must equal the rate charged in the state plan. Health plan companies must use the following rate cells only: (1) one person; (2) a two-person family; and (3) a family of three or more persons, and health plan companies may charge*

a different rate for each cell and may charge a different rate reflecting whether any person of a cell smokes, as defined in section 144.413, subdivision 4.

Subd. 2. [LIMITATIONS.] *Under community rating, the rate charged may not take into account the age, sex, health status, disability, occupation, geographical location, or any other factor except the following:*

(1) actuarially valid differences in benefit levels, assuming average utilization rates;

(2) differences in family size, except that family members in excess of three must be disregarded;

(3) actual differences in acquisition and administration costs between individuals as a whole and small groups as a whole; and

(4) premium reductions of no more than four percent for individuals or small groups that engage in activities or practices intended to promote the health of the covered persons.

Subd. 3. [FILING REQUIREMENT.] *No later than July 1, 1992, for small groups and October 1, 1992, for individuals, each health plan company that offers, sells, issues, or renews health coverage for individuals or small groups in this state must determine and file with the commissioner of commerce a single base community rate. This rate may include adjustments permitted by subdivisions 1 and 2. This rate adjustment may be changed by the health plan company at any time except as otherwise limited by the commissioner of commerce. Changes in the base community rate must be filed with the commissioner of commerce.*

Subd. 4. [PHASE-IN PERIOD.] *From July 1, 1992 until June 30, 1994, each health plan company may offer premium rates to small groups that are no more than 30 percent above and no more than 30 percent below the base community rate, as adjusted as permitted in subdivisions 1 and 2. Beginning July 1, 1994, the maximum permitted percentage deviation from the base community rate as adjusted is 20 percent. Beginning July 1, 1995, the maximum permitted percentage deviation from the base community rate as adjusted is ten percent. Beginning July 1, 1996, no deviation from the base community rate as adjusted is permitted. Coverage purchased at a premium rate permitted on the date of purchase, but subsequently no longer permitted under this section, may remain in effect at that premium rate for a period not to exceed one year from date of purchase.*

Subd. 5. [INDIVIDUAL COVERAGE.] *From October 1, 1992, until September 30, 1994, each health plan company may offer premium rates to individuals that are no more than 30 percent above and no more than 30 percent below the base community rate, as adjusted, as permitted in subdivisions 1 and 2. Beginning October 1, 1994, the maximum permitted percentage deviation from the base community rate as adjusted is 20 percent. Beginning October 1, 1995, the maximum permitted percentage deviation from the base community rate as adjusted is ten percent. Beginning October 1, 1996, no deviation from the base community rate as adjusted is permitted. Coverage purchased at a premium rate permitted on the date of purchase but subsequently no longer permitted under this section, may remain in effect at that premium rate for a period not to exceed one year from the date of purchase. By January 1, 1992, the commissioner of commerce shall prepare a report to the legislature regarding the potential impact on rates and effect on the individual market of the community rating required by*

this section.

Subd. 6. |MEDICARE SUPPLEMENTAL COVERAGE.| *This section does not apply to Medicare supplemental coverage, except as provided in section 8.*

Sec. 7. |62J.56| |COMPENSATION OF AGENTS.|

Subdivision 1. |COMPENSATION; PRIVATE MARKET.| *No health plan company shall, with respect to health coverage provided in the private market:*

(1) make the amount of its compensation of an agent, broker, or employee depend in any way, directly or indirectly, upon the loss ratio or any other underwriting performance of health coverage written through the agent, broker, or employee; or

(2) cancel, terminate, or fail to renew an agency, brokerage, or employment contract or arrangement, or reduce or restrict underwriting authority on the basis of the loss ratio, or any other underwriting performance of health coverage written through an agent, broker, or employee.

Subd. 2. |COMPENSATION; STATE PLAN.| *No health plan company shall, with respect to health coverage provided through the state plan, pay agent commissions. The commissioner may contract with insurance agents and brokers for outreach and enrollment services to the new state plan for set fees.*

Sec. 8. |62J.57| |MEDICARE SUPPLEMENTAL COVERAGE.|

Subdivision 1. |COMMUNITY RATING.| *Health plan companies that sell Medicare supplemental coverage must establish a separate community rate, as described in section 6, for that coverage. The community rate must be the same in the private market as in the state plan, for health plan companies that sell that coverage through the state plan. Beginning January 1, 1993, no Medicare supplemental coverage may be offered, issued, or sold to a Minnesota resident except at the community rate required by this section.*

Subd. 2. |OPEN ENROLLMENT.| *Health plan companies offering Medicare supplement coverage through either the private market or the state plan, or both, must offer such coverage on an open enrollment basis without requiring health screening or other measures of insurability, to any individual applying for coverage within six months of initial eligibility for Medicare Part B.*

Subd. 3. |OTHER REGULATION.| *The requirements of this section are in addition to any requirements applicable to Medicare supplemental plans contained in chapter 62A.*

Sec. 9. |62J.58| |BIASED SELECTION ADJUSTMENT.|

Each health plan company that participates in the individual or small group market whether in the state plan or in the private market must participate in the biased selection adjustment mechanism. Each company must pay an assessment or receive a reimbursement, based upon the extent to which that company's age-sex distribution of covered persons differs from the statewide average for the individual and small group market. The specific operation of the biased selection adjustment mechanism shall be determined after completion of the task force study required by article 8, section 10.

Sec. 10. [62J.60] [MINIMUM LOSS RATIOS.]

All health coverage sold by health plan companies in this state must have loss ratios no lower than those to be specified by rule by the commissioner of health for health plan companies operating under chapter 62D and by the commissioner of commerce for all other health plan companies. The minimum loss ratios may differ between the individual, small group, medium-sized group, and large group market. The commissioners shall adopt rules to establish the minimum loss ratios. This section does not apply to types of coverage for which minimum loss ratios are established by statute.

Sec. 11. [62J.62] [REINSURANCE POOL.]

A reinsurance pool shall be established for individuals, small groups, and enrollees in the Minnesotans' health plan. The task force established in article 8, section 10, shall make recommendations regarding the operation of this reinsurance pool assessments for transfer of risk and the relationship to any other reinsurance mechanisms.

Sec. 12. [62J.66] [ENFORCEMENT AUTHORITY.]

The commissioner of commerce and commissioner of health have the responsibility and authority to enforce sections 1 to 11 and 13 with respect to the health plan companies that they respectively regulate, and have all of the powers otherwise granted to them by statute for use in carrying out their respective responsibilities under this chapter.

Sec. 13. [DEPARTMENT OF COMMERCE STUDY.]

The department of commerce shall review the adequacy of reserves of companies selling noncomprehensive policies subject to Minnesota Statutes, section 62A.135 and the earnings generated from the investment of the premium dollars paid for these policies. The reviews under this section shall be treated as an examination for purposes of applying the requirements of Minnesota Statutes, section 60A.031.

The department shall report the results of its review to the chairs of the house financial institutions and insurance committee and the senate commerce committee by January 1, 1992.

Sec. 14. [MEDICARE SUPPLEMENTAL COMMUNITY RATING STUDY.]

The department of commerce shall study the possible effects of community rating on Medicare supplemental coverage enrollees and shall report its findings and any recommendations, no later than January 1, 1992, to the chairs of the house committee on financial institutions and insurance and of the senate commerce committee. The study and report must consider the effects on premiums charged to different types of enrollees, the effects on enrollment, and the effects on average premium levels.

Sec. 15. [EFFECTIVE DATE.]

Section 1 is effective for policies, certificates, or other evidence of coverage issued or offered to a Minnesota resident on or after August 1, 1991. Sections 2 to 12 are effective July 1, 1992, except that all rulemaking authority granted in this article is effective the day following final enactment. Sections 13 and 14 are effective the day following final enactment.

ARTICLE 8

SMALL EMPLOYER HEALTH BENEFITS

Section 1. [62K.01] [CITATION.]

Subdivision 1. [POPULAR NAME.] *This chapter may be cited as the "small employer health benefit act of 1991."*

Subd. 2. [JURISDICTION.] *This chapter applies to any health carrier that offers, issues, delivers, or renews a health benefit plan to a small employer.*

Sec. 2. [62K.02] [DEFINITIONS.]

Subdivision 1. [TERMS.] *For the purposes of this chapter, the terms defined in this section have the meanings given them unless the language or the context clearly indicates otherwise.*

Subd. 2. [ACTUARIAL OPINION.] *"Actuarial opinion" means a written statement by a member of the American Academy of Actuaries that a health carrier is in compliance with this chapter, based on the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the health carrier in establishing premium rates for health benefit plans.*

Subd. 3. [APPROPRIATE COMMITTEE CHAIRS.] *"Appropriate committee chairs" means the chairs of the house health and human services committee, the house financial institutions and insurance committee, the senate commerce committee, and the senate health and human services committee.*

Subd. 4. [ASSOCIATION.] *"Association" means the small employer reinsurance association.*

Subd. 5. [BASE PREMIUM RATE.] *"Base premium rate" means for each class of business as to a rating period, the lowest premium rate charged or which could have been charged under a rating system for that class of business by the health carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.*

Subd. 6. [BOARD OF DIRECTORS.] *"Board of directors" means the board of directors of the small employer reinsurance association.*

Subd. 7. [CASE CHARACTERISTICS.] *"Case characteristics" means the relevant characteristics of a small employer, as determined by a health carrier, which are considered by the carrier in the determination of premium rates for the small employer. Such relevant characteristics include, but are not limited to, geographic area, employer group size, benefit differences, and family composition. Age, sex, claims experience, health status, and industry of the employer and duration of issue are not case characteristics for the purposes of this chapter.*

Subd. 8. [CLASS OF BUSINESS.] *"Class of business" means all of the small employer business of a health carrier as shown on the records of the health carrier except that a health carrier may establish a distinct grouping of small employers:*

(1) if a class of business was acquired from another health carrier;

(2) if the class of business relies on substantially different managed care

requirements, including but not limited to the use of limited provider networks, prior authorization, concurrent review, discharge planning, and case management;

(3) if the class of business is marketed and sold through persons not participating in the sale of health benefit plans to other distinct groupings of small employers; or

(4) if the class of business is provided through an association of not less than 100 employers which has been formed for purposes other than obtaining insurance.

The commissioner may approve the establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that such action would enhance the efficiency and fairness of the small employer market.

Subd. 9. [COINSURANCE.] *"Coinsurance" means an established dollar amount or percentage of health care expenses that an eligible employee or dependent is required to pay directly to a provider of medical services or supplies pursuant to the terms of a health benefit plan.*

Subd. 10. [COMMISSIONER.] *"Commissioner" means the commissioner of commerce for plans governed by chapter 62A or 62C or the commissioner of health for health maintenance organizations governed by chapter 62D, or the relevant commissioner's designated representative.*

Subd. 11. [CONTINUOUS COVERAGE.] *"Continuous coverage" means the maintenance of continuous and uninterrupted health plan coverage by an eligible employee or dependent. An eligible employee or dependent is considered to have maintained continuous coverage if the individual requests enrollment in a health benefit plan within 30 days of termination of the prior health plan coverage.*

Subd. 12. [DEDUCTIBLE.] *"Deductible" means the amount of health care expenses an eligible employee or dependent is required to incur before benefits are payable under a health benefit plan.*

Subd. 13. [DEMOGRAPHIC COMPOSITION.] *"Demographic composition" means the age and sex characteristics of eligible employees, the family composition of eligible employees, and the standard age categories used by a health carrier to establish premiums.*

Subd. 14. [DEPARTMENT.] *"Department" means the department of commerce or the department of health, as applicable.*

Subd. 15. [DEPENDENT.] *"Dependent" means an eligible employee's spouse, unmarried child who is under the age of 19 years, dependent child who is a student under the age of 25 years and financially dependent upon the eligible employee, or dependent child of any age who is disabled, subject to the applicable terms of the health benefit plan issued by the health carrier.*

Subd. 16. [DURATION OF ISSUE.] *"Duration of issue" means a rate factor used to justify higher rates which incorporated the length of time a group is covered by a health carrier, but which does not incorporate claims experience or health status.*

Subd. 17. [ELIGIBLE CHARGES.] *"Eligible charges" means the actual charges submitted to a health carrier by or on behalf of a provider, eligible employee, or dependent for health services covered by the carrier's health benefit plan. Eligible charges do not include charges for health services*

excluded by the health benefit plan or charges for which an alternate carrier is liable pursuant to the coordination of benefit provisions of the health benefit plan.

Subd. 18. [ELIGIBLE EMPLOYEE.] *"Eligible employee" means an individual employed by a small employer for at least 20 hours per week on a regular basis and who has satisfied all employer participation and eligibility requirements, including but not limited to the satisfactory completion of a probationary period of not less than 30 days. A late entrant is not an eligible employee.*

Subd. 19. [FINANCIALLY IMPAIRED CONDITION.] *"Financially impaired condition" means a health carrier which is not insolvent and (1) is deemed by the commissioner to be potentially unable to fulfill its contractual obligations, or (2) is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.*

Subd. 20. [HEALTH BENEFIT PLAN.] *"Health benefit plan" means a policy, contract, or certificate issued by a health carrier to a small employer for the coverage of medical and hospital benefits. Health benefit plan includes a small employer plan. Health benefit plan does not include coverage that is:*

(1) limited to disability or income protection coverage;

(2) automobile medical payment coverage;

(3) supplemental to liability insurance;

(4) designed solely to provide payments on a per diem, fixed indemnity or nonexpense-incurred basis;

(5) credit accident and health insurance issued under chapter 62B;

(6) designed solely to provide dental or vision care;

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

(8) accident only coverage issued by a licensed and tested insurance agent or solicitors that provides reasonable benefits in relation to the cost of covered services;

(9) long-term care insurance as defined in section 62A.46; or

(10) issued as a supplement to Medicare, as defined in sections 62A.31 to 62A.44.

For the purpose of this act, a health benefit plan issued to employees of a small employer who meets the participation requirements of section 62K.03 shall be deemed to have been issued to a small employer. A health benefit plan issued on behalf of a health carrier shall be deemed to be issued by the health carrier.

Subd. 21. [HEALTH CARRIER.] *"Health carrier" means an insurance company licensed under chapter 60A to offer, sell, or issue a policy of accident and sickness insurance as defined in section 62A.01; a health service plan licensed under chapter 62C; a health maintenance organization licensed under chapter 62D; a fraternal benefit society operating under chapter 64B; a joint self-insurance employee health plan operating under chapter 62H; and a multiple employer welfare arrangement, as defined in section 3 of the Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1103, as amended.*

For the purpose of this act companies that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier except that any insurance company or health service plan corporation that is an affiliate of a health maintenance organization located in Minnesota or any health maintenance organization located in Minnesota that is an affiliate of an insurance company or health service plan corporation may treat the health maintenance organization as a separate health carrier.

Subd. 22. |HEALTH PLAN.| *"Health plan" means a health benefit plan issued by a health carrier:*

(1) to a small employer;

(2) to any employer who does not satisfy the definition of a small employer as set forth in subdivision 31; or

(3) to any individual purchasing an individual or conversion policy of health care coverage issued by a health carrier.

Subd. 23. |INDEX RATE.| *"Index rate" means for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.*

Subd. 24. |LATE ENTRANT.| *"Late entrant" means an eligible employee or dependent who is not enrolled in a small employer's health benefit plan. Late entrants may be subject to a preexisting condition limitation or exclusion from coverage for up to 18 months from the effective date of coverage of the late entrant. An otherwise eligible employee or dependent shall not be a late entrant if:*

(1) the individual was covered by another group health plan at the time the individual was eligible to enroll in a health benefit plan, declined enrollment on that basis, and presents to a health carrier a certificate of termination of such coverage, provided that the individual maintains continuous coverage;

(2) the individual has lost coverage under another group health plan due to the expiration of benefits available under the Consolidated Omnibus Budget Reconciliation Act of 1981 (COBRA), Public Law Number 99-272, as amended, and any state continuation laws applicable to the employer or health carrier, provided that the individual maintains continuous coverage;

(3) the individual has lost coverage under another group health plan due to the expiration of benefits available under the Consolidated Omnibus Budget Reconciliation Act of 1981 (COBRA), Public Law Number 99-272, as amended, and any state continuation laws applicable to the employer or health carrier, provided that the individual maintains continuous coverage;

(4) the individual is a new spouse of an eligible employee, provided that enrollment is requested within 30 days of the date of marriage; or

(5) the individual is a new dependent child of an eligible employee, provided that enrollment is requested within 30 days of the date of birth or adoption.

Subd. 25. |MANDATED BENEFIT OR ELIGIBILITY.| *"Mandated benefit or eligibility" means a health plan benefit or eligibility required by state law to be included in a health plan offered or issued by a health carrier that requires the coverage of or the offer of coverage of specific diseases, conditions, treatments, services, or persons, or the direct reimbursement*

of services rendered by specific types of health care providers.

Subd. 26. [MCHA.] *"MCHA" means the Minnesota comprehensive health association established pursuant to section 62E.10.*

Subd. 27. [MEDICAL NECESSITY.] *"Medical necessity" means the appropriate and necessary medical and hospital services eligible for payment under a health benefit plan as determined by a health carrier.*

Subd. 28. [MEMBERS.] *"Members" means the health carriers operating in the small employer market who are members of the association.*

Subd. 29. [PREEXISTING CONDITION.] *"Preexisting condition" means any condition manifesting in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment or for which medical advice, diagnosis, care, or treatment was recommended or received during the six months immediately preceding the effective date of coverage, or as to a pregnancy existing as of the effective date of coverage of a health benefit plan.*

Subd. 30. [RATING PERIOD.] *"Rating period" means the 12 month or prorated calendar period for which premium rates established by a health carrier are assumed to be in effect, as determined by the health carrier.*

Subd. 31. [SMALL EMPLOYER.] *"Small employer" means a person, firm, corporation, partnership, association, or other entity actively engaged in business who, on at least 50 percent of its working days during the preceding calendar year, employed no less than two nor more than 29 eligible employees. If a small employer has only two eligible employees, one employee must not be the spouse, child, sibling, parent, or grandparent of the other, except that a small employer plan may be offered through a domiciled association to self-employed individuals and small employers who are members of the association, even if the self-employed individual or small employer has fewer than two employees or the employees are family members. Entities which are eligible to file a combined tax return for purposes of state tax laws are considered a single employer for purposes of determining the number of eligible employees. Small employer status must be determined on an annual basis as of the renewal date of the health benefit plan. The provisions of this chapter continue to apply to an employer who no longer meets the requirements of this definition until the annual renewal date of the employer's health benefit plan.*

Subd. 32. [SMALL EMPLOYER MARKET.] *"Small employer market" means the market for group health benefit plans for small employers. A health carrier shall be considered to be participating in the small employer market if the health carrier offers, sells, issues, or renews a health plan to any small employer or the eligible employees of a small employer offering a group health benefit plan.*

Subd. 33. [SMALL EMPLOYER PLAN.] *"Small employer plan" means a health benefit plan issued by a health carrier to a small employer for coverage of the medical and hospital benefits described in section 62K.05.*

Subd. 34. [TRANSITION PERIOD.] *"Transition period" means July 1, 1992, through June 30, 1993.*

Sec. 3. [62K.03] [PARTICIPATION REQUIREMENTS.]

Subdivision 1. [CARRIER PARTICIPATION.] *Every health carrier shall, as a condition of authority to transact business in this state in the small*

employer market, offer, sell, issue, and renew any health benefit plan to small employers in accordance with this chapter. Beginning with the transition period, every health carrier participating in the small employer market shall make available a health benefit plan to small employers and shall fully comply with the underwriting and rate restrictions specified in this chapter. A health carrier may cease to transact business in the small employer market as provided under section 8.

Subd. 2. [EXCEPTION TO CARRIER PARTICIPATION.] *A health carrier transacting business in the small employer market shall not be required to offer a health benefit plan to small employers pursuant to this chapter if the commissioner finds that such offer would place the health carrier in a financially impaired condition. A health carrier which does not offer a health benefit plan to small employers pursuant to this subdivision shall not offer a health benefit plan to small employers for 180 days following a determination by the commissioner that the health carrier has ceased to be in a financially impaired condition.*

Subd. 3. [EMPLOYER PARTICIPATION.] *Health carriers shall require that:*

(1) 75 percent of a small employer's eligible employees who have not waived coverage participate in any health benefit plan offered, sold, issued, or renewed by the health carrier; and

(2) small employers contribute a minimum of 50 percent of the premium charged by the health carrier for coverage of an eligible employee.

Subd. 4. [UNDERWRITING RESTRICTIONS.] *Health carriers may apply underwriting restrictions to coverage for health benefit plans for small employers, including any preexisting condition limitations, only as expressly permitted by this chapter. Health carriers may collect information relating to the case characteristics and demographic composition of small employers, as well as health status and health history information about employees of small employers. Except as hereinafter permitted with respect to late entrants, preexisting conditions may be excluded by a health carrier for a period not to exceed 12 months from the effective date of coverage of an eligible employee's or dependent's health benefit plan. When calculating a preexisting condition limitation, a health carrier shall credit the time period an eligible employee or dependent was previously covered by another health benefit plan, provided that the individual maintains continuous coverage. Late entrants may be subject to a preexisting condition limitation not to exceed 18 months from the effective date of coverage of the late entrant. Late entrants may also be excluded from coverage for a period not to exceed 18 months, provided that if a health carrier imposes an exclusion from coverage and a preexisting condition limitation, the combined time period for both the coverage exclusion and preexisting condition limitation shall not exceed 18 months.*

Subd. 5. [CANCELLATIONS.] *No health carrier shall cancel, decline to issue, or fail to renew a health benefit plan as a result of the claim experience or health status of the small employer group; provided, however, that a health carrier may cancel, decline to issue, or fail to renew a health benefit plan:*

(1) for nonpayment of the required premium or contributions toward premiums by the small employer or eligible employee;

(2) for fraud or misrepresentation by the small employer, eligible employee,

or dependent with respect to their eligibility for coverage or any other material fact;

(3) if eligible employee participation during the preceding calendar year declines to less than 75 percent;

(4) for failure of an employer to comply with the health carrier's premium contribution requirements;

(5) if a health carrier ceases to do business in the small employer market pursuant to section 62K.09;

(6) for any other reasons or grounds expressly permitted by the respective licensing laws and regulations governing a health carrier, including but not limited to any service area restrictions imposed on health maintenance organizations pursuant to section 62D.03, subdivision 4, paragraph (m), and insufficient provider network capacity, as determined by the commissioner, to the extent that these grounds are not expressly inconsistent with this chapter.

Subd. 6. [MCHA ENROLLEES.] *Health carriers shall offer coverage to any eligible employee or dependent enrolled in MCHA at the time of the health carrier's issuance of a health benefit plan to a small employer. The health benefit plan must require that the employer offer MCHA enrollees the option: (a) to be enrolled in the small employer's health benefit plan as of the first date of renewal of a health benefit plan occurring on or after July 1, 1992, or, in the case of a new group, as of the initial effective date of the health benefit plan; or (b) to continue to be enrolled in MCHA. The offer of continued enrollment in MCHA must provide that the the employer must (a) pay the difference between the deductible paid by other employees for the group coverage and the deductible paid by the MCHA enrollee for the comprehensive health insurance plan; (b) pay the difference between the coinsurance paid by other employees under the group health plan and the MCHA enrollee under the comprehensive insurance plan; and (c) ensure that the MCHA enrollee does not pay more in premium contribution and out-of-pocket maximums for coverage under the MCHA coverage than the largest contribution toward premium and out-of-pocket maximums paid by any other employee receiving health care coverage through the same employer. Unless otherwise permitted by this act, health carriers shall not impose any underwriting restrictions, including any preexisting condition limitations on any eligible employee or dependent previously enrolled in MCHA and transferred to a health benefit plan so long as continuous coverage is maintained.*

Subd. 7. [MINIMUM ANTICIPATED LOSS RATIO.] *After January 1, 1993, no health plan company may offer a small employer plan based on a minimum anticipated loss ratio of less than 75 percent. The commissioner of commerce shall prepare a report to the appropriate committee chairs regarding the appropriateness of this minimum loss ratio. The report is due by January 1, 1992.*

Sec. 4. [62K.04] [TRANSITION PERIOD.]

Subdivision 1. [APPLICABILITY OF CHAPTER REQUIREMENTS.] *Beginning with the transition period, health carriers participating in the small employer market shall offer and make available a health benefit plan to small employers who satisfy the small employer participation requirements specified in section 2, subdivision 3, and shall comply with the underwriting, rating, and other requirements specified in sections 2 to 8. Compliance with*

these requirements is required as of the first renewal date of any small employer group occurring during the transition period. For new small employer business, compliance is required as of the first date of offering occurring during the transition period.

Subd. 2. [NEW CARRIERS.] *A health carrier entering the small employer market after the transition period shall begin complying with the requirements of this chapter as of the first date of offering of a health benefit plan to a small employer. A health carrier entering the small employer market after the transition period is considered to be a member of the small employer reinsurance association as of the date of the health carrier's initial offer of a health benefit plan to a small employer.*

Sec. 5. [62K.05] [SMALL EMPLOYER PLAN BENEFITS.]

Subdivision 1. [BENEFIT DESIGN.] *The minimum benefits of a small employer plan offered by a health carrier shall be equal to 80 percent of the cost of health care services covered under the small employer plan, in excess of an annual deductible which shall not exceed $500 per individual and $1,000 per family. Each small employer offered a small employer plan must be offered a plan that has an annual deductible of $100 per individual and a plan that has an annual deductible of $250 per individual. Coinsurance and deductibles shall not apply to child health supervision services and prenatal services, as defined by section 62A.047.*

Out-of-pocket costs for covered services shall not exceed $3,000 per individual and $6,000 per family per year. The maximum lifetime benefit shall not be less than $500,000.

Subd. 2. [MINIMUM BENEFITS.] *The medical services and supplies listed in this subdivision are the minimum benefits that must be covered by a small employer plan:*

(1) inpatient and outpatient hospital services, excluding services provided for the diagnosis, care or treatment of chemical dependency or a mental illness or condition, other than those conditions specified in clauses (10), (11), and (12);

(2) physician and nurse practitioner services for the diagnosis or treatment of illnesses, injuries, or conditions;

(3) diagnostic X rays and laboratory tests;

(4) ground transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition, or as otherwise required by the health carrier;

(5) services of a home health agency if the services qualify as reimbursable services under Medicare and are directed by a physician or qualify as reimbursable under the health carrier's most commonly sold health plan for insured group coverage;

(6) services of a private duty registered nurse if medically necessary, as determined by the health carrier;

(7) the rental or purchase, as appropriate, of durable medical equipment, other than eyeglasses and hearing aids;

(8) child health supervision services up to age 18, as defined in section 62A.047;

(9) maternity and prenatal care services as defined in section 62A.047;

(10) inpatient hospital and outpatient services for the diagnosis and treatment of certain mental illnesses or conditions, as defined by the International Classification of Diseases-Clinical Modification (ICD-9-CM), seventh edition (1990) and as classified as ICD-9 codes 295 to 299;

(11) up to ten hours per year of outpatient mental health diagnosis or treatment for illnesses or conditions not described in clause (10);

(12) up to 60 hours per year of outpatient treatment of chemical dependency; and

(13) 50 percent of the cost of prescription drugs, up to a separate annual maximum out-of-pocket expense of $1,000 per individual for prescription drugs, and 100 percent of the cost thereafter.

Subd. 3. [ADDITIONAL BENEFITS.] *Health carriers may offer small employers additional benefits not listed in this section, so long as all requirements of this chapter are met.*

Subd. 4. [BENEFIT EXCLUSIONS.] *No medical, hospital, or other health care benefits, services, supplies, or articles not expressly specified in subdivision 2 are required to be included in a health benefit plan. Nothing in subdivision 2 restricts the right of a health carrier to restrict coverage to those services, supplies, or articles which are medically necessary. Health carriers may exclude a benefit, service, supply, or article not expressly specified in subdivision 2 from a health benefit plan.*

Subd. 5. [CONTINUATION COVERAGE.] *Health benefit plans must include only the continuation of coverage provisions required by the Consolidated Omnibus Reconciliation Act of 1981 (COBRA), Public Law Number 99-272, as amended.*

Subd. 6. [DEPENDENT COVERAGE.] *Other state law and rules applicable to health plan coverage of newborn infants, dependent children who do not reside with the eligible employee, handicapped children, and dependents and adopted children apply to a health benefit plan.*

Subd. 7. [MEDICAL EXPENSE REIMBURSEMENT.] *Health carriers may reimburse or pay for medical services provided pursuant to a health benefit plan in accordance with the health carrier's provided contract requirements including but not limited to salaried arrangements, capitation, the payment of usual and customary charges, fee schedules, discounts from fee-for-service, per diems, diagnostic-related groups (DRGs), and other payment arrangements. Nothing in this chapter requires a health carrier to develop, implement, or change its provider contract requirements for a health benefit plan. Coinsurance, deductibles, out-of-pocket maximums, and maximum lifetime benefits must be calculated and determined in accordance with each health carrier's standard business practices.*

Subd. 8. [PLAN DESIGN.] *Notwithstanding any other law, regulation, or administrative interpretation to the contrary, health carriers may offer a health benefit plan through any provider arrangement, including but not limited to the use of open, closed, or limited provider networks. The provider networks offered by any health carrier may be specifically designed for the small employer market and may be modified at the carrier's election so long as any necessary regulatory requirements are met. Health carriers shall use professionally recognized provider standards of practice when they are available, and may use utilization management practices otherwise permitted by law, including but not limited to second surgical opinions, prior*

authorization, concurrent and retrospective review, referral authorizations, case management, and discharge planning. A health carrier may contract with groups of providers with respect to health care services or benefits, and may negotiate with providers regarding the level or method of reimbursement provided for services rendered under a health benefit plan. The plan required under article 5, section 1, must include specific recommendations regarding the regulation of comparable products and network designs without regard to the statutory requirements of the health carrier.

Subd. 9. [ACTUARIALLY EQUIVALENT HMO PLAN PERMITTED.] *Health maintenance organizations regulated under chapter 62D may offer and make available a small employer plan that differs from the plan set forth in subdivisions 1 and 2. This alternative small employer plan must be actuarially equivalent to the minimum benefits set forth in subdivisions 1 and 2, but must be more similar to the structure of benefits customarily provided by health maintenance organizations. The commissioner of health shall adopt rules specifying the minimum set of benefits required by this subdivision.*

Sec. 6. [62K.06] [DISCLOSURE OF UNDERWRITING RATING PRACTICES.]

When offering or renewing a health benefit plan, health carriers shall disclose in all solicitation and sales materials:

(1) the case characteristic factors used to determine initial and renewal rates;

(2) the extent to which premium rates for a small employer are established or adjusted based upon actual or expected variation in claim experience;

(3) provisions concerning the health carrier's right to change premium rates and the factors other than claim experience that affect changes in premium rates;

(4) a description of the class of business in which a small employer is or will be included, including the applicable grouping of plan;

(5) provisions relating to renewability of coverage;

(6) the use and effect of any preexisting condition provisions, if permitted; and

(7) the use of any provider network arrangements and effect on eligibility for benefits.

Sec. 7. [62K.07] [SMALL EMPLOYER REQUIREMENTS.]

Subdivision 1. [VERIFICATION OF ELIGIBILITY.] *A small employer purchasing a health benefit plan shall maintain information verifying the continuing eligibility of the employer, its employees, and their dependents and shall provide such information to its health carrier on a quarterly basis or as reasonably requested by the health carrier.*

Subd. 2. [WAIVERS.] *A small employer participating in a health benefit plan shall maintain written documentation of a waiver of coverage by an eligible employee or dependent and shall provide such documentation to the health carrier upon reasonable request.*

Sec. 8. [62K.08] [RESTRICTIONS RELATING TO PREMIUM RATES.]

Subdivision 1. [RATE RESTRICTIONS.] *Premium rates for all health benefit plans sold or issued to small employers are subject to the restrictions specified in subdivisions 2 to 4.*

Subd. 2. [INDEX RATE.] *Between classes of business, the index rate for a rating period for any class of business must not exceed the index rate for any other class of business by more than 20 percent, adjusted pro rata for periods less than one year. In the case of health benefit plans issued prior to the effective date of this act, which meet the definition of section 62K.01, subdivision 8, clause (4), a premium rate for a rating period, adjusted pro rata for rating periods of less than a year, may exceed the ranges set forth in section 8 for a period of five years following the effective date of this act.*

Subd. 3. [PREMIUM VARIATIONS.] *Within a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates which could be charged to the employers under the rating system for that class of business, are limited to the index rate, plus or minus 30 percent of the index rate, adjusted pro rata for rating periods of less than one year.*

Subd. 4. [ANNUAL PREMIUM INCREASE.] *The percentage increases in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:*

(1) the percentage change in the index rate measured from the first day of the prior rating period to the first day of the new rating period;

(2) an adjustment, not to exceed 15 percent annually and adjusted pro rata for rating periods of less than one year, due to the claims experience, health status, or duration of issue of the eligible employees or dependents of the small employer as determined from the health carrier's rate manual for the class of business; and

(3) any adjustment due to change in coverage, demographic composition, or change in the case characteristics of the small employer as determined from the health carrier's rate manual for the class of business.

Subd. 5. [INVOLUNTARY TRANSFERS PROHIBITED.] *A health carrier shall not involuntarily transfer a small employer into or out of a class of business. A health carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, age, sex, claim experience, health status, industry of the employer, or duration of issue.*

Subd. 6. [REPORT.] *The commissioners of health and commerce shall prepare a joint report to the legislature on the effect of the rating restrictions required by this section. Such report must include an analysis of the availability of health coverage due to the rating reform as well as any recommendations for additional necessary reform of rating practices in the small employer market. The report must be issued no later than January 1, 1994.*

Sec. 9. [62K.09] [CESSATION OF SMALL EMPLOYER BUSINESS.]

Subdivision 1. [NOTICE TO COMMISSIONER.] *A health carrier electing to cease doing business in the small employer market shall notify the commissioner 180 days prior to the effective date of the cessation. The cessation of business does not include the following activities:*

(1) the elimination of a class of business by a health carrier so long as other classes of business are maintained;

(2) the failure of a health carrier to offer or issue new business in the small employer market or continue an existing product line, provided that a health carrier does not terminate, cancel, or fail to renew its current small employer business or other product lines; and

(3) the inability of any health carrier to offer or renew a health benefit plan because it has given notice to the commissioner that it will not have the capacity within a specific provider site under contract to or owned by the health carrier to adequately deliver services to the enrollees, insureds or subscribers of health benefit plans. Any health carrier which ceases to offer a particular provider site to the small employer market must also cease to offer that provider site to new groups other than small employers for any of its products.

Subd. 2. [NOTICE TO EMPLOYERS.] *A health carrier electing to cease doing business in the small employer market shall provide 120 days' written notice to each small employer covered by a health benefit plan issued by the health carrier. Any health carrier that ceases to write new business in the small employer market shall continue to be governed by this act with respect to continuing small employer business conducted by the carrier.*

Subd. 3. [REENTRY PROHIBITION.] *A health carrier that ceases to do business in the small employer market after the effective date of this act shall be 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 shall apply 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.*

Sec. 10. [62K.10] [REINSURANCE ASSOCIATION.]

Subdivision 1. [NONPROFIT CORPORATION.] *The small employer reinsurance association is a nonprofit corporation.*

Subd. 2. [PURPOSE.] *The association is established to provide for the fair and equitable transfer of risk associated with participation by a health carrier in the small employer market to a private reinsurance pool created and maintained by the association. The participation by a health carrier in the reinsurance pool is voluntary.*

Subd. 3. [TASK FORCE.] *The commissioner of commerce shall establish a 15 member task force to develop the rules of participation in, and operating guidelines for, the reinsurance pool. Nine members shall represent health carriers. The commissioner shall appoint these nine members as follows: three members must be representatives of insurance companies licensed under chapter 60A to offer, sell or issue a policy of accident and sickness insurance; three members must be representatives of nonprofit health service plan corporations regulated under chapter 62C; and three members must be representatives of health maintenance organizations regulated under chapter 62D. The other six members shall be persons knowledgeable in insurance or other subject areas relevant to the task force's duties. The commissioners of commerce and health shall serve as ex officio members of the task force.*

Subd. 4. [APPOINTMENT.] *The commissioner of commerce shall appoint the members of the task force no later than June 15, 1991.*

Subd. 5. [REPORT.] *(a) The task force shall report to the appropriate committee chairs on its recommendations for operation of the reinsurance association no later than January 15, 1992. The report must include recommendations regarding the transfer of risk to the association, assessments, board composition, and operation of the association. The report must include recommendations regarding statutory changes necessary for implementation of the reinsurance association by July 1, 1992.*

(b) The task force shall report to the appropriate committee chairs, no later than January 15, 1992, on its recommendations for operation of a reinsurance mechanism for the Minnesotan's health care plan and for the private health coverage market, including individuals, small groups, and medium-sized groups.

(c) The task force shall report to the appropriate committee chairs, no later than January 15, 1992, on its recommendations regarding the nature and operation of the biased selection adjustment mechanism established in article 7, section 9.

Sec. 11. [62K.11] [SUPERVISION BY COMMISSIONER.]

Subdivision 1. [REPORTS.] *Health carriers doing business in the small employer market shall file by April 1 of each year an annual actuarial opinion with the commissioner certifying that the health carrier is in compliance with the underwriting and rating requirements of this chapter and that the rating methods used by the carrier are actuarially sound. Health carriers shall retain a copy of such opinion at their principal place of business.*

Subd. 2. [RECORDS.] *Health carriers doing business in the small employer market shall maintain at their principal place of business a complete and detailed description of their rating practices, including information and documentation which demonstrate that a health carrier's rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.*

Subd. 3. [SUBMISSIONS TO COMMISSIONER.] *The commissioner may request information and documentation from a health carrier describing its rating practices and renewal underwriting practices, including information and documentation that demonstrates that a health carrier's rating methods and practices are in accordance with sound actuarial principles. Any information received by the commissioner pursuant to this subdivision is nonpublic data pursuant to section 13.37.*

Subd. 4. [COMMISSIONERS' ANNUAL REPORT.] *On December 1 of each year, the commissioners of commerce and health, using a common format and after an opportunity to review and comment is given to health carriers, shall provide the legislature with a joint report describing the effects of the provisions of chapter 62K upon the following:*

(1) the number of eligible employees and their dependents in the state covered by a health benefit plan;

(2) the number of health carriers issuing health benefit plans in the state, and their respective market shares; and

(3) the number of eligible employees in the state not covered by a health benefit plan.

In developing this joint report, the commissioners shall make use of data already available from existing sources. They may also develop rules enabling the collection of reasonably relevant and nonduplicative data from health carriers. The names of health carriers reported along with their respective market shares under clause (2) are trade secret information pursuant to section 13.37, subdivision 1, clause (b).

Sec. 12. [62K.12] [PENALTIES AND ENFORCEMENT.]

The commissioner may suspend or revoke a health carrier's license or certificate of authority or impose a civil penalty not to exceed $25,000 for each violation of this chapter. The action must be by order and subject to the notice, hearing, and appeal procedures specified in section 60A.051. The action of the commissioner is subject to judicial review as provided under chapter 14.

Sec. 13. [62K.13] [PROHIBITED PRACTICES.]

Subdivision 1. [PROHIBITION ON ISSUANCE OF INDIVIDUAL POLICIES.] *Health carriers operating in the small employer market shall not offer, issue, or renew an individual policy, subscriber contract, or certificate to any eligible employee or dependent of a small employer who satisfies the employer participation requirements set forth in section 62K.03, subdivision 3, except as permitted in subdivision 2.*

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

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

(c) Health carriers may offer conversion policies under section 62E.17 to eligible employees.

(d) Health carriers may sell, issue or renew individual continuation policies to eligible employees as required under section 62K.05.

Subd. 3. [SALE OF OTHER PRODUCTS.] *A health carrier shall not condition the offer, sale, issuance, or renewal of a health benefit plan on the purchase by a small employer of other insurance products offered by the health carrier or a subsidiary or affiliate of the health carrier, including but not limited to life, disability, property, and general liability insurance. This prohibition shall not apply to indemnity benefits offered as a supplement to a health maintenance organization plan to provide coverage to enrollees for health care services and supplies received from providers who are not employed by, under contract with, or otherwise affiliated with the health maintenance organization.*

Sec. 14. [DEPARTMENT OF COMMERCE STUDY.]

The commissioner of commerce shall study the effects of Minnesota Statutes, chapter 62K, and shall report its findings and recommendations to the legislature no later than January 15, 1994. The commissioner of health shall cooperate and assist as needed in this study, with respect to the effects on the market for health maintenance organization coverage. The study shall

assist the legislature in determining whether chapter 62K should continue after June 30, 1994, and if so, what changes, if any, should be made in chapter 62K or other related statutes.

Sec. 15. [REPEALER.]

Sections 1 to 13 are repealed effective June 30, 1994.

Sec. 16. [EFFECTIVE DATE.]

Sections 1 to 14 are effective July 1, 1992, except that subdivisions 3, 4, and 5 of section 10 are effective the day following final enactment. All rulemaking authority granted by this article is effective the day following final enactment.

ARTICLE 9

HEALTH PROFESSIONAL EDUCATION

Section 1. Minnesota Statutes 1990, section 136A.1355, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] To be eligible to participate in the program, a prospective physician must submit a letter of interest to the higher education coordinating board ~~while attending medical school. Before completing the first year of residency,~~. A student or resident *who is accepted* must sign a contract to agree to serve at least three of the first five years following residency in a designated rural area.

Sec. 2. Minnesota Statutes 1990, section 136A.1355, subdivision 3, is amended to read:

Subd. 3. [LOAN FORGIVENESS.] *Prior to June 30, 1991, the higher education coordinating board may accept up to eight applicants who are fourth year medical students, up to eight applicants who are first year residents, and up to eight applicants who are second year residents for participation in the loan forgiveness program. For the period July 1, 1991 through June 30, 1995,* the higher education coordinating board may accept up to eight applicants *who are fourth year medical students* per *fiscal* year for participation in the loan forgiveness program. Applicants are responsible for securing their own loans. Applicants chosen to participate in the loan forgiveness program may designate for each year of medical school, up to a maximum of four years, an agreed amount, not to exceed $10,000, as a qualified loan. For each year that a participant serves as a physician in a designated rural area, up to a maximum of four years, the higher education coordinating board shall annually pay an amount equal to one year of qualified loans and the interest accrued on these loans. Participants who move their practice from one designated rural area to another remain eligible for loan repayment.

Sec. 3. [136A.1356] [MIDLEVEL PRACTITIONER EDUCATION ACCOUNT.]

Subdivision 1. [DEFINITIONS.] *For purposes of this section, the following definitions apply:*

(a) "Designated rural area" has the definition developed in rule by the higher education coordinating board. Until these rules are adopted, the higher education coordinating board shall apply the definition developed in consultation with interested organizations.

(b) "Midlevel practitioner" means a nurse practitioner, nurse-midwife,

nurse anesthetist, advanced clinical nurse specialist, or physician assistant.

(c) "Nurse-midwife" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advance practice as nurse-midwives.

(d) "Nurse practitioner" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advance practice as nurse practitioners.

(e) "Physician assistant" means a person meeting the definition in Minnesota Rules, part 5600.2600, subpart 11.

Subd. 2. [CREATION OF ACCOUNT.] *A midlevel practitioner education account is established. The higher education coordinating board shall use money from the account to establish a loan forgiveness program for midlevel practitioners agreeing to practice in designated rural areas.*

Subd. 3. [ELIGIBILITY.] *To be eligible to participate in the program, a prospective midlevel practitioner must submit a letter of interest to the higher education coordinating board prior to or while attending a program of study designed to prepare the individual for service as a midlevel practitioner. Before completing the first year of this program, a midlevel practitioner must sign a contract to agree to serve at least two of the first four years following graduation from the program in a designated rural area.*

Subd. 4. [LOAN FORGIVENESS.] *The higher education coordinating board may accept up to eight applicants per year for participation in the loan forgiveness program. Applicants are responsible for securing their own loans. Applicants chosen to participate in the loan forgiveness program may designate for each year of midlevel practitioner study, up to a maximum of two years, an agreed amount, not to exceed $7,000, as a qualified loan. For each year that a participant serves as a midlevel practitioner in a designated rural area, up to a maximum of four years, the higher education coordinating board shall annually repay an amount equal to one-half a qualified loan and the interest accrued on one-half a qualified loan. Participants who move their practice from one designated rural area to another remain eligible for loan repayment.*

Subd. 5. [PENALTY FOR NONFULFILLMENT.] *If a participant does not fulfill the service commitment required under subdivision 4 for full repayment of all qualified loans, the higher education coordinating board shall collect from the participant 100 percent of any payments made for qualified loans and interest, plus a penalty of 50 percent of the amount paid. The higher education coordinating board shall deposit the money collected in the midlevel practitioner education account. The board shall allow waivers of all or part of the money owed the board if emergency circumstances prevented fulfillment of the required service commitment.*

Sec. 4. [144A.70] [EDUCATION ACCOUNT FOR NURSES WHO AGREE TO PRACTICE IN A NURSING HOME OR INTERMEDIATE CARE FACILITY FOR PERSONS WITH MENTAL RETARDATION AND RELATED CONDITIONS.]

Subdivision 1. [CREATION OF THE ACCOUNT.] *An education account in the general fund is established for a loan forgiveness program for nurses who agree to practice nursing in a nursing home or intermediate facility for persons with mental retardation and related conditions. The account*

consists of money appropriated by the legislature and repayments and penalties collected under subdivision 4. Money from the account must be used for a loan forgiveness program.

Subd. 2. [ELIGIBILITY.] *To be eligible to participate in the loan forgiveness program, a person planning to enroll in a program of study designed to prepare the person to become a registered nurse or licensed practical nurse must submit a letter of interest to the commissioner before enrolling in the nursing education program. Before completing the first year of study, the applicant must sign a contract in which the applicant agrees to practice nursing for at least one of the first two years following completion of the nursing education program providing nursing services in a licensed nursing home or intermediate care facility for persons with mental retardation and related conditions.*

Subd. 3. [LOAN FORGIVENESS.] *The commissioner may accept up to ten applicants a year. Applicants are responsible for securing their own loans. For each year of nursing education, for up to two years, applicants accepted into the loan forgiveness program may designate an agreed amount, not to exceed $3,000, as a qualified loan. For each year that a participant practices nursing in a nursing home or intermediate care facility for persons with mental retardation and related conditions, up to a maximum of two years, the commissioner shall annually repay an amount equal to one year of qualified loans and the interest accrued on the loans. Participants who move from one nursing home or intermediate care facility for persons with mental retardation and related conditions to another remain eligible for loan repayment.*

Subd. 4. [PENALTY FOR NONFULFILLMENT.] *If a participant does not fulfill the service commitment required under subdivision 3 for full repayment of all qualified loans, the commissioner shall collect from the participant 100 percent of any payments made for qualified loans and interest, plus a penalty of 50 percent of the amount paid. The commissioner shall deposit the collections in the general fund to be credited to the account established in subdivision 1. The commissioner may grant a waiver of all or part of the money owed as a result of a nonfulfillment penalty if emergency circumstances prevented fulfillment of the required service commitment.*

Subd. 5. [RULES.] *The commissioner shall adopt rules to implement this section.*

Sec. 5. [STUDY OF OBSTETRICAL ACCESS.]

The commissioner of health shall study access to obstetrical services in Minnesota and report to the legislature by February 1, 1992. The study must examine the number of physicians discontinuing obstetrical care in recent years and the effects of high malpractice costs and low government program reimbursement for obstetrical services, and must identify areas of the state where access to obstetrical services is most greatly affected. The commissioner shall recommend ways to reduce liability costs and to encourage physicians to continue to provide obstetrical services.

Sec. 6. [GRANT PROGRAM FOR MIDLEVEL PRACTITIONER TRAINING.]

The higher education coordinating board may award grants to Minnesota schools or colleges that educate, or plan to educate midlevel practitioners, in order to establish and administer midlevel practitioner training programs in areas of rural Minnesota with the greatest need for midlevel practitioners.

The program must address rural health care needs, and incorporate innovative methods of bringing together faculty and students, such as the use of telecommunications, and must provide both clinical and lecture components.

Sec. 7. [GRANTS FOR CONTINUING EDUCATION.]

The higher education coordinating board shall establish a competitive grant program for schools of nursing and other providers of continuing nurse education, in order to develop continuing education programs for nurses working in rural areas of the state. The programs must complement, and not duplicate, existing continuing education activities, and must specifically address the needs of nurses working in rural practice settings. The board shall award two grants for the fiscal year ending June 30, 1992.

ARTICLE 10

CIGARETTE TAX

Section 1. Minnesota Statutes 1990, section 297.02, subdivision 1, is amended to read:

Subdivision 1. [RATES.] A tax is hereby imposed upon the sale of cigarettes in this state or having cigarettes in possession in this state with intent to sell and upon any person engaged in business as a distributor thereof, at the following rates, subject to the discount provided in section 297.03:

(1) On cigarettes weighing not more than three pounds per thousand, ~~19~~ *21* mills on each such cigarette *for which stamps are purchased between June 1, 1991, and January 1, 1993, and 22.5 mills on each such cigarette for which stamps are purchased after December 31, 1992*;

(2) On cigarettes weighing more than three pounds per thousand, ~~38~~ *42* mills on each such cigarette *for which stamps are purchased between June 1, 1991, and January 1, 1993, and 45 mills on each such cigarette for which stamps are purchased after December 31, 1992.*

Sec. 2. Minnesota Statutes 1990, section 297.03, subdivision 5, is amended to read:

Subd. 5. [SALE OF STAMPS.] *After May 31, 1991, and before January 1, 1993,* the commissioner shall sell stamps to any person licensed as a distributor at a discount of ~~1.25~~ *1.1* percent from the face amount of the stamps for the first $1,500,000 of such stamps purchased in any fiscal year; and at a discount of ~~.75~~ *.7* percent on the remainder of such stamps purchased in any fiscal year. *After December 31, 1992, the commissioner shall sell stamps to any person licensed as a distributor at a discount of one percent of the face amount of the first $1,500,000 of such stamps purchased in any fiscal year; and at a discount rate of .63 percent on the remainder of such stamps purchased in any fiscal year.* The commissioner shall not sell stamps to any other person. The commissioner may prescribe the method of shipment of the stamps to the distributor as well as the quantities of stamps purchased.

Sec. 3. [CIGARETTE TAX AND DISCOUNT RATES.]

The increases in the cigarette tax rate in section 1 and the decrease in the stamping discounts in section 2 are intended to be in addition to any other increase in the cigarette tax rate and decrease in the stamping discount enacted in the 1991 session of the legislature.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective June 1, 1991.

ARTICLE 11

APPROPRIATIONS

Section 1. APPROPRIATIONS

Subdivision 1. The amounts specified in this section are appropriated from the general fund to the agencies and for the purposes indicated.

	Fiscal Year 1992	Fiscal Year 1993
Subd. 2. Commissioner of Commerce	164,000	152,000
Subd. 3. Commissioner of Health		
(a) Premium subsidies	-0-	15,526,000
(b) Administration	7,016,000	4,966,000
(c) Pediatric access and training	200,000	300,000
(d) Hospital transition grants	125,000	125,000
(e) Isolated hospital grants	-0-	200,000
(f) Office of rural health	286,000	342,000
(g) Health care analysis unit	600,000	630,000
Subd. 4. Commissioner of Human Services		
(a) Medical assistance small hospital rates	276,000	-0-
(b) Increased medical assistance and general assistance medical care caseloads	-0-	1,161,000
(c)Administration and planning	109,000	102,000
Subd. 5. Higher education coordinating board		
(a) Physician loan forgiveness	-0-	80,000
(b) Mid-level practitioner loan forgiveness program	-0-	56,000
(c) Continuing education for rural nurses	10,000	-0-

Sec. 2. TRANSFERS

The commissioner of health may transfer money from the appropriations for administration in section 1, subdivision 3, between years. The appropriation for administration for the first year does not cancel but is available for the second year. The commissioner may transfer up to five percent of the appropriation for premium subsidies to the appropriation for administration at the direction of the governor

after consulting the legislative advisory commission. Transfers to the second year's appropriation are not part of the base funding level for purposes of the next proposed biennial budget."

Delete the title and insert:

"A bill for an act relating to health care; creating a bureau of health care access; establishing the Minnesotans' health care plan; establishing an office of rural health; requiring rural health initiatives; requiring data and research initiatives; restricting underwriting and premium rating practices; providing a health insurance plan for small employees; requiring initiatives related to health professional education; providing a tax on cigarettes; appropriating money; amending Minnesota Statutes 1990, sections 16A.124, by adding a subdivision; 43A.17, subdivision 9; 43A.23, by adding a subdivision; 136A.1355, subdivisions 2 and 3; 144.147, subdivisions 1, 3, and 4; 144.581, subdivision 1, and by adding a subdivision; 144.698, subdivision 1; 144.8093; 145.61, subdivision 5; 145.64; 176.011, subdivision 9; 256.969, subdivision 6a; 297.02, subdivision 1; 297.03, subdivision 5; and 447.31, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapters 16B; 62A; 62J; 136A; 144; and 144A; proposing coding for new law as Minnesota Statutes, chapter 62K."

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

House Conferees: (Signed) Paul Anders Ogren, Wesley J. "Wes" Skoglund, Alan W. Welle, Lee Greenfield, Bob Anderson

Senate Conferees: (Signed) Linda Berglin, Pat Piper, William P. Luther, Gene Merriam, Dean E. Johnson

Ms. Berglin moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2 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. 2 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 46 and nays 19, as follows:

Those who voted in the affirmative were:

Adkins	Flynn	Laidig	Novak	Solon
Beckman	Frederickson, D.J.	Larson	Pappas	Spear
Berglin	Hottinger	Lessard	Piper	Stumpf
Bertram	Hughes	Luther	Pogemiller	Traub
Chmielewski	Johnson, D.E.	Marty	Price	Vickerman
Cohen	Johnson, D.J.	Merriam	Ranum	Waldorf
Davis	Johnson, J.B.	Metzen	Reichgott	
DeCramer	Kelly	Moe, R.D.	Renneke	
Dicklich	Knaak	Mondale	Riveness	
Finn	Kroening	Morse	Sams	

Those who voted in the negative were:

Belanger	Bernhagen	Frederickson, D.R.	McGowan	Pariseau
Benson, D.D.	Brataas	Gustafson	Mehrkens	Samuelson
Benson, J.E.	Day	Halberg	Neuville	Storm
Berg	Frank	Johnston	Olson	

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 Senate File No. 1179, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1179: A bill for an act relating to public finance; providing conditions and requirements for the issuance of debt and for the financial obligations of authorities; amending Minnesota Statutes 1990, sections 400.101; 429.061, subdivision 3; 447.49; 469.155, subdivision 12; 473.811, subdivision 2; 475.58, subdivision 2; 475.60, subdivision 2; 475.66, subdivision 3; and 475.67, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 462C and 469.

Senate File No. 1179 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

S.F. No. 621: A bill for an act relating to the environment; clarifying and correcting provisions relating to the legislative commission on Minnesota resources and the Minnesota environmental and natural resources trust fund; amending Minnesota Statutes 1990, sections 116P.04, subdivision 5; 116P.05; 116P.06; 116P.07; 116P.08, subdivisions 3 and 4; 116P.09, subdivisions 2, 4, and 7.

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

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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

S.F. No. 783: A bill for an act relating to health; infectious waste control; transferring responsibility for infectious waste from the pollution control agency to the department of health; clarifying that veterinarians are also covered by the act; clarifying requirements for management and generators' plans; allowing certain medical waste to be mixed with other waste under

certain conditions; creating a medical waste task force; appropriating money; amending Minnesota Statutes 1990, sections 116.76, subdivision 5; 116.77; 116.78, subdivision 4; 116.79, subdivisions 1, 3, and 4; 116.80, subdivisions 2 and 3; 116.81, subdivision 1; 116.82, subdivision 3; and 116.83; repealing Minnesota Statutes 1990, sections 116.76, subdivision 2; and 116.81, subdivision 2.

Senate File No. 783 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

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. 1631, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1631 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1631

A bill for an act relating to the organization and operation of state government; appropriating money for the general legislative, judicial, and administrative expenses of state government; providing for the transfer of certain money in the state treasury; fixing and limiting the amount of fees, penalties, and other costs to be collected in certain cases; creating, abolishing, modifying, and transferring agencies and functions; defining and amending terms; providing for settlement of claims; imposing certain duties, responsibilities, authority, and limitations on agencies and political subdivisions; consolidating certain funds and accounts and making conforming changes; changing the organization, operation, financing, and management of certain courts and related offices; amending Minnesota Statutes 1990, sections 2.722, subdivision 1, and by adding a subdivision; 3.885, subdivisions 3 and 6; 8.06; 14.07, subdivisions 1 and 2; 14.08; 14.26; 15.191, subdivision 1; 15.50, subdivision 3; 15A.081, subdivision 1; 16A.27, subdivision 5; 16A.45, subdivision 1; 16A.641, subdivision 3; 16A.662, subdivision 4; 16A.672, subdivision 9; 16A.69, by adding a subdivision; 16A.721, subdivision 1; 16B.24, subdivisions 5 and 6; 16B.36, subdivision 1; 16B.41, subdivision 2, and by adding a subdivision; 16B.465, subdivision 4; 16B.48, subdivision 2; 17.49, subdivision 1; 62D.122; 62J.02, subdivisions 2 and 3; 69.031, subdivision 5; 69.77, subdivision 2b; 79.34, subdivision 1; 103B.311, subdivision 7; 103B.315, subdivision 5; 103E.761, subdivision 1; 103H.101, subdivision 4; 103H.175, subdivisions 1 and 2; 115A.072, subdivision 1; 116C.03, subdivisions 2, 4, and 5; 116C.712, subdivisions 3 and 5; 116J.8765, by adding a subdivision; 116L.03, subdivisions 1 and 2; 124C.03, subdivisions 2, 3, 8, 9, 10, 12, 14, 15, and 16; 126A.02, subdivisions 1 and 2; 126A.03; 128C.12, subdivision 1; 138.17, subdivision 1; 144.70, subdivision 2; 144A.071, subdivision 5;

145.926, subdivisions 1, 4, 5, 7, and 8; 145A.02, subdivision 16; 145A.09, subdivision 6; 160.276, by adding a subdivision; 214.141; 256H.25, subdivision 1; 268.361, subdivision 3; 271.06, subdivision 4; 271.19; 275.14; 275.51, subdivision 6; 275.54, subdivision 3; 299A.30, subdivision 2; 299A.31, subdivision 1; 299A.40, subdivision 4; 356.215, subdivisions 4d and 4g; 356.216; 357.24; 363.121; 368.01, subdivision 1a; 373.40, subdivision 1; 402.045; 422A.05, by adding subdivisions; 422A.101; 422A.17; 422A.23, subdivision 2; 423A.01, subdivision 2; 462.384, subdivision 7; 462.396, subdivision 2; 466A.05, subdivision 1; 469.203, subdivision 4; 469.207, subdivisions 1 and 2; 473.156, subdivision 1; 474A.03, by adding a subdivision; 477A.011, subdivisions 3 and 3a; 477A.014, subdivision 4; 480.181, by adding a subdivision; 480.24, subdivision 3; 480.242, subdivision 2 and by adding a subdivision; 481.10; 490.124, subdivision 4; 504.34, subdivisions 5 and 6; 590.05; 593.48; 609.101, subdivision 1; 611.14; 611.17; 611.18; 611.20; 611.25, subdivision 1; 611.26, subdivision 6, and by adding subdivisions; 611.27, subdivisions 1 and 4; 626.861, by adding a subdivision; 643.29, subdivision 1; Laws 1989, chapter 319, article 19, sections 6; and 7, subdivision 1, and subdivision 4, as amended; chapter 335, article 1, section 7; article 3, section 44, as amended; and Laws 1990, chapter 610, article 1, section 27; proposing coding for new law in Minnesota Statutes, chapters 4; 7; 16A; 16B; 43A; 116J; 270; 356; and 471; repealing Minnesota Statutes 1990, sections 3C.035, subdivision 2; 3C.056; 8.15; 14.32, subdivision 2; 40A.02, subdivision 2; 40A.08; 116K.01; 116K.02; 116K.03; 116K.04; 116K.05; 116K.06; 116K.07; 116K.08; 116K.09; 116K.10; 116K.11; 116K.12; 116K.13; 116K.14; 144.861; 144.874, subdivision 7; 480.250; 480.252; 480.254; 480.256; 611.215, subdivision 4; 611.261; 611.28; 611.29; Laws 1989, chapter 335, article 3, section 54, as amended; and Laws 1990, chapter 604, article 9, section 14.

May 20, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1631, 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. 1631 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1
STATE DEPARTMENTS

Section 1. [STATE DEPARTMENTS; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "1991," "1992," and "1993," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1991, June 30, 1992, or June 30, 1993, respectively.

SUMMARY BY FUND

	1991	1992	1993	TOTAL
General	$486,000	$382,297,000	$361,685,000	$743,982,000
Environmental		261,000	260,000	521,000
Highway User		1,720,000	1,715,000	3,435,000
Metro Landfill Contingency		46,000	46,000	92,000
Special Revenue		9,115,000	9,110,000	18,225,000
Trunk Highway		761,000	754,000	1,515,000
Workers' Comp.		4,842,000	5,080,000	9,922,000
TOTAL		399,043,000	378,650,000	777,692,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1992	1993
Sec. 2. LEGISLATURE		
Subdivision 1. Total Appropriation	48,942,000	48,262,000
Summary by Fund		
General	48,909,000	48,230,000
Trunk Highway	32,000	32,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Senate	16,383,000	16,068,000
Subd. 3. House of Representatives	21,921,000	21,504,000
Subd. 4. Legislative Coordinating Commission	7,289,000	7,344,000
Summary by Fund		
General	7,257,000	7,312,000
Trunk Highway	32,000	32,000

(a) Legislative Reference Library

1992	1993
880,000	880,000

(b) Revisor of Statutes

3,931,000	4,162,000

The revisor shall study the relative costs and benefits of using Times Roman or another typeface for documents produced through the revisor's computer system. The study shall include consideration of readability, potential savings on equipment costs, and reduction of paper use. The revisor shall submit the report to the senate finance and house appropriations committees

by January 1, 1992.

(c) Legislative Commission on the Economic Status of Women

166,000 164,000

(d) Legislative Commission on Employee Relations

109,000 109,000

The legislative commission on employee relations shall conduct a study of management and supervisory functions in all executive branch state agencies and boards, including the state university, technical colleges, and community college system. The commission shall report the results of the study to the legislature by February 1, 1992.

(e) Great Lakes Commission

43,000 45,000

(f) Legislative Commission on Pensions and Retirement

555,000 570,000

(g) Legislative Commission on Planning and Fiscal Policy

400,000 400,000

The appropriation in Laws 1989, First Special Session chapter 1, article 1, section 12, for the legislative commission on planning and fiscal policy, is available until June 30, 1993.

(h) Legislative Commission to Review Administrative Rules

139,000 133,000

(i) Legislative Commission on Waste Management

148,000 148,000

(j) Legislative Water Commission

101,000 99,000

(k) Mississippi River Parkway Commission

32,000 32,000

This appropriation is from the trunk highway fund.

(l) Legislative Coordinating Commission - General Support

785,000 602,000

The appropriation in Laws 1989, chapter 335,

article 1, section 2, subdivision 4, paragraph (l), is available until June 30, 1993.

$86,000 the first year and $86,000 the second year are appropriated to fund joint house and senate subcommittee or task force projects. Projects funded from this appropriation must involve both the house and senate, be temporary in nature, and focus on key policy issues facing the legislature. The legislative coordinating commission shall develop a project selection process for this appropriation.

$50,000 the first year and $50,000 the second year are reserved for unanticipated costs of agencies in this subdivision and subdivision 5. The legislative coordinating commission may transfer necessary amounts from this appropriation to the appropriations of the agencies concerned, and the amounts transferred are appropriated to those agencies to be spent by them. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

$87,300 the first year and $91,600 the second year are for the state contribution to the National Conference of State Legislatures.

$78,300 the first year and $83,000 the second year are for the state contribution to the Council of State Governments.

Subd. 5. Legislative Audit Commission 3,839,000 3,832,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Legislative Audit Commission

15,000 15,000

(b) Legislative Auditor

3,824,000 3,817,000

Subd. 6. Base Cut

(492,000) (487,000)

The base cut must be allocated among the commission's programs by the legislative coordinating commission.

Sec. 3. SUPREME COURT

Subdivision 1. Total Appropriation 16,114,000 15,987,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Supreme Court Operations

3,900,000 3,876,000

$2,100 the first year and $2,200 the second year are for a contingent account for expenses necessary for the normal operation of the court for which no other reimbursement is provided.

The conference of chief judges shall study the current functions performed by law clerks and shall conduct a cost benefit analysis of the position on or before January 1, 1992. The study shall consider the cost benefit of the assignment of nonlegal duties currently performed by law clerks to other court personnel and the development of permanent legal research units within a judicial district. The study shall consider the distribution of and the number of district court law clerks for district court judges and referees.

Pursuant to Minnesota Statutes, section 480.181, the supreme court, in consultation with the conference of chief judges and representatives of official court reporters, shall develop criteria for the tenure of official court reporters under the judicial branch personnel rules. The criteria shall be included in a study on shared or pooled use of district court reporters which shall be conducted by the conference of chief judges by January 1, 1993.

The supreme court shall study and report to the legislature by February 1, 1992, the costs of transferring to the state the costs of the court administration offices and guardian ad litem programs statewide and shall develop a detailed budget for those costs.

$25,000 the first year is to continue the study of racial bias in the judicial system mandated by Laws 1990, chapter 557.

$10,000 the first year is to study the need for a business law court.

Subd. 3. State Court Administration

7,701,000 7,591,000

The state court administrator shall establish a pilot project to study the feasibility of providing public and private users computer access to court records through TCIS (Total Court Information System) at no net cost to the court. The state court administrator shall identify the demand for the service, the fees necessary to provide the service at no net cost to the court, the staff, and the hardware resources necessary

to support this expanded use of the TCIS, and report to the legislature by February 1, 1992. The state court administrator may charge participants in the pilot project a reasonable user fee. The fees shall be deposited in the general fund.

The state court administrator may fund one nonprofit private organization located in the northern suburbs of Hennepin county for a diversion program other than mediation, to divert juvenile misdemeanor offenders from the juvenile court system.

$100,000 the first year and $100,000 the second year are for community dispute resolution program grants under Minnesota Statutes, section 494.05.

Subd. 4. Law Library Operations

1,663,000 1,670,000

Subd. 5. Civil Legal Services

2,114,000 2,114,000

$2,114,000 the first year and $2,114,000 the second year are for legal service to low-income clients under Minnesota Statutes, section 480.242, and for family farm legal assistance under Minnesota Statutes, section 480.252. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium. A qualified legal services program, as defined in Minnesota Statutes, section 480.24, subdivision 3, may provide legal services to persons eligible for family farm legal assistance under Minnesota Statutes, section 480.254.

Subd. 6. Family Law Legal Services

890,000 890,000

$890,000 the first year and $890,000 the second year are to improve the access of low-income clients to legal representation in family law matters and must be distributed under Minnesota Statutes, section 480.242, to the qualified legal services programs described in Minnesota Statutes, section 480.242, subdivision 2, paragraph (a). Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

Subd. 7. Base Cut

(154,000) (154,000)

The base cut must be allocated among the agency's programs by the agency head.

Sec. 4. COURT OF APPEALS	5,696,000	5,717,000
Sec. 5. DISTRICT COURTS	47,009,000	59,371,000

For the second year appropriation, $3,366,000 is appropriated for jury costs for the district courts if a law is enacted providing for a homestead agricultural and credit assistance offset in the same amount.

This appropriation includes one new law clerk position in the first judicial district and one new law clerk position in the tenth judicial district.

$70,000 the first year is for the Dakota county board to establish a pilot diversion program for juveniles who are alleged to have committed controlled substance offenses. This sum is available until June 30, 1993.

Sec. 6. BOARD OF JUDICIAL STANDARDS	171,000	171,000

Approved Complement - 2

Sec. 7. BOARD OF PUBLIC DEFENSE

Subdivision 1. Total Appropriation	21,238,000	23,983,000

Approved Complement - 42

None of this appropriation shall be used to pay for lawsuits against public agencies or public officials to change social or public policy.

The amounts that may be spent from this appropriation for each program are specified in this subdivision and the following subdivisions.

For the second year appropriation, $2,750,000 is appropriated for juvenile and misdemeanor services in the 3rd and 6th districts if a law is enacted providing for a homestead agricultural and credit assistance offset in the same amount.

Subd. 2. State Public Defender		
	2,051,000	2,045,000

During the biennium, legal assistance to Minnesota prisoners shall serve the civil legal needs of persons confined to state institutions.

Subd. 3. Board of Public Defense		
	1,149,000	3,900,000

Subd. 4. District Public Defense

18,246,000 18,246,000

Subd. 5. Base Cut

(208,000) (208,000)

The base cut must be allocated among the board's programs by the board administrator.

Sec. 8. TAX COURT 601,000 533,000

Approved Complement - 6

Sec. 9. WORKERS' COMPENSATION COURT OF APPEALS 1,284,000 1,363,000

Approved Complement - 22

This appropriation is from the workers' compensation special compensation fund.

Sec. 10. GOVERNOR AND LIEUTENANT GOVERNOR

Subdivision 1. Total Appropriation 3,651,000 3,144,000

This appropriation is to fund the offices of the governor and lieutenant governor.

$20,000 the first year and $20,000 the second year are for personal expenses connected with the office of the governor.

$2,000 the first year and $2,000 the second year are for personal expenses connected with the office of the lieutenant governor.

$99,000 the first year and $103,000 the second year are for membership dues of the National Governors Association.

$20,000 the first year is for the Council of Great Lakes Governors.

During the biennium any seminars or training sessions regarding federal issues for federal budgeting that are conducted by the Washington office shall be made available to legislators and legislative staff. The Washington office shall notify the legislature regarding the timing of such seminars.

Subd. 2. Transfers From State Planning

757,000 257,000

Sec. 11. OFFICE OF STRATEGIC AND LONG RANGE PLANNING 2,988,000 2,986,000

$1,000,000 the first year and $1,000,000 the second year are for strategic and long-range

planning. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

An additional $500,000 the first year and $500,000 the second year are available for planning after consultation with the legislative advisory commission under Minnesota Statutes, section 3.30. A request to spend money from this appropriation must be presented to the legislative commission on planning and fiscal policy, which must make a recommendation on the request before it may be presented to the legislative advisory commission.

Sec. 12. STATE AUDITOR 6,471,000 6,755,000

Approved Complement - 123

$77,000 the first year and $77,000 the second year are for an account the auditor may bill for costs associated with conducting single audits of federal funds. During the biennium, this account may be used only when no other billing mechanism is feasible.

$217,000 the first year and $217,000 the second year must be subtracted from the amount that would otherwise be payable as local government aid under Minnesota Statutes, chapter 477A, in order to reimburse the general fund for the services of the government information division and the parts of the constitutional office that are related to the government information function.

$71,000 the first year and $71,000 the second year must be subtracted from the total police and fire state aid otherwise payable to police and firefighters' relief associations under Minnesota Statutes, sections 69.011 to 69.051, for the costs and expenses incurred by the state auditor in making a review of the audits and examinations of relief associations. The amount subtracted shall be divided proportionally according to the estimated costs of the audits or examinations of the police and firefighters' relief associations as determined by the state auditor.

Two new staff positions and one data entry position in the office of the state auditor that are required by increased research and analysis duties shall be funded through increased audit and other fees to local units of government.

Sec. 13. STATE TREASURER 1,149,000 1,292,000

Approved Complement - 13

Up to $500,000 for the first year is for a negotiated proposal process for the acquisition of a new information system pursuant to procedures established by the commissioner of administration in accordance with the provisions of Minnesota Statutes, section 16B.08, subdivision 4, paragraph (b). In the event the cost of the treasurer's new information system exceeds the amount appropriated from the general fund, the difference shall be billed to the MAXIS project in the department of human services. The state treasurer is authorized to acquire a new information system by purchase, lease-purchase, lease, or any other method consistent with procedures established by the commissioner of finance.

Sec. 14. ATTORNEY GENERAL

Subdivision 1. Total Appropriation		21,283,000	21,226,000
Approved Complement -	376		
General -	338		
Special Revenue -	28		
Federal -	10		
	Summary by Fund		
General		19,857,000	19,805,000
Special Revenue		1,426,000	1,421,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Additions to dedicated or federal complement are approved subject to sufficient appropriations to the attorney general or the attorney general's clients. Additions must be reported to the chairs of the house appropriations committee and the senate finance committee on July 1, 1991, and July 1, 1992.

Subd. 2. Government Services		
	4,196,00	4,197,000
Subd. 3. Public Resources		
	2,827,000	2,809,000
Subd. 4. Human Resources		
	1,553,000	1,552,000
Subd. 5. Law Enforcement		
	4,321,000	4,292,000
Subd. 6. Legal Policy and		

Administration

2,749,000 2,745,000

All records of the office of the attorney general relating to the 1837 Treaty issue shall be transferred to the state archives upon resolution of the issue. The provisions of Minnesota Statutes, sections 138.161 to 138.25, apply to this transfer.

The attorney general shall increase fees charged to agencies to cover criminal investigations and prosecutions of violations of state environmental laws. The fees collected from agencies are appropriated to the attorney general's office. The cost of these investigations shall be certified for payment by the relevant agencies from the environmental fund.

The attorney general shall submit a report to the senate finance and house appropriations committees by January 1, 1992, on the relationship between increased OSHA assessments and the increase in positions in the office of the attorney general.

Subd. 7. Business Regulation

4,337,000 4,330,000

Summary by Fund

General	2,911,000	2,909,000
Special	1,426,000	1,421,000

Subd. 8. Solicitor General

1,499,000 1,499,000

Subd. 9. Base Cut

(199,000) (198,000)

The base cut must be allocated among the agency's programs by the agency head.

Sec. 15. INVESTMENT BOARD	1,894,000	1,988,000

Approved Complement - 25

Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

Sec. 16. ADMINISTRATIVE HEARINGS	3,458,000	3,617,000

Approved Complement - 78

Revolving - 26

Workers' Compensation - 52

This appropriation is from the workers' compensation special compensation fund for considering workers' compensation claims.

Sec. 17. ADMINISTRATION

Subdivision 1. Total Appropriation		47,867,000	26,416,000
Approved Complement -	940		
General -	259		
Gift -	1		
Revolving -	630		
Special Revenue -	46		
Federal -	4		
	Summary by Fund		
General Fund		42,968,000	21,517,000
Special Revenue		4,899,000	4,899,000

Subd. 2. Operations Management

4,617,000	4,661,000

Subd. 3. Intertechnologies Group

10,954,000	5,431,000

	Summary by Fund	
General	6,794,000	1,271,000
Special Revenue	4,160,000	4,160,000

The appropriation from the special revenue fund is for recurring costs of 911 emergency telephone service.

$3,900,000 is appropriated as a loan from the general fund to the STARS revolving fund. This amount shall be repaid before the end of the biennium. Notwithstanding any law to the contrary, the commissioner of administration shall have authority to transfer contributed capital between department of administration internal service or enterprise funds. Notwithstanding any other law to the contrary, the commissioner of administration may, with the approval of the commissioner of finance, make loans from an internal service or enterprise fund to another internal service or enterprise fund.

$150,000 the first year is for the commissioner of the department of administration and the STARS staff to conduct a study to develop models for the use of STARS telecommunications regions under joint powers or other agreements. The models shall be used to:

(1) coordinate development of applications or programs that combine the needs of education, state and local governments, or other public sector users of STARS services;

(2) determine the local telecommunications approaches that work best to distribute applications or programs transported by STARS within the region; and

(3) identify needs for shared video facilities and develop agreements and ways to prioritize or schedule their use equitably.

The study shall focus on current and future telecommunications needs that result from joint activities of STARS customers in the two telecommunications regions that will be served by STARS from Duluth and Rochester and shall describe pilot projects that could be used to validate the study findings.

The study shall be submitted to the appropriate committees of the legislature by December 31, 1991.

$201,100 the first year and $205,800 the second year must be subtracted to the amount that would otherwise be payable to local government aid under Minnesota Statutes, chapter 477A, in order to fund the local government records program and the intergovernmental information systems activity.

Subd. 4. Property Management

23,387,000	8,349,000

$175,000 the first year and $175,000 the second year from the program's total appropriation are for capitol area repairs and replacements. Any unencumbered balance remaining in the first year does not cancel and is available for the second year.

$3,825,000 the first year and $3,884,000 the second year are for office space costs of the legislature and veterans organizations, for ceremonial space, and for statutorily free space.

The department of administration shall discontinue food service management in the state office building for the biennium ending June 30, 1993. Food service shall be managed by the house rules committee as a pilot project for the biennium.

$50,000 the first year is for the commissioner of administration to study the potential uses for the Waseca campus. The commissioner

shall appoint an advisory committee to assist with the study. The commissioner shall report the findings and recommendations from the study to the board of regents, and the education, appropriations, and finance committees of the legislature by January 15, 1992. The appropriation is available if matched by $1 of nonstate money for each $10 of this appropriation. In addition, the board of regents of the University of Minnesota is requested to provide additional funding up to $50,000 to assist in the cost of the study.

The department of administration in consultation with the capitol area architectural and planning board shall study the historic renovation and potential reuse of the Dahl house and report to the senate finance and house appropriations committees by February 1, 1992.

By June 30, 1992, the department of administration shall relocate the state printing operation from the Ford building to a more suitable location, preferably outside the capitol complex and shall relocate and consolidate offices of the attorney general in the Ford building. The Ford building shall be remodeled as office space.

By December 31, 1992, the department of administration shall relocate the office of the state auditor to a location within the capitol complex.

$350,000 the first year is for developing a framework for an integrated infrastructure management system including the establishment of a database of building classification standards. The commissioner of administration shall report by January 1, 1992, on the time and cost of continuing the program for fiscal year 1993.

$961,000 the first year is to improve security at state parking ramps and lots, to be available upon final enactment.

$13,781,000 is for the costs relating to agency relocation, consolidation, and colocation, to be available upon final enactment.

Subd. 5. Administrative Management

4,249,000 4,045,000

$5,000 the first year and $5,000 the second year are for the state employees' band.

$240,000 the first year and $240,000 the second year are for block grants to public television stations.

$793,000 the first year and $793,000 the second year are for matching grants to public television stations.

$840,000 the first year and $840,000 the second year are for public television equipment needs. Equipment grant allocations shall be made after considering the recommendations of the Minnesota Public Television Association.

$266,000 the first year and $266,000 the second year are for operational grants to public educational radio stations, which must be allocated after considering the recommendations of the Association of Minnesota Public Educational Radio Stations under Minnesota Statutes, section 129D.14.

$132,000 the first year and $132,000 the second year are for public educational radio stations, which must be allocated after considering the recommendations of the Association of Minnesota Public Educational Radio Stations for equipment needs.

$180,000 the first year is for equipment grants to affiliate stations of Minnesota Public Radio, Incorporated. Equipment grant allocations must be made after consideration of the recommendations of Minnesota Public Radio, Incorporated.

If an appropriation for either year for grants to public television or radio stations is not sufficient, the appropriation for the other year is available for it.

State agencies directly involved in furnishing information or rendering services to the public, and that serve a substantial number of non-English-speaking people shall report on their progress in meeting the requirements in Minnesota Statutes, section 15.441, and make recommendations for improving services to non-English-speaking people. The report and recommendations must be submitted to the state government divisions of the house appropriations and senate finance committees by February 1, 1992.

Subd. 6. Information Policy Office

1,686,000 1,704,000

Subd. 7. Management Analysis

586,000 594,000

Subd. 8. Transfers From State Planning

2,149,000 1,393,000

Subd. 9. Commission

500,000

$500,000 is for a commission to identify immediate potential cost savings in state government and to recommend long-term actions for improving state government efficiency and effectiveness.

The commission should include representatives of state employees. The legislative commission on planning and fiscal policy shall appoint five members to the commission who need not be legislators.

This appropriation is available for the biennium ending June 30, 1993, when matched dollar for dollar with private funds. Before spending this appropriation, the commissioner must present a detailed work plan to the legislative commission on planning and fiscal policy. The commissioner must make progress reports to the legislature on the work of the commission.

It is anticipated that the commission will identify $15,700,000 in immediate general fund cost savings through improving state government efficiency and effectiveness. This appropriation may be enhanced by nonstate contributions with funds collected and spent from the state expendable trust gift fund. In-kind contributions will be encouraged.

An additional $500,000 of the appropriation in the general contingent account in section 29 is available in the second year of the biennium under Minnesota Statutes, section 3.30, for the work of the commission.

Subd. 10. Base Cut

(207,000) (207,000)

Sec. 18. CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD 236,000 236,000

Approved Complement - 5

Any unencumbered balance of the appropriation for the first year does not cancel and is available for use in the second year.

Notwithstanding any other law to the contrary, unexpended balances from appropriations in Laws 1985, First Special Session chapter 15,

section 3, subdivision 4, and Laws 1987, chapter 400, section 15, subdivision 2, are reappropriated to the capitol area architectural and planning board for site selection and preliminary planning for the labor history center in or near the capitol area as defined in Minnesota Statutes, section 15.50. The commissioner of administration and the historical society shall cooperate with the board in these studies and preliminary planning and provide information and assistance as requested by the board. The board must make a final site recommendation to the chairs of the house appropriation committee and the senate finance committee.

Sec. 19. FINANCE

Subdivision 1. Total Appropriation	9,109,000	11,297,000

Approved Complement - 129

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Management and Administrative Services

1,148,000	1,205,000

Subd. 3. State Accounting System

5,172,000	7,313,000

$300,000 in the first year and $2,500,000 in the second year is for the planning and implementation of the new statewide accounting and payroll information systems.

On or before February 15, 1992, the commissioner of finance shall report to the chairs of the state government divisions of the house appropriations and senate finance committees on progress in designing the new statewide accounting and payroll information systems. The report shall also identify preliminary savings or administrative efficiencies that the state may realize with a new system and indicate the level of future funding required to complete the system. The report shall also present options for the future financing of the system including cost-sharing by users.

Subd. 4. Budget Analysis and Operations

2,318,000	2,286,000

Subd. 5. Cash and Debt Management

273,000 282,000

Subd. 6. Economic Analysis

287,000 300,000

Subd. 7. Base Cut

(89,000) (89,000)

The base cut must be allocated among the agency's programs by the agency head.

Sec. 20. EMPLOYEE RELATIONS

Subdivision 1. Total Appropriation	8,798,000	8,956,000
Approved Complement - 191		
General - 111		
Insurance Trust - 29		
Special Revenue - 51		

$486,000 in 1991 is from the general fund for WCRA premium adjustments and is added to the appropriation in Laws 1989, chapter 335, article 1, section 18.

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Administration

2,601,000 2,566,000

Subd. 3. Labor Relations

517,000 528,000

During the biennium ending June 30, 1993, a state agency may not pay relocation expenses to an employee without the express approval of the commissioner of employee relations, unless otherwise provided in a collective bargaining agreement entered into under Minnesota Statutes, chapter 179A.

Subd. 4. Staffing and Compensation

3,052,000 3,058,000

$56,000 the first year and $55,000 the second year must be subtracted from the amount that would otherwise be payable as local government aid under Minnesota Statutes, chapter 477A, to offset the cost of the local government pay equity function of the department.

By February 1, 1992, the commissioner of employee relations shall issue a comprehensive report assessing the impact of budget cuts on personnel in all executive branch agencies and

boards, including the state university, technical colleges, and community college systems. The report shall include the number of complement, vacancies, and full and part-time personnel working in each agency and board on July 1, 1991, and on December 31, 1991. It must include a breakdown by job class and bargaining unit in each agency of positions that were eliminated in this period. It must also include a breakdown of student worker and temporary employee positions eliminated in each agency in this period. The commissioner must report on February 1, 1993, presenting the same information for the time period January 1, 1992 to December 31, 1992. The reports must be made to the chairs of the senate finance and house appropriations committees.

It is the policy of the legislature to maximize the delivery of services to the public. If layoffs of state employees are necessary, the employer must make an effort to reduce proportionally based upon the percentage of total management, supervisory, line, and support personnel to the total number of employees for the biennium ending June 30, 1993. This paragraph does not modify any employee rights contained in any other law or collective bargaining agreement under Minnesota Statutes, chapter 179A.

During the biennium ending June 30, 1993, a state agency may not fill a vacant management position or create a new management position without the express approval of the commissioner of finance.

It is the policy of the legislature, in order to ensure efficient restructuring and smooth and harmonious labor relations, that any studies for restructuring of executive branch agencies should be accomplished with the cooperation of existing labor-management committees established through collective bargaining agreements. Every effort should be made to include departmental and agency employees in the restructuring process through their collective bargaining agents.

State agencies must demonstrate that they cannot use available staff before hiring outside consultants or services. Where outside consultants and services are necessary, agencies are encouraged to negotiate contracts that will involve permanent staff so as to upgrade and maximize training of state personnel. Money spent on outside consultants must be reported on an annual basis to the senate finance and

house appropriations committees.

By February 1, 1992, the state auditor, with the cooperation of the commissioner of employee relations, shall report to the legislature on the salaries of the positions subject to the political subdivision salary limit in Minnesota Statutes, section 43A.17, subdivision 9. This report shall include analysis of total salaries, highest salaries, comparisons with other states and public and private sectors, and any other information the state auditor considers appropriate regarding salaries and other potential efficiencies and cost savings in political subdivisions. Political subdivisions shall cooperate with the state auditor in providing the information necessary for this report.

Subd. 5. Safety and Workers' Compensation

2,232,000 2,557,000

Subd. 6. Training and Development

555,000 528,000

During the biennium ending June 30, 1993, a state agency may not provide general management training, whether done in-house or through the use of consultants, to any of its employees without the express approval of the commissioner of employee relations. "General management training" means training related to motivating and supervising employees, as opposed to developing professional or technical skills in an academic or technical discipline.

Subd. 7. Equal Opportunity

311,000 318,000

Subd. 8. General Reduction

(422,000) (551,000)

Subd. 9. Base Cut

(88,000) (88,000)

The base cut must be allocated among the agency's programs by the agency head.

Sec. 21. PUBLIC EMPLOYMENT RELATIONS BOARD	93,000	85,000
Approved Complement - 1		
Sec. 22. REVENUE		
Subdivision 1. Total Appropriation	71,075,000	71,338,000

Approved Complement -	1,174
General -	1,134
Highway User -	38
Metro Landfill Contingency	1
Environment	1

Summary by Fund

General -	69,263,000	69,531,000
Environmental -	46,000	46,000
Highway User -	1,720,000	1,715,000
Metro Landfill Contingency	46,000	46,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Revenue Administration

21,453,000 21,820,000

$1,200,000 the first year and $1,200,000 the second year are to redesign the document processing system. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Notwithstanding any other law to the contrary, $60,000 of this appropriation for 1993 is for severance pay expenses for a retiring judge of the tax court whose major tenure was in the department of revenue.

$40,000 of the appropriation in Laws 1989, chapter 335, article 1, section 19, subdivision 2, does not cancel June 30, 1991, and is available until June 30, 1992.

Subd. 3. Tax Policy

4,041,000 4,050,000

Subd. 4. Property and Special Taxes

10,096,000 10,071,000

Summary by Fund

General -	8,284,000	8,264,000
Environmental -	46,000	46,000
Highway User -	1,720,000	1,715,000
Metro Landfill Contingency	46,000	46,000

$35,000 the first year and $35,000 the second year must be subtracted from the total police

and fire state aid otherwise payable to police and firefighters' relief associations under Minnesota Statutes, sections 69.011 to 69.051, and deposited in the general fund for the costs and expenses incurred by the department in collecting and distributing state aid to police and firefighters' relief associations.

$55,000 the first year and $55,000 the second year must be subtracted from the total taconite production tax revenues distributed to local units of government. These amounts shall be deposited in the general fund and appropriated to the department of revenue for the costs and expenses incurred by the department in collecting and distributing taconite production tax revenues.

Subd. 5. Customer Service and Information

13,505,000	13,475,000

Subd. 6. Tax Compliance

22,680,000	22,624,000

Subd. 7. Base Cut

(700,000)	(702,000)

The base cut must be allocated among the agency's programs by the agency head.

Sec. 23. TRADE AND ECONOMIC DEVELOPMENT

Subdivision 1. Total Appropriation		40,880,000	40,876,000
Approved Complement -	213		
General -	173		
Environmental -	3		
Special Revenue -	3		
Trunk Highway -	16		
Federal -	18		
	Summary by Fund		
General		39,936,000	39,940,000
Environmental		215,000	214,000
Trunk Highway		729,000	722,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Community Development

19,491,000	18,905,000

The department of trade and economic development shall examine the community resources program, evaluate the effectiveness of the program, and make recommendations to the appropriate committees of the legislature for necessary improvements. The department shall also study possible expansion of the community resources program into inner-ring suburbs adjoining cities of the first class, and report to the appropriate committees of the legislature by January 1, 1992.

$377,000 the first year and $377,000 the second year are for regional planning grants to regional development commissions organized under Minnesota Statutes, sections 462.381 to 462.396.

Until June 30, 1993, for state and federal grants distributed by state agencies to regions of the state not having a regional development commission, the state agency administering the grant program may assess the program for administrative costs incurred by the agency that normally are incurred by the commission.

$5,517,000 the first year and $5,517,000 the second year are for economic recovery grants, of which up to $500,000 may be used to implement the capital access program.

$5,904,000 the first year and $5,904,000 the second year are for the targeted neighborhoods revitalization and financing program.

Upon approval by the commissioner of a revitalization program the commissioner shall, within 30 days, pay to the city the amount of state money identified as necessary to implement the revitalization program or program modification.

$2,791,000 the first year and $2,791,000 the second year are for payment of a grant to the metropolitan council for metropolitan area regional parks maintenance and operation.

The metropolitan parks and open space commission shall consider the development of a trail that would link the St. Paul waterfront with the Munger trail via Swede Hollow and the abandoned railroad bed running north through St. Paul's East Side. The commission may meet with interested people and representatives of affected groups and shall report back to the senate finance and house appropriations committees by January 1, 1992.

$2,006,000 the first year and $2,006,000 the

second year are for grants to pay principal and interest due on bonds issued by the city of Minneapolis for the Great River Road Project, the city of St. Paul for the Como Park conservatory, suburban Hennepin regional park district for land acquisition and development, and Washington county for land acquisition and development. These amounts shall be continued in the base and adjusted only for the normal reduction in principal and interest payments.

$59,000 the first year and $59,000 the second year are for a grant to the Minnesota High Tech Corridor. The department shall report its progress to the legislature by January 1, 1992.

$218,000 the first year and $217,000 the second year are for the small cities federal match.

$75,000 is for a grant to Itasca county to plan and do other preliminary work for construction of the Itasca Center.

The city of Duluth will not become eligible to receive any funding from the urban revitalization action program until the city formally relinquishes its entitlement status under the federal Community Development Block Grant Program to St. Louis county.

St. Louis county must ensure that the city of Duluth will continue to receive that level of federal Community Development Block Grant Program funding that it would have received if it had remained an entitlement community.

$98,000 the first year and $98,000 the second year are for Quality Council grants.

$500,000 the first year is for transfer to the World Trade Center Corporation to establish an annual medical exposition, trade fair, and health care congress to commence in 1993. This event will be coordinated and held in conjunction with the World Health Organization's annual international conference on children's health care to commence in Minnesota in 1993. The purpose of the appropriation includes the establishment of a support system to assist businesses in promoting Minnesota's medical and health care industries through an annual exposition and trade fair. This appropriation must be used in cooperation with the department of trade and economic development. This appropriation is available only to the extent the World Trade Center Corporation is able to secure an equal amount from nonstate sources to cover the costs of conducting the event. The

corporation shall report the results of its efforts to the legislature by June 30, 1993.

Up to $780,000 may be used to purchase or lease modular furniture and telecommunications associated with the agency's move.

$250,000 the first year and $250,000 the second year are for transfer to the commissioner of jobs and training for a wage subsidy program to alleviate summer youth unemployment under new Minnesota Statutes, section 268.552. No more than five percent of this appropriation may be used for administration.

Subd. 3. Minnesota Trade Office

2,129,000 2,238,000

The department of trade and economic development, in consultation with the state council on Asian-Pacific Minnesotans, shall develop a program to attract investors from Hong Kong to Minnesota and report to the legislature by January 1, 1992. The report shall include consideration and utilization of the new federal "investment visa program" status.

$100,000 is for the department of trade and economic development to award grants to qualifying Minnesota nonprofit organizations to support international cultural and educational exchange programs and to make grants and loans to qualifying Minnesota businesses for the support of international partnership program activities that may lead to long-term trade relations. Grants must be matched with at least $3 of nonpublic funds for every state grant dollar awarded and loans must be matched by at least $1 for every state grant dollar loaned.

$100,000 is available for foreign trade offices in the second year of the biennium. The department of trade and economic development shall report to the legislature by February 1, 1992, on the proposed location of the offices and the criteria used for the proposal.

$60,000 the first year and $60,000 the second year are for the state's portion of the interstate compact on agricultural grain marketing.

$30,000 is for an export outreach pilot project to identify and pursue one or more specific export trade opportunities for rural Minnesota businesses. Expenditures of more than $10,000 for a specific project shall be matched, dollar for dollar, from nonpublic sources.

Subd. 4. Tourism

8,494,000 8,202,000

Summary by Fund

General	7,765,000	7,480,000
Trunk Highway	729,000	722,000

To develop maximum private sector involvement in tourism, $2,000,000 the first year and $2,000,000 the second year of the amounts appropriated for marketing activities are contingent upon receipt of an equal contribution of nonstate sources that have been certified by the commissioner. Up to one-half of the match may be given in in-kind contributions. This appropriation may not be expended until the money is matched.

In order to maximize marketing grant benefits, the commissioner must give priority for joint venture marketing grants to organizations with year-round sustained tourism activities. For programs and projects submitted, the commissioner must give priority to those that encompass two or more areas or that attract nonresident travelers to the state.

$150,000 the first year is for a grant to Nicollet county to establish a tourist information and interpretive center on the site of the treaty of Traverse des Sioux. The grant is available only as matched by $2 of nonstate money for each $1 of this appropriation.

Any unexpended funds from general fund appropriations made under this subdivision shall not cancel but be placed in a special advertising account for use by the office of tourism to purchase additional media.

If an appropriation for either year for grants is not sufficient, the appropriation for the other year is available for it.

Subd. 5. Business Development and Analysis

5,637,000 6,081,000

Summary by Fund

General	5,422,000	5,867,000
Environmental	215,000	214,000

$200,000 the first year and $200,000 the second year are for grants to Advantage Minnesota, Inc.

The funds are available only if matched on at least a one-to-one basis from other sources. The commissioner may release the funds only

upon:

(1) certification that matching funds from each participating organization are available;

(2) review and approval of the bylaws and articles of incorporation of Advantage Minnesota, Inc. by the commissioner;

(3) appointment of the board of directors of Advantage Minnesota Inc.; and

(4) review and approval by the commissioner of the proposed operations plan of Advantage Minnesota, Inc. for the biennium.

$191,000 the first year and $191,000 the second year are for the Minnesota motion picture board. This appropriation is available only upon receipt by the board of $1 in matching contributions of money or in kind from nonstate sources for every $3 provided by this appropriation. This appropriation is not available until the Minnesota motion picture board has made the commissioner of trade and economic development, or a designee, a full member of the board.

$100,000 the first year and $100,000 the second year are for the state's match for the federal small business development centers. If funding in one year is insufficient, the other year's appropriation is available.

$1,108,000 the first year and $1,108,000 the second year are for Minnesota Jobs Skills Partnership grants.

$200,000 the first and $200,000 the second year are for the Minnesota Cooperation Office for Small Business and Job Creation.

$200,000 the first year and $200,000 the second year are for WomenVenture, Inc.

$50,000 the first year and $50,000 the second year are for Metropolitan Economic Development Associations, Inc.

$50,000 the first year and $50,000 the second year are for Northeast Entrepreneur Fund, Inc.

$400,000 the first year and $400,000 the second year are for a grant through the bureau of small business assistance to Minnesota Project Innovation. The money must be used to set up a federal technical procurement project for small business in the state.

$500,000 the second year is for a grant to Minnesota Project Outreach Corporation.

$50,000 is to fund a small business incubator as a pilot project. This incubator must be located in the seven-county metropolitan area in a city of the first class in a targeted neighborhood with a high population of low-income American Indian residents. The targeted neighborhood is defined by Minnesota Statutes, section 469.201. This sum is available until June 30, 1993. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

Subd. 6. Administration

1,994,000 2,310,000

Subd. 7. Transfers From State Planning

3,492,000 3,492,000

Subd. 8. Base Cut

(357,000) (352,000)

Sec. 24. AMATEUR SPORTS COMMISSION 544,000 543,000

Approved Complement - 8

Loan repayments required by Laws 1988, chapter 686, article 1, section 16, and Laws 1989, chapter 335, article 1, section 25, subdivision 3, need not be repaid on the dates specified. The outstanding balances totaling $255,000 shall be repaid in three equal installments of $85,000 due no later than June 30, 1993; June 30, 1994; and June 30, 1995.

$51,000 of the appropriation is for a full-time women's sports director and $21,000 is for a full-time student clerical worker. $25,000 is available for grants.

The governor, speaker of the house of representatives, and senate majority leader shall each appoint one additional member to the amateur sports commission for a term that expires on June 30, 1993. The purpose of adding three new members to the amateur sports commission is to address the gender imbalance of the existing commission.

Sec. 25. MEDIATION SERVICES 1,856,000 1,853,000

Approved Complement - 25

$238,000 the first year and $238,000 the second year are for grants to area labor-management committees. The unencumbered balance remaining in the first year does not cancel but is available for the second year.

Sec. 26. MILITARY AFFAIRS

Subdivision 1. Total Appropriation	10,105,000	10,135,000

Approved Complement - 355
General - 139
Federal - 216

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Enlistment Incentives

2,350,000	2,350,000

$2,015,000 the first year and $2,015,000 the second year are for the tuition reimbursement program.

$335,000 the first year and $335,000 the second year are for the reenlistment bonus program.

If appropriations for either year of the biennium are insufficient, the appropriation from the other year is available. The appropriations for enlistment incentives are available until expended.

Subd. 3. Maintenance of Training Facilities

6,093,000	6,127,000

$29,379.24 the first year is to pay the special assessment made November 24, 1980, by the city of Anoka against the state-owned property on which the Anoka armory is located.

$20,604 the first year is to pay the special assessment made by the city of Stillwater against the state-owned property on which the Stillwater armory is located.

$54,750 the first year is to pay the special assessment made by the city of Brooklyn Park against the state-owned property on which the Brooklyn Park armory is located.

Subd. 4. General Support

1,763,000	1,760,000

$75,000 the first year and $75,000 the second year are for expenses of military forces ordered to active duty under Minnesota Statutes, chapter 192. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 5. Base Cut

(101,000) (102,000)

The base cut must be allocated among the agency's programs by the agency head.

Sec. 27. VETERANS AFFAIRS 2,928,000 2,897,000

Approved Complement - 35

$1,048,000 the first year and $1,048,000 the second year are for emergency financial and medical needs of veterans. For the biennium ending June 30, 1993, the commissioner shall limit financial assistance to veterans and dependents to six months, unless recipients have been certified as ineligible for other benefit programs. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

The state auditor shall study the functions of county veterans service officers and report to the legislature by January 1, 1992. The report must include but not be limited to recommendations on the following: (1) elimination or merging of services and personnel; and (2) state funding of personnel costs.

With the approval of the commissioner of finance, the commissioner of veterans affairs may transfer the unencumbered balance from the veterans relief program to other department programs during the fiscal year. The commissioner of veterans affairs shall provide background information explaining why the unencumbered balance exists. The amounts transferred must be identified to the chairs of the senate finance committee division on state departments and the house appropriations committee division on state government.

$250,000 the first year and $250,000 the second year are for a grant to the Vinland National Center.

$25,000 the first year is to prepare a welcome home celebration on November 10, 1991, for all veterans. This appropriation is available to the extent it is matched by an equal amount from private sources.

Sec. 28. NO SALARY SUPPLEMENT

The appropriations in this act and the other omnibus appropriation acts include amounts needed to pay compensation and economic benefits to classified and unclassified employees and officers in the executive, judicial, and legislative branches of state government, and to employees of the Minnesota Historical Society

who are paid from state appropriations, if the increases are required by existing law or authorized by law during the 1991 session of the legislature or by appropriate resolutions for employees of the legislature, or are given interim approval by the legislative commission on employee relations under Minnesota Statutes, sections 3.855 and 43A.18 or section 179A.22, subdivision 4. There will be no salary supplement appropriation for this purpose.

The salaries of legislators, judges, and constitutional officers are frozen at current levels. The salary increases recommended in 1989 by the compensation council to take effect January 6, 1992, must not take effect until January 4, 1993.

Sec. 29. GENERAL CONTINGENT ACCOUNTS 1,100,000 1,600,000

The appropriations in this section must be spent with the approval of the governor after consultation with the legislative advisory commission under Minnesota Statutes, section 3.30.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Summary by Fund

General	750,000	1,250,000
Special Revenue	250,000	250,000
Workers' Comp.	100,000	100,000

Sec. 30. TORT CLAIMS 303,000 303,000

To be spent by the commissioner of finance.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Sec. 31. MINNESOTA STATE RETIREMENT SYSTEM 2,600,000 2,820,000

The amounts estimated to be needed for each program are as follows:

(a) Legislators

2,400,000 2,600,000

Under Minnesota Statutes, sections 3A.03, subdivision 2; 3A.04, subdivisions 3 and 4; and 3A.11.

(b) Constitutional Officers

200,000 220,000

Under Minnesota Statutes, sections 352C.031, subdivision 5; 352C.04, subdivision 3; and 352C.09, subdivision 2.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Sec. 32. MINNEAPOLIS EMPLOYEES RETIREMENT FUND	11,005,000	11,005,000

$10,455,000 the first year and $10,455,000 the second year are to the commissioner of finance for payment to the Minneapolis employees retirement fund under Minnesota Statutes, section 422A.101, subdivision 3. Payment must be made in four equal installments, March 15, July 15, September 15, and November 15, each year.

$550,000 the first year and $550,000 the second year are to the commissioner of finance for payment to the Minneapolis employees retirement fund for the supplemental benefit for pre-1973 retirees authorized by article 4, section 5.

Sec. 33. POLICE AND FIRE AMORTIZATION AID	6,055,000	6,055,000

$5,055,000 the first year and $5,055,000 the second year are to the commissioner of revenue for state aid to amortize the unfunded liability of local police and salaried firefighters' relief associations, under Minnesota Statutes, section 423A.02.

$1,000,000 the first year and $1,000,000 the second year are to the commissioner of finance for supplemental state aid to amortize the unfunded liability of local police and salaried firefighters relief associations under Minnesota Statutes, section 423A.02, subdivision 1a, as amended in this act.

Sec. 34. [BASE CUT TRANSFERS.]

The governor may transfer base cuts among executive branch agencies assigned base cuts in this act. However, within an agency, the proportion of agency base cuts for pass-through grants compared to total agency base cuts may not exceed the proportion of dollars appropriated for pass-through grants in the agency compared to total dollars appropriated to that agency.

Sec. 35. [TRANSFERS.]

Subdivision 1. [GENERAL PROCEDURE.] *If the appropriation in this article to an agency in the executive branch is specified by program, the agency may transfer unencumbered balances among the programs specified in that section after getting the approval of the commissioner of finance. The commissioner shall not approve a transfer unless the commissioner*

believes that it will carry out the intent of the legislature. The transfer must be reported immediately to the committee on finance of the senate and the committee on appropriations of the house of representatives. If the appropriation in this act to an agency in the executive branch is specified by activity, the agency may transfer unencumbered balances among the activities specified in that section using the same procedure as for transfers among programs.

Subd. 2. [CONSTITUTIONAL OFFICERS.] *A constitutional officer need not get the approval of the commissioner of finance but must notify the committee on finance of the senate and the committee on appropriations of the house of representatives before making a transfer under subdivision 1.*

Subd. 3. [TRANSFER PROHIBITED.] *If an amount is specified in this article for an item within an activity, that amount must not be transferred or used for any other purpose.*

Sec. 36. Minnesota Statutes 1990, section 2.722, subdivision 1, is amended to read:

Subdivision 1. [DESCRIPTION.] Effective July 1, 1959, the state is divided into ten judicial districts composed of the following named counties, respectively, in each of which districts judges shall be chosen as hereinafter specified:

1. Goodhue, Dakota, Carver, Le Sueur, McLeod, Scott, and Sibley; ~~13~~ *27* judges; and four permanent chambers shall be maintained in Red Wing, Hastings, Shakopee, and Glencoe and one other shall be maintained at the place designated by the chief judge of the district;

2. Ramsey; ~~13~~ *24* judges;

3. Wabasha, Winona, Houston, Rice, Olmsted, Dodge, Steele, Waseca, Freeborn, Mower, and Fillmore; 22 judges; and permanent chambers shall be maintained in Faribault, Albert Lea, Austin, Rochester, and Winona;

4. Hennepin; ~~53~~ *54* judges;

5. Blue Earth, Watonwan, Lyon, Redwood, Brown, Nicollet, Lincoln, Cottonwood, Murray, Nobles, Pipestone, Rock, Faribault, Martin, and Jackson; ~~five~~ *17* judges; and permanent chambers shall be maintained in Marshall, Windom, Fairmont, New Ulm, and Mankato;

6. Carlton, St. Louis, Lake, and Cook; 15 judges;

7. Benton, Douglas, Mille Lacs, Morrison, Otter Tail, Stearns, Todd, Clay, Becker, and Wadena; 20 judges; and permanent chambers shall be maintained in Moorhead, Fergus Falls, Little Falls, and St. Cloud;

8. Chippewa, Kandiyohi, Lac qui Parle, Meeker, Renville, Swift, Yellow Medicine, Big Stone, Grant, Pope, Stevens, Traverse, and Wilkin; ~~three~~ *11* judges; and permanent chambers shall be maintained in Morris, Montevideo, and Willmar;

9. Norman, Polk, Marshall, Kittson, Red Lake, Roseau, Mahnomen, Pennington, Aitkin, Itasca, Crow Wing, Hubbard, Beltrami, Lake of the Woods, Clearwater, Cass and Koochiching; ~~six~~ *20* judges; and permanent chambers shall be maintained in Crookston, Thief River Falls, Bemidji, Brainerd, Grand Rapids, and International Falls;

10. Anoka, Isanti, Wright, Sherburne, Kanabec, Pine, Chisago, and Washington; ~~30~~ *32* judges; and permanent chambers shall be maintained in

Anoka, Stillwater, and other places designated by the chief judge of the district.

Sec. 37. Minnesota Statutes 1990, section 2.722, is amended by adding a subdivision to read:

Subd. 5. [JUDICIAL EMPLOYEES.] *The complement for the law clerk and court reporter assigned exclusively to a judgeship that is abolished under this section is abolished upon vacancy of the position. The complement for the law clerk and court reporter shall be transferred to the judicial district to which a judgeship is transferred pursuant to this section.*

Sec. 38. Minnesota Statutes 1990, section 3.97, is amended by adding a subdivision to read:

Subd. 12. The commission shall periodically select topics for the legislative auditor to evaluate. Topics may include any agency, program, or activity established by law to achieve a state purpose, or any topic that affects the operation of state government, but the commission shall give primary consideration to topics that are likely, upon examination, to produce recommendations for cost savings, increased productivity, or the elimination of duplication among public agencies.

Sec. 39. Minnesota Statutes 1990, section 3.971, subdivision 2, is amended to read:

Subd. 2. To perform program evaluation, the legislative auditor shall determine the degree to which the activities and programs entered into or funded by the state are accomplishing their goals and objectives, including ~~an evaluation~~ *a critical analysis* of goals and objectives, measurement of program results and effectiveness, alternative means of achieving the same results, and efficiency in the allocation of resources. *The legislative auditor shall recommend ways to reduce the cost of providing state services and to eliminate services of one agency that overlap with or duplicate the services performed by another agency.* At the direction of the commission the legislative auditor may perform program evaluations of any state department, board, commission, or agency and any metropolitan agency, board, or commission created under chapter 473.

Sec. 40. [7.21] [PAY FOR DEPOSIT SERVICES; APPROPRIATION.]

Subdivision 1. [AUTHORITY TO PAY.] *The state treasurer may pay a depository for performing services related to the deposit of state funds in accord with agreements entered into by the commissioner of finance under section 16A.27, subdivision 5.*

Sec. 41. [7.22] [MAY ISSUE COMMEMORATIVE MEDALLIONS.]

The state treasurer may issue medallions to commemorate popular contemporaneous events of statewide interest.

The treasurer may make reasonable arrangements with public or private entities for the production, distribution, marketing, and sale of the medallions. The treasurer or other entity may solicit and receive nonstate funds or in-kind contributions in connection with any part of the medallion program. Proceeds from sales, nonstate funds, and in-kind contributions must be deposited in a dedicated account.

Money in the account is appropriated to the treasurer for purposes of the program. Any profit earned on the sale of the medallions must be used for grants to support the event for which the medallions were issued. The state

grant must be matched by an equal amount from private sources.

Sec. 42. Minnesota Statutes 1990, section 8.06, is amended to read:

8.06 [ATTORNEY FOR STATE OFFICERS, BOARDS, OR COMMISSIONS; EMPLOY COUNSEL.]

The attorney general shall act as the attorney for all state officers and all boards or commissions created by law in all matters pertaining to their official duties. When requested by the attorney general, it shall be the duty of any county attorney of the state to appear within the county and act as attorney for any such board, commission, or officer in any court of such county. The attorney general may, upon request in writing, employ, and fix the compensation of, a special attorney for any such board, commission, or officer when, in the attorney general's judgment, the public welfare will be promoted thereby. Such special attorney's fees or salary shall be paid from the appropriation made for such board, commission, or officer. *A state agency that is current with its billings from the attorney general for legal services may contract with the attorney general for additional legal and investigative services.* Except as herein provided, no board, commission, or officer shall hereafter employ any attorney at the expense of the state.

Whenever the attorney general, the governor, and the chief justice of the supreme court shall certify, in writing, filed in the office of the secretary of state, that it is necessary, in the proper conduct of the legal business of the state, either civil or criminal, that the state employ additional counsel, the attorney general shall thereupon be authorized to employ such counsel and, with the governor and the chief justice, fix the additional counsel's compensation. Except as herein stated, no additional counsel shall be employed and the legal business of the state shall be performed exclusively by the attorney general and the attorney general's assistants.

Sec. 43. Minnesota Statutes 1990, section 8.15, is amended to read:

8.15 [ATTORNEY GENERAL COSTS.]

The attorney general in consultation with the commissioner of finance shall assess executive branch agencies a fee for legal services rendered to them. ~~The budget requests of all executive branch agencies submitted to the legislature in each odd-numbered year must show the actual or estimated amount assessed, paid, and requested for each year.~~ The assessment against appropriations from other than the general fund must be the full ~~amount~~ *cost* of *providing* the ~~fee~~ *services*. The assessment against appropriations supported by fees must be included in the fee calculation. ~~Unless appropriations are made for fee supported costs, no payment by the agency is required.~~ The assessment against appropriations from the general fund not supported by fees must be one-half of the ~~fee~~ *cost of providing the services. An amount equal to the general fund receipts in the even-numbered year of the biennium is appropriated to the attorney general for each year of the succeeding biennium. All other* receipts from assessments must be deposited in the state treasury and credited to the general fund.

The attorney general in consultation with the commissioner of finance shall assess political subdivisions fees to cover half the cost of legal services rendered to them.

Sec. 44. Minnesota Statutes 1990, section 13.03, subdivision 3, is amended to read:

Subd. 3. [REQUEST FOR ACCESS TO DATA.] Upon request to a responsible authority or designee, a person shall be permitted to inspect and copy public government data at reasonable times and places, and, upon request, shall be informed of the data's meaning. If a person requests access for the purpose of inspection, the responsible authority may not assess a charge or require the requesting person to pay a fee to inspect data. The responsible authority or designee shall provide copies of public data upon request. If a person requests copies or electronic transmittal of the data to the person, the responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data, including the cost of employee time, and for making, certifying, compiling, and electronically transmitting the copies of the data or the data, but may not charge for separating public from not public data. *If the responsible authority is a state agency, the amount received is appropriated to the agency and added to the appropriations from which the costs were paid.* If the responsible authority or designee is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible.

When a request under this subdivision involves any person's receipt of copies of public government data that has commercial value and is a substantial and discrete portion of or an entire formula, pattern, compilation, program, device, method, technique, process, data base, or system developed with a significant expenditure of public funds by the agency, the responsible authority may charge a reasonable fee for the information in addition to the costs of making, certifying, and compiling the copies. Any fee charged must be clearly demonstrated by the agency to relate to the actual development costs of the information. The responsible authority, upon the request of any person, shall provide sufficient documentation to explain and justify the fee being charged.

If the responsible authority or designee determines that the requested data is classified so as to deny the requesting person access, the responsible authority or designee shall inform the requesting person of the determination either orally at the time of the request, or in writing as soon after that time as possible, and shall cite the specific statutory section, temporary classification, or specific provision of federal law on which the determination is based. Upon the request of any person denied access to data, the responsible authority or designee shall certify in writing that the request has been denied and cite the specific statutory section, temporary classification, or specific provision of federal law upon which the denial was based.

Sec. 45. Minnesota Statutes 1990, section 14.07, subdivision 1, is amended to read:

Subdivision 1. [RULE DRAFTING ASSISTANCE PROVIDED.] (a) The revisor of statutes shall:

(1) maintain an agency rules drafting department to draft or aid in the drafting of rules or amendments to rules for any agency in accordance with subdivision 3 and the objective or other instructions which the agency shall give the revisor; and,

(2) prepare and publish an agency rules drafting guide which shall set out the form and method for drafting rules and amendments to rules, and to which all rules shall comply.

(b) ~~The revisor shall assess an agency for the actual cost of providing aid in drafting rules or amendments to rules. The agency shall pay the assessment~~

~~using the procedures of section 3C.056. Each agency shall include in its budget money to pay the revisor's assessment. Receipts from the assessment must be deposited in the state treasury and credited to the general fund.~~

~~(e)~~ An agency may not contract with an attorney, consultant, or other person either to provide rule drafting services to the agency or to advise on drafting unless the revisor determines that special expertise is required for the drafting and the expertise is not available from the revisor or the revisor's staff.

Sec. 46. Minnesota Statutes 1990, section 14.07, subdivision 2, is amended to read:

Subd. 2. [APPROVAL OF FORM.] No agency decision to adopt a rule or emergency rule, including a decision to amend or modify a proposed rule or proposed emergency rule, shall be effective unless the agency has presented the rule to the revisor of statutes and the revisor has certified that its form is approved. ~~The revisor shall assess an agency for the actual cost of processing rules for consideration for approval of form. The assessments must include necessary costs to create or modify the computer data base of the text of a rule and the cost of putting the rule into the form established by the drafting guide provided for in subdivision 1. The agency shall pay the assessments using the procedures of section 3C.056. Each agency shall include in its budget money to pay revisor's assessments. Receipts from the assessments must be deposited in the state treasury and credited to the general fund.~~

Sec. 47. Minnesota Statutes 1990, section 14.08, is amended to read:

14.08 [REVISOR OF STATUTES APPROVAL OF RULE FORM.]

(a) Two copies of a rule adopted pursuant to the provisions of section 14.26 or 14.32 shall be submitted by the agency to the attorney general. The attorney general shall send one copy of the rule to the revisor on the same day as it is submitted by the agency under section 14.26 or 14.32. Within five days after receipt of the rule, excluding weekends and holidays, the revisor shall either return the rule with a certificate of approval of the form of the rule to the attorney general or notify the attorney general and the agency that the form of the rule will not be approved.

If the attorney general disapproves a rule, the agency may modify it and the agency shall submit two copies of the modified rule to the attorney general who shall send a copy to the revisor for approval as to form as described in this paragraph.

(b) One copy of a rule adopted after a public hearing shall be submitted by the agency to the revisor for approval of the form of the rule. Within five working days after receipt of the rule, the revisor shall either return the rule with a certificate of approval to the agency or notify the agency that the form of the rule will not be approved.

(c) If the revisor refuses to approve the form of the rule, the revisor's notice shall revise the rule so it is in the correct form.

(d) The attorney general ~~and the revisor of statutes~~ shall assess an agency for the *attorney general's* actual cost of processing rules under this section. ~~The agency shall pay the revisor's assessments using the procedures of section 3C.056.~~ The agency shall pay the attorney general's assessments using the procedures of section 8.15. Each agency shall include in its budget money to pay ~~the revisor's and~~ the attorney general's assessments. Receipts from the assessment must be deposited in the state treasury and credited to the

general fund.

Sec. 48. Minnesota Statutes 1990, section 15.191, subdivision 1, is amended to read:

Subdivision 1. [EMERGENCY DISBURSEMENTS.] Imprest cash funds for the purpose of making minor disbursements, providing for change, and providing employees with *travel advances or* a portion or all of their payroll warrant where the warrant has not been received through the payroll system, may be established by state departments or agencies from existing appropriations in the manner prescribed by this section.

Sec. 49. Minnesota Statutes 1990, section 15.50, subdivision 3, is amended to read:

Subd. 3. [ADMINISTRATIVE AND PLANNING EXPENSES.] With the exception of the administrative and planning expenses of the board for federally funded capital expenditures, the board's administrative and planning expenses shall be borne by the state. If federal money is available for capital expenditures, the board's administrative and planning expenses must be reimbursed to the state upon receipt of that money. *State agencies and other public bodies considering capitol area projects shall consult with the board prior to developing plans for capital improvements or capital budget proposals for submission to the legislature and governor. These public agencies shall provide adequate funds for the board's review and planning purposes if the board determines its review and planning services are necessary.* The expenses of the board for competition premiums, land acquisition or improvement or any other capital expenditures in or upon properties owned or to be owned by the state shall be borne by the state. The expenses of any other public body for such expenditures shall be borne by the body concerned. The city of Saint Paul may expend moneys currently in the city of Saint Paul Capitol Approach Improvement Fund established by Laws 1945, chapter 315, and acts amendatory thereof for capital improvements contained in the city's approved capital improvement budget. The budget is to be adopted in accordance with provisions contained in the city charter.

Sec. 50. Minnesota Statutes 1990, section 15.50, is amended by adding a subdivision to read:

Subd. 9. [CAPITAL BUDGET REQUESTS.] *For capital budget requests in the capitol area as defined in subdivision 2, paragraph (a), the commissioner of administration shall consult with the capitol area architectural and planning board regarding building sites and design standards.*

Sec. 51. Minnesota Statutes 1990, section 15A.082, subdivision 3, as amended by Laws 1991, chapter 22, section 1, is amended to read:

Subd. 3. [SUBMISSION OF RECOMMENDATIONS.] By May 1 in each odd-numbered year, the compensation council shall submit to the speaker of the house of representatives and the president of the senate salary recommendations for constitutional officers, legislators, justices of the supreme court, and judges of the court of appeals, district court, county court, and county municipal court. The recommended salary for each office must ~~be a fixed amount per year, to~~ take effect on ~~the first Monday in January~~ *July 1* of the next odd-numbered year, with no more than one adjustment, to take effect on ~~January~~ *July 1* of the year after that. The salary recommendations for legislators, judges, and constitutional officers take effect if an appropriation of money to pay the recommended salaries is enacted after

the recommendations are submitted and before their effective date. Recommendations may be expressly modified or rejected ~~by a bill enacted into law~~. The salary recommendations for legislators are subject to additional terms that may be adopted according to section 3.099, subdivisions 1 and 3.

Sec. 52. Minnesota Statutes 1990, section 16A.27, subdivision 5, is amended to read:

Subd. 5. [CHARGES, COMPENSATING BALANCES.] The commissioner may, *after consulting with the state treasurer,* agree ~~to~~ *that the treasurer may* pay a depository a reasonable charge *from appropriated money*, ~~to~~ maintain appropriate compensating balances with the depository, or purchase noninterest bearing certificates of deposit from the depository for performing depository related services.

Sec. 53. Minnesota Statutes 1990, section 16A.45, subdivision 1, is amended to read:

Subdivision 1. [CANCEL; CREDIT.] Once each fiscal year the commissioner and the treasurer shall cancel upon their books all outstanding unpaid commissioner's warrants, except warrants issued for ~~the medical~~ *federal* assistance ~~program~~ *programs*, that have been issued and delivered for more than five years prior to that date and credit to the general fund the respective amounts of the canceled warrants. ~~Once each fiscal year~~ The commissioner and the treasurer shall cancel upon their books all outstanding unpaid commissioner's warrants issued for ~~the medical~~ *federal* assistance ~~program~~ *programs* that have been issued and delivered for more than ~~one year~~ *the period of time set pursuant to the federal program* and credit to the general fund and the appropriate account in the federal fund, the amount of the canceled warrants.

Sec. 54. Minnesota Statutes 1990, section 16A.641, subdivision 3, is amended to read:

Subd. 3. [SERIES OF BONDS.] Bonds authorized by a law may be issued in more than one series, and bonds authorized by more than one law may be combined in a single series, as determined by order of the commissioner. The order must state the principal amount of the bonds to be issued under each law, and the aggregate principal amount and the maturity dates and amounts of the bonds included in the series that are to be issued for the purpose of each special fund.

At any time during the 18 months following the issuance of any series of bonds, the commissioner may, by amendment to the order authorizing their issuance, determine that any portion of the bonds were issued, or shall be deemed to have been issued, pursuant to a law other than the one specified in the original order and for a different purpose, and reallocate and transfer their proceeds to the appropriate account in the bond proceeds fund or the appropriate special fund, for expenditure pursuant to the law pursuant to which the amendment determines they were issued. No such amendment shall be adopted unless:

(1) on the date of the original order, the bonds could have been issued and their proceeds expended as determined in the amended order;

(2) all actions required for the issuance of the transferred bonds have been taken on or before the date of the amendment; and

(3) the commissioner determines upon advice of counsel that the taxability

of the interest on the bonds for federal income tax purposes will not be affected by the amendment.

Sec. 55. Minnesota Statutes 1990, section 16A.662, subdivision 4, is amended to read:

Subd. 4. [ESTABLISHMENT OF DEBT SERVICE ACCOUNT; APPROPRIATION OF DEBT SERVICE ACCOUNT MONEY.] There is established within the state bond fund a separate and special account designated as the infrastructure development bond debt service account. There must be transferred to this debt service account in each fiscal year from money in the infrastructure development fund, other than bond proceeds ~~and interest earned on bond proceeds~~, an amount sufficient to increase the balance on hand in the debt service account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding infrastructure development bonds to and including the second following July 1. The amount necessary to make the transfer is appropriated from the infrastructure development fund. The money on hand in the debt service account must be used solely for the payment of the principal of, and interest on, the bonds, and is appropriated for this purpose. This appropriation does not cancel as long as any of the bonds remain outstanding.

Sec. 56. Minnesota Statutes 1990, section 16A.672, subdivision 9, is amended to read:

Subd. 9. [APPROPRIATION.] The money needed to pay when due the compensation and expenses of registrars, delivery agents, and paying agents, *and the expenses of other agreements* under subdivision 7 is appropriated annually to the commissioner from the general fund.

Sec. 57. Minnesota Statutes 1990, section 16A.69, is amended by adding a subdivision to read:

Subd. 3. [CAPITOL AREA PLANNING.] *The department shall set aside from a state appropriation available for that purpose funds for the planning and consulting services of the capitol area architectural and planning board when a state agency or the Minnesota historical society plans and constructs any capital improvement in the capitol area as defined in section 15.50, subdivision 2, paragraph (a).*

Sec. 58. Minnesota Statutes 1990, section 16A.721, subdivision 1, is amended to read:

Subdivision 1. [ACCOUNT, RULES.] The commissioner may make rules for charging fees for seminars and workshops conducted by agencies. The commissioner may keep ~~an account~~ *accounts* for deposit of the seminar and workshop fee receipts. The commissioner may ~~not~~ allow the unobligated ~~balance of this account to exceed $10,000~~ *balances in these accounts to be carried forward provided that the funds are expended in the following fiscal year. Unobligated balances that are not carried forward shall cancel to the general fund.*

Sec. 59. [16A.723] [GOVERNOR'S RESIDENCE; REIMBURSEMENT OF EXPENSES.]

Subdivision 1. [ACCOUNT PROCEDURES.] *The commissioner may establish procedures to accept funds for reimbursement of expenditures at the governor's residence.*

Subd. 2. [APPROPRIATION.] *The reimbursements collected under subdivision 1 are appropriated for payment of expenses relating to events conducted at the governor's residence.*

Sec. 60. Minnesota Statutes 1990, section 16B.24, is amended by adding a subdivision to read:

Subd. 6a. [LEASE WITH OPTION TO BUY; CANCELLATION.] *(a) With the approval of the commissioner of finance and the recommendation of the legislative advisory commission, the commissioner of administration may lease land or premises for as long as 20 years if the lease agreement provides the state a unilateral right to purchase all leased land and premises and if the lease agreement provides for the transfer of the ownership of the leased land and buildings upon normal termination of the lease for an amount not to exceed $1. Under these lease agreements, the lease rental rates shall not be more than market rental rates. The unilateral right must be available at any time during the lease agreement. If the commissioner chooses to exercise the option to purchase prior to the normal termination of the lease, the commissioner shall obtain the approval of the legislature.*

(b) A lease with option to buy agreement entered into under paragraph (a) is subject to cancellation upon 30 days written notice by the state for any reason except rental of other land or premises for the same use.

Sec. 61. Minnesota Statutes 1990, section 16B.36, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] The commissioner may examine, investigate, or make a survey of the organization, administration, and management of state agencies and institutions under their control, and may assist state agencies by providing analytical, statistical, and organizational development services to them in order to secure greater efficiency and economy through reorganization or consolidation of agencies or functions and to eliminate duplication of function, effort, or activity, so far as possible. *The commissioner shall periodically submit to the legislature a list of the studies being conducted for this purpose and any future studies scheduled at the time the list is submitted.*

Sec. 62. Minnesota Statutes 1990, section 16B.41, subdivision 2, is amended to read:

Subd. 2. [RESPONSIBILITIES.] The office has the following duties:

(a) The office must develop and establish a state information architecture to ensure that further state agency development and purchase of information systems equipment and software is directed in such a manner that individual agency information systems complement and do not needlessly duplicate or needlessly conflict with the systems of other agencies. In those instances where state agencies have need for the same or similar computer data, the commissioner shall ensure that the most efficient and cost-effective method of producing and storing data for or sharing data between those agencies is used. The development of this information architecture must include the establishment of standards and guidelines to be followed by state agencies. The commissioner of administration must establish interim standards and guidelines by August 1, 1987. The office must establish permanent standards and guidelines by July 1, 1988. On January 1, 1988, and every six months thereafter, any state agency that has purchased information systems equipment or software in the past six months, or that is contemplating purchasing this equipment or software in the next six months, must report to the office

and to the chairs of the house appropriations committee and the senate finance committee on how the purchases or proposed purchases comply with the applicable standards and guidelines.

(b) The office shall assist state agencies in the planning and management of information systems so that an individual information system reflects and supports the state agency's and the state's mission, requirements, and functions.

(c) ~~Beginning July 1, 1988,~~ The office must review and approve all agency requests for legislative appropriations for the development or purchase of information systems equipment or software. Requests may not be included in the governor's budget submitted to the legislature, ~~beginning with the budget submitted in January 1989,~~ unless the office has approved the request.

(d) Each biennium the office must rank in order of priority agency requests for new appropriations for development or purchase of information systems equipment or software. The office must submit this ranking to the legislature at the same time, or no later than 14 days after, the governor submits the budget message to the legislature.

(e) ~~Beginning July 1, 1989,~~ The office must define, review, and approve major purchases of information systems equipment to (1) ensure that the equipment follows the standards and guidelines of the state information architecture; (2) ensure that the equipment is consistent with the information management principles adopted by the information policy council; (3) evaluate whether or not the agency's proposed purchase reflects a cost-effective policy regarding volume purchasing; and (4) ensure the equipment is consistent with other systems in other state agencies so that data can be shared among agencies, unless the office determines that the agency purchasing the equipment has special needs justifying the inconsistency. The commissioner of finance may not allot funds appropriated for major purchases of information systems equipment until the office reviews and approves the proposed purchase. *A public institution of higher education must not purchase interconnective computer technology without the prior approval of the office.*

(f) The office shall review the operation of information systems by state agencies and provide advice and assistance so that these systems are operated efficiently and continually meet the standards and guidelines established by the office.

Sec. 63. Minnesota Statutes 1990, section 16B.41, is amended by adding a subdivision to read:

Subd. 5. [COMPUTER IMPACT STATEMENT.] *When a statutory change affects reporting and data collection requirements for local units of government, the state agency most responsible for the data collected and reported by the local units of government must file a computer impact statement with the office within 60 days of the final enactment of the statutory change. The statement must indicate the anticipated data processing costs associated with the change.*

Sec. 64. Minnesota Statutes 1990, section 16B.465, subdivision 4, is amended to read:

Subd. 4. [PROGRAM PARTICIPATION.] *(a)* The commissioner may require the participation of state agencies and the governing boards of the state universities, the community colleges, and the technical colleges, and

may request the participation of the board of regents of the University of Minnesota, in the planning and implementation of the network to provide interconnective technologies. The commissioner shall establish reimbursement rates in cooperation with the commissioner of finance to be billed to participating agencies and educational institutions sufficient to cover the operating, maintenance, and administrative costs of the system.

(b) A direct appropriation made to an educational institution for usage costs associated with the STARS network must only be used by the educational institution for payment of usage costs of the network as billed by the commissioner of administration. The post-secondary appropriations may be shifted between systems as required by unanticipated usage patterns. An intersystem transfer must be requested by the appropriate system and may be made only after review and approval by the commissioner of finance, in consultation with the commissioner of administration.

Sec. 65. Minnesota Statutes 1990, section 16B.48, subdivision 2, is amended to read:

Subd. 2. [PURPOSE OF FUNDS.] Money in the state treasury credited to the general services revolving fund and money that is deposited in the fund is appropriated annually to the commissioner for the following purposes:

(1) to operate a central store and equipment service;

(2) to operate a central duplication and printing service;

(3) to purchase postage and related items and to refund postage deposits as necessary to operate the central mailing service;

(4) to operate a documents service as prescribed by section 16B.51;

(5) to provide advice and other services to political subdivisions for the management of their telecommunication systems;

(6) to provide services for the maintenance, operation, and upkeep of buildings and grounds managed by the commissioner of administration;

(7) to provide analytical, statistical, and organizational development services to state agencies, local units of government, metropolitan and regional agencies, and school districts;

(8) to provide capitol security services through the department of public safety; ~~and~~

(9) *to operate a records center; and*

(10) to perform services for any other agency. Money may be expended for this purpose only when directed by the governor. The agency receiving the services shall reimburse the fund for their cost, and the commissioner shall make the appropriate transfers when requested. The term "services" as used in this clause means compensation paid officers and employees of the state government; supplies, materials, equipment, and other articles and things used by or furnished to an agency; and utility services and other services for the maintenance, operation, and upkeep of buildings and offices of the state government.

Sec. 66. Minnesota Statutes 1990, section 16B.63, is amended by adding a subdivision to read:

Subd. 4. [ACCESSIBILITY SPECIALISTS.] *The state building inspector*

shall, with the approval of the commissioner, assign three department employees to assist municipalities in complying with section 16B.61, subdivision 5.

Sec. 67. [43A.045] [RESTRUCTURING.]

It is the policy of the state of Minnesota that any restructuring of executive branch agencies be accomplished while ensuring that fair and equitable arrangements are carried out to protect the interests of executive branch employees, and while facilitating the best possible service to the public. The commissioner shall make an effort to train and retrain existing employees for a changing work environment. Where restructuring may involve a loss of existing positions and employment, the commissioner shall assist affected employees in finding suitable employment.

For employees whose positions will be eliminated by implementation of a restructuring plan, options presented to employees must include but not be limited to job and training opportunities necessary to qualify for another job in the same, an equal or a lower classification within their current department or a similar job in another state agency.

Implementation of this section, as well as procedures for notifying employees affected by restructuring plans, must be negotiated into collective bargaining agreements under chapter 179A. Nothing in this section shall be construed as diminishing any rights defined in collective bargaining agreements under this chapter or chapter 179A.

Sec. 68. [43A.182] [PAYMENT OF SALARY DIFFERENTIAL FOR RESERVE FORCES ON ACTIVE DUTY.]

Each agency head shall pay to each eligible member of the reserve components of the armed forces of the United States an amount equal to the difference between the member's basic active duty military salary and the salary the member would be paid as an active state employee, including any adjustments the member would have received if not on leave of absence. This payment may be made only to a person whose basic active duty military salary is less than the salary the person would be paid as an active state employee. Payments must be made at the intervals at which the member received pay as a state employee. Back pay authorized by this section may be paid in a lump sum. Such pay shall not extend beyond four years from the date the employee was called to active duty plus such additional time in each case as such employee may be required to serve pursuant to law.

An eligible member of the reserve components of the armed forces of the United States is a reservist or National Guard member who was an employee of the state of Minnesota at the time the member was called to active duty and who was or is called to active duty after August 1, 1990, because of Operation Desert Shield, Operation Desert Storm, or any other action taken by the armed forces relating to hostilities between the United States and the Republic of Iraq.

For the purposes of this section, an employee of the state is an employee of the executive, judicial, or legislative branches of state government or an employee of the Minnesota state retirement system, the public employee retirement association, or the teachers retirement association.

The commissioner of employee relations and the commissioner of finance shall adopt procedures required to implement this section. The procedures are exempt from chapter 14.

Sec. 69. [43A.48] [DEPENDENT CARE EXPENSE ACCOUNT.]

The commissioner of employee relations may use FICA savings generated from the dependent care expense account program to pay for the administrative costs of the program.

Sec. 70. Minnesota Statutes 1990, section 79.34, subdivision 1, is amended to read:

Subdivision 1. [CONDITIONS REQUIRING MEMBERSHIP.] The nonprofit association known as the workers' compensation reinsurance association may be incorporated under chapter 317A with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.40, sections 79.34 to 79.40 govern. Each insurer as defined by section 79.01, subdivision 2, shall, as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and is bound by the plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in sections 60D.01 to 60D.13 are considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved under section 176.181 and each political subdivision that self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and is bound by its plan of operation; provided that:

(1) all affiliated companies within a holding company system, as determined by the commissioner in a manner consistent with the standards and definitions in sections 60D.01 to 60D.13, are considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association; and

(2) all group self-insurers granted authority to self-insure pursuant to section 176.181 are considered single entities for purposes of the exercise of all the rights and duties of membership in the reinsurance association. As a condition of its authority to self-insure workers' compensation liability, and for losses incurred after December 31, 1983, the state is a member of the reinsurance association and is bound by its plan of operation. The commissioner of employee relations represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of employee relations, *except that the University of Minnesota shall pay its portion of workers' compensation reinsurance premiums directly to the workers' compensation reinsurance association*. For the purposes of this section, "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner of finance may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association is not a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of labor and industry with respect to the reinsurance association are not subject to chapters 13, 14, and 15.

All property owned by the association is exempt from taxation. The reinsurance association is not obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

Sec. 71. Minnesota Statutes 1990, section 116J.873, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATION.] Economic recovery grants 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 programs, except that all units of general purpose local government are eligible applicants for economic recovery grants. The commissioner of trade and economic development shall administer the economic recovery grant program as a part of the small cities development program. *A city, county, or town may grant money received under this section to a regional development commission to provide the local match required for capitalization of a regional revolving loan fund.*

Sec. 72. Minnesota Statutes 1990, section 116J.8766, subdivision 2, is amended to read:

Subd. 2. [DISBURSEMENT OF RESERVE FUND.] (a) Upon receipt by the commissioner of a claim filed by the lender, the commissioner shall, within ten business days, pay or authorize the lender to withdraw from the reserve fund the amount of the claim as submitted, unless the information provided by the lender was known by the lender to be false at the time the loan was filed for enrollment. No other violation of sections 116J.876 to 116J.8769 or the agreement is grounds for denial of a claim. *All money transferred or credited to the reserve fund from any source is appropriated to the commissioner to pay claims under this section.*

(b) If there is insufficient money in the reserve fund to cover the entire amount of the lender's claim, the commissioner shall pay to the lender or authorize the lender to withdraw an amount equal to the current balance in the reserve fund and the following shall apply:

(1) If the enrolled loan for which the claim has been filed is not an early loan, the payment fully satisfies the claim, and the lender has no right to receive any further amount from the reserve fund with respect to that claim.

(2) If the loan is an early loan, the partial payment does not satisfy the lender's claim, and at any time that the remaining balance of the claim is not greater than 75 percent of the balance in the reserve fund at the time of the loss, the commissioner, upon request of the lender, shall pay the remaining balance of the claim.

Sec. 73. [116J.986] [BUSINESS DEVELOPMENT AND PRESERVATION PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] *The commissioner shall establish a business development and preservation program. The program shall have a goal of creating new businesses and preserving existing businesses. The program is to be delivered by nonprofit organizations with experience in providing intensive technical assistance to individuals or small groups for the purpose of establishing a small business or preserving a business.*

Subd. 2. [PROGRAM CRITERIA.] *The commissioner shall develop expected program outcome criteria. The program criteria must include the*

number of businesses started, the number of new jobs developed, and the number of businesses improved through consultation and technical assistance. The program criteria must be incorporated into the contracts entered between the department and each nonprofit organization. At least annually, the commissioner shall report on criteria established and results achieved to the senate committee on economic development and housing and the house committee on economic development.

Subd. 3. [ELIGIBLE ORGANIZATIONS.] *Four nonprofit organizations may receive funds under this program: Metropolitan Economic Development Association, Inc.; Minnesota Cooperation Office for Small Business and Job Creation; Northeast Entrepreneur Fund, Inc.; and WomenVenture, Inc.*

Sec. 74. Minnesota Statutes 1990, section 116L.03, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT.] The Minnesota job skills partnership board consists of: eight members appointed by the governor, *the commissioner of trade and economic development,* the commissioner of jobs and training, and the ~~state director of vocational technical education~~ *chancellor of the technical college system.*

Sec. 75. Minnesota Statutes 1990, section 128C.12, subdivision 1, is amended to read:

Subdivision 1. [DUES AND EVENTS REVENUE.] The state auditor annually must examine the accounts of, and audit all money paid to, the state high school league by its members. The state auditor must also audit all money derived from any event sponsored by the league *and review any private audits done for the league.*

Sec. 76. [129D.155] [REPAYMENT OF FUNDS.]

State funds distributed to public television or noncommercial radio stations and used to purchase equipment assets must be repaid to the state, without interest, if the assets purchased with these funds are sold or otherwise converted to a person other than a nonprofit or municipal corporation. The amount due to the state shall be the net amount realized from the sale of the assets, but shall not exceed the amount of state funds advanced for the purchase of the asset. Public television and noncommercial radio stations receiving state funds must report biennially to the legislature on the location and usage of assets purchased with state funds.

Sec. 77. Minnesota Statutes 1990, section 138.17, subdivision 1, is amended to read:

Subdivision 1. [DESTRUCTION, PRESERVATION, REPRODUCTION OF RECORDS; PRIMA FACIE EVIDENCE.] The attorney general, legislative auditor in the case of state records, state auditor in the case of local records, and director of the Minnesota historical society, hereinafter director, shall constitute the records disposition panel. The members of the panel shall have power by ~~unanimous consent~~ *majority vote* to direct the destruction or sale for salvage of government records determined to be no longer of any value, or to direct the disposition by gift to the Minnesota historical society or otherwise of government records determined to be valuable for preservation. The records disposition panel may by ~~unanimous consent~~ *majority vote* order any of those records to be reproduced by photographic or other means, and order that photographic or other reproductions be substituted for the originals of them. It may direct the destruction or sale

for salvage or other disposition of the originals from which they were made. Photographic or other reproductions shall for all purposes be deemed the originals of the records reproduced when so ordered by the records disposition panel, and shall be admissible as evidence in all courts and in proceedings of every kind. A facsimile, exemplified or certified copy of a photographic, optical disk imaging, or other reproduction, or an enlargement or reduction of it, shall have the same effect and weight as evidence as would a certified or exemplified copy of the original. The records disposition panel, by ~~unanimous consent~~ *majority vote*, may direct the storage of government records, except as herein provided, and direct the storage of photographic or other reproductions. Photographic or other reproductions substituted for original records shall be disposed of in accordance with the procedures provided for the original records. For the purposes of this chapter: (1) the term "government records" means state and local records, including all cards, correspondence, discs, maps, memoranda, microfilms, papers, photographs, recordings, reports, tapes, writings, optical disks, and other data, information, or documentary material, regardless of physical form or characteristics, storage media or conditions of use, made or received by an officer or agency of the state and an officer or agency of a county, city, town, school district, municipal subdivision or corporation or other public authority or political entity within the state pursuant to state law or in connection with the transaction of public business by an officer or agency; (2) the term "state record" means a record of a department, office, officer, commission, commissioner, board or any other agency, however styled or designated, of the executive branch of state government; a record of the state legislature; a record of any court, whether of statewide or local jurisdiction; and any other record designated or treated as a state record under state law; (3) the term "local record" means a record of an agency of a county, city, town, school district, municipal subdivision or corporation or other public authority or political entity; (4) the term "records" excludes data and information that does not become part of an official transaction, library and museum material made or acquired and kept solely for reference or exhibit purposes, extra copies of documents kept only for convenience of reference and stock of publications and processed documents, and bonds, coupons, or other obligations or evidences of indebtedness, the destruction or other disposition of which is governed by other laws; (5) the term "state archives" means those records preserved or appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of government or because of the value of the information contained in them, when determined to have sufficient historical or other value to warrant continued preservation by the state of Minnesota and accepted for inclusion in the collections of the Minnesota historical society.

If the decision is made to dispose of records by majority vote, the Minnesota historical society may acquire and retain whatever they determine to be of potential historical value.

Sec. 78. Minnesota Statutes 1990, section 160.276, is amended by adding a subdivision to read:

Subd. 5. [OFFICE OF TOURISM.] *The commissioner shall provide space free of charge to the office of tourism for travel information centers. The commissioner shall not charge the office of tourism for any regular expenses associated with the operation of the travel information centers. The commissioner shall provide highway maps free of charge for use and distribution*

through the travel information centers.

Sec. 79. Minnesota Statutes 1990, section 176.421, subdivision 6a, is amended to read:

Subd. 6a. [TIME LIMIT FOR DECISION.] The court shall issue a decision in each case within 90 days after certification of the record to the court by the chief administrative law judge, the filing of a cross-appeal, oral argument, or a final submission of briefs or memoranda by the parties, whichever is latest. *For cases submitted without oral argument, a decision shall be issued within 90 days after assignment of the case to the judges. The chief judge may waive the 90-day limitation for any proceeding before the court for good cause shown.* No part of the salary of a workers' compensation court of appeals judge may be paid unless the judge, upon accepting the payment, certifies that decisions in cases in which the judge has participated have been issued within the time limits prescribed this subdivision.

Sec. 80. [204B.145] [DUTIES OF SECRETARY OF STATE; REDISTRICTING.]

Following the completion of legislative redistricting, the secretary of state may coordinate and facilitate the exchange of information between the legislative redistricting computer system, the statewide voter registration system, and a computer system developed to assist the counties, municipalities, and school districts in redrawing election districts and establishing election precincts.

Sec. 81. [268.551] [DEFINITIONS.]

Subdivision 1. [TERMS.] *For the purposes of this section and section 82, the terms defined in this section have the meanings given them.*

Subd. 2. [COMMISSIONER.] *"Commissioner" means the commissioner of jobs and training.*

Subd. 3. [ELIGIBLE APPLICANT.] *"Eligible applicant" means a person who:*

(1) has been a resident of this state for at least one month;

(2) is unemployed;

(3) is not receiving and is not eligible to receive unemployment compensation; and

(4) is a targeted young person as defined in Laws 1990, chapter 562, article 4, section 12, between the ages of 14 and 21, who, because of a lack of personal resources and skills, needs assistance in setting and realizing education goals and in becoming a contributing member of the community.

Subd. 4. [EMPLOYER.] *"Employer" means a private or public employer.*

Sec. 82. [268.552] [WAGE SUBSIDY PROGRAM.]

Subdivision 1. [CREATION.] *A grant program is established to provide adolescents with opportunities for gaining a high school diploma, exploring occupations, evaluating vocational options, receiving career and life skills counseling, developing and pursuing personal goals, and participating in community-based projects and summer youth employment.*

Subd. 2. [AMOUNT AND DURATION OF SUBSIDY.] *The maximum*

subsidy is $4 per hour for wages and $1 per hour for fringe benefits. The subsidy for an eligible applicant may be paid for a maximum of 1,040 hours over a period of 26 weeks. Employers are encouraged to use money from other sources to provide increased wages to applicants they employ.

Subd. 3. [CONTRACTS TO ADMINISTER.] *The commissioner may contract with local service units or certified local service providers to deliver the wage subsidies. The contract must require that no more than five percent of the contract amount be expended for administration.*

Subd. 4. [AREA ALLOCATION OF SUBSIDIES.] *Wage subsidy money must be allocated to local service units based on the number of eligible applicants in that area compared to the state total of eligible applicants. Money may be reallocated if it otherwise would not be used.*

Subd. 5. [ALLOCATION TO APPLICANTS.] *Priority for subsidies shall be in the following order:*

(1) applicants living in households with no other income source;

(2) applicants whose incomes and resources are less than the standard for eligibility for general assistance or work readiness; and

(3) applicants who are eligible for aid to families with dependent children.

Subd. 6. [OUTREACH.] *A local service unit shall publicize the availability of wage subsidies within its area.*

Subd. 7. [REPORTS.] *Each entity delivering wage subsidies shall report to the commissioner on a quarterly basis:*

(1) the number of persons placed in private sector jobs, in temporary public sector jobs, or in other services;

(2) the outcome for each participant placed;

(3) the number and type of employers employing persons under the program;

(4) the amount of money spent in each local service unit for wages for each type of employment and each type of other expense;

(5) the age, educational experience, family status, gender, priority group status, race, and work experience of each person in the program;

(6) the amount of wages received by persons while in the program and 60 days after completing the program;

(7) for each classification of persons described in clause (5), the outcome of the wage subsidy placement, including length of time employed; nature of employment, whether private sector, temporary public sector, or other service; and the hourly wages; and

(8) any other information requested by the commissioner. Each report must include cumulative information, as well as information for each quarter.

Data collected on individuals under this subdivision are private data on individuals as defined in section 13.02, subdivision 12, except that summary data may be provided under section 13.05, subdivision 7.

Subd. 8. [PART-TIME EMPLOYMENT.] *Subsidies under this section may be paid for part-time jobs.*

Subd. 9. [LAYOFFS; WORK REDUCTIONS.] *An employer may not lay*

off, terminate, or reduce the working hours of an employee for the purpose of hiring an individual with funds provided by this section. An employer may not hire an individual with funds available under this section if any other person is on layoff from the same or a substantially equivalent job.

Subd. 10. [RULES.] *The commissioner may adopt rules to implement this section.*

Sec. 83. [270.059] [REVENUE DEPARTMENT SERVICE AND RECOVERY SPECIAL REVENUE FUND.]

A revenue department service and recovery special revenue fund is created for the purpose of recovering the costs of furnishing public government data and related services or products, as well as recovering costs associated with collecting local taxes on sales. All money collected under this section is deposited in the revenue department service and recovery special revenue fund. Money in the fund is appropriated to the commissioner of revenue to reimburse the department of revenue for the costs incurred in administering the tax law or providing the data, service, or product.

Sec. 84. [270.74] [FINANCIAL TRANSACTION CARDS; PAYMENT OF STATE TAXES.]

(a) The commissioner of revenue may allow taxpayers to use financial transaction cards, as defined in section 325G.02, subdivision 2, to pay any of the following which are payable to the commissioner: (1) state taxes; (2) estimated tax deposits; (3) penalties; (4) interest; (5) additions to taxes; and (6) fees.

(b) The commissioner may impose a fee on each transaction under paragraph (a). The fee is equal to the fee the commissioner is required to pay for the taxpayer's use of the financial transaction card. This fee must be deposited in the general fund and is appropriated to the commissioner for the purpose of paying the transaction card fee.

(c) The types of financial transaction cards that will be accepted shall be determined solely by the commissioner. The selection of transaction card vendors shall be made through a request for proposals process. Before issuing a request for proposals, the commissioner shall review the request for proposals and any specifications with the commissioner of finance and the state treasurer. The commissioner shall select the transaction card vendors from among those which meet the operational and cost requirements of the department of revenue. The commissioner may limit the number of different types of financial transaction cards that will be accepted.

(d) If the commissioner allows taxpayers to pay taxes with financial transaction cards, the commissioner shall report quarterly on the status of this program to the chairs of the house tax and appropriations committees and the chairs of the senate tax and finance committees.

Sec. 85. Minnesota Statutes 1990, section 271.06, subdivision 4, is amended to read:

Subd. 4. [APPEAL FEE.] At the time of filing the notice of appeal the appellant shall pay to the court administrator of the tax court an appeal fee of ~~$25~~ *$50*; provided, that no appeal fee shall be required of the commissioner of revenue, the attorney general, the state or any of its political subdivisions. In small claims division, the appeal fee shall be ~~$2~~ *$5*. The provisions of chapter 563, providing for proceedings in forma pauperis, shall also apply for appeals to the tax court.

Sec. 86. Minnesota Statutes 1990, section 271.19, is amended to read:

271.19 [COSTS AND DISBURSEMENTS.]

Upon the determination of any appeal under this chapter before the tax court, or of any review hereunder by the supreme court, the costs and disbursements ~~may~~ *shall* be taxed and allowed in favor of the prevailing party and against the losing party as in civil actions. In any case where a person liable for a tax or other obligation has lost an appeal or review instituted by the person, and the tax court or court shall determine that the person instituted the same merely for the purposes of delay, or that the taxpayer's position in the proceedings is frivolous, additional costs, commensurate with the expense incurred and services performed by the agencies of the state in connection with the appeal, but not exceeding $5,000 in any case, may be allowed against the taxpayer, in the discretion of the tax court or court. Costs and disbursements allowed against any such person shall be added to the tax or other obligation determined to be due, and shall be payable therewith. To the extent described in section 3.761, where an award of costs and attorney fees is authorized under section 3.762, the costs and fees shall be allowed against the state, including expenses incurred by the taxpayer to administratively protest or appeal to the department of revenue the order, decision, or report of the commissioner that is the subject of the tax court proceedings. Costs and disbursements allowed against the state or other public agencies shall be paid out of funds received from taxes or other obligations of the kind involved in the proceeding, or other funds of the agency concerned appropriated and available therefor. Witnesses in proceedings under this chapter shall receive like fees as in the district court, to be paid in the first instance by the parties by whom the witnesses were called, and to be taxed and allowed as herein provided.

Sec. 87. Minnesota Statutes 1990, section 355.392, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER CONTRIBUTIONS.] For services by judges referred to in subdivision 1, clause (b), the state *court administrator* shall pay into the contribution fund established pursuant to section 355.04, an employer contribution on wages equal the employer tax rate imposed by the Federal Insurance Contributions Act.

Sec. 88. Minnesota Statutes 1990, section 355.392, subdivision 3, is amended to read:

Subd. 3. [EMPLOYEE CONTRIBUTIONS.] For services by judges referred to in subdivision 1, clause (b), the judge shall pay into the contribution fund established pursuant to section 355.04, an employee contribution on wages equal to the employee tax rate imposed by the Federal Insurance Contributions Act. ~~This contribution shall be made from the contribution made by the judge pursuant to section 490.123, subdivision 1.~~ *The contribution must be made by payroll deduction.*

Sec. 89. Minnesota Statutes 1990, section 357.24, is amended to read:

357.24 [CRIMINAL CASES.]

Witnesses for the state in criminal cases shall receive the same fees for travel and attendance as provided in section 357.22, and judges may, in their discretion, allow like fees to witnesses attending in behalf of any defendant. In addition these witnesses shall receive reasonable expenses actually incurred for meals, loss of wages and child care, not to exceed $40

per day. ~~In courts these witness fees shall be certified and paid in the same manner as jurors.~~ *The compensation and reimbursement shall be paid out of the county treasury.*

Sec. 90. Minnesota Statutes 1990, section 363.121, is amended to read:

363.121 [DEPARTMENT ATTORNEY.]

(a) The attorney general shall be the attorney for the department. When a matter has been referred to the attorney general by the commissioner after a finding of probable cause or for the purpose of interim relief, communications between members of the attorney general's office and charging parties or members of a class formed pursuant to section 363.06, subdivision 4, clause (6), are privileged as would be a communication between an attorney and a client.

(b) The department of human rights may not be charged by the attorney general for legal representation on behalf of complaining parties who have filed a charge of discrimination with the department. This paragraph is effective retroactive to July 1, 1989. The department does not have an obligation to pay for any services rendered by the attorney general since July 1, 1985, in excess of the amounts already paid for those services.

Sec. 91. Minnesota Statutes 1990, section 383B.119, subdivision 3, is amended to read:

Subd. 3. [PUBLICATION AND DISTRIBUTION.] The board of commissioners shall publish the annual financial statements in accordance with the requirements of section 375.17. The annual audited financial statements shall be made available for public inspection upon request~~, and a copy shall be filed with the state auditor~~.

Sec. 92. Minnesota Statutes 1990, section 423A.02, is amended to read:

423A.02 [LOCAL POLICE AND FIREFIGHTERS' RELIEF ASSOCIATION AMORTIZATION STATE AID.]

Subdivision 1. [AMORTIZATION STATE AID.] *(a)* Any municipality in which is located a local police or salaried firefighters' relief association to which the provisions of section 69.77, apply, unless the municipality has adopted a municipal resolution retaining the local relief association pursuant to section 423A.01, subdivision 1, shall be entitled upon application as required by the commissioner of revenue to receive local police and salaried firefighters' relief association amortization state aid if the municipality and the appropriate relief association both comply with the applicable provisions of sections 69.031, subdivision 5, 69.051, subdivisions 1 and 3, and 69.77.

(b) The total amount of amortization state aid to all entitled municipalities must not exceed $5,055,000.

(c) Subject to the adjustment for the city of Minneapolis provided in this paragraph, the amount of amortization state aid to which a municipality is entitled annually shall be an amount equal to the level annual dollar amount required to amortize, by December 31, 2010, the unfunded accrued liability of the special fund of the appropriate relief association as reported in the December 31, 1978, actuarial valuation of the relief association prepared pursuant to sections 356.215 and 356.216, reduced by the dollar amount required to pay the interest on the unfunded accrued liability of the special fund of the relief association for calendar year 1981 set at the rate specified in Minnesota Statutes 1978, section 356.215, subdivision 4, clause

(4). *For the city of Minneapolis, the amortization state aid amount thus determined must be reduced by $747,232 on account of the Minneapolis police relief association and by $772,768 on account of the Minneapolis fire department relief association. If the amortization state aid amounts determined under this paragraph exceed the amount appropriated for this purpose, the amortization state aid for actual allocation must be reduced pro rata.*

(d) Payment of amortization state aid to municipalities shall be made directly to the municipalities involved in four equal installments on March 15, July 15, September 15 and November 15 annually. Upon receipt of amortization state aid, the municipal treasurer shall transmit the aid amount to the treasurer of the local relief association for immediate deposit in the special fund of the relief association.

(e) The commissioner of revenue shall prescribe and periodically revise the form for and content of the application for the amortization state aid. ~~The amounts required to pay the amortization state aid are hereby annually appropriated from the general fund to the commissioner of revenue.~~

Subd. 1a. [SUPPLEMENTARY AMORTIZATION STATE AID.] *In addition to the amortization state aid under subdivision 1, there is a distribution of supplementary amortization state aid among those local police and salaried firefighters relief associations that receive amortization state aid under subdivision 1. The amount of the distribution is that proportion of the appropriation that the unfunded actuarial accrued liability of each relief association bears to the total unfunded actuarial accrued liabilities of all relief associations as reported in the most recent actuarial valuations of the relief associations receiving amortization state aid under subdivision 1. Moneys under this subdivision must be distributed to the relief associations at the same time that fire and police state aid is distributed under section 69.021.*

Subd. 2. [CONTINUED ELIGIBILITY.] Any municipality which has qualified for amortization state aid under subdivision 1 shall continue upon application to be entitled to receive amortization state aid and supplementary amortization state aid authorized by ~~Laws 1984, chapter 564, section 48~~ *subdivision 1a*, after the local police or salaried firefighters' relief association has been consolidated into the public employees police and fire fund.

Sec. 93. Minnesota Statutes 1990, section 469.201, subdivision 2, is amended to read:

Subd. 2. [CITY.] "City" means a city of the first class as defined in section 410.01 *and a city of the second class that is designated as an economically depressed area by the United States Department of Commerce*. For each city, a port authority, housing and redevelopment authority, or other agency or instrumentality, the jurisdiction of which is the territory of the city, is included within the meaning of city.

Sec. 94. Minnesota Statutes 1990, section 471.468, is amended to read:

471.468 [BUILDING PLANS; APPROVAL; EXCEPTIONS.]

On site construction or remodeling shall not hereafter be commenced of any building or facility until the plans and specifications of the building or facility have been reviewed and approved by the local authority. The provisions of sections 471.465 to 471.469 are applicable only to contracts awarded subsequent to May 22, 1971. *The local authority shall certify in*

writing that the review and approval under this section have occurred. The certification must be attached to the permit of record.

Sec. 95. [471.975] [PAYMENT OF SALARY DIFFERENTIAL FOR RESERVE FORCES ON ACTIVE DUTY.]

A statutory or home rule charter city, county, town, school district, or other political subdivision may pay to each eligible member of the reserve components of the armed forces of the United States an amount equal to the difference between the member's active duty military salary and the salary the member would be paid as an active political subdivision employee, including any adjustments the member would have received if not on leave of absence. Payments must be made at the intervals at which the member received pay as a political subdivision employee. Back pay authorized by this section may be paid in a lump sum. Such pay shall not extend beyond four years from the date the employee was called to active duty plus such additional time in each case as such employee may be required to serve pursuant to law.

An eligible member of the reserve components of the armed forces of the United States is a reservist or National Guard member who was an employee of a political subdivision at the time the member was called to active duty and who was or is called to active duty after August 1, 1990, because of Operation Desert Shield, Operation Desert Storm, or any other action taken by the armed forces relating to hostilities between the United States and the Republic of Iraq.

Sec. 96. Minnesota Statutes 1990, section 474A.03, is amended by adding a subdivision to read:

Subd. 4. [APPLICATION FEE.] *Every entitlement issuer and other issuer shall pay to the commissioner a nonrefundable application fee to offset the state cost of program administration. The application fee is $100 for each $500,000 of entitlement or allocation requested, with the request rounded to the nearest $500,000. The minimum fee is $100. Fees received by the commissioner must be credited to the general fund.*

Sec. 97. Minnesota Statutes 1990, section 480.181, is amended by adding a subdivision to read:

Subd. 5. [COUNTY TO STATE FUNDING.] *Whenever a group of court employees is transferred from county to state funding, the provisions of this section shall apply.*

Sec. 98. Minnesota Statutes 1990, section 480.24, subdivision 3, is amended to read:

Subd. 3. [QUALIFIED LEGAL SERVICES PROGRAM.] "Qualified legal services program" means a nonprofit corporation which provides or proposes to provide legal services to eligible clients in civil matters and which is governed by a board of directors composed of attorneys-at-law and consumers of legal services. *A qualified legal services program includes farm legal assistance providers that have a proven record of delivery of effective, high-quality legal assistance and have demonstrated experience and expertise in addressing legal issues affecting financially distressed family farmers throughout the state.*

Sec. 99. Minnesota Statutes 1990, section 480.242, subdivision 2, is amended to read:

Subd. 2. [REVIEW OF APPLICATIONS; SELECTION OF RECIPIENTS.] At times and in accordance with any procedures as the supreme court adopts in the form of court rules, applications for the expenditure of civil legal services funds shall be accepted from qualified legal services programs or from local government agencies and nonprofit organizations seeking to establish qualified alternative dispute resolution programs. The applications shall be reviewed by the advisory committee, and the advisory committee, subject to review by the supreme court, shall distribute the funds received pursuant to section 480.241, subdivision 2, to qualified legal services programs or to qualified alternative dispute resolution programs submitting applications. ~~Subject to the provisions of subdivision 4,~~ The funds shall be distributed in accordance with the following formula:

(a) Eighty-five percent of the funds distributed shall be distributed to qualified legal services programs that have demonstrated an ability as of July 1, 1982, to provide legal services to persons unable to afford private counsel with funds provided by the federal Legal Services Corporation. The allocation of funds among the programs selected shall be based upon the number of persons with incomes below the poverty level established by the United States Census Bureau who reside in the geographical area served by each program, as determined by the supreme court on the basis of the ~~1980~~ *most recent* national census. All funds distributed pursuant to this clause shall be used for the provision of legal services in civil *and farm legal assistance* matters *as prioritized by program boards of directors* to eligible clients.

(b) Fifteen percent of the funds distributed may be distributed (1) to other qualified legal services programs for the provision of legal services in civil matters to eligible clients, including programs which organize members of the private bar to perform services and programs for qualified alternative dispute resolution, ~~or~~ (2) to programs for training mediators operated by nonprofit alternative dispute resolution corporations~~. Grants may be made pursuant to this clause only until June 30, 1987.~~, *or (3) to qualified legal services programs to provide family farm legal assistance for financially distressed state farmers. The family farm legal assistance must be directed at farm financial problems including, but not limited to, liquidation of farm property including bankruptcy, farm foreclosure, repossession of farm assets, restructuring or discharge of farm debt, farm credit and general debtor-creditor relations, and tax considerations.* If all the funds to be distributed pursuant to this clause cannot be distributed because of insufficient acceptable applications, the remaining funds shall be distributed pursuant to clause (a).

A person is eligible for legal assistance under this section if the person is an eligible client as defined in section 480.24, subdivision 2, or:

(1) is a state resident;

(2) is or has been a farmer or a family shareholder of a family farm corporation within the preceding 24 months;

(3) has a debt-to-asset ratio greater than 50 percent;

(4) has a reportable federal adjusted gross income of $15,000 or less in the previous year; and

(5) is financially unable to retain legal representation.

Qualifying farmers and small business operators whose bank loans are

held by the Federal Deposit Insurance Corporation are eligible for legal assistance under this section.

Sec. 100. Minnesota Statutes 1990, section 480.242, is amended by adding a subdivision to read:

Subd. 5. [PERMISSIBLE FAMILY FARM LEGAL ASSISTANCE ACTIVITIES.] *Qualified legal services programs that receive funds under the provisions of subdivision 2 may provide the following types of farm legal assistance activities:*

(1) legal backup and research support to attorneys throughout the state who represent financially distressed farmers;

(2) direct legal advice and representation to eligible farmers in the most effective and efficient manner, giving special emphasis to enforcement of legal rights affecting large numbers of farmers;

(3) legal information to individual farmers;

(4) general farm related legal education and training to farmers, private attorneys, legal services staff, state and local officials, state-supported farm management advisors, and the public;

(5) an incoming, statewide, toll-free telephone line to provide the advice and referral described in this subdivision; and

(6) legal advice and representation to eligible persons whose bank loans are held by the Federal Deposit Insurance Corporation.

Sec. 101. Minnesota Statutes 1990, section 481.10, is amended to read:

481.10 [CONSULTATION WITH PERSONS RESTRAINED.]

All officers or persons having in their custody a person restrained of liberty upon any charge or cause alleged, except in cases where imminent danger of escape exists, shall admit any resident attorney retained by or in behalf of the person restrained, or whom the restrained person may desire to consult, to a private interview at the place of custody. Such custodians, upon request of the person restrained, as soon as practicable, and before other proceedings shall be had, shall notify any attorney residing in the county of the request for a consultation with the attorney. *Reasonable telephone access to the attorney shall be provided to the person restrained at no charge to the attorney or to the person restrained.* Every officer or person who shall violate any provision of this section shall be guilty of a misdemeanor and, in addition to the punishment prescribed therefor shall forfeit $100 to the person aggrieved, to be recovered in a civil action.

Sec. 102. Minnesota Statutes 1990, section 484.73, is amended by adding a subdivision to read:

Subd. 4. [FEE ON REQUEST FOR TRIAL AFTER ARBITRATION.] *Upon making a request for trial, the moving party shall, unless permitted to proceed in forma pauperis, pay to the court administrator a fee of $100.*

Sec. 103. Minnesota Statutes 1990, section 490.123, subdivision 1, is amended to read:

Subdivision 1. [*FUND* CREATION; ~~CONTRIBUTIONS~~ *REVENUE AND AUTHORIZED DISBURSEMENTS.*] The "judges' retirement fund" must be credited with all contributions, all interest, and all other income authorized by law. From this fund there are appropriated the payments authorized by

sections 490.121 to 490.132, in the amounts and at the times provided, including the *necessary and reasonable* expenses of *the Minnesota state retirement system in* administering the fund *and the transfers to the Minnesota postretirement investment fund.*

Subd. 1a. [MEMBER CONTRIBUTION RATES.] *(a)* A judge *who is covered by the federal old age, survivors, disability, and health insurance program* shall contribute to the fund from each salary payment a sum equal to ~~one-half of one percent of salary, plus a sum equal to the salary multiplied by the rate of employee tax specified in the Federal Insurance Contributions Act as defined in section 355.01, subdivision 9, but in aggregate not less than seven percent of salary. In addition, a judge referred to in section 355.392, subdivision 1, clause (b), shall contribute to the fund from each salary payment a sum equal to an additional three-quarters of one~~ *four* percent of salary. ~~The balance of all money necessary for administering sections 490.121 to 490.132 and the judges' retirement fund, including payment of retirement compensation and other benefits under sections 490.121 to 490.132, must be contributed to the fund by the state.~~

~~Money certified by the executive director of the Minnesota state retirement system to the commissioner of finance as needed to meet the state's obligations to the judges' retirement fund must be transferred to the fund at least once a month.~~

(b) A judge not so covered shall contribute to the fund from each salary payment a sum equal to 8.15 percent of salary.

(c) The contribution under this subdivision is payable by salary deduction.

Subd. 1b. [EMPLOYER CONTRIBUTION RATE.] *The employer contribution rate on behalf of a judge is 22 percent of salary.*

The employer contribution must be paid by the state court administrator and is payable at the same time as member contributions under subdivision 1a are remitted.

Sec. 104. Minnesota Statutes 1990, section 490.124, subdivision 4, is amended to read:

Subd. 4. [DISABILITY RETIREMENT.] From and after disability retirement date, a disabled judge shall be entitled to continuation of the judge's full salary payable by the judge's employer, as if the judge's office were not vacated by retirement, for a period of up to ~~two~~ *one* full ~~years~~ *year*, but in no event beyond the judge's mandatory retirement date. Thereafter a disability retirement annuity computed as provided in subdivision 1 shall be paid, provided that the judge shall receive a minimum annuity of 25 percent of the judge's final average compensation.

Sec. 105. Minnesota Statutes 1990, section 593.48, is amended to read:

593.48 [COMPENSATION OF JURORS AND TRAVEL REIMBURSEMENT.]

A juror shall be reimbursed for roundtrip travel between the juror's residence and the place of holding court at a rate ~~of 15 to 24 cents per mile~~ *determined by the supreme court*, and shall be compensated at a rate of $15 for each day of required attendance at sessions of the court. *Except in the eighth judicial district where the state shall pay directly,* the compensation and reimbursement shall be paid out of the county treasury upon receipt of authorization to pay from the jury commissioner. *These jury costs shall*

be reimbursed monthly by the supreme court upon submission of an invoice by the county treasurer. A monthly report of payments to jurors shall be sent to the jury commissioner within two weeks of the end of the month in the form required by the jury commissioner.

Sec. 106. Minnesota Statutes 1990, section 609.101, subdivision 1, is amended to read:

Subdivision 1. [SURCHARGES AND ASSESSMENTS.] *(a)* When a court sentences a person convicted of a felony, gross misdemeanor, or misdemeanor, other than a petty misdemeanor such as a traffic or parking violation, and if the sentence does not include payment of a fine, the court shall impose an assessment of not less than $25 nor more than $50. If the sentence for the felony, gross misdemeanor, or misdemeanor includes payment of a fine of any amount, including a fine of less than $100, the court shall impose a surcharge on the fine of ten percent of the fine. This section applies whether or not the person is sentenced to imprisonment and when the sentence is suspended.

(b) In addition to the assessments in paragraph (a), the court shall assess the following surcharges after a person is convicted:

(1) for a person charged with a felony, $25;

(2) for a person charged with a gross misdemeanor, $15;

(3) for a person charged with a misdemeanor other than a traffic, parking, or local ordinance violation, $10; and

(4) for a person charged with a local ordinance violation other than a parking or traffic violation, $5.

The surcharge must be assessed for the original charge, whether or not it is subsequently reduced. A person charged on more than one count may be assessed only one surcharge under this paragraph, but must be assessed for the most serious offense. This paragraph applies whether or not the person is sentenced to imprisonment and when the sentence is suspended.

(c) The court may not waive payment or authorize payment of the assessment or surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment or surcharge would create undue hardship for the convicted person or that person's immediate family.

(d) If the court fails to waive or impose an assessment required by ~~this section~~ *paragraph (a)*, the court administrator shall correct the record to show imposition of an assessment of $25 if the sentence does not include payment of a fine, or if the sentence includes a fine, to show an imposition of a surcharge of ten percent of the fine. *If the court fails to waive or impose an assessment required by paragraph (b), the court administrator shall correct the record to show imposition of the assessment described in paragraph (b).*

(e) Except for assessments and surcharges imposed on persons convicted of violations described in section 97A.065, subdivision 2, the court shall collect and forward to the commissioner of finance the total amount of the ~~assessment~~ *assessments* or ~~surcharge~~ *surcharges* and the commissioner shall credit all money so forwarded to the general fund.

(f) If the convicted person is sentenced to imprisonment, the chief executive officer of the correctional facility in which the convicted person is incarcerated may collect the assessment or surcharge from any earnings the inmate accrues for work performed in the correctional facility and forward the amount to the commissioner of finance, indicating the part that was imposed for violations described in section 97A.065, subdivision 2, which must be credited to the game and fish fund.

Sec. 107. [STATE TRAILS GRANT.]

From the sum appropriated for state trails in S.F. No. 1533, the commissioner of natural resources may grant up to $150,000 to the joint powers board, Cannon Valley Trail, for Cannon River Valley Trail development.

Sec. 108. Laws 1990, chapter 610, article 1, section 27, is amended to read:

Sec. 27. [MILITARY AFFAIRS.]

To the adjutant general to prepare plans for an education center at Camp Ripley 200,000

The adjutant general shall use the unencumbered balance from the appropriation in Laws 1984, chapter 597, section 9, paragraph (d), *for the purposes stated in paragraph (d), and* for the planning of a new armory and military affairs building. ~~The department of military affairs shall continue to occupy the veterans service building until the department has secured the federal funds and the legislature has acted on a governor's recommendation for funding of a new armory/military affairs building.~~

Sec. 109. [SBIR MARKETING AND TECHNICAL ASSISTANCE PROGRAM.]

Minnesota project innovation may establish a small business innovation research (SBIR) marketing and technical assistance program. Minnesota project innovation may conduct the following activities under the SBIR marketing and technical assistance program:

(1) market the federal SBIR grant program to scientists, engineers, and entrepreneurs;

(2) provide technical assistance to persons applying for federal SBIR grants;

(3) assist persons applying for federal SBIR grants with securing equity financing to commercialize new technologies; and

(4) provide technical assistance to persons in gaining access to technology developed through the efforts of the federal government.

Sec. 110. [EIGHTH DISTRICT PILOT PROJECT: REPORT.]

The supreme court shall report to the legislature by February 1, 1993, on the results of the eighth district pilot project and its implications for extending the takeover of local court costs to additional judicial districts. The report must include, but need not be limited to, the following:

(1) recommendations on how district court employees might organize and

bargain collectively with the supreme court or its designated agent;

(2) an analysis of personnel and classification issues that would arise if the pilot project were extended to additional judicial districts;

(3) findings on the cost of continuing the pilot project through June 30, 1995; and

(4) findings on the cost of and a proposed schedule for extending the pilot project to additional judicial districts.

Sec. 111. [FINDINGS.]

The legislature finds that the state of Minnesota faces immediate and serious financial problems. As a result, public employers may have insufficient resources to maintain their work forces at the current level. The legislature determines that the public interest is best served if public employers' budgets can be balanced without layoffs of public employees. Section 112 is enacted as a temporary measure to help solve the financial crisis facing units of state and local government, while minimizing layoffs of public employees.

Sec. 112. [EMPLOYER-PAID HEALTH INSURANCE.]

Subdivision 1. [STATE EMPLOYEES.] *A state employee, as defined in Minnesota Statutes, section 43A.02, subdivision 21, or an employee of the state university system, community college system, Minnesota state retirement system, the teachers retirement association, or the public employees retirement association, is eligible for state-paid hospital, medical, and dental benefits if the person:*

(1) is eligible for state-paid insurance under Minnesota Statutes, section 43A.18, or other law;

(2) has at least 25 years of service in the state civil service as defined in Minnesota Statutes, section 43A.02, subdivision 10, or at least 25 years of service as an employee of the Minnesota state retirement system, the teachers retirement association, or the public employees retirement association or a combination of any two or more of them;

(3) upon retirement is immediately eligible for a retirement annuity;

(4) is at least 55 and not yet 65 years of age; and

(5) retires on or after July 1, 1991, and before October 1, 1991.

In addition to those eligible under clause (5), a person defined in Minnesota Statutes, section 43A.02, subdivision 27, who meets the requirements of clauses (1) to (4) and who has more than 30 years of service in the state civil service is eligible under this subdivision if the person retires after January 1, 1991, and before May 20, 1991.

Subd. 2. [OTHER PUBLIC EMPLOYEES.] *The University of Minnesota or the governing body of a city, county, or other political subdivision of the state may provide employer-paid hospital, medical, and dental benefits to a person who:*

(1) is eligible for employer-paid insurance under collective bargaining agreements or personnel plans in effect on the day before the effective date of this section;

(2) has at least 25 years of service with the employer who will pay for the benefits after retirement;

(3) upon retirement is immediately eligible for a retirement annuity;

(4) is at least 55 and not yet 65 years of age; and

(5) retires on or after July 1, 1991, and before October 1, 1991.

An employer that pays for insurance under this section may not exclude any eligible employees.

Subd. 3. [CONDITIONS; COVERAGE.] *An employee who is eligible both for the health insurance benefit under this section and for an early retirement incentive under a collective bargaining agreement or personnel plan established by the employer must select either the early retirement incentive in the collective bargaining agreement, personnel plan, or the incentive provided under this section, but may not receive both. For purposes of this section, a person retires when the person terminates active employment and applies for retirement benefits. The retired employee is eligible for single and dependent coverages and employer payments to which the person was entitled immediately before retirement, subject to any changes in coverage and employer and employee payments through collective bargaining or personnel plans, for employees in positions equivalent to the position from which the employee retired. The retired employee is not eligible for employer-paid life insurance. Eligibility ceases when the retired employee attains the age of 65, or when the employee chooses not to receive the retirement benefits for which the employee has applied, or when the employee is eligible for employer-paid health insurance from a new employer. Coverages must be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program. Nothing in this section obligates, limits, or otherwise affects the right of the University of Minnesota to provide employer-paid hospital, medical, and dental benefits and life insurance to any person.*

Subd. 4. [RULE OF 90.] *An employee who retires under this section using the rule of 90 must not be included in the calculations required by Minnesota Statutes, section 356.85.*

Subd. 5. [APPLICATION OF OTHER LAWS.] *Unilateral implementation of this section by a public employer is not an unfair labor practice for purposes of chapter 179A. The authority provided in this section for an employer to pay health insurance costs for certain retired employees is not subject to the limits in section 179A.20, subdivision 2a.*

Sec. 113. [INTERNATIONAL PURCHASES; SALES AND USE TAX.]

The commissioner of revenue shall review federal customs declarations and make an effort to collect the amounts owed for sales and use tax on international purchases by travelers entering the state from international destinations. The commissioner shall report to the legislature no later than January 31, 1992, on the cost-effectiveness of this activity.

Sec. 114. [PREEMPTION; FEDERAL PERMIT.]

Notwithstanding any other law finally enacted during the 1991 session of the legislature, issuance of a federal permit may not be the sole grounds for exempting an applicant from a permit otherwise required under Minnesota Statutes, sections 116C.91 to 116C.95.

Sec. 115. [VOLUNTARY UNPAID LEAVE OF ABSENCE.]

Appointing authorities in the executive branch of state government may

allow each employee to take an unpaid leave of absence under the terms of this section for up to 160 hours during the period ending June 30, 1993. Each appointing authority approving such a leave shall allow the employee to continue accruing vacation and sick leave, be eligible for paid holidays and insurance benefits, accrue seniority, and accrue service credit in state retirement plans permitting service credits for authorized leaves of absence as if the employee had actually been employed during the time of the leave. If the leave of absence is for one full pay period or longer, any holiday pay shall be included in the first payroll warrant after return from the leave of absence. The appointing authority shall attempt to grant requests for unpaid leaves of absence consistent with the need to continue efficient operation of the agency. However, each appointing authority shall retain discretion to grant or refuse to grant requests for leaves of absence and to schedule and cancel leaves, subject to applicable provisions of collective bargaining agreements and compensation plans. Approval of leave under this section must be given by the appointing authority in writing, with a copy to the commissioner of finance.

Sec. 116. [RADIO STUDY.]

The metropolitan council shall study and report to the legislature by December 31, 1992, on the need for and the feasibility of a regional 800 MHz trunked radio system that could include police, fire, emergency medical, metropolitan 911, public works services, metropolitan agencies, school districts, and special districts. Money for this study may be borrowed from the right-of-way acquisition loan fund established by Minnesota Statutes, section 473.167, subdivision 3. The study must also recommend a way to repay the loan.

Sec. 117. [REPEALER.]

Subdivision 1. [COURT ADMINISTRATION.] *Laws 1989, chapter 335, article 3, section 54, subdivision 8, as amended by Laws 1989, First Special Session chapter 1, article 5, section 47, and Laws 1990, chapter 604, article 9, section 14, is repealed.*

Subd. 2. [BILLBACK.] *Minnesota Statutes 1990, sections 3C.035, subdivision 2; and 3C.056, are repealed.*

Subd. 3. [FAMILY FARM LEGAL ASSISTANCE.] *Minnesota Statutes 1990, sections 480.250; 480.252; 480.254; and 480.256, are repealed.*

Subd. 4. [POLICE AND FIRE AMORTIZATION AID.] *Laws 1984, chapter 564, section 48, is repealed.*

Subd. 5. [TRADE PROMOTION.] *Minnesota Statutes 1990, section 116J.967, is repealed.*

Subd. 6. [HENNEPIN COUNTY.] *Minnesota Statutes 1990, section 383B.119, subdivision 2, is repealed.*

Sec. 118. [EFFECTIVE DATES.]

Subdivision 1. [MILITARY PAY DIFFERENTIAL.] *Sections 68 and 95 are effective the day following final enactment and authorize back pay to the date the employee was called to active duty after August 1, 1990.*

Subd. 2. [EARLY RETIREMENT INCENTIVES.] *Sections 111 and 112 are effective the day following final enactment.*

Subd. 3. [COURT ADMINISTRATION.] *Section 105 is effective July 1,*

1992. Section 117, subdivision 1, is effective for taxes levied in 1991, payable in 1992, and thereafter.

Subd. 4. [STATE FINANCE.] *Sections 48, 53, 54, 55, 56, and 58 are effective the day following final enactment and apply to bonds and certificates issued before or after they take effect.*

Subd. 5. [TAX CREDIT CARDS.] *Section 84 is effective the day following final enactment.*

Subd. 6. [JUDGES' DISABILITY RETIREMENT.] *Section 104 is effective for disability retirement dates occurring after June 30, 1991.*

ARTICLE 2

STATE PLANNING AGENCY

Section 1. [STATE PLANNING AGENCY ABOLISHED; DUTIES TRANSFERRED.]

The responsibilities of the commissioner of the state planning agency are transferred under Minnesota Statutes, section 15.039, as more specifically provided in the following sections of this article to the following agencies:

(1) the office of state demographer, the environmental quality board, responsibility for conducting a generic environmental impact statement on timber harvesting, office of dispute resolution, action for children council, groundwater monitoring, and high-level nuclear waste are transferred to the office of strategic and long-range planning.

(2) the land management information center, the developmental disability council, and the office of telecommunications policy are transferred to the commissioner of administration;

(3) the office of environmental education, and environmental conservation library grants are transferred to the commissioner of education;

(3) the state's Washington, D.C., office, the Great Lakes protection fund, and the Council of Great Lakes Governors are transferred to the office of the governor;

(4) youth employment demonstration grants are transferred to the commissioner of jobs and training;

(5) the adult literacy council is transferred to the commissioner of education;

(6) regional planning and the community resources program are transferred to the commissioner of trade and economic development;

(7) the governmental training service is transferred to the commissioner of employee relations; and

(8) human resources development is transferred to the commissioner of human services.

The position of state planning commissioner and the state planning agency are abolished.

Sec. 2. [4A.01]

The office of strategic and long-range planning is created, with a director appointed by the governor.

The office of strategic and long-range planning must develop an integrated

long-range plan for the state. The office must coordinate activities among all levels of government and must stimulate public interest and participation in the future of the state.

The office must act in coordination with the commissioner of finance, affected state agencies, and the legislature in the planning and financing of major public programs

Sec. 3. [4A.02] [STATE DEMOGRAPHER.]

The director shall appoint a state demographer. The demographer must be professionally competent in demography and must possess demonstrated ability based upon past performance. The demographer shall:

(1) continuously gather and develop demographic data relevant to the state;

(2) design and test methods of research and data collection;

(3) periodically prepare population projections for the state and designated regions and periodically prepare projections for each county or other political subdivision of the state as necessary to carry out the purposes of this section;

(4) review, comment on, and prepare analysis of population estimates and projections made by state agencies, political subdivisions, other states, federal agencies, or nongovernmental persons, institutions, or commissions;

(5) serve as the state liaison with the federal bureau of the census, coordinate state and federal demographic activities to the fullest extent possible, and aid the legislature in preparing a census data plan and form for each decennial census;

(6) compile an annual study of population estimates on the basis of county, regional, or other political or geographical subdivisions as necessary to carry out the purposes of this section and section 4;

(7) by January 1 of each year, issue a report to the legislature containing an analysis of the demographic implications of the annual population study and population projections;

(8) prepare maps for all counties in the state, all municipalities with a population of 10,000 or more, and other municipalities as needed for census purposes, according to scale and detail recommended by the federal bureau of the census, with the maps of cities showing precinct boundaries;

(9) prepare an estimate of population and of the number of households for each governmental subdivision for which the metropolitan council does not prepare an annual estimate, and convey the estimates to the governing body of each political subdivision by May 1 of each year; and

(10) prepare an estimate of population and number of households for an area annexed by a governmental subdivision subject to levy limits under sections 275.50 to 275.56 if a municipal board order under section 414.01, subdivision 14, exists for the annexation and if the population of the annexed area is equal to at least 50 people or at least ten percent of the population of a governmental subdivision or unorganized territory that is losing area by the annexation.

An estimate under clause (10) must be an estimate of the population as of

the date, within 12 months after the annexation occurs, for which a population estimate for the governmental subdivision is made either by the state demographer under clause (9) or by the metropolitan council.

Sec. 4. [4A.03] [POPULATION ESTIMATES AND PROJECTIONS; SUBMISSION BY STATE AGENCIES.]

Each state agency shall submit to the director for comment all population estimates and projections prepared by it before:

(1) submitting the estimates and projections to the legislature or the federal government to obtain approval of grants;

(2) the issuance of bonds based upon those estimates and projections; or

(3) releasing a plan based upon the estimates and projections.

Sec. 5. Minnesota Statutes 1990, section 3.885, subdivision 3, is amended to read:

Subd. 3. [STAFF.] (a) The commission may:

(1) employ and fix the salaries of professional, technical, clerical, and other staff of the commission;

(2) employ and discharge staff solely on the basis of their fitness to perform their duties and without regard to political affiliation;

(3) buy necessary furniture, equipment, and supplies;

(4) enter into contracts for necessary services, equipment, office, and supplies;

(5) provide its staff with computer capability necessary to carry out assigned duties. The computer should be capable of receiving data and transmitting data to computers maintained by the executive and judicial departments of state government that are used for budgetary and revenue purposes; and

(6) use other legislative staff.

(b) The commission may hire an executive director and delegate any of its authority under paragraph (a) to that person. The executive director shall be appointed by the chair and vice-chair to a four-year term, shall serve in the unclassified service, and is subject to removal by a majority vote of the members of either the senate or the house of representatives.

(c) The legislative coordinating commission shall provide office space and administrative support to the committee. ~~The state planning agency shall report to the committee, and the committee may make recommendations to the state planning agency.~~

Sec. 6. Minnesota Statutes 1990, section 3.885, subdivision 6, is amended to read:

Subd. 6. [MANDATE, STATE AID, AND STATE PROGRAM REVIEWS.] (a) The commission shall, after consultation with the governor and with the chairs of the standing committees of the legislature, select mandates and state programs for review. When selecting mandates, state aids, or state programs to be reviewed, the commission shall give priority to those that involve state payments to local units of government.

(b) The governor is responsible for the performance of the reviews. Staff from affected agencies, staff from the department of finance ~~and the state~~

~~planning agency~~, and legislative staff shall participate in the reviews.

(c) At the direction of the commission, reviews of state programs shall include:

(1) a precise and complete description of the program;

(2) the need the program is intended to address;

(3) the recommended goals and measurable objectives of the program to meet those needs;

(4) program outcomes and measures which identify:

(i) results in meeting stated needs, goals, and objectives;

(ii) administrative efficiency, which, when appropriate, shall include number of program staff and clients served, timeliness in processing clients and rates and administrative cost as a percent of total program expenditures;

(iii) unanticipated program outcomes;

(iv) program expenditures compared with program appropriations;

(v) historical cost trends and projected program growth, including reasons for fiscal and program growth, for all levels of government involved in the program;

(vi) if rules or guidelines or instructions have been promulgated for a program, a review of their efficacy in helping to meet program goals and objectives and in administering the program in a cost-effective way; and

(vii) quality control monitoring and sanctions including a review of the level of training, experience, skill, and standards of staff;

(5) recommended changes in the program that would lead to its policy objectives being achieved more efficiently or effectively, or at lower cost; and

(6) additional issues requested by the commission.

(d) The following state aids and associated state mandates shall be reviewed:

(1) local aids and credits including local government aid, homestead and agricultural credit aid, disparity reduction aid, taconite homestead credit and aids, tax increment financing, and fiscal disparities;

(2) human services aids including community health services aids, correctional program aids, and social service program and administrative aids;

(3) elementary and secondary education aids including school district general fund aids and levies, school district capital expenditure fund aids and levies, school district debt service fund aids and levies, and school district community service fund aids and levies; and

(4) general government aids including natural resource aids, environmental protection aids, transportation aids, economic development aids, and general infrastructure aids.

(e) At the direction of the commission, the reviews of state aids and state mandates involving state financing of local government activities listed in paragraph (d) shall include:

(1) the employment status, wages, and benefits of persons employed in

administering the programs;

(2) the desirable applicability of state procedural laws and rules;

(3) methods for increasing political subdivision options in providing their share, if any, of program costs;

(4) desirable redistributions of funding responsibilities for the program and the time period during which any recommended funding distribution should occur;

(5) opportunities for reducing program mandates and giving political subdivisions more flexibility in meeting program needs;

(6) comparability of treatment of similar units of government;

(7) the effect of the state aid or mandate on the distribution of tax burdens among individuals, based upon ability to pay;

(8) coordination of the payment or allocation formula with other state aid programs;

(9) incentives that have been created for local spending decisions, and whether the incentives should be changed;

(10) ways in which political subdivisions have changed their revenue-raising behavior since receiving these grants; and

(11) consideration of the program's consistency with the policies set forth in section 3.882.

(f) Each review shall also include an assessment of the accountability of all government agencies that participate in administration of the program.

(g) Each review that is intended to be considered in the development of the governor's budget recommendations for the following year shall be completed and submitted to the commission no later than November 15.

Sec. 7. [4.46] [WASHINGTON OFFICE.]

The governor may appoint employees for the Washington, D.C., office of the state of Minnesota and may prescribe their duties. In the operation of the office, the governor may expend money appropriated by the legislature for promotional purposes in the same manner as private persons, firms, corporations, and associations expend money for promotional purposes. Promotional expenditures for food, lodging, or travel are not governed by the travel rules of the commissioner of employee relations.

Sec. 8. Minnesota Statutes 1990, section 15.06, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] This section applies to the following departments or agencies: the departments of administration, agriculture, commerce, corrections, jobs and training, education, employee relations, trade and economic development, finance, health, human rights, labor and industry, natural resources, public safety, public service, human services, revenue, transportation, and veterans affairs; the housing finance~~, state planning,~~ and pollution control agencies; the office of commissioner of iron range resources and rehabilitation; the bureau of mediation services; and their successor departments and agencies. The heads of the foregoing departments or agencies are "commissioners."

Sec. 9. Minnesota Statutes 1990, section 15A.081, subdivision 1, is

amended to read:

Subdivision 1. [SALARY RANGES.] The governor shall set the salary rate within the ranges listed below for positions specified in this subdivision, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

Salary Range
Effective
July 1, 1987

$57,500-$78,500

Commissioner of finance;
Commissioner of education;
Commissioner of transportation;
Commissioner of human services;
Commissioner of revenue;
Commissioner of public safety;
Executive director, state board of investment;
Commissioner of gaming;
Director of the state lottery;

$50,000-$67,500

Commissioner of administration;
Commissioner of agriculture;
Commissioner of commerce;
Commissioner of corrections;
Commissioner of jobs and training;
Commissioner of employee relations;
Commissioner of health;
Commissioner of labor and industry;
Commissioner of natural resources;
Commissioner of trade and economic development;
Chief administrative law judge; office of administrative hearings;
Commissioner, pollution control agency;
~~Commissioner, state planning agency;~~
Director, office of waste management;
Commissioner, housing finance agency;

Executive director, public employees
retirement association;
Executive director, teacher's
retirement association;
Executive director, state retirement
system;
Chair, metropolitan council;
Chair, regional transit board;

$42,500-$60,000

Commissioner of human rights;
Commissioner, department of public service;
Commissioner of veterans' affairs;
Commissioner, bureau of mediation services;
Commissioner, public utilities commission;
Member, transportation regulation board;
Ombudsman for corrections;
Ombudsman for mental health and retardation.

Sec. 10. [16B.92] [LAND MANAGEMENT INFORMATION CENTER.]

Subdivision 1. [PURPOSE.] *The purpose of the land management information center is to foster integration of environmental information and provide services in computer mapping and graphics, environmental analysis, and small systems development. The commissioner, through the center, shall periodically study land use and natural resources on the basis of county, regional, and other political subdivisions.*

Subd. 2. [FEES.] *The commissioner shall set fees under section 16A.128, subdivision 2, reflecting the actual costs of providing the center's information products and services to clients. Fees collected must be deposited in the state treasury and credited to the land management information center revolving account. Money in the account is appropriated to the commissioner for operation of the land management information system, including the cost of services, supplies, materials, labor, and equipment, as well as the portion of the general support costs and statewide indirect costs of the department that is attributable to the land management information system. The commissioner may require a state agency to make an advance payment to the revolving fund sufficient to cover the agency's estimated obligation for a period of 60 days or more. If the revolving fund is abolished or liquidated, the total net profit from operations must be distributed to the funds from which purchases were made. The amount to be distributed to each fund must bear to the net profit the same ratio as the total purchases from each fund bear to the total purchases from all the funds during a period of time that fairly reflects the amount of net profit each fund is entitled to receive under this distribution.*

Sec. 11. Minnesota Statutes 1990, section 17.49, subdivision 1, is

amended to read:

Subdivision 1. [PROGRAM ESTABLISHED.] The commissioner shall establish and promote a program for the commercial raising of fish in fish farms in consultation with an advisory committee consisting of the University of Minnesota, the commissioner of natural resources, the commissioner of agriculture, the commissioner of trade and economic development, ~~the commissioner of the state planning agency,~~ representatives of private fish raising industry, and the chairs of the environment and natural resources committees of the house of representatives and senate.

Sec. 12. Minnesota Statutes 1990, section 62D.122, is amended to read:

62D.122 [MEDIATION.]

When current parties to a health maintenance organization contract between providers of health care services and the health maintenance organization believe they will be unable to reach agreement on the terms of renewal or maintenance of the agreement, either party may request the commissioner of health to order that the dispute be submitted to mediation. The parties to the dispute shall enter mediation upon the order of the commissioner of health. Whether or not a request for mediation from one of the parties has been received, the commissioner shall order mediation if failure to reach agreement would significantly impair access to health care services on the part of current enrollees of that health maintenance organization. The commissioner shall be a participant in the mediation. In determining whether access to health care services for current enrollees will be significantly impaired, the commissioner shall consider:

(1) the number of enrollees affected,

(2) the ability of the plan to make alternate arrangements with other participating providers for the provision of health care services to the affected enrollees,

(3) the availability of nonparticipating providers who may become participating providers for those with whom the health maintenance organization is in dispute,

(4) the time remaining until termination of the provider contract, and

(5) whether failure to resolve the dispute may establish a precedent for similar disputes in other parts of the state or might impede competition among health plans.

During the period in which the dispute is in mediation, no action to terminate provider or enrollee contracts may be taken by either party. Participation in mediation shall be required of all parties for a period of not more than 30 days. Notice of termination of provider agreements, as required under section 62D.08, subdivision 5, shall take effect no earlier than 31 days after the first day of mediation under this section.

When mediation is ordered by the commissioner, arrangements for mediation shall be made through ~~either the office of dispute resolution in the state planning agency, or~~ the office of administrative hearings.

Costs of the mediation shall be borne equally by the health maintenance organization and the health care providers unless otherwise agreed to by the parties. The office of administrative hearings shall establish rates for mediation services comparable to those charged by mediators listed with the office of dispute resolution.

The mediator shall not have authority to impose a settlement or otherwise bind a participant to a nonvoluntary resolution of the dispute; however, any agreement reached as a result of the mediation shall be enforceable.

Except as otherwise provided under chapter 13 and sections 62D.03 and 62D.14, the commissioner shall make public the results of any mediation agreement.

Sec. 13. Minnesota Statutes 1990, section 103B.311, subdivision 7, is amended to read:

Subd. 7. [DATA ACQUISITION.] The data collected under this section that has common value as determined by the ~~state planning agency~~ *director of the office of strategic and long-range planning* for natural resources planning must be provided and integrated into the Minnesota land management information systems geographic and summary data bases according to published data compatibility guidelines.

Sec. 14. Minnesota Statutes 1990, section 103B.315, subdivision 5, is amended to read:

Subd. 5. [STATE REVIEW.] (a) After conducting the public hearing but before final adoption, the county board must submit its comprehensive water plan, all written comments received on the plan, a record of the public hearing under subdivision 4, and a summary of changes incorporated as a result of the review process to the board for review. The board shall complete the review within 90 days after receiving a comprehensive water plan and supporting documents. The board shall consult with the departments of agriculture, health, and natural resources; the pollution control agency; ~~the state planning agency;~~ the environmental quality board; and other appropriate state agencies during the review.

(b) The board may disapprove a comprehensive water plan if the board determines the plan is not consistent with state law. If a plan is disapproved, the board shall provide a written statement of its reasons for disapproval. A disapproved comprehensive water plan must be revised by the county board and resubmitted for approval by the board within 120 days after receiving notice of disapproval of the comprehensive water plan, unless the board extends the period for good cause. The decision of the board to disapprove the plan may be appealed by the county to district court.

Sec. 15. Minnesota Statutes 1990, section 103F.761, subdivision 1, is amended to read:

Subdivision 1. [PROJECT COORDINATION TEAM; MEMBERSHIP.] The commissioner shall establish and chair a project coordination team made up of representatives of the pollution control agency, department of natural resources, board of water and soil resources, department of agriculture, department of health, ~~state planning agency,~~ Minnesota extension service, University of Minnesota agricultural experiment stations, United States Army Corps of Engineers, United States Environmental Protection Agency, United States Department of Agriculture Agricultural Stabilization and Conservation Service, United States Department of Agriculture Soil Conservation Service, metropolitan council, Association of Minnesota Counties, League of Minnesota Cities, Minnesota Association of Townships, and other agencies as the commissioner may determine.

Sec. 16. Minnesota Statutes 1990, section 103H.101, subdivision 4, is amended to read:

Subd. 4. [INFORMATION GATHERING.] The commissioner of natural resources shall coordinate the collection of state and local information to identify sensitive areas. Information must be automated on or accessible to systems developed at the land management information center ~~of the state planning agency~~.

Sec. 17. Minnesota Statutes 1990, section 103H.175, subdivision 1, is amended to read:

Subdivision 1. [MONITORING RESULTS TO BE SUBMITTED TO THE ~~STATE PLANNING AGENCY~~ *LAND MANAGEMENT INFORMATION CENTER.*] The results of monitoring groundwater quality by state agencies and political subdivisions must be submitted to the ~~state planning agency~~ *land management information center*.

Sec. 18. Minnesota Statutes 1990, section 103H.175, subdivision 2, is amended to read:

Subd. 2. [COMPUTERIZED DATA BASE.] The ~~state planning agency~~ *land management information center* shall maintain a computerized data base of the results of groundwater quality monitoring in a manner that is accessible to the pollution control agency, department of agriculture, department of health, and department of natural resources. The ~~state planning agency~~ *center* shall assess the quality and reliability of the data and organize the data in a usable format.

Sec. 19. Minnesota Statutes 1990, section 115A.072, subdivision 1, is amended to read:

Subdivision 1. [WASTE EDUCATION COALITION.] (a) The office shall provide for the development and implementation of a program of general public education on waste management in cooperation and coordination with the pollution control agency, metropolitan council, department of education, department of agriculture, ~~state planning agency,~~ environmental quality board, environmental education board, educational institutions, other public agencies with responsibility for waste management or public education, and three other persons who represent private industry and who have knowledge of or expertise in recycling and solid waste management issues. The objectives of the program are to: develop increased public awareness of and interest in environmentally sound waste management methods; encourage better informed decisions on waste management issues by business, industry, local governments, and the public; and disseminate practical information about ways in which households and other institutions and organizations can improve the management of waste.

(b) The office shall appoint an advisory task force, to be called the waste education coalition, of up to 18 members to advise the office in carrying out its responsibilities under this section and whose membership represents the agencies and entities listed in this subdivision.

Sec. 20. Minnesota Statutes 1990, section 116C.03, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The members of the board are the ~~commissioner of the state~~ *director of the office of strategic and long-range* planning ~~agency~~, the commissioner of public service, the commissioner of the pollution control agency, the commissioner of natural resources, the director of the office of waste management, the commissioner of agriculture, the commissioner of health, the commissioner of transportation, the chair of

the board of water and soil resources, and a representative of the governor's office designated by the governor. The governor shall appoint five members from the general public to the board, subject to the advice and consent of the senate. At least two of the five public members must have knowledge of and be conversant in water management issues in the state. Notwithstanding the provisions of section 15.06, subdivision 6, members of the board may not delegate their powers and responsibilities as board members to any other person.

Sec. 21. Minnesota Statutes 1990, section 116C.03, subdivision 4, is amended to read:

Subd. 4. Staff and consultant support for board activities shall be provided by the ~~state~~ *office of strategic and long-range* planning ~~agency~~. This support shall be provided based upon an annual budget and work program developed by the board and certified to the commissioner ~~of the state planning agency~~ by the chair of the board. The board shall have the authority to request and require staff support from all other agencies of state government as needed for the execution of the responsibilities of the board.

Sec. 22. Minnesota Statutes 1990, section 116C.03, subdivision 5, is amended to read:

Subd. 5. The board shall contract with the ~~commissioner of the state~~ *office of strategic and long-range* planning ~~agency~~ for administrative services necessary to the board's activities. The services shall include personnel, budget, payroll and contract administration.

Sec. 23. Minnesota Statutes 1990, section 116C.712, subdivision 3, is amended to read:

Subd. 3. [COUNCIL STAFF.] Staff support for council activities must be provided by the ~~state~~ *office of strategic and long-range* planning ~~agency~~. State departments and agencies must cooperate with the council in the performance of its duties. Upon the request of the chair of the council, the governor may, by order, require a state department or agency to furnish assistance necessary to carry out the council's functions under this chapter.

Sec. 24. Minnesota Statutes 1990, section 116C.712, subdivision 5, is amended to read:

Subd. 5. [ASSESSMENT.] (a) A person, firm, corporation, or association in the business of owning or operating a nuclear fission electrical generating plant in this state shall pay an assessment to cover the cost of:

(1) monitoring the federal high-level radioactive waste program under the Nuclear Waste Policy Act, United States Code, title 42, sections 10101 to 10226;

(2) advising the governor and the legislature on policy issues relating to the federal high-level radioactive waste disposal program;

(3) surveying existing literature and activity relating to radioactive waste management, including storage, transportation, and disposal, in the state;

(4) an advisory task force on low-level radioactive waste deregulation, created by a law enacted in 1990 until July 1, 1996; and

(5) other general studies necessary to carry out the purposes of this subdivision.

The assessment must not be more than the appropriation to the ~~state~~ *office*

of strategic and long-range planning ~~agency~~ for these purposes.

(b) The ~~state planning agency~~ *office* shall bill the owner or operator of the plant for the assessment at least 30 days before the start of each quarter. The assessment for the second quarter of each fiscal year must be adjusted to compensate for the amount by which actual expenditures by the ~~state planning agency~~ *office* for the preceding year were more or less than the estimated expenditures previously assessed. The billing may be made as an addition to the assessments made under section 116C.69. The owner or operator of the plant must pay the assessment within 30 days after receipt of the bill. The assessment must be deposited in the state treasury and credited to the special revenue fund.

(c) The authority for this assessment terminates when the department of energy eliminates Minnesota from further siting consideration for high-level radioactive waste by starting construction of a high-level radioactive waste disposal site in another state. The assessment required for any quarter must be reduced by the amount of federal grant money received by the ~~state~~ *office of strategic and long-range* planning ~~agency~~ for the purposes listed in this section.

(d) The ~~state~~ *director of the office of strategic and long-range* planning ~~agency~~ must report annually by July 1 to the legislative commission on waste management on activities assessed under paragraph (a).

Sec. 25. Minnesota Statutes 1990, section 124C.03, subdivision 2, is amended to read:

Subd. 2. [MEMBERS; MEETINGS; OFFICERS.] The interagency adult learning advisory council shall have ~~16 to 18~~ *15 to 17* members. Members must have experience in educating adults or in programs addressing welfare recipients and incarcerated, unemployed, and underemployed people.

The members of the interagency adult learning advisory council are appointed as follows:

(1) ~~one member appointed by the commissioner of the state planning agency;~~

~~(2)~~ one member appointed by the commissioner of jobs and training;

~~(3)~~ *(2)* one member appointed by the commissioner of human services;

~~(4)~~ *(3)* one member appointed by the director of the refugee and immigrant assistance division of the department of human services;

~~(5)~~ *(4)* one member appointed by the commissioner of corrections;

~~(6)~~ *(5)* one member appointed by the commissioner of education;

~~(7)~~ *(6)* one member appointed by the chancellor of the state board of technical colleges;

~~(8)~~ *(7)* one member appointed by the chancellor of community colleges;

~~(9)~~ *(8)* one member appointed by the Minnesota adult literacy campaign or by another nonprofit literacy organization, as designated by the commissioner of ~~the state planning agency~~ *education*;

~~(10)~~ *(9)* one member appointed by the council on Black Minnesotans;

~~(11)~~ *(10)* one member appointed by the Spanish-speaking affairs council;

~~(12)~~ *(11)* one member appointed by the council on Asian-Pacific Minnesotans;

~~(13)~~ *(12)* one member appointed by the Indian affairs council; and

~~(14)~~ *(13)* one member appointed by the disability council.

Up to four additional members of the council may be nominated by the participating agencies. Based on the council's recommendations, the commissioner of ~~the state planning agency~~ *education* must appoint at least two, but not more than four, additional members. Nominees shall include, but are not limited to, representatives of local education, government, nonprofit agencies, employers, labor organizations, and libraries.

The council shall elect its officers.

Sec. 26. Minnesota Statutes 1990, section 124C.03, subdivision 3, is amended to read:

Subd. 3. [STAFF.] The commissioner of ~~the state planning agency~~ *education* shall provide space and administrative services to the council. The commissioner may contract for staff for the council.

Sec. 27. Minnesota Statutes 1990, section 124C.03, subdivision 8, is amended to read:

Subd. 8. [STANDARDS FOR QUALIFIED PROGRAMS.] (a) Except as provided in paragraph (b) and subdivision 9, a program qualifying for a grant must:

(1) be directed to the unemployed, the underemployed, the incarcerated, public assistance recipients, or to non-English speaking immigrants;

(2) integrate learning and support services such as child care, transportation, and counseling;

(3) have intensive learning that maximizes the weekly hours available to learners;

(4) be accessible year-round and during daytime or evening hours as needed, except where otherwise appropriate to learners' needs;

(5) have individualized learning plans and outcome based learning;

(6) provide instruction in transferable basic skills;

(7) have context based learning linked to individual occupational or self-sufficiency goals;

(8) provide for reporting and evaluation;

(9) have appropriate coordination and differentiation of services among adult literacy services and agencies in the local area;

(10) be coordinated with human services and employment and training agencies, as appropriate to the target population; and

(11) maximize use of available local resources.

(b) The commissioner of ~~the state planning agency~~ *education* may waive a standard because of client need or local conditions. The reason for the waiver must be documented.

Sec. 28. Minnesota Statutes 1990, section 124C.03, subdivision 9, is amended to read:

Subd. 9. [INNOVATION GRANTS.] The commissioner of ~~the state planning agency~~ *education* may award grants for innovative programs. An innovation grant need not comply with the standards in subdivision 8. The nature and extent of the proposed innovation must be described in the award.

Sec. 29. Minnesota Statutes 1990, section 124C.03, subdivision 10, is amended to read:

Subd. 10. [NO FUNDING REQUIRED.] The commissioner of ~~the state planning agency~~ *education* need not award a grant for any proposal that, in the determination of the commissioner does not meet the standards in subdivision 8.

Sec. 30. Minnesota Statutes 1990, section 124C.03, subdivision 12, is amended to read:

Subd. 12. [GEOGRAPHIC DISTRIBUTION.] The commissioner of ~~the state planning agency~~ *education* shall seek to award grants throughout the state, taking into account the incidence of the target population. It shall provide technical assistance to local agencies to enhance fulfillment of this subdivision.

Sec. 31. Minnesota Statutes 1990, section 124C.03, subdivision 14, is amended to read:

Subd. 14. [GRANT SCHEDULE.] ~~The commissioner of the state planning agency must award initial grants by April 1, 1990. Beginning in 1991,~~ Grants must be awarded by July 1 of each year. Grants may be awarded for a period not to exceed 24 months.

Sec. 32. Minnesota Statutes 1990, section 124C.03, subdivision 15, is amended to read:

Subd. 15. [LOCAL AND REGIONAL JOINT PLANNING.] The commissioner of ~~the state planning agency~~ *education* may require grant applicants and existing adult basic education providers in a locality to present a joint services plan as a condition of receiving a grant under this section.

Sec. 33. Minnesota Statutes 1990, section 124C.03, subdivision 16, is amended to read:

Subd. 16. [REPORTING AND EVALUATION.] The commissioner of ~~the state planning agency~~ *education* shall evaluate the performance of the grantees and report to the legislature by November 15 of each year, except that a preliminary report may be submitted by February 15, 1991.

Sec. 34. Minnesota Statutes 1990, section 126A.02, subdivision 1, is amended to read:

Subdivision 1. [DIRECTOR.] The director of environmental education is appointed by the commissioner of ~~the state planning agency~~ *education*. The director may initiate, develop, implement, evaluate, and market informal environmental education programs; shall promote state government and private sector policy that is consistent with the environmental education programs established in section 126A.08; and may coordinate informal environmental education with the K-12 and post-secondary environmental education programs developed by the department of education and the state's post-secondary institutions.

Sec. 35. Minnesota Statutes 1990, section 126A.02, subdivision 2, is amended to read:

Subd. 2. [BOARD MEMBERS.] A 17-member board shall advise the director. The board is made up of the commissioners of the ~~state planning agency;~~ department of natural resources; the pollution control agency; the department of agriculture; the department of education; *the director of the office of strategic and long-range planning;* the chair of the board of water and soil resources; the executive director of the higher education coordinating board; the executive secretary of the board of teaching; the director of the extension service; and eight citizen members representing diverse interests appointed by the governor. The governor shall appoint one citizen member from each congressional district. The citizen members are subject to section 15.0575. Two of the citizen members appointed by the governor must be licensed teachers currently teaching in the K-12 system. The governor shall annually designate a member to serve as chair for the next year.

Sec. 36. Minnesota Statutes 1990, section 126A.03, is amended to read:

126A.03 [STAFF.]

The ~~state planning agency~~ *commissioner of education* shall provide staff and consultant support for the office of environmental education. The support must be based on an annual budget and work program developed by the director and certified to the commissioner of ~~the state planning agency~~ *education* by the chair of the office's advisory board. The director may request staff support from any other agency of the executive branch as needed to execute the responsibilities of the director.

Sec. 37. Minnesota Statutes 1990, section 144.70, subdivision 2, is amended to read:

Subd. 2. [INTERAGENCY COOPERATION.] In completing the report required by subdivision 1, in fulfilling the requirements of sections 144.695 to 144.703, and in undertaking other initiatives concerning health care costs, access, or quality, the commissioner of health shall cooperate with and consider potential benefits to other state agencies that have a role in the market for health services or the market for health plans. Other agencies include the department of employee relations, as administrator of the state employee health benefits program; the department of human services, as administrator of health services entitlement programs; the department of commerce, in its regulation of health plans; the department of labor and industry, in its regulation of health service costs under workers' compensation; ~~and the state planning agency, in its planning for the state's health service needs~~.

Sec. 38. Minnesota Statutes 1990, section 145.926, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATION.] The commissioner of ~~state planning~~ *education* shall administer the way to grow/school readiness program, in consultation with the ~~commissioners~~ *commissioner* of human services ~~and education~~, to promote intellectual, social, emotional, and physical development and school readiness of children prebirth to age five by coordinating and improving access to community-based and neighborhood-based services that support and assist all parents in meeting the health and developmental needs of their children at the earliest possible age.

Sec. 39. Minnesota Statutes 1990, section 145.926, subdivision 4, is amended to read:

Subd. 4. [PILOT PROJECTS.] The commissioner of ~~state planning~~ *education* shall award grants for one pilot project in each of the following areas of the state:

(1) a first class city located within the metropolitan area as defined in section 473.121, subdivision 2;

(2) a second class city located within the metropolitan area as defined in section 473.121, subdivision 2;

(3) a city with a population of 50,000 or more that is located outside of the metropolitan area as defined in section 473.121, subdivision 2; and

(4) the area of the state located outside of the metropolitan area as defined in section 473.121, subdivision 2.

To the extent possible, the commissioner ~~of state planning~~ shall award grants to applicants with experience or demonstrated ability in providing comprehensive, multidisciplinary, community-based programs with objectives similar to those listed in subdivision 2, or in providing other human services or social services programs using a multidisciplinary, community-based approach.

Sec. 40. Minnesota Statutes 1990, section 145.926, subdivision 5, is amended to read:

Subd. 5. [APPLICATIONS.] Each grant application must propose a five-year program designed to accomplish the purposes of this section. The application must be submitted on forms provided by the commissioner of ~~state planning~~ *education*. The grant application must include:

(1) a description of the specific neighborhoods that will be served under the program and the name, address, and a description of each community agency or agencies with which the applicant intends to contract to provide services using grant money;

(2) a letter of intent from each community agency identified in clause (1) that indicates the agency's willingness to participate in the program and approval of the proposed program structure and components;

(3) a detailed description of the structure and components of the proposed program and an explanation of how each component will contribute to accomplishing the purposes of this section;

(4) a description of how public and private resources, including schools, health care facilities, government agencies, neighborhood organizations, and other resources, will be coordinated and made accessible to families in target neighborhoods, including letters of intent from public and private agencies indicating their willingness to cooperate with the program;

(5) a detailed, proposed budget that demonstrates the ability of the program to accomplish the purposes of this section using grant money and other available resources, including funding sources other than a grant; and

(6) a comprehensive evaluation plan for measuring the success of the program in meeting the objectives of the overall grant program and the individual grant project, including an assessment of the impact of the program in terms of at least three of the following criteria:

(i) utilization rates of community services;

(ii) availability of support systems for families;

(iii) birth weights of newborn babies;

(iv) child accident rates;

(v) utilization rates of prenatal care;

(vi) reported rates of child abuse; and

(vii) rates of health screening and evaluation.

Sec. 41. Minnesota Statutes 1990, section 145.926, subdivision 7, is amended to read:

Subd. 7. [ADVISORY COMMITTEES.] The commissioner of ~~state planning~~ *education* shall establish a program advisory committee consisting of persons knowledgeable in child development, child and family services, and the needs of people of color and high risk populations; and representatives of the commissioners of ~~state planning~~ *human services* and education. Each grantee must establish a program advisory board of 12 or more members to advise the grantee on program design, operation, and evaluation. The board must include representatives of local units of government and representatives of the project area who reflect the geographic, cultural, racial, and ethnic diversity of that community.

Sec. 42. Minnesota Statutes 1990, section 145.926, subdivision 8, is amended to read:

Subd. 8. [REPORT.] The commissioner of ~~state planning~~ *education* shall provide a biennial report to the legislature on the program administration and the activities of projects funded under this section.

Sec. 43. Minnesota Statutes 1990, section 145A.02, subdivision 16, is amended to read:

Subd. 16. [POPULATION.] "Population" means the total number of residents of the state or any city or county as established by the last federal census, by a special census taken by the United States Bureau of the Census, by the state demographer under section ~~116K.04, subdivision~~ 4 *3*, or by an estimate of city population prepared by the metropolitan council, whichever is the most recent as to the stated date of count or estimate.

Sec. 44. Minnesota Statutes 1990, section 145A.09, subdivision 6, is amended to read:

Subd. 6. [BOUNDARIES OF COMMUNITY HEALTH SERVICE AREAS.] The community health service area of a multicounty or multicity community health board must be within a region designated under sections 462.381 to 462.398, unless this condition is waived by the commissioner with the approval of the regional development commission directly involved or the metropolitan council, if appropriate. In a region without a regional development commission, the commissioner of ~~the state planning agency~~ *trade and economic development* shall act in place of the regional development commission.

Sec. 45. Minnesota Statutes 1990, section 214.141, is amended to read:

214.141 [ADVISORY COUNCIL; MEMBERSHIP.]

There is established a human services occupations advisory council to assist the commissioner of health in formulating policies and rules pursuant to section 214.13. The commissioner shall determine the council's duties and shall establish procedures for its proper functioning, including, but not

limited to, methods for selecting temporary members and methods of communicating recommendations and advice to the commissioner for consideration. The council shall consist of no more than 15 members. Thirteen members shall be appointed by the commissioner, one of whom the commissioner shall designate as chair. The members shall be selected as follows: four members shall represent currently licensed or registered human services occupations; two members shall represent human services occupations which are not currently registered; two members shall represent licensed health care facilities, which can include a health maintenance organization as defined in section 62D.02; one member shall represent the higher education coordinating board; ~~one member shall represent the state planning agency;~~ one member shall represent a third party payor to health care costs; and ~~two~~ *three* members shall be public members as defined by section 214.02.

In cases in which the council has been charged by the commissioner to evaluate an application submitted under the provisions of section 214.13, the commissioner may appoint to the council as temporary voting members, for the purpose of evaluating that application alone, one or two representatives from among the appropriate licensed or registered human services occupations or from among the state agencies that have been identified under section 214.13, subdivision 2. In determining whether a temporary voting member or members should be appointed and which human services occupations or state agencies should be represented by temporary voting members, the commissioner shall attempt to systematically involve those who would be most directly affected by a decision to credential a particular applicant group and who are not already represented on the council. The terms of temporary voting members shall not exceed 12 months. The terms of the other council members, the compensation and removal of all members, and the expiration of the council shall be as provided in section 15.059.

Sec. 46. Minnesota Statutes 1990, section 256H.25, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] By January 1, 1990, the commissioner of ~~the state planning agency~~ *health* shall convene and chair an interagency advisory committee on child care. In addition to the commissioner, members of the committee are the commissioners of each of the following agencies and departments: ~~health,~~ human services, jobs and training, public safety, education, and the higher education coordinating board. The purpose of the committee is to improve the quality and quantity of child care and the coordination of child care related activities among state agencies.

Sec. 47. Minnesota Statutes 1990, section 268.361, subdivision 3, is amended to read:

Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of ~~the state planning agency~~ *jobs and training*.

Sec. 48. Minnesota Statutes 1990, section 275.14, is amended to read:

275.14 [CENSUS.]

For the purposes of sections 275.124 to 275.16, the population of a city shall be that established by the last federal census, by a special census taken by the United States Bureau of the Census, by an estimate made by the metropolitan council, or by the state demographer made according to section ~~116K.04, subdivision~~ 4 *3*, whichever has the latest stated date of count or estimate, before July 2 of the current levy year. The population of a school district must be as certified by the department of education from the most

recent federal census.

In any year in which no federal census is taken pursuant to law in any school district affected by sections 275.124 to 275.16 a population estimate may be made and submitted to the state demographer for approval as hereinafter provided. The school board of a school district, in case it desires a population estimate, shall pass a resolution by July 1 containing a current estimate of the population of the school district and shall submit the resolution to the state demographer. The resolution shall describe the criteria on which the estimate is based and shall be in a form and accompanied by the data prescribed by the state demographer. The state demographer shall determine whether or not the criteria and process described in the resolution provide a reasonable basis for the population estimate and shall inform the school district of that determination within 30 days of receipt of the resolution. If the state demographer determines that the criteria and process described in the resolution do not provide a reasonable basis for the population estimate, the resolution shall be of no effect. If the state demographer determines that the criteria and process do provide a reasonable basis for the population estimate, the estimate shall be treated as the population of the school district for the purposes of sections 275.124 to 275.16 until the population of the school district has been established by the next federal census or until a more current population estimate is prepared and approved as provided herein, whichever occurs first. The state demographer shall establish guidelines for acceptable population estimation criteria and processes. The state demographer shall issue advisory opinions upon request in writing to cities or school districts as to proposed criteria and processes prior to their implementation in an estimation. The advisory opinion shall be final and binding upon the demographer unless the demographer can show cause why it should not be final and binding.

In the event that a census tract employed in taking a federal or local census overlaps two or more school districts, the county auditor shall, on the basis of the best information available, allocate the population of said census tract to the school districts involved.

The term "council," as used in sections 275.124 to 275.16, means any board or body, whether composed of one or more branches, authorized to make ordinances for the government of a city within this state.

Sec. 49. Minnesota Statutes 1990, section 275.51, subdivision 6, is amended to read:

Subd. 6. [POPULATION AND HOUSEHOLD ESTIMATES.] For the purpose of determining the amount of tax that a governmental subdivision may levy in accordance with limitation established by this chapter, the population or the number of households of the governmental subdivision shall be that established by the last federal census, by a census taken pursuant to section 275.14, or by an estimate made by the metropolitan council, or by the state demographer made pursuant to section ~~116K.04, subdivision 4~~ *3*, whichever is the most recent as to the stated date of count or estimate, for the calendar year preceding the current levy year. If the area included in a governmental subdivision has increased due to annexation in the 12 months prior to the most recent population estimate for the calendar year preceding the current levy year and the adjusted levy limit base is modified under section 275.54, subdivision 3, the percentage increases in population and households determined in subdivision 3h are to be based on the change

in population and number of households in the area included in the governmental subdivision before the annexation.

Sec. 50. Minnesota Statutes 1990, section 275.54, subdivision 3, is amended to read:

Subd. 3. [ADJUSTMENTS AFTER ANNEXATION.] If the area included within the governmental subdivision is increased due to annexation in the 12 months prior to the most recent population estimate for the calendar year preceding the current levy year and the state demographer prepares a population estimate for the annexed area under section ~~116K.04, subdivision 4, paragraph (11)~~ *3*, the governmental subdivision's adjusted levy limit base under section 275.51, subdivision 3h, must be adjusted in the following manner:

(a) A percentage will be calculated equal to the percentage increase in population in the governmental subdivision due to annexation determined by dividing the population of the annexed area by the population of the governmental subdivision excluding the annexed area, using population estimates for the calendar year preceding the current levy year.

(b) The governmental subdivision's adjusted levy limit base under section 275.51, subdivision 3h, after giving effect to paragraphs (a) and (b) of subdivision 3h, but before any other paragraphs in section 275.51, subdivision 3h, shall be increased by the percentage calculated in paragraph (a) of this subdivision.

For purposes of section 275.51, subdivision 3f, the term "adjusted levy limit base" includes the adjustment made under this subdivision for the preceding year.

Sec. 51. Minnesota Statutes 1990, section 299A.30, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] (a) The assistant commissioner shall gather and make available information on demand reduction and supply reduction throughout the state, foster cooperation among drug program agencies, and assist agencies and public officials in training and other programs designed to improve the effectiveness of demand reduction and supply reduction.

(b) The assistant commissioner shall coordinate the distribution of funds received by the state of Minnesota through the federal Anti-Drug Abuse Act. ~~The assistant commissioner may obtain technical assistance from the state planning agency to perform this function.~~ The assistant commissioner shall recommend to the commissioner recipients of grants under sections 299A.33 and 299A.34, after consultation with the drug abuse prevention resource council.

(c) The assistant commissioner shall:

(1) after consultation with all drug program agencies operating in the state, develop a state drug strategy encompassing the efforts of those agencies and taking into account all money available for demand reduction and supply reduction, from any source;

(2) submit the strategy to the governor and the legislature by January 15 of each year, along with a summary of demand reduction and supply reduction during the preceding calendar year;

(3) assist appropriate professional and occupational organizations, including organizations of law enforcement officers, prosecutors, and educators,

in developing and operating informational and training programs to improve the effectiveness of demand reduction and supply reduction; and

(4) provide information and assistance to drug program agencies, both directly and by functioning as a clearinghouse for information from other drug program agencies.

Sec. 52. Minnesota Statutes 1990, section 299A.31, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; MEMBERSHIP.] A drug abuse prevention resource council consisting of ~~18~~ *17* members is established. The commissioners of public safety, education, health~~,~~ *and* human services, ~~and the state planning agency,~~ and the attorney general shall each appoint one member from among their employees. The speaker of the house of representatives and the subcommittee on committees of the senate shall each appoint a legislative member. The governor shall appoint an additional ten members who shall demonstrate knowledge in the area of drug abuse prevention, shall represent the demographic and geographic composition of the state and, to the extent possible, shall represent the following groups: parents, educators, clergy, local government, racial and ethnic minority communities, professional providers of drug abuse prevention services, volunteers in private, nonprofit drug prevention programs, and the business community. The members shall designate one of the governor's appointees as chair of the council. Compensation and removal of members are governed by section 15.059.

Sec. 53. Minnesota Statutes 1990, section 299A.40, subdivision 4, is amended to read:

Subd. 4. [ASSISTANT COMMISSIONER; ADMINISTRATION OF GRANTS.] The assistant commissioner shall develop a process for administering grants under subdivision 3. The process must be compatible with the community grant program ~~administered by the state planning agency~~ under the Drug Free Schools and Communities Act, Public Law Number 100-690. The process for administering the grants must include establishing criteria the assistant commissioner shall apply in awarding grants. The assistant commissioner shall issue requests for proposals for grants under subdivision 3. The request must be designed to obtain detailed information about the applicant and other information the assistant commissioner considers necessary to evaluate and select a grant recipient. The applicant shall submit a proposal for a grant on a form and in a manner prescribed by the assistant commissioner. The assistant commissioner shall award grants under this section so that 50 percent of the funds appropriated for the grants go to the metropolitan area comprised of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties, and 50 percent of the funds go to the area outside the metropolitan area. The process for administering the grants must also include procedures for monitoring the recipients' use of grant funds and reporting requirements for grant recipients.

Sec. 54. Minnesota Statutes 1990, section 368.01, subdivision 1a, is amended to read:

Subd. 1a. [CERTAIN OTHER TOWNS.] A town with a population of 1,000 or more that does not qualify under subdivision 1, shall have the enumerated powers upon an affirmative vote of its electors at the annual town meeting. The population must be established by the most recent federal

decennial census, special census as provided in section 368.015, or population estimate by the state demographer made according to section ~~116K.04, subdivision~~ 4 *3*, whichever has the latest stated date of count or estimate.

Sec. 55. Minnesota Statutes 1990, section 373.40, subdivision 1, is amended to read:

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

(a) "Bonds" means an obligation as defined under section 475.51.

(b) "Capital improvement" means acquisition or betterment of public lands, buildings, or other improvements within the county for the purpose of a county courthouse, administrative building, health or social service facility, correctional facility, jail, law enforcement center, hospital, morgue, library, park, and roads and bridges. An improvement must have an expected useful life of five years or more to qualify. "Capital improvement" does not include light rail transit or any activity related to it or a recreation or sports facility building (such as, but not limited to, a gymnasium, ice arena, racquet sports facility, swimming pool, exercise room or health spa), unless the building is part of an outdoor park facility and is incidental to the primary purpose of outdoor recreation.

(c) "Commissioner" means the commissioner of trade and economic development.

(d) "Metropolitan county" means a county located in the seven-county metropolitan area as defined in section 473.121 or a county with a population of 90,000 or more.

(e) "Population" means the population established by the most recent of the following (determined as of the date the resolution authorizing the bonds was adopted):

(1) the federal decennial census,

(2) a special census conducted under contract by the United States Bureau of the Census, or

(3) a population estimate made either by the metropolitan council or by the state demographer under section ~~116K.04, subdivision 4, clause (10)~~ *3*.

(f) "Tax capacity" means total taxable market value, but does not include captured market value.

Sec. 56. Minnesota Statutes 1990, section 402.045, is amended to read:

402.045 [FUNCTION OF COMMISSIONER OF ~~STATE PLANNING AGENCY~~ *HUMAN SERVICES*.]

The commissioner of ~~state planning agency shall have~~ *human services has* authority for human services development. The commissioner may appoint professional and clerical staff as the commissioner deems necessary. The commissioner ~~of state planning agency~~ shall:

(1) Support the development of human services boards and provide technical assistance to the boards;

(2) Disburse and monitor grants as may be available to assist human services board development;

(3) Receive and coordinate the review of annual human services board plans;

(4) Cooperate with other state agencies in assisting local human services integration projects; and

(5) Maintain a file on reports, policies and documents pertaining to human services boards.

Sec. 57. Minnesota Statutes 1990, section 462.384, subdivision 7, is amended to read:

Subd. 7. "Commissioner" means the commissioner of ~~state planning agency exercising the authority conferred by sections 116K.01 to 116K.13~~ *trade and economic development*.

Sec. 58. Minnesota Statutes 1990, section 462.396, subdivision 2, is amended to read:

Subd. 2. On or before August 20 each year, the commission shall submit its proposed budget for the ensuing calendar year showing anticipated receipts, disbursements and ad valorem tax levy with a written notice of the time and place of the public hearing on the proposed budget to each county auditor and municipal clerk within the region and those town clerks who in advance have requested a copy of the budget and notice of public hearing. On or before October 1 each year, the commission shall adopt, after a public hearing held not later than September 20, a budget covering its anticipated receipts and disbursements for the ensuing year and shall decide upon the total amount necessary to be raised from ad valorem tax levies to meet its budget. After adoption of the budget and no later than October 1, the secretary of the commission shall certify to the auditor of each county within the region the county share of the tax, which shall be an amount bearing the same proportion to the total levy agreed on by the commission as the net tax capacity of the county bears to the net tax capacity of the region. For taxes levied in 1990 and thereafter, the maximum amounts of levies made for the purposes of sections 462.381 to 462.398 are the following amounts, less the sum of regional planning grants from the ~~state planning agency~~ *commissioner* to that region: for Region 1, $180,337; for Region 2, $150,000; for Region 3, $353,110; for Region 5, $195,865; for Region 6E, $197,177; for Region 6W, $150,000; for Region 7E, $158,653; for Region 8, $206,107; for Region 9, $343,572. The auditor of each county in the region shall add the amount of any levy made by the commission within the limits imposed by this subdivision to other tax levies of the county for collection by the county treasurer with other taxes. When collected the county treasurer shall make settlement of the taxes with the commission in the same manner as other taxes are distributed to political subdivisions.

Sec. 59. Minnesota Statutes 1990, section 466A.05, subdivision 1, is amended to read:

Subdivision 1. [PAYMENT OF STATE MONEY.] Upon receiving from a city the certification that a community resources program has been adopted or modified, the commissioner of ~~state planning~~ *trade and economic development* shall, within 30 days after receiving the certification, pay to the city the amount of state money identified as necessary to implement the community resources program. State money may be paid to the city only to the extent that the appropriation limit for the city specified in subdivision 2 is not exceeded.

Sec. 60. Minnesota Statutes 1990, section 469.203, subdivision 4, is amended to read:

Subd. 4. [CITY APPROVAL OF PROGRAM.] (a) Before adoption of a revitalization program under paragraph (b), the city must submit a preliminary program to the commissioner, the ~~state planning agency~~ *commissioner of trade and economic development*, and the Minnesota housing finance agency for their comments. The city may not adopt the revitalization program until comments have been received from the state agencies or 30 days have elapsed without response after the program was sent to them. Comments received by the city from the state agencies within the 30-day period must be responded to in writing by the city before adoption of the program by the city.

(b) The city may adopt a revitalization program only after holding a public hearing after the program has been prepared. Notice of the hearing must be provided in a newspaper of general circulation in the city and in the most widely circulated community newspaper in the targeted neighborhoods not less than ten days nor more than 30 days before the date of the hearing.

(c) A certification by the city that a revitalization program has been approved by the city council for the targeted neighborhood must be provided to the commissioner together with a copy of the program. A copy of the program must also be provided to the Minnesota housing finance agency and the ~~state planning agency~~ *commissioner of trade and economic development*.

(d) A revitalization program for the city may be modified at any time by the city council after a public hearing, notice of which is published in a newspaper of general circulation in the city and in the targeted neighborhood at least ten days nor more than 30 days before the date of the hearing. If the city council determines that the proposed modification is a significant modification to the program originally certified under paragraph (c), the city council shall implement the revitalization program approval and certification process of this subdivision for the proposed modification.

Sec. 61. Minnesota Statutes 1990, section 469.207, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL FINANCIAL AUDIT.] In 1989 and subsequent years, at the end of each calendar year, the legislative auditor shall conduct a financial audit to review the spending of state money under sections 469.201 to 469.207. Before spending state money to implement a revitalization program, the city must consult with the legislative auditor to determine appropriate accounting methods and principles that will assist the legislative auditor in conducting its financial audit. The results of the financial audit must be submitted to the legislative audit commission, the commissioner, ~~the state planning agency,~~ and the Minnesota housing finance agency.

Sec. 62. Minnesota Statutes 1990, section 469.207, subdivision 2, is amended to read:

Subd. 2. [ANNUAL REPORT.] A city that begins to implement a revitalization program in a calendar year must, by March 1 of the succeeding calendar year, provide a detailed report on the revitalization program or programs being implemented in the city. The report must describe the status of the program implementation and analyze whether the intended outcomes identified in section 469.203, subdivision 1, clause (4), are being achieved.

The report must include at least the following:

(1) the number of housing units, including lost units, removed, created, lost, replaced, relocated, and assisted as a result of the program. The level of rent of the units and the income of the households affected must be included in the report;

(2) the number and type of commercial establishments removed, created, and assisted as a result of a revitalization program. The report must include information regarding the number of new jobs created by category, whether the jobs are full-time or part-time, and the salary or wage levels of both new and expanded jobs in the affected commercial establishments;

(3) a description of a statement of the cost of the public improvement projects that are part of the program and the number of jobs created for each $20,000 of money spent on commercial projects and applicable public improvement projects;

(4) the increase in the tax capacity for the city as a result of the assistance to commercial and housing assistance; and

(5) the amount of private investment that is a result of the use of public money in a targeted neighborhood.

The report must be submitted to the commissioner, the Minnesota housing finance agency, ~~the state planning agency,~~ and the legislative audit commission, and must be available to the public.

Sec. 63. Minnesota Statutes 1990, section 473.156, subdivision 1, is amended to read:

Subdivision 1. [PLAN COMPONENTS.] The metropolitan council shall develop a short-term and long-term plan for existing and expected water use and supply in the metropolitan area. The plan shall be submitted to and reviewed by ~~the state planning agency and~~ the commissioner of natural resources for consistency with the statewide drought plan under section 103G.293. At a minimum, the plans must:

(1) update the data and information on water supply and use within the metropolitan area;

(2) identify alternative courses of action, including water conservation initiatives and economic alternatives, in case of drought conditions;

(3) recommend approaches to resolving problems that may develop because of water use and supply with consideration given to problems that occur outside of the metropolitan area, but which have an effect within the area; and

(4) be consistent with the statewide drought plan under section 103G.293.

Sec. 64. Minnesota Statutes 1990, section 477A.011, subdivision 3, is amended to read:

Subd. 3. [POPULATION.] Population means the population established by the most recent federal census, by a special census conducted under contract with the United States Bureau of the Census, by a population estimate made by the metropolitan council, or by a population estimate of the state demographer made pursuant to section ~~116K.04, subdivision 4, clause (10)~~ *3*, whichever is the most recent as to the stated date of the count or estimate for the preceding calendar year. The term "per capita" refers to population as defined by this subdivision.

Sec. 65. Minnesota Statutes 1990, section 477A.011, subdivision 3a, is amended to read:

Subd. 3a. [NUMBER OF HOUSEHOLDS.] Number of households means the number of households established by the most recent federal census, by a special census conducted under contract with the United States bureau of the census, by an estimate made by the metropolitan council, or by an estimate of the state demographer made pursuant to section ~~116K.04, subdivision~~ 4 *3*, whichever is the most recent as to the stated date of the count or estimate for the preceding calendar year.

Sec. 66. Minnesota Statutes 1990, section 477A.014, subdivision 4, is amended to read:

Subd. 4. The ~~commissioner of state~~ *director of the office of strategic and long-range* planning shall annually bill the commissioner of revenue for one-half of the costs incurred by the state ~~planning agency~~ *demographer* in the preparation of materials required by section ~~116K.04, subdivision 4, clause (10)~~ *3*. The commissioner of revenue shall deduct these amounts from the next payments to be made to appropriate local units of government. Amounts deducted must be credited to the general fund.

Sec. 67. Minnesota Statutes 1990, section 504.34, subdivision 5, is amended to read:

Subd. 5. [NOTICE; REQUEST FOR COMMENTS.] A government unit subject to this section must provide for public input in preparing the annual housing impact report, including a public comment period and a public hearing. The government unit must publish notice of its draft annual housing impact report in a newspaper of general circulation in the city by the deadline for completion of the draft annual housing impact report. The notice must include a request for comments on the draft annual housing impact report within the 30 days following the notice, and the date, time, and location of the public hearing on the draft annual housing impact report, to be held within 15 to 30 days following the date of notice. Copies of the notice must be sent to the neighborhood and citizen participation organizations, district planning councils, housing referral and information services, shelters, homeless and tenants advocacy groups, and legal aid offices in the city where the displaced low-income housing was located. Copies of the notice and the draft annual housing impact report must be submitted to ~~the state planning agency and~~ the Minnesota housing finance agency.

Sec. 68. Minnesota Statutes 1990, section 504.34, subdivision 6, is amended to read:

Subd. 6. [FINAL ANNUAL HOUSING IMPACT REPORT.] In preparing and approving a final annual housing impact report, a government unit subject to this section must consider comments received during the comment period and at the public hearing on the draft report. The final report shall be prepared within 30 days following the deadline for receipt of comments on the draft annual housing impact report. The government unit shall publish notice of the final annual housing impact report in a newspaper of general circulation in the city. Copies of the notice must be sent to neighborhood and citizen participation organizations, district planning councils, housing referral and information services, shelters, homeless and tenants advocacy groups, and legal aid offices in the city where the displaced low-income housing was located. Copies of the notice and the draft annual housing

impact report must be submitted to ~~the state planning agency and~~ the Minnesota housing finance agency.

Sec. 69. [REPEALER.]

Minnesota Statutes 1990, sections 40A.02, subdivision 2; 40A.08; 116K.01; 116K.02; 116K.03; 116K.04; 116K.05; 116K.06; 116K.07; 116K.08; 116K.09; 116K.10; 116K.11; 116K.12; 116K.13; 116K.14; 144.861; and 144.874, subdivision 7, are repealed.

ARTICLE 3

PUBLIC DEFENSE

Section 1. Minnesota Statutes 1990, section 590.05, is amended to read:

590.05 [INDIGENT PETITIONERS.]

A person financially unable to obtain counsel who desires to pursue the remedy provided in section 590.01 ~~is entitled to be represented~~ *may apply for representation* by the state public defender. The state public defender shall ~~be appointed to~~ represent such person ~~pursuant to~~ *under* the applicable provisions of ~~Minnesota Statutes 1965,~~ sections 611.14 to 611.29, *if the person has not already had a direct appeal of the conviction. The state public defender may represent, without charge, all other persons pursuing a postconviction remedy under section 590.01, who are financially unable to obtain counsel.*

Sec. 2. Minnesota Statutes 1990, section 611.14, is amended to read:

611.14 [RIGHT TO REPRESENTATION BY PUBLIC DEFENDER.]

The following persons who are financially unable to obtain counsel~~, shall be~~ *are* entitled to be represented by a public defender:

~~(a)~~ *(1)* a person charged with a felony or gross misdemeanor, including a person charged ~~pursuant to~~ *under* sections 629.01 to 629.29;

~~(b)~~ *(2)* a person appealing from a conviction of a felony or gross misdemeanor, or a person convicted of a felony or gross misdemeanor who is pursuing a postconviction proceeding~~, after the time for appeal from the judgment has expired~~ *and who has not already had a direct appeal of the conviction*;

~~(c)~~ *(3)* a person who is entitled to be represented by counsel ~~pursuant to the provisions of~~ *under* section 609.14, subdivision 2;

~~(d)~~ *(4)* a minor who is entitled to be represented by counsel ~~pursuant to the provisions of~~ *under* section 260.155, subdivision 2, if the judge of the juvenile court concerned has requested and received the approval of a majority of the district court judges of the judicial district to utilize the services of the public defender in such cases, and approval of the compensation on a monthly, hourly, or per diem basis to be paid for such services ~~pursuant to~~ *under* section 260.251, subdivision 2, clause (e); or

~~(e)~~ *(5)* a person, entitled by law to be represented by counsel, charged with an offense within the trial jurisdiction of a ~~municipal, county, or probate~~ *district* court, if the trial judge or a majority of the trial judges of the court concerned have requested and received approval of a majority of the district court judges of the judicial district to utilize the services of the public defender in such cases and approval of the compensation on a monthly, hourly, or per diem basis to be paid for such services by the county ~~or~~

~~municipality~~ within the court's jurisdiction.

Sec. 3. Minnesota Statutes 1990, section 611.17, is amended to read:

611.17 [FINANCIAL INQUIRY; STATEMENTS.]

(a) Each judicial district must screen requests under paragraph (b).

(b) Upon a request for the appointment of counsel, the court shall make appropriate inquiry into the financial circumstances of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, source or sources of income, and any other information required by the court. The state public defender shall furnish appropriate forms for the financial statements. The information contained in the statement shall be confidential and for the exclusive use of the court except for any prosecution under section 609.48. A refusal to execute the financial statement *or produce financial records* constitutes a waiver of the right to the appointment of a public defender.

Sec. 4. Minnesota Statutes 1990, section 611.18, is amended to read:

611.18 [APPOINTMENT OF PUBLIC DEFENDER.]

If it appears to a court that a person requesting the appointment of counsel satisfies the requirements of this chapter, the court shall order the appropriate public defender to represent the person at all further stages of the proceeding through appeal, if any. For ~~those persons~~ *a person* appealing from a conviction, or *a person* pursuing a post conviction proceeding~~, after the time for appeal has expired~~ *and who has not already had a direct appeal of the conviction*, the state public defender shall be appointed. For ~~all other persons~~ *a person* covered by section 611.14, *clause (1)*, a district public defender shall be appointed to represent ~~them~~ *that person*. If (a) conflicting interests exist, (b) the district public defender for any other reason is unable to act, or (c) the interests of justice require, the state public defender may be ordered to represent a person. *When the state public defender is directed by a court to represent a defendant or other person, the state public defender may assign the representation to any district public defender.* If at any stage of the proceedings, including an appeal, the court finds that the defendant is financially unable to pay counsel whom the defendant had retained, the court may appoint the appropriate public defender to represent the defendant, as provided in this section. Prior to any court appearance, a public defender may represent a person accused of violating the law, who appears to be financially unable to obtain counsel, and shall continue to represent the person unless it is subsequently determined that the person is financially able to obtain counsel. The representation may be made available at the discretion of the public defender, upon the request of the person or someone on the person's behalf. Any law enforcement officer may notify the public defender of the arrest of any such person.

Sec. 5. Minnesota Statutes 1990, section 611.20, is amended to read:

611.20 [SUBSEQUENT ABILITY TO PAY COUNSEL.]

If at any time after the state public defender or a district public defender has been directed to act, the court having jurisdiction in the matter is satisfied that the defendant or other person is financially able to obtain counsel or to make partial payment for the representation, the court may terminate the appointment of the public defender, unless the person so represented is willing to pay therefor. If a public defender continues the representation, the court shall direct payment for such representation as the interests of

justice may dictate. Any payments directed by the court shall be recorded by the court administrator, who shall transfer the payments to the governmental unit responsible for the costs of the public defender. *The judicial district may investigate the financial status of a defendant or other person for whom a public defender has been appointed and may act to collect payments directed by the court.*

If at any time after appointment a public defender should have reason to believe that a defendant is financially able to obtain counsel or to make partial payment for counsel, it shall be the public defender's duty to so advise the court so that appropriate action may be taken.

Sec. 6. Minnesota Statutes 1990, section 611.215, subdivision 1, is amended to read:

Subdivision 1. [STRUCTURE; MEMBERSHIP.] (a) The state board of public defense is a part of, but is not subject to the administrative control of, the judicial branch of government. The state board of public defense shall consist of seven members including:

(1) ~~a district court judge appointed by the supreme court;~~

~~(2)~~ four attorneys admitted to the practice of law, well acquainted with the defense of persons accused of crime, but not employed as prosecutors, appointed by the supreme court; and

~~(3) two~~ *(2) three* public members appointed by the governor.

After the expiration of the terms of persons appointed to the board before March 1, 1991, the appointing authorities may not appoint a person who is a judge to be a member of the state board of public defense, other than as a member of the ad hoc board of public defense.

(b) All members shall demonstrate an interest in maintaining a high quality, independent defense system for those who are unable to obtain adequate representation. *Appointments to the board shall include qualified women and members of minority groups. At least three members of the board shall be from judicial districts other than the first, second, fourth, and tenth judicial districts.* The terms, compensation, and removal of members shall be as provided in section 15.0575. The chair shall be elected by the members from among the membership for a term of two years.

(c) In addition, the state board of public defense shall consist of ~~an 11-member~~ *a nine-member* ad hoc board when considering the appointment of district public defenders under section 611.26, subdivision 2. The terms of *chief* district public defenders currently serving shall terminate in accordance with the staggered term schedule set forth in section 611.26, subdivision 2.

Sec. 7. Minnesota Statutes 1990, section 611.215, subdivision 1a, is amended to read:

Subd. 1a. [CHIEF ADMINISTRATOR.] The ~~chair of the state board of public defense may, subject to the approval of the board,~~ *state public defender shall* appoint a chief administrator who must be chosen solely on the basis of training, experience, and other qualifications, and who will serve at the pleasure of the ~~board~~ *state public defender*. The chief administrator need not be licensed to practice law. The *chief* administrator shall attend all meetings of the board, but may not vote, and shall:

(1) enforce all resolutions, rules, regulations, or orders of the board;

(2) ~~appoint and remove all subordinate officers and regular employees of the board upon the basis of merit and fitness, subject to the provisions of a personnel code adopted by the board;~~

~~(3)~~ present to the board *and the state public defender* plans, studies, and reports prepared for ~~board~~ *the board's and the state public defender's* purposes and recommend to the board *and the state public defender* for adoption measures necessary to enforce or carry out the powers and duties of the board *and the state public defender*, or to efficiently administer the affairs of the board *and the state public defender*;

~~(4)~~ *(3)* keep the board fully advised as to its financial condition, and prepare and submit to the board its annual budget and other financial information as it may request;

~~(5)~~ *(4)* recommend to the board the adoption of rules and regulations necessary for the efficient operation of the board and its functions; and

~~(6)~~ *(5)* perform other duties prescribed by the board *and the state public defender*.

Sec. 8. Minnesota Statutes 1990, section 611.215, subdivision 2, is amended to read:

Subd. 2. [DUTIES AND RESPONSIBILITIES.] (a) ~~The state board of public defense shall appoint the state public defender, who serves full time for a term of four years. The board shall prepare an annual report to the governor, the legislature, and the supreme court on the operation of the state public defender's office, district defender systems, and public defense corporations.~~ The board shall approve and recommend to the legislature a budget for the board, the office of state public defender, the judicial district public defenders, and the public defense corporations.

(b) The board shall establish procedures for distribution of state funding under this chapter to the state and district public defenders~~, including Hennepin and Ramsey county public defenders,~~ and to the public defense corporations.

~~(b)~~ *(c)* The *state public defender with the approval of the* board shall establish standards for the offices of the state and district public defenders and for the conduct of all appointed counsel systems. The standards must include, but are not limited to:

(1) standards needed to maintain and operate an office of public defender including requirements regarding the qualifications, training, and size of the legal and supporting staff for a public defender or appointed counsel system;

(2) standards for public defender caseloads;

(3) standards and procedures for the eligibility for appointment, assessment, and collection of the costs for legal representation provided by public defenders or appointed counsel;

(4) standards for contracts between a board of county commissioners and a county public defender system for the legal representation of indigent persons;

(5) standards prescribing minimum qualifications of counsel appointed under the board's authority or by the courts; and

(6) standards ensuring the ~~economical~~ *independent, competent,* and efficient ~~delivery of legal services, including alternatives to the present geographic boundaries of the public defender districts~~ *representation of clients whose cases present conflicts of interest, in both the trial and appellate courts.*

(d) The board may require the reporting of statistical data, budget information, and other cost factors by the state and district public defenders and appointed counsel systems.

~~The state board of public defense shall design and conduct programs for the training of all state and district public defenders, appointed counsel, and attorneys for public defense corporations funded in section 611.26.~~

Sec. 9. Minnesota Statutes 1990, section 611.23, is amended to read:

611.23 [OFFICE OF STATE PUBLIC DEFENDER; APPOINTMENT; SALARY.]

The ~~office of~~ state public defender is ~~under the supervision of~~ *responsible to* the state board of public defense. The state public defender shall be appointed by the state board of public defense for a term of four years, except as otherwise provided in this section, and until a successor is appointed and qualified. The state public defender shall be a full-time qualified attorney, licensed to practice law in this state, serve in the unclassified service of the state, and be removed only for cause by the appointing authority. Vacancies in the office shall be filled by the appointing authority for the unexpired term. The salary of the state public defender shall be fixed by the state board of public defense but must not exceed the salary of the chief deputy attorney general. Terms of the state public defender shall commence on ~~January~~ *July* 1. The state public defender shall devote full time to the performance of duties and shall not engage in the general practice of law.

Sec. 10. Minnesota Statutes 1990, section 611.24, is amended to read:

611.24 [ORGANIZATION OF OFFICE; ASSISTANTS.]

The state public defender shall supervise the operation, activities, policies and procedures of the state public defender system. The state public defender~~, subject to the limitations imposed by, and the supervision of, the state board of public defense, may~~ *shall* employ or retain assistant state public defenders, *a chief administrator, a deputy state public defender in charge of appellate services,* and other personnel as may be necessary to discharge the ~~function~~ *functions* of the office. An assistant *state* public defender shall be a qualified attorney, licensed to practice law in this state, serve in the unclassified service of the state if employed, and serve at the pleasure of the appointing authority at a salary or retainer fee not to exceed reasonable compensation for comparable services performed for other governmental agencies or departments. Retained or part-time employed assistant state public defenders may engage in the general practice of law.

Sec. 11. Minnesota Statutes 1990, section 611.25, subdivision 1, is amended to read:

Subdivision 1. [REPRESENTATION.] The state public defender shall represent, without charge, a defendant or other person appealing from a conviction ~~or pursuing a postconviction proceeding after the time for appeal has expired when the state public defender is directed to do so by a judge of the district court, of the court of appeals or of the supreme court~~ *of a felony or gross misdemeanor. The state public defender shall represent, without*

charge, a person convicted of a felony or gross misdemeanor who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction. The state public defender may represent, without charge, all other persons pursuing a postconviction remedy under section 590.01, who are financially unable to obtain counsel. The state public defender shall represent any other person, who is financially unable to obtain counsel, when directed to do so by the supreme court or the court of appeals, except that the state public defender shall not represent a person in any action or proceeding in which a party is seeking a monetary judgment, recovery or award. When requested by a district public defender or appointed counsel, the state public defender may assist the district public defender, appointed counsel, or an organization designated in section 611.216 in the performance of duties, including trial representation in matters involving legal conflicts of interest or other special circumstances, and assistance with legal research and brief preparation. When the state public defender is directed by a court to represent a defendant or other person, the state public defender may~~, with the court's approval,~~ assign the representation to any district public defender.

Sec. 12. Minnesota Statutes 1990, section 611.25, is amended by adding a subdivision to read:

Subd. 3. [DUTIES.] *The state public defender shall prepare an annual report to the board and a report to the governor, the legislature, and the supreme court on the operation of the state public defender's office, district defender systems, and public defense corporations. The state public defender may require the reporting of statistical data, budget information, and other cost factors by the chief district public defenders and appointed counsel systems. The state public defender shall design and conduct programs for the training of all state and district public defenders, appointed counsel, and attorneys for public defense corporations funded under section 611.26. The state public defender shall establish policies and procedures to administer the district public defender system, consistent with standards adopted by the state board of public defense.*

Sec. 13. Minnesota Statutes 1990, section 611.26, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT; TERMS.] The state board of public defense shall appoint a *chief* district public defender *for each judicial district*. When appointing a *chief* district public defender, the state board of public defense membership shall be increased to include two ~~judges~~ *residents* of the district ~~and two county commissioners of the counties within~~ *appointed by the chief judge of* the district *to reflect the characteristics of the population served by the public defender in that district*. The additional members shall serve only in the capacity of selecting the district public defender. ~~The judges within the district shall elect their two ad hoc members. The two county commissioners within the district shall be selected by the county boards of the counties within the district.~~ The ad hoc state board of public defense shall appoint a *chief* district public defender only after requesting and giving reasonable time to receive any recommendations from the public, the local bar association, the judges of the district, and the county commissioners within the district. Each *chief* district public defender shall be a qualified attorney, licensed to practice law in this state. The *chief* district public defender shall be appointed for a term of four years, beginning ~~November~~ *January* 1, pursuant to the following staggered term schedule: (1) ~~in 1987, the third and eighth districts; (2) in 1988, the first and tenth districts; (3) in~~

~~1989, the fifth and ninth districts; (4) in 1990, the sixth and seventh districts; (5)~~ in ~~1991~~ *1992*, the second~~, fourth,~~ and eighth districts; ~~and (6)~~ *(2)* in ~~1992~~ *1993*, the first, third, *fourth*, and tenth districts; *(3) in 1994, the fifth and ninth districts; and (4) in 1995, the sixth and seventh districts.* The *chief* district public defenders shall serve for ~~staggered~~ four-year terms and may be removed for cause upon the order of the state board of public defense. Vacancies in the office shall be filled by the appointing authority for the unexpired term.

Sec. 14. Minnesota Statutes 1990, section 611.26, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION.] *(a)* The compensation of the *chief* district public defender shall be set by the board of public defense. The compensation of each assistant district public defender shall be set by the *chief* district public defender with the approval of the board of public defense. The compensation for *chief* district public defenders may not exceed the prevailing compensation for county attorneys within the district, and the compensation for assistant district public defenders may not exceed the prevailing compensation for assistant county attorneys within the district. To assist the board of public defense in determining prevailing compensation under this subdivision, counties shall provide to the board information on the compensation of county attorneys, including salaries and benefits, rent, secretarial staff, and other pertinent budget data. For purposes of this subdivision, compensation means salaries, cash payments, and employee benefits including paid time off and group insurance benefits, and other direct and indirect items of compensation including the value of office space provided by the employer.

(b) This subdivision does not limit the rights of public defenders to collectively bargain with their employers.

Sec. 15. Minnesota Statutes 1990, section 611.26, is amended by adding a subdivision to read:

Subd. 3a. (a) Notwithstanding subdivision 3 or any other law to the contrary, compensation and economic benefit increases for chief district public defenders and assistant district public defenders, who are full-time county employees, shall be paid out of the budget for that judicial district public defender's office.

(b) Those budgets for district public defender services under the jurisdiction of the state board of public defense shall be eligible for adjustments to their base budgets in the same manner as other state agencies. In making biennial budget base adjustments, the commissioner of finance shall consider the budgets for district public defender services, as allocated by the state board of public defense, in the same manner as other state agencies.

Sec. 16. Minnesota Statutes 1990, section 611.26, subdivision 4, is amended to read:

Subd. 4. [ASSISTANT PUBLIC DEFENDERS.] A *chief* district public defender shall appoint assistants who are qualified attorneys licensed to practice law in this state and other staff as the *chief* district public defender finds prudent and necessary subject to the standards adopted by the state ~~board of~~ public ~~defense~~ *defender*. Assistant district public defenders must be appointed to ensure broad geographic representation and caseload distribution within the district. Each assistant district public defender serves at the pleasure of the *chief* district public defender.

Sec. 17. Minnesota Statutes 1990, section 611.26, subdivision 6, is amended to read:

Subd. 6. [PERSONS DEFENDED.] The district public defender shall represent, without charge, a defendant charged with a felony or a gross misdemeanor when so directed by the district court. *In the second, third, fourth, sixth, and eighth districts only, the district public defender shall also represent a defendant charged with a misdemeanor when so directed by the district court and shall represent a minor in the juvenile court when so directed by the juvenile court.*

Sec. 18. Minnesota Statutes 1990, section 611.26, subdivision 7, is amended to read:

Subd. 7. [OTHER EMPLOYMENT.] *Chief* district public defenders and assistant district public defenders may engage in the general practice of law where not employed on a full time basis.

Sec. 19. Minnesota Statutes 1990, section 611.26, is amended by adding a subdivision to read:

Subd. 9. [INSURANCE.] *Notwithstanding any other law to the contrary, district public defenders and assistant district public defenders, and their employees and their dependents, may elect to enroll in the appropriate life insurance, hospital, medical and dental benefits, and optional coverages of their respective host county, as designated by the state board of public defense under section 611.27, subdivision 2, at the time, in the manner, and under conditions of eligibility as established by the host county for its employees. The host county must provide for payroll deductions to be made in the same manner and under the same conditions as provided for an eligible county employee and the employee's dependents. Nothing in this subdivision obligates the state or county to payments in the absence of an appropriation for those purposes.*

Sec. 20. Minnesota Statutes 1990, section 611.26, is amended by adding a subdivision to read:

Subd. 10. [SERVICES.] *The chief district public defender is responsible for the administration of public defender services in the district, consistent with standards adopted by the state board of public defense and the policies and procedures adopted by the state public defender.*

Sec. 21. Minnesota Statutes 1990, section 611.27, subdivision 1, is amended to read:

Subdivision 1. (a) The total compensation and expenses, including office equipment and supplies, of the district public defender are to be paid by the county or counties comprising the judicial district.

(b) A district public defender shall annually submit a comprehensive budget to the state board of public defense. The budget shall be in compliance with standards and forms required by the board and must, at a minimum, include detailed substantiation as to all revenues and expenditures. The district public defender shall, at times and in the form required by the board, submit reports to the board concerning its operations, including the number of cases handled and funds expended for these services.

Within ten days after an assistant district public defender is appointed, the district public defender shall certify to the state board of public defense the compensation that has been recommended for the assistant.

(c) The state board of public defense shall transmit the proposed budget of each district public defender to the respective district court administrators and county budget officers for comment before the board's final approval of the budget. The board shall determine and certify to the respective county boards a final comprehensive budget for the office of the district public defender that includes all expenses. After the board determines the allocation of the state funds authorized pursuant to paragraph (e), the board shall apportion the expenses of the district public defenders among the several counties and each county shall pay its share in monthly installments. The county share is the proportion of the total expenses that the population in the county bears to the total population in the district as determined by the last federal census. If the district public defender or an assistant district public defender is temporarily transferred to a county not situated in that public defender's judicial district, said county shall pay the proportionate part of that public defender's expenses for the services performed in said county.

(d) Reimbursement for actual and necessary travel expenses in the conduct of the office of the district public defender shall be charged to either (1) the general expenses of the office, (2) the general expenses of the district for which the expenses were incurred if outside the district, or (3) the office of the state public defender if the services were rendered for that office.

(e) Money appropriated to the state board of public defense for the board's administration, for the state public defender, for the judicial district public defenders, and for the public defense corporations shall be expended as determined by the board. In distributing funds to district public defenders, the board shall consider *the geographic distribution of public defenders, the equity of compensation among the judicial districts, public defender caseloads, and* the results of the weighted case load study.

Sec. 22. Minnesota Statutes 1990, section 611.27, subdivision 4, is amended to read:

Subd. 4. [COUNTY PORTION OF COSTS.] That portion of subdivision 1 directing counties to pay the costs of public defense service shall not be in effect between July 1, ~~1990~~ *1991*, and July 1, ~~1991~~ *1993*. This subdivision only relates to costs associated with felony and gross misdemeanor public defense services ~~and~~ *in* all *judicial districts and to juvenile and misdemeanor* public defense services in the second, *third*, fourth, *sixth*, and eighth judicial districts.

Sec. 23. Minnesota Statutes 1990, section 611.27, is amended by adding a subdivision to read:

Subd. 5. [DISTRICT PUBLIC DEFENDER BUDGETS.] *The board of public defense may only fund those items and services in district public defender budgets which were included in the original budgets of district public defender offices as of January 1, 1990. All other public defense related costs remain the responsibility of the counties unless the state specifically appropriates for these. The cost of additional state funding of these items and services must be offset by reductions in local aids in the same manner as the original state takeover.*

Sec. 24. Minnesota Statutes 1990, section 611.27, is amended by adding a subdivision to read:

Subd. 6. [DISTRICT PUBLIC DEFENDERS; REPORTING CASES.] *The state board of public defense shall adopt and implement a uniform system*

for reporting of hours and cases by district public defenders. District public defenders shall provide whatever assistance the board requires in order to implement this reporting system.

Sec. 25. Minnesota Statutes 1990, section 611.27, is amended by adding a subdivision to read:

Subd. 7. [PUBLIC DEFENDER SERVICES; RESPONSIBILITY.] *Notwithstanding subdivision 4, the state's obligation for the costs of the public defender services is limited to the appropriations made to the board of public defense. Services and expenses beyond those appropriated for shall be the responsibility of the counties within a judicial district. Expenses shall be distributed among the counties in proportion to their populations.*

Sec. 26. Laws 1989, chapter 335, article 1, section 7, is amended to read:

Sec. 7. BOARD OF PUBLIC DEFENSE	2,665,000	19,485,000

Approved Complement - 31

During the biennium, legal assistance to Minnesota prisoners shall serve the civil legal needs of persons confined to state institutions.

None of this appropriation shall be used to pay for lawsuits against public agencies or public officials to change social or public policy.

$100,000 the first year is a one-time appropriation for the costs of the weighted case load study of the public defender system and public defense services.

$16,910,000 the second year is for the costs of ~~felony and gross misdemeanor~~ *district* public defense ~~services statewide and all public defense costs in the second and fourth judicial districts~~.

Takeover of the costs of public defense services shall be considered a part of the base level funding for the 1992-1993 biennium. Nothing in this act shall be construed to build into the base level for the 1992-1993 biennium any additional costs of the public defense system which have not been appropriated in this act.

Public defense obligations incurred by counties before July 1, 1990, remain the obligation of the counties and must be paid by the counties based on their population within the judicial district.

Sec. 27. Laws 1989, chapter 335, article 3, section 44, as amended by Laws 1990, chapter 604, article 9, section 13, is amended to read:

Sec. 44. [APPLICATION.]

Sections 45 to 54, except the parts of section 54, that by their terms have broader application, apply only in the eighth judicial district for the period from January 1, 1990, to December 31, ~~1991~~ *1993*.

Those parts of section 54, having broader application, apply statewide for the period from July 1, 1989, to December 31, ~~1991~~ *1993*.

Sec. 28. [TRANSFER OF POSITIONS TO OFFICE OF THE STATE PUBLIC DEFENDER.]

The employees of the state board of public defense are transferred to the office of the state public defender.

Sec. 29. [TERM; STATE PUBLIC DEFENDER.]

The term of the state public defender serving on May 15, 1991, ends three years from July 1, 1991.

Sec. 30. [REPEALER.]

Minnesota Statutes 1990, sections 383B.63, subdivision 1; 611.215, subdivision 4; 611.26, subdivision 1; 611.261; 611.28; 611.29; and Laws 1989, chapter 335, article 3, section 38, are repealed.

Sec. 31. [EFFECTIVE DATE.]

Sections 1, 2, 4, 11, 17, 19, and 29 are effective on the day following final enactment.

ARTICLE 4

PENSIONS AND RETIREMENT

Section 1. Minnesota Statutes 1990, section 275.125, subdivision 6a, is amended to read:

Subd. 6a. [MINNEAPOLIS CIVIL SERVICE RETIREMENT LEVY.] (1) In addition to the excess levy authorized in subdivision 6, in 1976 any district within a city of the first class which was authorized in 1975 to make a retirement levy under Minnesota Statutes 1974, section 275.127 and chapter 422A may levy an amount per pupil unit which is equal to the amount levied in 1975 payable 1976, under Minnesota Statutes 1974, section 275.127 and chapter 422A, divided by the number of pupil units in the district in 1976-1977.

(2) In 1979 and each year thereafter, any district which qualified in 1976 for an extra levy under clause (1) shall be allowed to levy the same amount as levied for retirement in 1978 under this clause reduced each year by ten percent of the difference between the amount levied for retirement in 1971 under Minnesota Statutes 1971, sections 275.127 and 422.01 to 422.54 and the amount levied for retirement in 1975 under Minnesota Statutes 1974, section 275.127 and chapter 422A.

(3) In 1991 and each year thereafter, a district to which this subdivision applies may levy an additional amount required for contributions to the Minneapolis employees retirement fund as a result of the maximum dollar amount limitation on state contributions to the fund imposed under section 422A.101, subdivision 3. The additional levy shall not exceed the most recent amount certified by the board of the Minneapolis employees retirement fund as the district's share of the contribution requirement in excess of the maximum state contribution under section 422A.101, subdivision 3.

Sec. 2. Minnesota Statutes 1990, section 275.50, subdivision 5a, is amended to read:

Subd. 5a. [SPECIAL LEVIES; LOCAL.] "Special levies" also includes those portions of ad valorem taxes levied by the following governmental

subdivisions for the years and purposes given in the cited laws:

(1) Goodhue county for the county historical society as provided in Laws 1990, chapter 604, article 3, section 50;

(2) the city of Windom for a municipal hospital as provided in Laws 1990, chapter 604, article 3, section 51;

(3) Koochiching county for ambulance service as provided in Laws 1990, chapter 604, article 3, section 52;

(4) Douglas county for solid waste management as provided in Laws 1990, chapter 604, article 3, section 53;

(5) the city of Bemidji and Beltrami county to pay bonds for an airport terminal as provided in Laws 1990, chapter 604, article 3, section 57;

(6) Ramsey county to pay bonds for a facility for the arts and sciences as provided in Laws 1990, chapter 604, article 3, section 58;

(7) the city of Rosemount for an armory as provided in Laws 1990, chapter 604, article 3, section 59;

(8) the cities of Maple Grove, Brooklyn Park, Brooklyn Center, and Coon Rapids for peace officer salaries and benefits as provided in Laws 1990, chapter 604, article 3, section 60; ~~and~~

(9) a city described in and for debt service as provided in Laws 1990, chapter 604, article 3, section 61; *and*

(10) the city of Minneapolis for certain retirement fund contributions as provided in section 14.

Sec. 3. Minnesota Statutes 1990, section 356.215, subdivision 4d, is amended to read:

Subd. 4d. [INTEREST AND SALARY ASSUMPTIONS.] For funds governed by chapters 3A, 352, 352B, 352C, 353, 353C, 354 other than the variable annuity fund governed by section 354.62, and 490, the actuarial valuation shall use a preretirement interest assumption of 8.5 percent, a postretirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year. For funds governed by chapter 354A, the actuarial valuation shall use preretirement and postretirement assumptions of 8.5 percent and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year, but the actuarial valuation shall reflect the payment of postretirement adjustments to retirees shall be based on the methods specified in the bylaws of the fund as approved by the legislature. *For a fund governed by chapter 422A, the actuarial valuation shall use a preretirement interest assumption of six percent, a postretirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.04 multiplied by the salary for the preceding year.* For all other funds, the actuarial valuation shall use a preretirement interest assumption of five percent, a postretirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.035 multiplied by the salary for the preceding year.

For funds governed by chapters 3A, 352C, and 490, the actuarial valuation shall use a preretirement interest assumption of 8.5 percent, a postretirement interest assumption of five percent, and an assumption that in each future year in which the salary amount payable is not determinable from section 3.099, 15A.081, subdivision 6, or 15A.083, subdivision 1, whichever is applicable, or from applicable compensation council recommendations under section 15A.082, the salary on which a retirement or other benefit is based is 1.065 multiplied by the known or computed salary for the preceding year, whichever is applicable.

Sec. 4. Minnesota Statutes 1990, section 356.215, subdivision 4g, is amended to read:

Subd. 4g. [AMORTIZATION CONTRIBUTIONS.] In addition to the exhibit indicating the level normal cost, the actuarial valuation shall contain an exhibit indicating the additional annual contribution which would be required to amortize the unfunded actuarial accrued liability. For funds governed by chapters 3A, 352, 352B, 352C, 353, 353C, 354, 354A, and 490, the additional contribution shall be calculated on a level percentage of covered payroll basis by the established date for full funding which is in effect when the valuation is prepared. The level percent additional contribution shall be calculated assuming annual payroll growth of 6.5 percent. For all other funds, the additional annual contribution shall be calculated on a level annual dollar amount basis.

If, for any fund other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, 1989, there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded actuarial accrued liability of the fund, the established date for full funding for the first actuarial valuation made after June 1, 1989, and each successive actuarial valuation shall be the first actuarial valuation date which occurs after June 1, 2020.

If, for any fund or plan other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, 1989, there has been a change in any or all of the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding shall be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund shall be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution or level percentage, whichever is applicable, which is needed to amortize the unfunded actuarial accrued liability amount determined pursuant to subclause (i) by the established date for full funding in effect prior to the change shall be calculated using

the interest assumption specified in subdivision 4d in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund shall be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect before the change;

(iv) the level annual dollar contribution or level percentage, whichever is applicable, which is needed to amortize the difference between the unfunded actuarial accrued liability amount calculated pursuant to subclause (i) and the unfunded actuarial accrued liability amount calculated pursuant to subclause (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective shall be calculated using the applicable interest assumption specified in subdivision 4d in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution pursuant to subclause (iv) shall be added to the level annual dollar amortization contribution or level percentage calculated pursuant to subclause (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in subclause (iii) will be amortized by the total level annual dollar or level percentage amortization contribution computed pursuant to subclause (v) shall be calculated using the interest assumption specified in subdivision 4d in effect after any applicable change, rounded to the nearest integral number of years, but which shall not exceed a period of 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and which shall not be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect before the change; and

(vii) the period determined pursuant to subclause (vi) shall be added to the date as of which the actuarial valuation was prepared and the date obtained shall be the new established date for full funding.

For the Minneapolis employees retirement fund, the established date for full funding shall be June 30, ~~2017~~ *2020*.

Sec. 5. [356.865] [SUPPLEMENTAL BENEFIT; LUMP SUM PAYMENTS; MINNEAPOLIS EMPLOYEES RETIREMENT FUND.]

Subdivision 1. [ENTITLEMENT.] *Any person who is receiving either an annuity that was computed under the laws in effect before March 5, 1974, or a "$2 bill and annuity" annuity from the Minneapolis employees retirement fund is entitled to receive a supplemental benefit lump sum payment from the retirement fund in the amount specified in subdivision 2.*

Subd. 2. [AMOUNT OF PAYMENT.] *(a) For any person receiving an annuity or benefit on November 30, 1991, and entitled to receive a supplemental benefit lump sum payment under subdivision 1, the payment is $28 for each full year of allowable service credited to the person by the retirement fund.*

In 1992 and each following year, each eligible benefit recipient shall receive the amount received in the preceding year increased by the same

percentage applied on the most recent January 1 to regular annuities paid from the Minneapolis employees retirement fund.

(b) The payment provided for in this section is payable on December 1, 1991, to those persons receiving an annuity or benefit on November 30, 1991. In subsequent years, the payment must be made on December 1 to those persons receiving an annuity or benefit on the preceding November 30. This section does not authorize payment to an estate if the annuity or benefit recipient dies before the November 30 eligibility date. Notwithstanding section 356.18, the payment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that it not be paid.

Subd. 3. [COST.] *The cost of the payments made under this section is the responsibility of the state. The annual amortization amount must be added to the annual state contribution amount determined under section 422A.101, subdivision 3, effective July 1, 1991.*

Sec. 6. Minnesota Statutes 1990, section 422A.05, is amended by adding a subdivision to read:

Subd. 2e. [STANDING; PARTIES.] *In addition to other parties with claims under statute or the common law, the state and a political subdivision that helps to finance a plan have standing to sue on behalf of all taxpayers and the plan beneficiaries for an alleged breach of fiduciary duty. If a suit is brought by the state or a political subdivision under this subdivision, no separate suit regarding the same claims on behalf of taxpayers of the state or a political subdivision or of beneficiaries may be allowed, and any suit then pending on behalf of taxpayers of the state or a political subdivision or of beneficiaries must be dismissed unless the court determines that its dismissal would prejudice or limit the rights or claims of the taxpayers or beneficiaries. Nothing in this subdivision precludes suits by both the state and an affected political subdivision or suits by the retirement board on behalf of one or more of the funds.*

Sec. 7. Minnesota Statutes 1990, section 422A.05, is amended by adding a subdivision to read:

Subd. 2f. [ATTORNEY FEES.] *The court shall award reasonable attorney fees and costs of litigation, in addition to damages and other relief, in a suit where a breach of fiduciary duty is found under subdivision 2a or chapter 356A.*

Sec. 8. Minnesota Statutes 1990, section 422A.06, subdivision 1, is amended to read:

Subdivision 1. [CREATION; DIVISIONS OF FUND.] For the purposes of this chapter, there ~~shall be a~~ *is established the* Minneapolis employees retirement fund~~, hereafter referred to as the retirement fund~~. ~~The~~ *That* retirement fund ~~shall be~~ *is* subdivided into (1) a deposit accumulation fund, (2) a survivor benefit fund, (3) a disability benefit fund, and (4) a retirement benefit fund. The expense of the administration of the retirement fund ~~shall~~ *must* be paid from the deposit accumulation fund, less the amount as the retirement board may charge against income of the retirement *benefit* fund from investments as the cost of handling the investments of the retirement *benefit* fund.

Sec. 9. Minnesota Statutes 1990, section 422A.06, subdivision 3, is amended to read:

Subd. 3. [DEPOSIT ACCUMULATION FUND.] The deposit accumulation fund ~~shall consist~~ *consists* of the assets held in the fund, increased by amounts contributed by or for employees, amounts contributed by the city, amounts contributed by municipal activities supported in whole or in part by revenues other than taxes and amounts contributed by any public corporation, amounts paid by the state and by income from investments. There ~~shall~~ *must* be paid from the fund the amounts required to be transferred to the retirement benefit fund, or the disability benefit fund, refunds of contributions, death benefits payable on death before retirement ~~which~~ *that* are not payable from the survivors' benefit fund, postretirement increases in retirement allowances granted ~~pursuant to~~ *under* Laws 1965, chapter 688, or Laws 1969, chapter 859, and expenses of the administration of the retirement fund which were not charged by the retirement board against the income of the retirement *benefit* fund from investments as the cost of handling the investments of the retirement *benefit* fund.

Sec. 10. Minnesota Statutes 1990, section 422A.101, is amended to read:

422A.101 [PREPARATION OF FINANCIAL REQUIREMENTS OF FUND; EMPLOYER CONTRIBUTIONS.]

Subdivision 1. [FINANCIAL REQUIREMENTS OF FUND.] Prior to August 31 annually, the retirement board, in consultation with the commission-retained actuary, shall prepare an itemized statement of the financial requirements of the fund for the succeeding fiscal year. A copy of the statement shall be submitted to the city council, the board of estimate and taxation of the city, the managing board or chief administrative officer of each city owned public utility, improvement project or municipal activity supported in whole or in part by revenues other than real estate taxes, public corporation, or unit of metropolitan government employing members of the fund, the board of special school district No. 1, and the state commissioner of finance prior to September 15 annually. The statement shall be itemized and shall include the following:

(1) an estimate of the administrative expenses of the fund for the following year, which shall be determined by multiplying the figure for administrative expenses as reported in the most recent actuarial valuation prepared by the commission-retained actuary, *including any amounts related to investment activities of the deposit accumulation fund other than actual investment transaction amounts*, by the factor of 1.035;

(2) an estimate of the normal cost of the fund expressed as a dollar amount, which shall be determined by applying the normal cost of the fund as reported in the most recent actuarial valuation prepared by the commission-retained actuary and expressed as a percentage of covered payroll to the estimated total covered payroll of all employees covered by the fund for the following year;

(3) an estimate of the contribution required to amortize on a level annual dollar basis the unfunded actuarial accrued liability of the fund by June 30, ~~2017~~ *2020*, using an interest rate of ~~five~~ *six* percent compounded annually as reported in the most recent actuarial valuation, prepared by the commission-retained actuary expressed as a dollar amount. In determining the amount of the unfunded actuarial accrued liability of the fund, all assets other than the assets of the retirement benefit fund shall be valued as current assets as defined under section 356.215, subdivision 1, clause ~~(5)~~ *(6)*, and the assets of the retirement benefit fund shall be valued equal to the actuarially determined required reserves for benefits payable from that fund;

(4) the amount of any deficiency in the actual amount of any employer contribution provided for in this section when compared to the required contribution amount certified for the previous year, plus interest on the amount at the rate of six percent per annum.

Subd. 1a. [CITY CONTRIBUTIONS.] Prior to August 31 of each year, the retirement board shall prepare an itemized statement of the financial requirements of the fund payable by the city for the succeeding fiscal year, and a copy of the statement shall be submitted to the board of estimate and taxation and to the city council by September 15. The financial requirements of the fund payable by the city shall be calculated as follows:

(a) a regular employer contribution of an amount equal to the percentage rounded to the nearest two decimal places of the salaries and wages of all employees covered by the retirement fund which equals the difference between the level normal cost plus administrative cost as reported in the annual actuarial valuation prepared by the commission-retained actuary and the employee contributions provided for in section 422A.10 less any amounts contributed toward the payment of the balance of the normal cost not paid by employee contributions by any city owned public utility, improvement project, other municipal activities supported in whole or in part by revenues other than real estate taxes, any public corporation, any employing unit of metropolitan government, or by special school district No. 1 pursuant to subdivision 2;

(b) an additional employer contribution of an amount equal to the percent specified in section 353.27, subdivision 3a, clause (a), multiplied by the salaries and wages of all employees covered by the retirement fund less any amounts contributed toward amortization of the unfunded actuarial accrued liability by June 30, ~~2017~~ *2020*, attributable to their respective covered employees by any city owned public utility, improvement project, other municipal activities supported in whole or in part by revenues other than real estate taxes, any public corporation, any employing unit of metropolitan government, or by special school district No. 1 pursuant to subdivision 2; and

(c) a proportional share of an additional employer amortization contribution of an amount equal to $3,900,000 annually until June 30, ~~2017~~ *2020*, based upon the share of the fund's unfunded actuarial accrued liability attributed to the city as disclosed in the annual actuarial valuation prepared by the commission-retained actuary.

The city council shall, in addition to other taxes levied by the city, annually levy a tax equal to the amount of the financial requirements of the fund which are payable by the city. The tax, when levied, shall be extended upon the county lists and shall be collected and enforced in the same manner as other taxes levied by the city. If the city does not levy a tax sufficient to meet the requirements of this subdivision, the retirement board shall submit the tax levy statement directly to the county auditor, who shall levy the tax. The tax, when levied, shall be extended upon the county lists and shall be collected and paid into the city treasury to the credit of the retirement fund. Any amount to the credit of the retirement fund shall constitute a special fund and shall be used only for the payment of obligations authorized pursuant to this chapter.

Subd. 2. [CONTRIBUTIONS BY OR FOR CITY-OWNED PUBLIC UTILITIES, IMPROVEMENTS, OR MUNICIPAL ACTIVITIES.] Contributions by or for any city-owned public utility, improvement project, and

other municipal activities supported in whole or in part by revenues other than real estate taxes, any public corporation, any employing unit of metropolitan government, special school district No. 1, or Hennepin county, on account of any employee covered by the fund, shall be calculated as follows:

(a) a regular employer contribution of an amount equal to the percentage rounded to the nearest two decimal places of the salaries and wages of all employees of the employing unit covered by the retirement fund which equals the difference between the level normal cost plus administrative cost reported in the annual actuarial valuation prepared by the commission-retained actuary and the employee contributions provided for in section 422A.10;

(b) an additional employer contribution of an amount equal to the percent specified in section 353.27, subdivision 3a, clause (a), multiplied by the salaries and wages of all employees of the employing unit covered by the retirement fund;

(c) a proportional share of an additional employer amortization contribution of an amount equal to $3,900,000 annually until June 30, ~~2017~~ *2020*, based upon the share of the fund's unfunded actuarial accrued liability attributed to the employer as disclosed in the annual actuarial valuation prepared by the commission-retained actuary.

The city council or any board or commission may, by proper action, provide for the inclusion of the cost of the retirement contributions for employees of any city-owned public utility or for persons employed in any improvement project or other municipal activity supported in whole or in part by revenues other than taxes who are covered by the retirement fund in the cost of operating the utility, improvement project, or municipal activity. The cost of retirement contributions for these employees shall be determined by the retirement board and the respective governing bodies having jurisdiction over the financing of these operating costs.

The cost of the employer contributions on behalf of employees of special school district No. 1 who are covered by the retirement fund shall be the obligation of the school district. Contributions by the school district to the retirement fund or any other public pension or retirement fund of which its employees are members must be remitted to the fund each month. An amount due and not transmitted begins to accrue interest at the rate of six percent compounded annually 15 days after the date due. The retirement board shall prepare an itemized statement of the financial requirements of the fund payable by the school district, which shall be submitted prior to September 15. Contributions by the school district shall be made at times designated by the retirement board. The school district may levy for its contribution to the retirement fund only to the extent permitted pursuant to section 275.125, subdivision 6a.

The cost of the employer contributions on behalf of elective officers or other employees of Hennepin county who are covered by the retirement fund pursuant to section 422A.09, subdivision 3, clause (2), 422A.22, subdivision 2, or 488A.115, or Laws 1973, chapter 380, section 3, Laws 1975, chapter 402, section 2, or any other applicable law shall be the obligation of Hennepin county. The retirement board shall prepare an itemized statement of the financial requirements of the fund payable by Hennepin county, which shall be submitted prior to September 15. Contributions by Hennepin county shall be made at times designated by the retirement board.

Hennepin county may levy for its contribution to the retirement fund.

Subd. 2a. [CONTRIBUTIONS BY METROPOLITAN AIRPORT COMMISSION AND METROPOLITAN WASTE CONTROL COMMISSION.] The metropolitan airport commission and the waste control commission shall pay to the Minneapolis employees retirement fund annually in installments as specified in subdivision 3 the share of the additional support rate required for full amortization of the unfunded actuarial accrued liabilities by June 30, ~~2017~~ *2020*, that is attributable to airport commission or waste control commission employees who are members of the fund. The amount of the payment shall be determined ~~utilizing the most~~ *as if the airport and waste control commissions' employer contributions determined under subdivision 2 had also included a proportionate share of a $1,000,000 annual employer amortization contribution. The amount of this $1,000,000 annual employer amortization contribution that would have been allocated to each commission would have been based on the share of the fund's unfunded actuarial accrued liability attributed to each commission compared to the total unfunded actuarial accrued liability attributed to all employers under subdivisions 1a and 2. The determinations required under this subdivision must be based on the most* recent actuarial valuation prepared by the actuary retained by the legislative commission on pensions and retirement.

Subd. 3. [STATE CONTRIBUTIONS.] *(a)* The state shall pay to the Minneapolis employees retirement fund annually an amount equal to the financial requirements of the Minneapolis employees retirement fund reported in the actuarial valuation of the fund prepared by the commission-retained actuary pursuant to section 356.215 for the most recent year but based on a target date for full amortization of the unfunded actuarial accrued liabilities by June 30, ~~2017~~ *2020*, less the amount of employee contributions required pursuant to section 422A.10, and the amount of employer contributions required pursuant to subdivisions 1a, 2, and 2a. Payments shall be made in four equal installments, occurring on March 15, July 15, September 15, and November 15 annually. *The annual state contribution under this subdivision may not exceed $10,455,000 plus the cost of the annual supplemental benefit determined under section 356.865.*

(b) If the amount determined under paragraph (a) exceeds the limitation on the state payment in paragraph (a), the excess must be allocated to and paid to the fund by the employers identified in subdivisions 1a and 2, other than units of metropolitan government. Each employer's share of the excess is proportionate to the employer's share of the fund's unfunded actuarial accrued liability as disclosed in the annual actuarial valuation prepared by the actuary retained by the legislative commission on pensions and retirement compared to the total unfunded actuarial accrued liability attributed to all employers identified in subdivisions 1a and 2, other than units of metropolitan government. Payments must be made in equal installments as set forth in paragraph (a).

Subd. 4. [ADDITIONAL EMPLOYER CONTRIBUTION IN CERTAIN INSTANCES.] *If assets in the deposit accumulation fund are insufficient to make a transfer to the retirement benefit fund, the city of Minneapolis shall pay the amount of that insufficiency to the retirement benefit fund within three days of certification of the insufficiency by the executive director of the fund. The city of Minneapolis may bill any other participating employing unit other than the state for its proportion of the amount paid.*

Sec. 11. Minnesota Statutes 1990, section 422A.17, is amended to read:

422A.17 [RETIREMENT ALLOWANCE; OPTIONS.]

At retirement, any employee who is eligible to receive a service allowance may elect to receive benefits in a retirement allowance payable throughout life or may on retirement elect to receive the actuarial equivalent at that time of annuity, pension, or retirement allowance in a lesser annuity, or a lesser pension, or a lesser retirement allowance, payable throughout life, with the provisions that:

Option I. If the benefit recipient dies before receiving in payments an amount equal to the present value of the benefit recipient's annuity, pension, or retirement allowance, as of the date of the benefit recipient's retirement, the balance shall be paid to the benefit recipient's legal representatives or to such person, having an insurable interest in the benefit recipient's life, as the benefit recipient shall nominate by written designation duly acknowledged and filed with the retirement board as of the date of retirement, or

Option II. Upon the death of the benefit recipient, the benefit recipient's annuity, pension, or retirement allowance shall be continued throughout the life of and paid to the person, having an insurable interest in the benefit recipient's life, as the benefit recipient shall nominate by written designation duly acknowledged and filed with the retirement board as of the date of retirement, or

Option III. Upon death of the benefit recipient, one-half of the benefit recipient's annuity, pension, or retirement allowance shall be continued throughout the life of and paid to the person, having an insurable interest in the benefit recipient's life, as the benefit recipient shall nominate by written designation duly acknowledged and filed with the retirement board as of the date of retirement, or

Option IV. Other optional retirement allowance forms, *including a joint and survivor option under which the benefit recipient receives a normal single-life annuity if the designated optional annuity beneficiary dies before the benefit recipient,* shall be paid to the benefit recipient or other person or persons the benefit recipient nominates, provided that the optional annuity is of equivalent actuarial value to the applicable single life annuity calculated under section 422A.15 and is approved by the retirement board.

Any optional retirement allowance shall be computed and determined under a procedure specified by the commission-retained actuary utilizing the appropriate mortality table established by the board of trustees based on the experience of the fund as recommended by the commission-retained actuary and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 4d.

In adopting optional annuity forms, the board of trustees shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of the board of trustees.

Sec. 12. Minnesota Statutes 1990, section 422A.23, subdivision 2, is amended to read:

Subd. 2. Upon the death of a contributing member after having been in the city service not less than 18 months but before the effective date of retirement, the board shall in lieu of the settlement hereinbefore provided pay to the surviving spouse and/or children of the member under the age of 18, or under the age of 22 if a full-time student at an accredited school, college or university, and single, the following monthly benefit:

(a) Surviving spouse $325 per month, except for benefits beginning after July 1, 1983, which shall be 30 percent of member's average salary in effect over the last six months of allowable service preceding the month in which the death occurred.

(b) Each surviving child $150 per month, except for benefits beginning after July 1, 1983, which shall be ten percent of the member's average salary in effect over the last six months of allowable service preceding the month in which the death occurred. Payments for the benefit of any child under the age of 18 years shall be made to the surviving parent, or if there be none, to the legal guardian of such child. The maximum monthly benefit shall not exceed a total of $750.

(c) Effective for payments made after June 30, 1991, surviving spouse and surviving child benefits under paragraphs (a) and (b) beginning on or before July 1, 1983, are increased to $500 per month and $225 per month, respectively. The maximum monthly payment under paragraph (b) is increased to $900. The increased cost resulting from the benefit increases in this paragraph must be allocated to each employing unit listed in section 422A.101, subdivisions 1a, 2, and 2a, on the basis of the additional accrued liability resulting from increased benefits paid to the survivors of employees from that unit.

Sec. 13. [TEMPORARY OPTION.]

Notwithstanding any law to the contrary, a retired member of the Minneapolis employees retirement fund with a living designated optional annuity recipient may select a joint and survivor option under which the retired member will receive a normal single-life annuity if the designated recipient dies before the retired member. This optional annuity must be the actuarial equivalent of the joint and survivor annuity option existing at the time this option is selected. This option must be exercised before July 1, 1992, according to procedures specified by the board of the Minneapolis employees retirement fund.

Sec. 14. [CITY OF MINNEAPOLIS; SPECIAL LEVY.]

For taxes levied in 1991, payable in 1992, the city of Minneapolis may levy an amount equal to the amount required to be paid by the city for contributions to the Minneapolis employees retirement fund as a result of the maximum dollar amount limitation on state contributions to the fund imposed under Minnesota Statutes, section 422A.101, subdivision 3. The levy under this section shall not exceed the most recent amount certified by the board of the Minneapolis employees retirement fund as the city's share of the contribution requirement in excess of the maximum state contribution under Minnesota Statutes, section 422A.101, subdivision 3.

Sec. 15. [EFFECTIVE DATE.]

Section 12, if approved, applies to all benefit payments made after the effective date, including payments to persons who became surviving spouses or surviving children before that date. Section 6 is effective the day following final enactment and applies to all claims pending on that date or filed on or after that date. Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 are effective on approval by the Minneapolis city council and compliance with Minnesota Statutes, section 645.021."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state

government; appropriating money for the general legislative, judicial, and administrative expenses of state government; providing for the transfer of certain money in the state treasury; fixing and limiting the amount of fees, penalties, and other costs to be collected in certain cases; creating, abolishing, modifying, and transferring agencies and functions; defining and amending terms; providing for settlement of claims; imposing certain duties, responsibilities, authority, and limitations on agencies and political subdivisions; consolidating certain funds and accounts and making conforming changes; changing the organization, operation, financing, and management of certain courts and related offices; amending Minnesota Statutes 1990, sections 2.722, subdivision 1, and by adding a subdivision; 3.885, subdivisions 3 and 6; 3.97, by adding a subdivision; 3.971, subdivision 2; 8.06; 8.15; 13.03, subdivision 3; 14.07, subdivisions 1 and 2; 14.08; 15.06, subdivision 1; 15.191, subdivision 1; 15.50, subdivision 3, and by adding a subdivision; 15A.081, subdivision 1; 15A.082, subdivision 3, as amended; 16A.27, subdivision 5; 16A.45, subdivision 1; 16A.641, subdivision 3; 16A.662, subdivision 4; 16A.672, subdivision 9; 16A.69, by adding a subdivision; 16A.721, subdivision 1; 16B.24, by adding a subdivision; 16B.36, subdivision 1; 16B.41, subdivision 2, and by adding a subdivision; 16B.465, subdivision 4; 16B.48, subdivision 2; 16B.63, by adding a subdivision; 17.49, subdivision 1; 62D.122; 79.34, subdivision 1; 103B.311, subdivision 7; 103B.315, subdivision 5; 103F.761, subdivision 1; 103H.101, subdivision 4; 103H.175, subdivisions 1 and 2; 115A.072, subdivision 1; 116C.03, subdivisions 2, 4, and 5; 116C.712, subdivisions 3 and 5; 116J.873, subdivision 1; 116J.8766, subdivision 2; 116L.03, subdivision 2; 124C.03, subdivisions 2, 3, 8, 9, 10, 12, 14, 15, and 16; 126A.02, subdivisions 1 and 2; 126A.03; 128C.12, subdivision 1; 138.17, subdivision 1; 144.70, subdivision 2; 145.926, subdivisions 1, 4, 5, 7, and 8; 145A.02, subdivision 16; 145A.09, subdivision 6; 160.276, by adding a subdivision; 176.421, subdivision 6a; 214.141; 256H.25, subdivision 1; 268.361, subdivision 3; 271.06, subdivision 4; 271.19; 275.125, subdivision 6a; 275.14; 275.50, subdivision 5a; 275.51, subdivision 6; 275.54, subdivision 3; 299A.30, subdivision 2; 299A.31, subdivision 1; 299A.40, subdivision 4; 355.392, subdivisions 2 and 3; 356.215, subdivisions 4d and 4g; 357.24; 363.121; 368.01, subdivision 1a; 373.40, subdivision 1; 383B.119, subdivision 3; 402.045; 422A.05, by adding subdivisions; 422A.06, subdivisions 1 and 3; 422A.101; 422A.17; 422A.23, subdivision 2; 423A.02; 462.384, subdivision 7; 462.396, subdivision 2; 466A.05, subdivision 1; 469.201, subdivision 2; 469.203, subdivision 4; 469.207, subdivisions 1 and 2; 471.468; 473.156, subdivision 1; 474A.03, by adding a subdivision; 477A.011, subdivisions 3 and 3a; 477A.014, subdivision 4; 480.181, by adding a subdivision; 480.24, subdivision 3; 480.242, subdivision 2, and by adding a subdivision; 481.10; 484.73, by adding a subdivision; 490.123, subdivision 1; 490.124, subdivision 4; 504.34, subdivisions 5 and 6; 590.05; 593.48; 609.101, subdivision 1; 611.14; 611.17; 611.18; 611.20; 611.215, subdivisions 1, 1a, and 2; 611.23; 611.24; 611.25, subdivision 1, and by adding a subdivision; 611.26, subdivisions 2, 3, 4, 6, 7, and by adding subdivisions; and 611.27, subdivisions 1, 4, and by adding subdivisions; Laws 1989, chapter 335, article 1, section 7, and article 3, section 4, as amended; Laws 1990, chapter 610, article 1, section 27; proposing coding for new law in Minnesota Statutes, chapters 4; 7; 16A; 16B; 43A; 116J; 129D; 204B; 268; 270; 356; and 471; proposing coding for new law as Minnesota Statutes, chapter 4A; repealing Minnesota Statutes 1990, sections 3C.035, subdivision 2; 3C.056; 40A.02, subdivision 2; 40A.08; 116J.967;

116K.01 to 116K.14; 144.861; 144.874, subdivision 7; 383B.119, subdivision 2; 383B.63, subdivision 1; 480.250; 480.252; 480.254; 480.256; 611.215, subdivision 4; 611.26, subdivision 1; 611.261; 611.28; 611.29; Laws 1984, chapter 564, section 48; Laws 1989, chapter 335, article 3, sections 38; and 54, as amended by Laws 1989, First Special Session chapter 1, article 5, section 47; and Laws 1990, chapter 604, article 9, section 14."

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

House Conferees: (Signed) Phyllis Kahn, Thomas W. Pugh, Loren A. Solberg, Steve Trimble, Dave Bishop

Senate Conferees: (Signed) Carl W. Kroening, William P. Luther, Patrick D. McGowan, Gene Merriam, Richard J. Cohen

Mr. Kroening moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1631 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. 1631 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 49 and nays 17, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kelly	Metzen	Reichgott
Beckman	Finn	Knaak	Moe, R.D.	Renneke
Berglin	Flynn	Kroening	Mondale	Sams
Bertram	Frank	Laidig	Morse	Samuelson
Brataas	Frederickson, D.J.	Langseth	Novak	Solon
Chmielewski	Frederickson, D.R.	Lessard	Pappas	Spear
Cohen	Hottinger	Luther	Piper	Stumpf
Dahl	Hughes	Marty	Pogemiller	Traub
Davis	Johnson, D.E.	McGowan	Price	Vickerman
DeCramer	Johnson, J.B.	Merriam	Ranum	

Those who voted in the negative were:

Belanger	Bernhagen	Johnson, D.J.	Neuville	Storm
Benson, D.D.	Day	Johnston	Olson	
Benson, J.E.	Gustafson	Larson	Pariseau	
Berg	Halberg	Mehrkens	Riveness	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 833, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 833 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 833

A bill for an act relating to economic development; regulating the use of tax-exempt revenue bonds; amending Minnesota Statutes 1990, sections 474A.02, subdivisions 1, 2b, 7, 8, 19, and by adding subdivisions; 474A.03; 474A.04, subdivision 1a; 474A.047, subdivisions 1 and 3; 474A.061, subdivisions 1, 2a, 2b, 2c, 3, and 4; 474A.091, subdivisions 1, 2, 3 and 5; 474A.131, by adding a subdivision; 474A.15; 474A.16; and 474A.17; proposing coding for new law in Minnesota Statutes, chapters 462A and 462C; repealing Minnesota Statutes 1990, sections 474A.048; and 474A.081, subdivisions 1, 2, and 4.

May 20, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 833, 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. 833 be further amended as follows:

Pages 7 and 8, delete section 11 and insert:

"Sec. 11. Minnesota Statutes 1990, section 474A.03, is amended to read:

474A.03 [DETERMINATION OF ANNUAL VOLUME CAP.]

Subdivision 1. [ANNUAL VOLUME CAP UNDER FEDERAL TAX LAW; POOL ALLOCATIONS.] At the beginning of each calendar year after December 31, 1990, the commissioner shall determine the aggregate dollar amount of the annual volume cap under federal tax law for the calendar year, and of this amount the commissioner shall make the following allocation:

(1) ~~$75,000,000~~ *$65,000,000* to the manufacturing pool;

(2) $46,000,000 to the housing pool;

(3) $10,000,000 to the public facilities pool; and

(4) amounts to be allocated as provided in subdivision 2a.

If the annual volume cap is greater or less than the amount of bonding authority allocated under clauses (1) to (4) and subdivision 2a, paragraph (a), clauses (1) to (3), the allocation must be adjusted so that each adjusted allocation is the same percentage of the annual volume cap as each original allocation is of the total bonding authority originally allocated.

Subd. 2a. [ENTITLEMENT ISSUER ALLOCATION.] (a) The commissioner shall make the following allocation to the Minnesota housing finance agency and the following cities *and county*:

(1) $51,000,000 per year to the Minnesota housing finance agency, less any amount received in the previous year under section 474A.091, subdivision 6;

(2) $20,000,000 per year to the city of Minneapolis; ~~and~~

(3) $15,000,000 per year to the city of Saint Paul; *and*

(4) $10,000,000 per year to the Dakota county housing and redevelopment authority for the county of Dakota and all political subdivisions located within the county.

(b) Allocations provided under this subdivision must be used for mortgage bonds, mortgage credit certificates, or residential rental project bonds, except that entitlement cities may also use their allocations for public facility bonds."

Page 10, delete line 11, and insert:

"*: (1)* statewide *median income* or *(2)* county *or metropolitan statistical area* median income, adjusted for household size as"

Page 12 and 13 delete clause (3) and insert:

"(3) house price limits may not exceed:

(i) the greater of agency house price limits or ~~90 percent of~~ the median purchase price in the city for which the bonds are to be sold up to a maximum of 80 percent of the safe harbor limitations for existing housing provided under section 143(e) of the Internal Revenue Code of 1986, as amended through December 31, ~~1989~~ *1990*~~, except that~~; *or*

(ii) for a new construction affordability initiative, the greater of 115 percent of agency house price limits or 90 percent of the median purchase price in the city for which the bonds are to be sold up to a maximum of 80 percent of the safe harbor limitations for existing housing provided under section 143(e) of the Internal Revenue Code of 1986, as amended through December 31, 1990.

House price limits may be 80 percent of the safe harbor limitation for existing housing if subsidy is used to reduce the effective purchase price of the property to the above levels. Data establishing the median purchase price in the city must be included in the application by a city requesting house price limits higher than the housing finance agency's house price limits;"

Page 19, line 15, delete "*September*" and insert "*August*"

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

House Conferees: (Signed) Ann H. Rest, Bill Schreiber, Linda Scheid

Senate Conferees: (Signed) Lawrence J. Pogemiller, James P. Metzen, John Bernhagen

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on H.F. No. 833 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. 833 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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Metzen	Reichgott
Beckman	Day	Johnston	Moe, R.D.	Renneke
Belanger	DeCramer	Kelly	Mondale	Riveness
Benson, D.D.	Finn	Knaak	Morse	Sams
Benson, J.E.	Flynn	Kroening	Neuville	Samuelson
Berg	Frank	Laidig	Novak	Solon
Berglin	Frederickson, D.J.	Langseth	Olson	Spear
Bernhagen	Frederickson, D.R.	Larson	Pappas	Storm
Bertram	Gustafson	Lessard	Pariseau	Stumpf
Brataas	Halberg	Luther	Piper	Traub
Chmielewski	Hottinger	Marty	Pogemiller	Vickerman
Cohen	Hughes	McGowan	Price	
Dahl	Johnson, D.E.	Mehrkens	Ranum	

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

House File No. 694 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 694

A bill for an act relating to the environment; establishing an environmental enforcement account; establishing a field citation pilot project for unauthorized disposal of solid waste; authorizing background investigations of environmental permit applicants; expanding current authority to impose administrative penalties for air and water pollution and solid waste management violations; imposing criminal penalties for knowing violations of standards related to hazardous air pollutants and toxic pollutants in water; providing that certain property is subject to forfeiture in connection with convictions for water pollution and air pollution violations; imposing criminal penalties for unauthorized disposal of solid waste; authorizing prosecution of environmental crimes by the attorney general; providing for environmental restitution as part of a sentence; increasing criminal penalties for false statements on documents related to permits and record keeping; requiring reports; appropriating money; amending Minnesota Statutes 1990, sections 18D.331, subdivision 4; 115.071, by adding a subdivision; 115.072; 115C.05; 116.07, subdivision 4d; 116.072, subdivisions 1, 2, 6, 10, and 11; 609.531, subdivision 1; and 609.671; proposing coding for new law in Minnesota Statutes, chapters 115 and 116.

May 20, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes

President of the Senate

We, the undersigned conferees for H.F. No. 694, 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. 694 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

CIVIL ENFORCEMENT

Section 1. [CITATION.]

Articles 1 and 3 may be cited as the "environmental enforcement act of 1991."

Sec. 2. Minnesota Statutes 1990, section 115.071, is amended by adding a subdivision to read:

Subd. 6. [ADMINISTRATIVE PENALTIES.] *A provision of law that may be enforced under this section may also be enforced under section 116.072.*

Sec. 3. Minnesota Statutes 1990, section 115.072, is amended to read:

115.072 [RECOVERY OF LITIGATION COSTS AND EXPENSES.]

In any action brought by the attorney general, in the name of the state, pursuant to the provisions of this chapter and chapter 116, for civil penalties, injunctive relief, or in an action to compel compliance, if the state shall finally prevail, and if the proven violation was willful, the state, in addition to other penalties provided in this chapter, may be allowed an amount determined by the court to be the reasonable value of all or a part of the litigation expenses incurred by the state. In determining the amount of such litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

~~All~~ Amounts recovered under the provisions of this section and section 115.071, subdivisions 3 to 5, shall be paid into the *environmental fund in the* state treasury *to the extent provided in section 4.*

Sec. 4. [115.073] [ENFORCEMENT FUNDING.]

Except as provided in sections 115B.20, subdivision 4, clause (2); 115C.05; and 473.845, subdivision 8, all money recovered by the state under this chapter and chapters 115A and 116, including civil penalties and money paid under an agreement, stipulation, or settlement, excluding money paid for past due fees or taxes, up to the amount appropriated for implementation of this act, must be deposited in the state treasury and credited to the environmental fund.

Sec. 5. [115.075] [INFORMATION AND MONITORING.]

A person may not:

(1) make a false material statement, representation, or certification in; omit material information from; or alter, conceal, or fail to file or maintain a notice, application, record, report, plan, manifest, or other document required under section 103F.701 or this chapter or chapter 115A or 116; or

(2) falsify, tamper with, render inaccurate, or fail to install a monitoring device or method required to be maintained or followed for the purpose of compliance with sections 103F.701 to 103F.761 or this chapter or chapter 115A or 116.

Sec. 6. [115.076] [BACKGROUND OF PERMIT APPLICANTS.]

Subdivision 1. [AUTHORITY OF COMMISSIONER.] *The agency may refuse to issue or to authorize the transfer of a hazardous waste facility permit or a solid waste facility permit to construct or operate a commercial waste facility as defined in section 115A.03, subdivision 6, if the agency determines that the permit applicant does not possess sufficient expertise and competence to operate the facility in conformance with the requirements of chapters 115 and 116, or if other circumstances exist that demonstrate that the permit applicant may not operate the facility in conformance with the requirements of chapters 115 and 116. In making this determination, the agency may consider:*

(1) the experience of the permit applicant in constructing or operating commercial waste facilities;

(2) the expertise of the permit applicant;

(3) the past record of the permit applicant in operating commercial waste facilities in Minnesota and other states;

(4) any criminal convictions of the permit applicant in state or federal court during the past five years that bear on the likelihood that the permit applicant will operate the facility in conformance with the requirements of chapters 115 and 116; and

(5) in the case of a corporation or business entity, any criminal convictions in state or federal court during the past five years of any of the permit applicant's officers, partners, or facility managers that bear on the likelihood that the facility will be operated in conformance with the requirements of chapters 115 and 116.

Subd. 2. [PERMIT APPLICANT.] *For purposes of this section, a permit applicant includes a natural person, a partnership and its owners, and a corporation and its parent.*

Subd. 3. [INVESTIGATION.] *The commissioner may conduct an investigation to assist in making determinations under subdivision 1. The reasonable costs of any investigation must be paid by the permit applicant.*

Subd. 4. [NOTICE OF PERMIT DENIAL.] *The agency may not refuse to issue or transfer a permit under this section without first providing the permit applicant with the relevant information and with an opportunity to respond by commenting on the information and submitting additional information regarding the circumstances surrounding the conviction, corrective measures to prevent recurrence, the applicant's rehabilitation, and technical and managerial experience. In making a final decision on the permit, the agency shall consider the permit applicant's response prior to making a final decision on the permit.*

Subd. 5. [HEARING.] *If the agency proposes to deny a permit under this section, the permit applicant may request a hearing under chapter 14. The permit applicant may request that the hearing be held under Minnesota Rules, parts 1400.8510 to 1400.8612.*

Sec. 7. Minnesota Statutes 1990, section 115C.05, is amended to read:

115C.05 [CIVIL PENALTY.]

The agency may enforce section 115C.03 using the actions and remedies authorized under ~~section~~ *sections* 115.071, subdivision 3, *and 116.072*. The civil penalties recovered by the state must be credited to the fund.

Sec. 8. Minnesota Statutes 1990, section 116.07, subdivision 4d, is amended to read:

Subd. 4d. [PERMIT FEES.] The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of reviewing and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The agency shall adopt rules under section 16A.128 establishing the amounts and methods of collection of any permit fees collected under this subdivision. *The fee schedule must reflect reasonable and routine permitting, implementation, and enforcement costs. The agency may impose an additional enforcement fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency.* Any money collected under this subdivision shall be deposited in the special revenue account.

Sec. 9. Minnesota Statutes 1990, section 116.072, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY TO ISSUE PENALTY ORDERS.] The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for ~~hazardous waste~~ violations ~~under sections 115.061 and 116.07, and Minnesota Rules, chapter 7045~~ *of this chapter and chapters 115, 115A, and 115D, any rules adopted under those chapters, and any standards, limitations, or conditions established in an agency permit; and for failure to respond to a request for information under section 115B.17, subdivision 3*. The order must be issued as provided in this section.

Sec. 10. Minnesota Statutes 1990, section 116.072, subdivision 2, is amended to read:

Subd. 2. [AMOUNT OF PENALTY; CONSIDERATIONS.] (a) The commissioner may issue an order assessing a penalty up to $10,000 for all violations identified during an inspection *or other compliance review*.

(b) In determining the amount of a penalty the commissioner may consider:

(1) the willfulness of the violation;

(2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;

(3) the history of past violations;

(4) the number of violations;

(5) the economic benefit gained by the person by allowing or committing the violation; and

(6) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's order.

(c) For a violation after an initial violation, the commissioner shall, in

determining the amount of a penalty, consider the factors in paragraph (b) and the:

(1) similarity of the most *recent* previous violation and the violation to be penalized;

(2) time elapsed since the last violation;

(3) number of previous violations; and

(4) response of the person to the most *recent* previous violation identified.

Sec. 11. Minnesota Statutes 1990, section 116.072, subdivision 6, is amended to read:

Subd. 6. [EXPEDITED ADMINISTRATIVE HEARING.] (a) Within 30 days after receiving an order or within 20 days after receiving notice that the commissioner has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may request an expedited hearing, *utilizing the procedures of Minnesota Rules, parts 1400.8510 to 1400.8612*, to review the commissioner's action. *The hearing request must specifically state the reasons for seeking review of the order.* The person to whom the order is directed and the ~~director~~ *commissioner* are the parties to the expedited hearing. The commissioner must notify the person to whom the order is directed of the time and place of the hearing at least 20 days before the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing shall be conducted under ~~the conference contested case rules of the office of administrative hearings~~ *Minnesota Rules, parts 1400.8510 to 1400.8612*, as modified by this subdivision. The office of administrative hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making recommendations about the commissioner's action to the commissioner within 30 days following the close of the record. The administrative law judge may not recommend a change in the amount of the proposed penalty unless the administrative law judge determines that, based on the factors in subdivision 2, the amount of the penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner may add to the amount of the penalty the costs charged to the agency by the office of administrative hearings for the hearing.

(e) If a hearing has been held, the commissioner may not issue a final order until at least five days after receipt of the report of the administrative law judge. The person to whom an order is issued may, within those five days, comment to the commissioner on the recommendations and the commissioner will consider the comments. The final order may be appealed in the manner provided in sections 14.63 to 14.69.

(f) If a hearing has been held and a final order issued by the commissioner, the penalty shall be paid by 30 days after the date the final order is received unless review of the final order is requested under sections 14.63 to 14.69.

If review is not requested or the order is reviewed and upheld, the amount due is the penalty, together with interest accruing from 31 days after the original order was received at the rate established in section 549.09.

Sec. 12. Minnesota Statutes 1990, section 116.072, subdivision 10, is amended to read:

Subd. 10. [REVOCATION AND SUSPENSION OF PERMIT.] If a person fails to pay a penalty owed under this section, the agency has grounds to revoke or refuse to reissue or renew a ~~hazardous waste~~ permit issued by the agency.

Sec. 13. Minnesota Statutes 1990, section 116.072, subdivision 11, is amended to read:

Subd. 11. [CUMULATIVE REMEDY.] The authority of the agency to issue a corrective order assessing penalties is in addition to other remedies available under statutory or common law, *except that the state may not seek civil penalties under any other provision of law for the violations covered by the administrative penalty order.* The payment of a penalty does not preclude the use of other enforcement provisions, *under which penalties are not assessed,* in connection with the violation for which the penalty was assessed.

Sec. 14. [PLAN FOR USE OF ADMINISTRATIVE PENALTY ORDERS.]

The commissioner of the pollution control agency shall prepare a plan for using the administrative penalty authority in Minnesota Statutes, section 116.072. The commissioner shall provide a 30-day period for public comment on the plan. The plan must be submitted to the agency for approval by October 1, 1991.

Sec. 15. [FIELD CITATION PILOT PROJECT.]

Subdivision 1. [AUTHORITY TO ISSUE.] *Pollution control agency staff designated by the commissioner and department of natural resources conservation officers may issue citations to a person who disposes of solid waste as defined in Minnesota Statutes, section 116.06, subdivision 10, at a location not authorized by law for the disposal of solid waste without permission of the owner of the property.*

Subd. 2. [PENALTY AMOUNT.] *The citation must impose the following penalty amounts:*

(1) $100 per major appliance, as defined in Minnesota Statutes, section 115A.03, subdivision 17a, up to a maximum of $2,000;

(2) $25 per waste tire, as defined in Minnesota Statutes, section 115A.90, subdivision 11, unless utilized in an agricultural pursuit, up to a maximum of $2,000;

(3) $25 per lead acid battery governed by Minnesota Statutes, section 115A.915, up to a maximum of $2,000;

(4) $1 per pound of other solid waste or $20 per cubic foot up to a maximum of $2,000; and

(5) up to $200 for any amount of waste that escapes from a vehicle used for the transportation of solid waste if, after receiving actual notice that waste has escaped the vehicle, the person or company transporting the waste fails to collect the waste.

Subd. 3. [APPEALS.] *Citations may be appealed under the procedures in Minnesota Statutes, section 116.072, subdivision 6, if the person requests a hearing by notifying the commissioner within 15 days after receipt of the citation. If a hearing is not requested within the 15-day period, the citation becomes a final order not subject to further review.*

Subd. 4. [ENFORCEMENT OF FIELD CITATIONS.] *Field citations may be enforced under Minnesota Statutes, section 116.072, subdivisions 9 and 10.*

Subd. 5. [CUMULATIVE REMEDY.] *The authority of conservation officers to issue field citations is in addition to other remedies available under statutory or common law, except that the state may not seek penalties under any other provision of law for the incident subject to the citation.*

Subd. 6. [STUDY OF FIELD CITATION PILOT PROGRAM.] *The pollution control agency, in consultation with the department of natural resources and the attorney general, shall prepare a study on the effectiveness and limitations of the field citation pilot program. The study must make recommendations about the continued use of field citations. The study must be submitted to the legislative commission on waste management by November 15, 1992.*

Sec. 16. [STUDY OF THE ROLE OF LOCAL GOVERNMENTAL UNITS IN ENVIRONMENTAL PROGRAMS.]

The pollution control agency shall conduct a study of the role that local governmental units should play in enforcing the requirements of state environmental programs within the jurisdiction of the pollution control agency. The study must involve representatives of the attorney general, local governmental units, environmental organizations, and businesses. Public meetings must be held in at least four locations in the state prior to the completion of the study. The study must identify which environmental programs, or parts of programs, could be enforced by local government units; criteria for approving local enforcement programs; resources needed to support local enforcement programs; sources of funding to ensure adequate resources are available; the ability of local governmental units to enforce the laws; and the training and testing needs of local governmental units to support enforcement. If the study concludes that additional elements of the state's environmental programs should be enforced by local governmental units, the study report must include a recommended strategy for involving local governmental units in the enforcement of program elements. The strategy must consider methods of maintaining consistent enforcement throughout the state of environmental program elements that may be enforced by local governmental units and methods of avoiding duplicative enforcement activities. The study must be submitted to the committees on environment and natural resources of the legislature by October 1, 1992.

Sec. 17. [REPORT TO THE LEGISLATURE.]

The pollution control agency shall monitor the use of the new enforcement authority provided in the 1991 legislative session and the use of the money appropriated to the agency in article 3, section 5, and, after consulting with the attorney general, report the results to the committees on environment and natural resources of the legislature by November 15, 1992. The report must also contain recommendations on establishing a permanent system for reporting progress in achieving compliance with environmental laws to the legislature and to the public.

Sec. 18. [INSTRUCTION TO REVISOR.]

In Minnesota Statutes 1992 and subsequent editions, the revisor of statutes shall, in each of the following sections, before "115.071" delete "section" and insert "sections" and after "115.071" insert "and 116.072":

115A.906, subdivision 2;

115A.915;

115A.916;

115A.9561;

116.07, subdivision 4i;

116.83, subdivision 2; and

473.845, subdivision 8.

Sec. 19. [REPEALER.]

Section 15 is repealed.

Sec. 20. [EFFECTIVE DATE.]

Section 19 is effective July 1, 1993.

ARTICLE 2

HAZARDOUS WASTE LIABILITY

Section 1. Minnesota Statutes 1990, section 115B.03, is amended by adding a subdivision to read:

Subd. 5. [MORTGAGES.] *(a) A mortgagee is not a responsible person under this section solely because the mortgagee becomes an owner of real property through foreclosure of the mortgage or by receipt of the deed to the mortgaged property in lieu of foreclosure.*

(b) A mortgagee of real property where a facility is located or a holder of a security interest in facility assets or inventory is not an operator of the facility for the purpose of this section solely because the mortgagee or holder has a capacity to influence the operation of the facility to protect its security interest in the real property or assets.

Sec. 2. Minnesota Statutes 1990, section 115B.03, is amended by adding a subdivision to read:

Subd. 6. [CONTRACT FOR DEED VENDORS.] *A contract for deed vendor who is otherwise not a responsible party for a release or a threatened release of a hazardous substance from a facility is not a responsible person under this section solely as a result of a termination of the contract for deed under section 559.21.*

ARTICLE 3

CRIMINAL ENFORCEMENT

Section 1. Minnesota Statutes 1990, section 18D.331, subdivision 4, is amended to read:

Subd. 4. [DISPOSAL THAT BECOMES HAZARDOUS WASTE.] A person who knowingly~~, or with reason to know,~~ disposes of an agricultural chemical ~~so that the product becomes~~ *in violation of this chapter, chapter 18B or 18C, or a standard, special order, stipulation agreement, or schedule*

of compliance of the commissioner and the agricultural chemical is hazardous waste is subject to the penalties in section ~~115.071~~ *609.671, subdivision 4.*

Sec. 2. [116.90] [CITIZEN REPORTS OF ENVIRONMENTAL VIOLATIONS.]

The agency shall maintain and publicize a toll-free number to enable citizens to report information about potential environmental violations. The agency may establish a program to pay awards from funds raised from private sources to persons who provide information that leads to the conviction for an environmental crime.

Sec. 3. Minnesota Statutes 1990, section 609.531, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purpose of sections 609.531 to 609.5317, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a weapon used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the bureau of criminal apprehension, the Minnesota state patrol, a county sheriff's department, the suburban Hennepin regional park district park rangers, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter;

(2) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.671, subdivisions 3, 4, ~~and~~ 5, *8, and 12*; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 237.73; 617.246; or a gross misdemeanor or felony violation of section 609.891.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Sec. 4. Minnesota Statutes 1990, section 609.671, is amended to read:

609.671 [ENVIRONMENT; CRIMINAL PENALTIES.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply

to this section.

(a) "Agency" means the pollution control agency.

(b) "Deliver" or "delivery" means the transfer of possession of hazardous waste, with or without consideration.

(c) "Dispose" or "disposal" has the meaning given it in section 115A.03, subdivision 9.

(d) *"Hazardous air pollutant" means an air pollutant listed under United States Code, title 42, section 7412(b).*

(e) "Hazardous waste" means any waste identified as hazardous under the authority of section 116.07, subdivision 4, except for those wastes exempted under Minnesota Rules, part 7045.0120, wastes generated under Minnesota Rules, part 7045.0213 or 7045.0304, and household appliances.

~~(e)~~ *(f)* "Permit" means a permit issued by the pollution control agency ~~or interim status for a treatment, storage, or disposal facility~~ *under chapter 115 or 116 or the rules promulgated under those chapters including interim status* for hazardous waste ~~that qualifies under the agency rules~~ *facilities.*

(g) "Solid waste" has the meaning given in section 116.06, subdivision 10.

(h) "Toxic pollutant" means a toxic pollutant on the list established under United States Code, title 33, section 1317.

Subd. 2. |~~PROOF OF KNOWING STATE OF MIND~~ *DEFINITION OF KNOWING.*| ~~(a) Knowledge possessed by a person other than the defendant but not by the defendant may not be attributed to the defendant. In proving a defendant's actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield the defendant from relevant information.~~

~~(b) Proof of a defendant's reason to know may not consist solely of the fact that the defendant held a certain job or position of management responsibility. If evidence of the defendant's job or position is offered, it must be corroborated by evidence of defendant's reason to know. Corroborating evidence must include evidence that the defendant had information regarding the offense for which the defendant is charged, that the information pertained to hazardous waste management practices directly under the defendant's control or within the defendant's supervisory responsibilities, and that the information would cause a reasonable and prudent person in the defendant's position to learn the actual facts~~ *(a) For purposes of this section, an act is committed knowingly if it is done voluntarily and is not the result of negligence, mistake, accident, or circumstances that are beyond the control of the defendant. Whether an act was knowing may be inferred from the person's conduct, from the person's familiarity with the subject matter in question, or from all of the facts and circumstances connected with the case. Knowledge may also be established by evidence that the person took affirmative steps to shield the person from relevant information. Proof of knowledge does not require that a person knew a particular act or failure to act was a violation of law or that the person had specific knowledge of the regulatory limits or testing procedures involved in a case.*

(b) Knowledge of a corporate official may be established under paragraph (a) or by proof that the person is a responsible corporate official. To prove that a person is a responsible corporate official, it must be shown that:

(1) the person is an official of the corporation, not merely an employee;

(2) the person has direct control of or supervisory responsibility for the activities related to the alleged violation, but not solely that the person held a certain job or position in a corporation; and

(3) the person had information regarding the offense for which the defendant is charged that would lead a reasonable and prudent person in the defendant's position to learn the actual facts.

(c) Knowledge of a corporation may be established by showing that an illegal act was performed by an agent acting on behalf of the corporation within the scope of employment and in furtherance of the corporation's business interest, unless a high managerial person with direct supervisory authority over the agent demonstrated due diligence to prevent the crime's commission.

Subd. 3. [~~HAZARDOUS WASTE;~~ KNOWING ENDANGERMENT.] (a) A person is guilty of a felony if the person:

(1) ~~knowingly, or with reason to know, transports, treats, stores, or disposes of hazardous waste in violation of~~ *commits an act described in* subdivision 4 ~~or~~, 5, *8, paragraph (a), or 12*; and

(2) at the time of the violation knowingly places~~, or has reason to know that the person's conduct places,~~ another person in imminent danger of death, great bodily harm, or substantial bodily harm.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than ten years, or to ~~pay~~ *payment of* a fine of not more than $100,000, or both, except that a defendant that is an organization may be sentenced to ~~pay~~ *payment of* a fine of not more than $1,000,000.

Subd. 4. [HAZARDOUS WASTE; UNLAWFUL DISPOSAL *OR ABANDONMENT*.] A person who knowingly~~, or with reason to know,~~ disposes of *or abandons* hazardous waste or arranges for the disposal of hazardous waste at a location other than one authorized by the pollution control agency or the United States Environmental Protection Agency, or in violation of any material term or condition of a hazardous waste facility permit, is guilty of a felony and may be sentenced to imprisonment for not more than five years or to ~~pay~~ *payment of* a fine of not more than $50,000, or both.

Subd. 5. [HAZARDOUS WASTE; UNLAWFUL TREATMENT, STORAGE, TRANSPORTATION, OR DELIVERY; ~~FALSE STATEMENTS~~.] (a) A person is guilty of a felony who knowingly~~, or with reason to know,~~ does any of the following:

(1) delivers hazardous waste to any person other than a person who is authorized to receive the waste under rules adopted under section 116.07, subdivision 4, or under United States Code, title 42, sections ~~9601~~ *6921* to ~~9675~~ *6938*;

(2) treats or stores hazardous waste without a permit if a permit is required, or in violation of a material term or condition of a permit held by the person, unless:

(i) the person notifies the agency prior to the time a permit would be required that the person will be treating or storing waste without a permit; or

(ii) for a violation of a material term or condition of a permit, the person

immediately notifies the agency issuing the permit of the circumstances of the violation as soon as the person becomes aware of the violation;

(3) transports hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted under section 116.07, subdivision 4, or under United States Code, title 42, sections ~~9601~~ *6921* to ~~9675~~ *6938*;

(4) transports hazardous waste without a manifest as required by the rules under sections 116.07, subdivision 4, and 221.172; *or*

(5) transports hazardous waste without a license required for the transportation of hazardous waste by chapter 221;

~~(6) makes a false material statement or representation, or a material omission, in an application for a permit or license required by chapter 116 or 221 to treat, transport, store, or dispose of hazardous waste; or~~

~~(7) makes a false material statement or representation, or a material omission, in or on a label, manifest, record, report, or other document filed, maintained, or used for the purpose of compliance with chapter 116 or 221 in connection with the generation, transportation, disposal, treatment, or storage of hazardous waste~~.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than three years, or to ~~pay~~ *payment of* a fine of not more than $25,000, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than five years, or to ~~pay~~ *payment of* a fine of not more than $50,000, or both.

Subd. 6. [NEGLIGENT VIOLATION AS GROSS MISDEMEANOR.] A person who commits any of the acts set forth in subdivision 4 ~~or~~, 5, *or 12* as a result of the person's gross negligence is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to ~~pay~~ *payment of* a fine of not more than $15,000, or both.

Subd. 7. [~~AGGREGATION~~ *PROSECUTION*.] When two or more offenses in violation of ~~subdivision~~ 4 *this section* are committed by the same person in two or more counties within a two-year period, ~~the offenses may be aggregated and~~ the accused may be prosecuted in any county in which one of the offenses was committed.

Subd. 8. [WATER POLLUTION.] (a) *A person is guilty of a felony who knowingly:*

(1) causes the violation of an effluent standard or limitation for a toxic pollutant in a national pollutant discharge elimination system permit or state disposal system permit;

(2) introduces into a sewer system or into a publicly owned treatment works a hazardous substance that the person knew or reasonably should have known is likely to cause personal injury or property damage; or

(3) except in compliance with all applicable federal, state, and local requirements and permits, introduces into a sewer system or into a publicly owned treatment works a hazardous substance that causes the treatment works to violate an effluent limitation or condition of the treatment works' national pollutant discharge elimination system permit.

(b) For purposes of paragraph (a), "hazardous substance" means a substance on the list established under United States Code, title 33, section

1321(b).

(c) A person convicted under paragraph (a) may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $50,000 per day of violation, or both.

(d) A person is guilty of a ~~gross misdemeanor~~ *crime* who ~~willfully commits any of the following acts~~ *knowingly:*

(1) violates any effluent standard or limitation, or any water quality standard adopted by the agency;

(2) violates any *material term or condition of a* national pollutant discharge elimination system permit or ~~any term or condition of the~~ *state disposal system* permit;

(3) fails to ~~permit or~~ carry out any recording, reporting, monitoring, sampling, *or* information ~~entry, access, copying, or other inspection or investigation~~ *gathering* requirement provided for under chapter 115 or~~, with respect to pollution of the waters of the state, chapter~~ 116; or

(4) fails to ~~comply with any~~ *file a discharge monitoring report or other document required for compliance with a* national pollutant discharge elimination system ~~filing requirement~~ *or state disposal system permit.*

~~(b)~~ *(e)* A person convicted under ~~this subdivision~~ *paragraph (d)* may be sentenced to imprisonment for not more than one year, or to ~~pay~~ *payment of* a fine of not less than $2,500 and not more than ~~$40,000~~ *$25,000* per day of violation, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than two years, or to ~~pay~~ *payment of* a fine of not more than $50,000 per day of violation, or both.

Subd. 9. [~~INFORMATION AND MONITORING~~ *FALSE STATEMENTS; TAMPERING.*] (a) ~~Except as provided in subdivision 5, paragraph (a), clauses (6) and (7),~~ A person is guilty of a ~~gross misdemeanor~~ *felony* who knowingly:

(1) makes any ~~material~~ false *material* statement, representation, or certification in ~~any~~*; omits material information from; or alters, conceals, or fails to file or maintain a notice,* application, record, report, plan, *manifest, permit, license,* or other document ~~filed, maintained, or used for the purpose of compliance with~~ *required under* sections 103F.701 to 103F.761~~, or~~*;* chapter 115 or~~, with respect to pollution of the waters of the state, chapter~~ 116; or *the hazardous waste transportation requirements of chapter 221; or*

(2) falsifies, tampers with, ~~or~~ renders inaccurate, *or fails to install* any monitoring device or method *required to be* maintained or ~~used~~ *followed* for the purpose of compliance with sections 103F.701 to 103F.761~~,~~ or chapter 115 or~~, with respect to pollution of the waters of the state, chapter~~ 116.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than ~~six months~~ *two years*, or to ~~pay~~ *payment of* a fine of not more than ~~$20,000 per day of violation~~ *$10,000*, or both.

Subd. 10. [FAILURE TO REPORT A RELEASE OF A HAZARDOUS SUBSTANCE OR AN EXTREMELY HAZARDOUS SUBSTANCE.] (a) A person is, upon conviction, subject to a fine of up to $25,000 or imprisonment for up to two years, or both, who:

(1) is required to report the release of a hazardous substance under United States Code, title 42, section 9603, or the release of an extremely hazardous

substance under United States Code, title 42, section 11004;

(2) knows ~~or has reason to know~~ that a hazardous substance or an extremely hazardous substance has been released; and

(3) fails to provide immediate notification of the release of a reportable quantity of a hazardous substance or an extremely hazardous substance to the state emergency response center, or a firefighting or law enforcement organization.

(b) For a second or subsequent conviction under this subdivision, the violator is subject to a fine of up to $50,000 or imprisonment for not more than five years, or both.

(c) For purposes of this subdivision, a "hazardous substance" means a substance on the list established under United States Code, title 42, section 9602.

(d) For purposes of this subdivision, an "extremely hazardous substance" means a substance on the list established under United States Code, title 42, section 11002.

(e) For purposes of this subdivision, a "reportable quantity" means a quantity that must be reported under United States Code, title 42, section 9602 or 11002.

Subd. 11. [INFECTIOUS WASTE.] A person who knowingly~~, or with reason to know,~~ disposes of or arranges for the disposal of infectious waste as defined in section 116.76 at a location or in a manner that is prohibited by section 116.78 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $10,000, or both. A person convicted a second or subsequent time under this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than $25,000, or both.

Subd. 12. [AIR POLLUTION.] *(a) A person is guilty of a felony who knowingly:*

(1) causes a violation of a national emission standard for a hazardous air pollutant adopted under United States Code, title 42, section 7412; or

(2) causes a violation of an emission standard, limitation, or operational limitation for a hazardous air pollutant established in a permit issued by the pollution control agency.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $50,000 per day of violation, or both.

Subd. 13. [SOLID WASTE DISPOSAL.] *(a) A person is guilty of a gross misdemeanor who:*

(1) knowingly disposes of solid waste at, transports solid waste to, or arranges for disposal of solid waste at a location that does not have a required permit for the disposal of solid waste; and

(2) does so in exchange for or in expectation of money or other consideration.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than

$15,000, or both.

Subd. 14. [DEFENSE.] *Except for intentional violations, a person is not guilty of a crime for air quality violations under subdivision 6 or 12, or for water quality violations under subdivision 8, if the person notified the pollution control agency of the violation as soon as the person discovered the violation and took steps to promptly remedy the violation.*

Sec. 5. [APPROPRIATIONS.]

Subdivision 1. [POLLUTION CONTROL AGENCY.] *(a) $890,000 is appropriated from the environmental fund to the pollution control agency for administration of articles 1 and 2. $460,000 is for fiscal year 1992 and $430,000 is for fiscal year 1993.*

(b) $238,000 is appropriated from the environmental fund to the attorney general for costs incurred under articles 1 and 2. $119,000 is for fiscal year 1992 and $119,000 is for fiscal year 1993.

Subd. 2. [DEPARTMENT OF NATURAL RESOURCES.] *$200,000 is appropriated from the environmental fund to the commissioner of natural resources for implementation of the field citation pilot project under article 1, section 15. $100,000 is for fiscal year 1992 and $100,000 is for fiscal year 1993.*

Sec. 6. [EFFECTIVE DATE.]

Sections 1, 3, and 4 are effective August 1, 1991, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to the environment; establishing an environmental enforcement account; establishing a field citation pilot project for unauthorized disposal of solid waste; authorizing background investigations of environmental permit applicants; expanding current authority to impose administrative penalties for air and water pollution and solid waste management violations; clarifying that certain persons who own or have the capacity to influence operation of property are not responsible persons under the environmental response and liability act solely because of ownership or the capacity to influence operation; imposing criminal penalties for knowing violations of standards related to hazardous air pollutants and toxic pollutants in water; providing that certain property is subject to forfeiture in connection with convictions for water pollution and air pollution violations; imposing criminal penalties for unauthorized disposal of solid waste; authorizing prosecution of environmental crimes by the attorney general; providing for environmental restitution as part of a sentence; increasing criminal penalties for false statements on documents related to permits and record keeping; requiring reports; appropriating money; amending Minnesota Statutes 1990, sections 18D.331, subdivision 4; 115.071, by adding a subdivision; 115.072; 115B.03, by adding subdivisions; 115C.05; 116.07, subdivision 4d; 116.072, subdivisions 1, 2, 6, 10, and 11; 609.531, subdivision 1; and 609.671; proposing coding for new law in Minnesota Statutes, chapters 115 and 116."

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

House Conferees: (Signed) Dee Long, Myron W. Orfield, Sidney Pauly

Senate Conferees: (Signed) Phil J. Riveness, Richard J. Cohen, Ted A. Mondale

Mr. Riveness moved that the foregoing recommendations and Conference Committee Report on H.F. No. 694 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. 694 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 12, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, D.E.	Merriam	Pogemiller
Beckman	DeCramer	Johnson, J.B.	Metzen	Price
Belanger	Finn	Kelly	Moe, R.D.	Ranum
Benson, D.D.	Flynn	Knaak	Mondale	Reichgott
Benson, J.E.	Frank	Kroening	Morse	Riveness
Berglin	Frederickson, D.J.	Laidig	Neuville	Sams
Brataas	Frederickson, D.R.	Luther	Novak	Spear
Cohen	Gustafson	Marty	Olson	Traub
Dahl	Hottinger	McGowan	Pappas	Vickerman
Davis	Hughes	Mehrkens	Piper	Waldorf

Those who voted in the negative were:

Berg	Chmielewski	Larson	Pariseau	Storm
Bernhagen	Halberg	Lessard	Renneke	Stumpf
Bertram	Johnston			

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 720 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 720

A bill for an act relating to housing and economic development; modifying procedures relating to rent escrow actions; modifying procedures relating to the tenant's loss of essential services; modifying provisions relating to tenant remedy actions, retaliatory eviction proceedings, and receivership proceedings; modifying provisions relating to Minnesota housing finance agency low- and moderate-income housing programs; requiring counseling for reverse mortgage loans; modifying certain receivership, assignment of rents and profits, and landlord and tenant provisions; modifying provisions relating to housing and redevelopment authorities; providing for the issuance of general obligation bonds for housing by the cities of Minneapolis and St. Paul; authorizing the city of Minneapolis to make small business loans; authorizing certain economic development activities within the city of St. Paul; excluding housing districts from the calculation of local government aid reductions; modifying the interest rate reduction program; appropriating money; amending Minnesota Statutes 1990, sections 47.58, by adding a subdivision; 268.39; 273.1399, subdivision 1; 462A.03, subdivisions 10, 13, and 16; 462A.05, subdivision 20, and by adding a subdivision; 462A.08, subdivision 2; 462A.21, subdivisions 4k, 12a, and 14; 462A.22, subdivision 9; 462A.222, subdivision 3; 462C.03, subdivision 10; 469.002, subdivision

24; 469.011, subdivision 4; 469.012, subdivisions 1 and 3; 469.015, subdivisions 3, 4, and by adding a subdivision; 469.176, subdivision 4f; 474A.048, subdivision 2; 481.02, subdivision 3; 504.02; 504.18, subdivision 1; 504.185, subdivision 2; 504.20, subdivisions 3, 4, 5, and 7; 504.27; 559.17, subdivision 2; 566.03, subdivision 1; 566.17, by adding a subdivision; 566.175, subdivision 6; 566.18, subdivision 9; 566.29, subdivisions 2 and 4; and 576.01, subdivision 2; Laws 1974, chapter 285, section 4, as amended; Laws 1987, chapter 404, section 28, subdivision 1; Laws 1988, chapter 594, section 6; Laws 1989, chapter 335, article 1, section 27, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 1990, section 462A.05, subdivisions 28 and 28.

May 20, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 720, 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. 720 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

LANDLORD AND TENANT

Section 1. Minnesota Statutes 1990, section 481.02, subdivision 3, is amended to read:

Subd. 3. [PERMITTED ACTIONS.] The provisions of this section shall not prohibit:

(1) any person from drawing, without charge, any document to which the person, an employer of the person, a firm of which the person is a member, or a corporation whose officer or employee the person is, is a party, except another's will or testamentary disposition or instrument of trust serving purposes similar to those of a will;

(2) a person from drawing a will for another in an emergency if the imminence of death leaves insufficient time to have it drawn and its execution supervised by a licensed attorney-at-law;

(3) any insurance company from causing to be defended, or from offering to cause to be defended through lawyers of its selection, the insureds in policies issued or to be issued by it, in accordance with the terms of the policies;

(4) a licensed attorney-at-law from acting for several common-carrier corporations or any of its subsidiaries pursuant to arrangement between the corporations;

(5) any bona fide labor organization from giving legal advice to its members in matters arising out of their employment;

(6) any person from conferring or cooperating with a licensed attorney-at-law of another in preparing any legal document, if the attorney is not,

directly or indirectly, in the employ of the person or of any person, firm, or corporation represented by the person;

(7) any licensed attorney-at-law of Minnesota, who is an officer or employee of a corporation, from drawing, for or without compensation, any document to which the corporation is a party or in which it is interested personally or in a representative capacity, except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will, but any charge made for the legal work connected with preparing and drawing the document shall not exceed the amount paid to and received and retained by the attorney, and the attorney shall not, directly or indirectly, rebate the fee to or divide the fee with the corporation;

(8) any person or corporation from drawing, for or without a fee, farm or house leases, notes, mortgages, chattel mortgages, bills of sale, deeds, assignments, satisfactions, or any other conveyances except testamentary dispositions and instruments of trust;

(9) a licensed attorney-at-law of Minnesota from rendering to a corporation legal services to itself at the expense of one or more of its bona fide principal stockholders by whom the attorney is employed and by whom no compensation is, directly or indirectly, received for the services;

(10) any person or corporation engaged in the business of making collections from engaging or turning over to an attorney-at-law for the purpose of instituting and conducting suit or making proof of claim of a creditor in any case in which the attorney-at-law receives the entire compensation for the work;

(11) any regularly established farm journal or newspaper, devoted to general news, from publishing a department of legal questions and answers to them, made by a licensed attorney-at-law, if no answer is accompanied or at any time preceded or followed by any charge for it, any disclosure of any name of the maker of any answer, any recommendation of or reference to any one to furnish legal advice or services, or by any legal advice or service for the periodical or any one connected with it or suggested by it, directly or indirectly;

(12) any authorized management agent of an owner of rental property used for residential purposes, whether the management agent is a natural person, corporation, partnership, limited partnership, or any other business entity, from commencing, maintaining, conducting, or defending in its own behalf any action in any court in this state to recover or retain possession of the property, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal; and

(13) any person from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state pursuant to the provisions of section 566.175 or sections 566.18 to ~~566.33~~ *566.35* or from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state for the recovery of rental property used for residential purposes pursuant to the provisions of section 566.02 or 566.03, subdivision 1, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal, and provided

that, except for a nonprofit corporation, a person who is not a licensed attorney-at-law shall not charge or collect a separate fee for services rendered pursuant to this clause.

Sec. 2. Minnesota Statutes 1990, section 504.02, is amended to read:

504.02 [CANCELLATION OF LEASES IN CERTAIN CASES; ABANDONMENT OR SURRENDER OF POSSESSION.]

Subdivision 1. [ACTION TO RECOVER.] *(a)* In case of a lease of real property, when the landlord has a subsisting right of reentry for the failure of the tenant to pay rent the landlord may bring an action to recover possession of the property and such action is equivalent to a demand for the rent and a reentry upon the property; but if, at any time before possession has been delivered to the plaintiff on recovery in the action, the lessee or a successor in interest as to the whole or any part of the property pays to the plaintiff or brings into court the amount of the rent then in arrears, with interest and costs of the action, and an attorney's fee not exceeding $5, and performs the other covenants on the part of the lessee, the lessee or successor may be restored to the possession and hold the property according to the terms of the original lease.

(b) If the tenant has paid to the plaintiff or brought into court the amount of rent in arrears but is unable to pay the interest, costs of the action, and attorney fees required by this subdivision, the court may permit the defendant to pay these amounts into court and be restored to possession within the same period of time, if any, which the court stays the issuance of the writ of restitution pursuant to section 566.09.

(c) Prior to or after commencement of an action to recover possession for nonpayment of rent, the parties may agree only in writing that partial payment of rent in arrears which is accepted by the landlord prior to issuance of the order granting restitution of the premises pursuant to section 566.09 may be applied to the balance due and does not waive the landlord's action to recover possession of the premises for nonpayment of rent.

(d) Rental payments under this subdivision must first be applied to rent claimed as due in the complaint from prior rental periods before applying any payment toward rent claimed in the complaint for the current rental period, unless the court finds that under the circumstances the claim for rent from prior rental periods has been waived.

Subd. 2. [LEASE GREATER THAN 20 YEARS.] *(a)* If the lease under which the right of reentry is claimed is a lease for a term of more than 20 years, reentry cannot be made into the land or such action commenced by the landlord unless, after default, the landlord shall serve upon the tenant, also upon all creditors having a lien of record legal or equitable upon the leased premises or any part thereof, a written notice that the lease will be canceled and terminated unless the payment or payments in default shall be made and the covenants in default shall be performed within 30 days after the service of such notice, or within such greater period as the lessor shall specify in the notice, and if such default shall not be removed within the period specified within the notice, then the right of reentry shall be complete at the expiration of the period and may be exercised as provided by law. If any such lease shall provide that the landlord, after default, shall give more then 30 days' notice in writing to the tenant of the landlord intention to terminate the tenancy by reason of default in terms thereof, then the length of the notice to terminate shall be the same as provided for

and required by the lease.

(b) As to such leases for a term of more than 20 years, if at any time before the expiration of six months after possession obtained by the plaintiff by abandonment or surrender of possession by the tenant or on recovery in the action, the lessee or a successor in interest as to the whole or part of the property, or any creditor having a lien legal or equitable upon the leased premises or any part thereof, pays to the plaintiff, or brings into court, the amount of rent then in arrears, with interest and the costs of the action, and performs the other covenants on the part of the lessee, the lessee or successor may be restored to the possession and hold the property according to the terms of the original lease. The provisions of this section shall not apply to any action or proceeding now pending in any of the courts of this state.

Subd. 3. [JUDGMENT TO BE RECORDED.] Upon recovery of possession by the landlord in the action a certified copy of the judgment shall be recorded in the office of the county recorder of the county where the land is situated if unregistered land or in the office of the registrar of titles of such county if registered land and upon recovery of possession by the landlord by abandonment or surrender by the tenant an affidavit by the landlord or the landlord's attorney setting forth such fact shall be recorded in a like manner and such recorded certified copy of such judgment or such recorded affidavit shall be prima facie evidence of the facts stated therein in reference to the recovery of possession by such landlord.

Sec. 3. Minnesota Statutes 1990, section 504.18, subdivision 1, is amended to read:

Subdivision 1. In every lease or license of residential premises, whether in writing or parol, the lessor or licensor covenants:

(a) That the premises and all common areas are fit for the use intended by the parties.

(b) To keep the premises in reasonable repair during the term of the lease or license, except when the disrepair has been caused by the willful, malicious, or irresponsible conduct of the lessee or licensee or a person under the direction or control of the lessee or licensee.

(c) To maintain the premises in compliance with the applicable health and safety laws of the state, *including the weatherstripping, caulking, storm window, and storm door energy efficiency standards for renter-occupied residences prescribed by section 216C.27, subdivisions 1 and 3,* and of the local units of government where the premises are located during the term of the lease or license, except when violation of the health and safety laws has been caused by the willful, malicious, or irresponsible conduct of the lessee or licensee or a person under the direction or control of the lessee or licensee.

The parties to a lease or license of residential premises may not waive or modify the covenants imposed by this section.

Sec. 4. Minnesota Statutes 1990, section 504.185, subdivision 2, is amended to read:

Subd. 2. [PROCEDURE.] When a municipality, utility company, or other company supplying home heating oil, propane, natural gas, electricity, or water to a building has *issued a final notice or has posted the building proposing to disconnect or* discontinued the service to the building because

an owner who has contracted for the service has failed to pay for it *or because an owner is required by law or contract to pay for the service and fails to do so*, a tenant or group of tenants may pay to have the service *continued or* reconnected as provided under this section. Before paying for the service, the tenant or group of tenants shall give oral or written notice to the owner of the tenant's intention to pay after 48 hours, or a shorter period that is reasonable under the circumstances, if the owner has not already paid for the service. In the case of oral notification, written notice shall be mailed or delivered to the owner within 24 hours after oral notice is given.

(a) In the case of natural gas, electricity, or water, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may pay the outstanding bill for the most recent billing period, if the utility company or municipality will restore the service for at least one billing period.

(b) In the case of home heating oil or propane, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may order and pay for one month's supply of the proper grade and quality of oil or propane.

After submitting receipts for the payment to the owner, a tenant may deduct the amount of the tenant's payment from the rental payment next paid to the owner. Any amount paid to the municipality, utility company, or other company by a tenant under this subdivision is considered payment of rent to the owner for purposes of section 504.02.

Sec. 5. Minnesota Statutes 1990, section 504.20, subdivision 3, is amended to read:

Subd. 3. Every landlord shall, within three weeks after termination of the tenancy *or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant,* and *after* receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as above provided, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof. It shall be sufficient compliance with the time requirement of this subdivision if the deposit or written statement required by this subdivision is placed in the United States mail as first class mail, postage prepaid, in an envelope with a proper return address, correctly addressed according to the mailing address or delivery instructions furnished by the tenant, within the time required by this subdivision. The landlord may withhold from the deposit only amounts reasonably necessary:

(a) To remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement; or

(b) To restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

In any action concerning the deposit, the burden of proving, by a fair preponderance of the evidence, the reason for withholding all or any portion of the deposit shall be on the landlord.

Sec. 6. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy *or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant,* and *after* receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, shall be liable to the tenant for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 7. Minnesota Statutes 1990, section 504.27, is amended to read:

504.27 [REMEDIES ARE ADDITIONAL.]

The remedies provided in sections 504.24 to 504.26 are in addition to and shall not limit other rights or remedies available to landlords and tenants. Any provision, whether oral or written, of any lease or other agreement, whereby any provision of sections 504.24 to 504.27 is waived by a tenant is contrary to public policy and void. The provisions of sections 504.24 to 504.27 shall apply only to tenants as that term is defined in section 566.18, subdivision 2, and buildings as that term is defined in section 566.18, subdivision 7. *The provisions of sections 504.24, 504.25, 504.255, and 504.26 apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.*

ARTICLE 2

UNLAWFUL DETAINER

Section 1. Minnesota Statutes 1990, section 566.03, subdivision 1, is amended to read:

Subdivision 1. *The person entitled to the premises may recover possession in the manner provided in this section* when:

(1) any person holds over lands or tenements after a sale thereof on an execution or judgment, or on foreclosure of a mortgage, and expiration of the time for redemption, or after termination of contract to convey the same, provided that if the person holding such lands or tenements after the ~~sale, foreclosure,~~ *expiration of the time for redemption* or termination is a tenant, the person has received:

(i) at least one month's written notice ~~of the termination of tenancy as a result of~~ *to vacate no sooner than one month after* the ~~sale, foreclosure,~~ *expiration of the time for redemption* or termination, *provided that the tenant pays the rent and abides by all terms of the lease*; or ~~when~~

(ii) at least one month's written notice to vacate no later than the date of the expiration of the time for redemption or termination, which notice shall also state that the sender will hold the tenant harmless for breaching the lease by vacating the premises if the mortgage is redeemed or the contract is reinstated;

(2) any person holds over lands or tenements after termination of the time for which they are demised or let to that person or to the persons under whom that person holds possession, or contrary to the conditions or covenants of the lease or agreement under which that person holds, or after

any rent becomes due according to the terms of such lease or agreement; or ~~when~~

(3) any tenant at will holds over after the determination of ~~any such~~ *the* estate by notice to quit; ~~in all such cases the person entitled to the premises may recover possession thereof in the manner hereinafter provided~~.

Sec. 2. Minnesota Statutes 1990, section 566.17, is amended by adding a subdivision to read:

Subd. 2a. In the second and fourth judicial districts, the housing calendar consolidation project shall retain jurisdiction in matters relating to removal of property under this section. If the plaintiff refuses to return the property after proper demand is made as provided in section 504.24, the court shall enter an order requiring the plaintiff to return the property to the defendant and awarding reasonable expenses including attorney fees to the defendant.

Sec. 3. Minnesota Statutes 1990, section 566.175, subdivision 6, is amended to read:

Subd. 6. ~~The provisions of~~ This section ~~shall apply only~~ *applies* to*:*

(1) tenants as ~~that term is~~ defined in section 566.18, subdivision 2, and *including occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired;*

(2) buildings as that term is defined in section 566.18, subdivision 7*; and*

(3) landlords as the term "owner" is defined in section 566.18, subdivision 3, but also including mortgagees and contract for deed vendors.

Sec. 4. Minnesota Statutes 1990, section 566.18, subdivision 9, is amended to read:

Subd. 9. [NEIGHBORHOOD ORGANIZATION.] "Neighborhood organization" means a nonprofit corporation incorporated under chapter 317A that satisfies clauses (1) and (2).

The corporation shall:

(1) designate in its articles of incorporation or bylaws a specific geographic community to which its activities are limited; and

(2) be formed for the purposes of promoting community safety, crime prevention, and housing quality in a nondiscriminatory manner.

For purposes of this chapter, an action taken by a neighborhood organization with the written permission of a tenant means, with respect to a building with multiple dwelling units, an action taken by the neighborhood organization with the written permission of the tenants of a majority of the *occupied* units.

Sec. 5. Minnesota Statutes 1990, section 566.29, subdivision 2, is amended to read:

Subd. 2. Such person *or neighborhood organization* shall post bond to the extent of the rents expected by the court to be necessary to be collected to correct the violation or violations. Administrators appointed from the governmental agencies shall not be required to give bond.

Sec. 6. Minnesota Statutes 1990, section 566.29, subdivision 4, is amended to read:

Subd. 4. [POWERS.] The administrator is authorized to:

(a) Collect rents from tenants and commercial tenants, evict tenants and commercial tenants for nonpayment of rent or other cause, enter into leases for vacant dwelling units, rent vacant commercial units with the consent of the owner and exercise all other powers necessary and appropriate to carry out the purposes of Laws 1973, chapter 611;

(b) Contract for the reasonable cost of materials, labor and services necessary to remedy the violation or violations found by the court to exist and for the rehabilitation of the property in order to maintain safe and habitable conditions over the useful life of the property, and make disbursements for payment therefor from funds available for the purpose;

(c) Provide any services to the tenants which the owner is obligated to provide but refuses or fails to provide, and pay for them from funds available for the purpose;

(d) Petition the court, after notice to the parties, for an order allowing the administrator to encumber the ~~premise~~ *premises* to secure funds to the extent necessary to cover the cost of materials, labor, and services, including reasonable fees for the administrator's services, necessary to remedy the violation or violations found by the court to exist and for rehabilitation of the property in order to maintain safe and habitable conditions over the useful life of the property, and to pay for them from funds derived from the encumbrance; and

(e) Petition the court, after notice to the parties, for an order allowing the administrator to receive funds made available for this purpose by the *federal or state governing body or the* municipality to the extent necessary to cover the cost of materials, labor, and services necessary to remedy the violation or violations found by the court to exist and for rehabilitation of the property in order to maintain safe and habitable conditions over the useful life of the property, and pay for them from funds derived from ~~the municipal sources~~ *this source*. The municipality shall recover disbursements by special assessment on the real estate affected, bearing interest at the rate determined by the municipality, not exceeding the rate established for finance charges for open-end credit sales under section 334.16, subdivision 1, clause (b), with the assessment, interest and any penalties to be collected the same as special assessments made for other purposes under state statute or municipal charter.

Sec. 7. [609.606] [UNLAWFUL OUSTER OR EXCLUSION.]

A landlord, agent of the landlord, or person acting under the landlord's direction or control who unlawfully and intentionally removes or excludes a tenant from lands or tenements or intentionally interrupts or causes the interruption of electrical, heat, gas, or water services to the tenant with intent to unlawfully remove or exclude the tenant from lands or tenements is guilty of a misdemeanor.

ARTICLE 3

STATE HOUSING PROGRAMS

Section 1. Minnesota Statutes 1990, section 47.58, is amended by adding a subdivision to read:

Subd. 8. [COUNSELING; REQUIREMENT; PENALTY.] *Any lender or any mortgage banking company or any other mortgage lender not related to the mortgagor must keep a certificate on file documenting that the borrower, prior to entering into the reverse mortgage loan, received counseling as defined in this subdivision from an organization that meets the requirements of section 462A.28, subdivision 1, and is a housing counseling agency approved by the United States Department of Housing and Urban Development. The certificate must be signed by the mortgagor and the counselor and include the date of the counseling, the name, address, and telephone number of both the mortgagor and the organization providing counseling. Lenders must provide to the mortgagor a copy of the certificate of counseling upon request. A failure by a lender to provide certification results in a loss of any future interest due on the loan. For the purposes of this subdivision, "counseling" means the following services are provided to the borrower:*

(1) a review of the advantages and disadvantages of reverse mortgage programs;

(2) an explanation of how the reverse mortgage affects the borrower's estate and public benefits;

(3) an explanation of the lending process;

(4) a discussion of the borrower's supplemental income needs; and

(5) an opportunity to ask questions of the counselor.

Sec. 2. Minnesota Statutes 1990, section 462A.03, subdivision 10, is amended to read:

Subd. 10. "Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin ~~or~~, sex, *or status with respect to guardianship or conservatorship,* determined by the agency to require such assistance as is made available by sections 462A.01 to 462A.24 on account of personal or family income not sufficient to afford adequate housing. In making such determination the agency shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs, (b) the size of the family, (c) the cost and condition of housing facilities available, (d) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing. In the case of federally subsidized mortgages with respect to which income limits have been established by any agency of the federal government having jurisdiction thereover for the purpose of defining eligibility of low and moderate income families, the limits so established shall govern under the provision of sections 462A.01 to 462A.24. In all other cases income limits for the purpose of defining low or moderate income persons shall be established by the agency by emergency or permanent rules.

ARTICLE 4

ASSIGNMENT OF RENTS AND RECEIVERSHIP

Section 1. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions~~,~~ as required in subdivision 3, ~~shall be~~ *or*

fails to transfer or return a deposit as required under subdivision 5, is liable to the tenant *or the successor in interest* for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 2. Minnesota Statutes 1990, section 504.20, subdivision 5, is amended to read:

Subd. 5. Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, within ~~a reasonable time~~ *60 days of termination of the interest or when the successor in interest is required to return or otherwise account for the deposit to the tenant, whichever occurs first*, do one of the following acts, either of which shall relieve the landlord or agent of further liability with respect to such deposit:

(a) Transfer such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the landlord's successor in interest and thereafter notify the tenant of such transfer and of the transferee's name and address; or

(b) Return such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the tenant.

Sec. 3. Minnesota Statutes 1990, section 504.20, subdivision 7, is amended to read:

Subd. 7. The bad faith retention by a landlord of ~~the~~ *a* deposit, the interest thereon, or any portion thereof, in violation of this section shall subject the landlord to punitive damages not to exceed $200 *for each deposit* in addition to the damages provided in subdivision 4. If the landlord has failed to comply with the provisions of subdivision 3 *or 5*, retention of ~~the~~ *a* deposit shall be presumed to be in bad faith unless the landlord returns the deposit within two weeks after the commencement of any action for the recovery of the deposit.

Sec. 4. Minnesota Statutes 1990, section 559.17, subdivision 2, is amended to read:

Subd. 2. A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

(1) Was executed, modified or amended subsequent to August 1, 1977;

(2) Secured an original principal amount of ~~$500,000~~ *$100,000* or more *or is a lien upon residential real estate containing more than four dwelling units*; and

(3) Is not a lien upon property which was entirely homesteaded ~~as~~, *residential real estate containing four or less dwelling units where at least one of the units is homesteaded, or* agricultural property. The assignment may be enforced as follows:

(a) If, by the terms of an assignment, a receiver is to be appointed upon the occurrence of some specified event, and a showing is made that the event has occurred, the court shall, without regard to waste, adequacy of the security, or solvency of the mortgagor, appoint a receiver who shall, with respect to the excess cash remaining after application as provided in

section 576.01, subdivision 2, apply it as prescribed by the assignment. If the assignment so provides, the receiver shall apply the excess cash in the manner set out herein from the date of appointment through the entire redemption period from any foreclosure sale. Subject to the terms of the assignment, the receiver shall have the powers and duties as set forth in section 576.01, subdivision 2~~.~~; *or*

(b) If no provision is made for the appointment of a receiver in the assignment *or if by the terms of the assignment a receiver may be appointed*, the assignment shall be binding upon the assignor *unless or until a receiver is appointed* without regard to waste, adequacy of the security or solvency of the mortgagor, but only in the event of default in the terms and conditions of the mortgage, and only in the event the assignment requires the holder thereof to first apply the rents and profits received as provided in section 576.01, subdivision 2, in which case the same shall operate against and be binding upon the occupiers of the premises from the date of filing by the holder of the assignment in the office of the county recorder or the office of the registrar of titles for the county in which the property is located of a notice of default in the terms and conditions of the mortgage and service of a copy of the notice upon the occupiers of the premises. The holder of the assignment shall apply the rents and profits received in accordance with the terms of the assignment, and, if the assignment so provides, for the entire redemption period from any foreclosure sale. A holder of an assignment who enforces it in accordance with this clause shall not be deemed to be a mortgagee in possession with attendant liability.

Nothing contained herein shall prohibit the right to reinstate the mortgage debt granted pursuant to section 580.30, nor the right to redeem granted pursuant to sections 580.23 and 581.10, and any excess cash, as that term is used herein, collected by the receiver under clause (a), or any rents and profits taken by the holder of the assignment under clause (b), shall be credited to the amount required to be paid to effect a reinstatement or redemption.

Sec. 5. Minnesota Statutes 1990, section 576.01, subdivision 2, is amended to read:

Subd. 2. A receiver shall be appointed in the following case:

After the first publication of notice of sale for the foreclosure of a mortgage pursuant to chapter 580, or with the commencement of an action to foreclose a mortgage pursuant to chapter 581, and during the period of redemption, if the mortgage being foreclosed secured an original principal amount of ~~$500,000~~ *$100,000* or more *or is a lien upon residential real estate containing more than four dwelling units* and was not a lien upon property which was entirely homesteaded, *residential real estate containing four or less dwelling units where at least one unit is homesteaded,* or agricultural property, the foreclosing mortgagee or the purchaser at foreclosure sale may at any time bring an action in the district court of the county in which the mortgaged premises or any part thereof is located for the appointment of a receiver; provided, however, if the foreclosure is by action under chapter 581, a separate action need not be filed. Pending trial of the action on the merits, the court may make a temporary appointment of a receiver following the procedures applicable to temporary injunctions under the rules of civil procedure. If the motion for temporary appointment of a receiver is denied, the trial of the action on the merits shall be held as early as practicable, but not to exceed 30 days after the motion for temporary appointment of a

receiver is heard. The court shall appoint a receiver upon a showing that the mortgagor has breached a covenant contained in the mortgage relating to any of the following:

(1) Application of tenant security deposits as required by section 504.20;

(2) Payment when due of prior or current real estate taxes or special assessments with respect to the mortgaged premises, or the periodic escrow for the payment of the taxes or special assessments;

(3) Payment when due of premiums for insurance of the type required by the mortgage, or the periodic escrow for the payment of the premiums;

(4) Keeping of the covenants required of a lessor or licensor pursuant to section 504.18, subdivision 1.

The receiver shall be an experienced property manager. The court shall determine the amount of the bond to be posted by the receiver.

The receiver shall collect the rents, profits and all other income of any kind, manage the mortgaged premises so to prevent waste, execute leases within or beyond the period of the receivership if approved by the court, pay the expenses listed in clauses (1), (2), and (3) in the priority as numbered, pay all expenses for normal maintenance of the mortgaged premises and perform the terms of any assignment of rents which complies with section 559.17, subdivision 2. Reasonable fees to the receiver shall be paid prior thereto. The receiver shall file periodic accountings as the court determines are necessary and a final accounting at the time of discharge.

The purchaser at foreclosure sale shall have the right, at any time and without limitation as provided in section 582.03, to advance money to the receiver to pay any or all of the expenses which the receiver should otherwise pay if cash were available from the mortgaged premises. Sums so advanced, with interest, shall be a part of the sum required to be paid to redeem from the sale. The sums shall be proved by the affidavit of the purchaser, an agent or attorney, stating the expenses and describing the mortgaged premises. The affidavit must be filed for record with the county recorder or the registrar of titles, and a copy thereof shall be furnished to the sheriff and the receiver at least ten days before the expiration of the period of redemption.

Any sums collected which remain in the possession of the receiver at termination of the receivership shall, in the event the termination of the receivership is due to the reinstatement of the mortgage debt or redemption of the mortgaged premises by the mortgagor, be paid to the mortgagor; and in the event termination of the receivership occurs at the end of the period of redemption without redemption by the mortgagor or any other party entitled to redeem, interest accrued upon the sale price pursuant to section 580.23 or section 581.10 shall be paid to the purchaser at foreclosure sale. Any net sum remaining shall be paid to the mortgagor, except if the receiver was enforcing an assignment of rents which complies with section 559.17, subdivision 2, in which case any net sum remaining shall be paid pursuant to the terms of the assignment.

This subdivision shall apply to all mortgages executed on or after August 1, 1977, and to amendments or modifications of such mortgages, and to amendments or modifications made on or after August 1, 1977, to mortgages executed before August 1, 1977, if the amendment or modification is duly recorded and is for the principal purpose of curing a default.

ARTICLE 5

HOUSING AND REDEVELOPMENT AUTHORITIES

Section 1. Minnesota Statutes 1990, section 469.002, subdivision 24, is amended to read:

Subd. 24. [SECTION 8 PROGRAM.] "Section 8 program" means an existing housing assistance payments program under section 8 of the United States Housing Act of 1937, United States Code, title 42, section 1437f, as amended through December 31, ~~1989~~ *1990*.

Sec. 2. Minnesota Statutes 1990, section 469.011, subdivision 4, is amended to read:

Subd. 4. [EXPENSES; COMPENSATION.] Each commissioner may receive necessary expenses, including traveling expenses, incurred in the performance of duties. Each commissioner may be paid ~~$35~~ *up to $55* for attending each regular and special meeting of the authority. ~~The aggregate of all payments to each commissioner for any one year shall not exceed $2,500.~~ *Commissioners who are elected officials or full-time state employees or full-time employees of the political subdivisions of the state may not receive the daily payment, but they may suffer no loss in compensation or benefits from the state or a political subdivision as a result of their service on the board. Commissioners who are full-time state employees or full-time employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Commissioners who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their normal working hours.*

Sec. 3. Minnesota Statutes 1990, section 469.012, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE OF POWERS.] An authority shall be a public body corporate and politic and shall have all the powers necessary or convenient to carry out the purposes of sections 469.001 to 469.047, except that the power to levy and collect taxes or special assessments is limited to the power provided in sections 469.027 to 469.033. Its powers include the following powers in addition to others granted in sections 469.001 to 469.047:

(1) to sue and be sued; to have a seal, which shall be judicially noticed, and to alter it; to have perpetual succession; and to make, amend, and repeal rules consistent with sections 469.001 to 469.047;

(2) to employ an executive director, technical experts, and officers, agents, and employees, permanent and temporary, that it requires, and determine their qualifications, duties, and compensation; for legal services it requires, to call upon the chief law officer of the city or to employ its own counsel and legal staff; so far as practicable, to use the services of local public bodies in its area of operation, provided that those local public bodies, if requested, shall make the services available;

(3) to delegate to one or more of its agents or employees the powers or duties it deems proper;

(4) within its area of operation, to undertake, prepare, carry out, and operate projects and to provide for the construction, reconstruction,

improvement, extension, alteration, or repair of any project or part thereof;

(5) subject to the provisions of section 469.026, to give, sell, transfer, convey, or otherwise dispose of real or personal property or any interest therein and to execute leases, deeds, conveyances, negotiable instruments, purchase agreements, and other contracts or instruments, and take action that is necessary or convenient to carry out the purposes of these sections;

(6) within its area of operation, to acquire real or personal property or any interest therein by gifts, grant, purchase, exchange, lease, transfer, bequest, devise, or otherwise, and by the exercise of the power of eminent domain, in the manner provided by chapter 117, to acquire real property which it may deem necessary for its purposes, after the adoption by it of a resolution declaring that the acquisition of the real property is necessary to eliminate one or more of the conditions found to exist in the resolution adopted pursuant to section 469.003 or to provide decent, safe, and sanitary housing for persons of low and moderate income, or is necessary to carry out a redevelopment project. Real property needed or convenient for a project may be acquired by the authority for the project by condemnation pursuant to this section. This includes any property devoted to a public use, whether or not held in trust, notwithstanding that the property may have been previously acquired by condemnation or is owned by a public utility corporation, because the public use in conformity with the provisions of sections 469.001 to 469.047 shall be deemed a superior public use. Property devoted to a public use may be so acquired only if the governing body of the municipality has approved its acquisition by the authority. An award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of sections 469.001 to 469.047 of the real property in an area;

(7) within its area of operation, and without the adoption of an urban renewal plan, to acquire, by all means as set forth in clause (6) but without the adoption of a resolution provided for in clause (6), real property, and to demolish, remove, rehabilitate, or reconstruct the buildings and improvements or construct new buildings and improvements thereon, or to so provide through other means as set forth in Laws 1974, chapter 228, or to grade, fill, and construct foundations or otherwise prepare the site for improvements. The authority may dispose of the property pursuant to section 469.029, provided that the provisions of section 469.029 requiring conformance to an urban renewal plan shall not apply. The authority may finance these activities by means of the redevelopment project fund or by means of tax increments or tax increment bonds or by the methods of financing provided for in section 469.033 or by means of contributions from the municipality provided for in section 469.041, clause (9), or by any combination of those means. Real property with buildings or improvements thereon shall only be acquired under this clause when the buildings or improvements are substandard. The exercise of the power of eminent domain under this clause shall be limited to real property which contains, *or has contained within the three years immediately preceding the exercise of the power of eminent domain and is currently vacant,* buildings and improvements which are vacated and substandard. For the purpose of this clause, substandard buildings or improvements mean hazardous buildings as defined in section 463.15, subdivision 3, or buildings or improvements that are dilapidated or obsolescent, faultily designed, lack adequate ventilation, light, or sanitary facilities, or any combination of these or other factors

that are detrimental to the safety or health of the community;

(8) within its area of operation, to determine the level of income constituting low or moderate family income. The authority may establish various income levels for various family sizes. In making its determination, the authority may consider income levels that may be established by the Department of Housing and Urban Development or a similar or successor federal agency for the purpose of federal loan guarantees or subsidies for persons of low or moderate income. The authority may use that determination as a basis for the maximum amount of income for admissions to housing development projects or housing projects owned or operated by it;

(9) to provide in federally assisted projects any relocation payments and assistance necessary to comply with the requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and any amendments or supplements thereto;

(10) to make an agreement with the governing body or bodies creating the authority which provides exemption from all real and personal property taxes levied or imposed by the state, city, county, or other political subdivisions, for which the authority shall make payments in lieu of taxes to the state, city, county, or other political subdivisions as provided in section 469.040. The governing body shall agree on behalf of all the applicable governing bodies affected that local cooperation as required by the federal government shall be provided by the local governing body or bodies in whose jurisdiction the project is to be located, at no cost or at no greater cost than the same public services and facilities furnished to other residents;

(11) to cooperate with or act as agent for the federal government, the state or any state public body, or any agency or instrumentality of the foregoing, in carrying out any of the provisions of sections 469.001 to 469.047 or of any other related federal, state, or local legislation; and upon the consent of the governing body of the city to purchase, lease, manage, or otherwise take over any housing project already owned and operated by the federal government;

(12) to make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, and plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements. The authority may develop, test, and report methods and techniques, and carry out demonstrations and other activities for the prevention and elimination of slums and blight;

(13) to borrow money or other property and accept contributions, grants, gifts, services, or other assistance from the federal government, the state government, state public bodies, or from any other public or private sources;

(14) to include in any contract for financial assistance with the federal government any conditions that the federal government may attach to its financial aid of a project, not inconsistent with purposes of sections 469.001 to 469.047, including obligating itself (which obligation shall be specifically enforceable and not constitute a mortgage, notwithstanding any other laws) to convey to the federal government the project to which the contract relates upon the occurrence of a substantial default with respect to the covenants or conditions to which the authority is subject; to provide in the contract that, in case of such conveyance, the federal government may complete,

operate, manage, lease, convey, or otherwise deal with the project until the defaults are cured if the federal government agrees in the contract to reconvey to the authority the project as then constituted when the defaults have been cured;

(15) to issue bonds for any of its corporate purposes and to secure the bonds by mortgages upon property held or to be held by it or by pledge of its revenues, including grants or contributions;

(16) to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control or in the manner and subject to the conditions provided in section 475.66 for the deposit and investment of debt service funds;

(17) within its area of operation, to determine where blight exists or where there is unsafe, unsanitary, or overcrowded housing;

(18) to carry out studies of the housing and redevelopment needs within its area of operation and of the meeting of those needs. This includes study of data on population and family groups and their distribution according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages, desirable patterns for land use and community growth, and other factors affecting the local housing and redevelopment needs and the meeting of those needs; to make the results of those studies and analyses available to the public and to building, housing, and supply industries;

(19) if a local public body does not have a planning agency or the planning agency has not produced a comprehensive or general community development plan, to make or cause to be made a plan to be used as a guide in the more detailed planning of housing and redevelopment areas;

(20) to lease or rent any dwellings, accommodations, lands, buildings, structures, or facilities included in any project and, subject to the limitations contained in sections 469.001 to 469.047 with respect to the rental of dwellings in housing projects, to establish and revise the rents or charges therefor;

(21) to own, hold, and improve real or personal property and to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein;

(22) to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards;

(23) to procure or agree to the procurement of government insurance or guarantees of the payment of any bonds or parts thereof issued by an authority and to pay premiums on the insurance;

(24) to make expenditures necessary to carry out the purposes of sections 469.001 to 469.047;

(25) to enter into an agreement or agreements with any state public body to provide informational service and relocation assistance to families, individuals, business concerns, and nonprofit organizations displaced or to be displaced by the activities of any state public body;

(26) to compile and maintain a catalog of all vacant, open and undeveloped land, or land which contains substandard buildings and improvements as that term is defined in clause (7), that is owned or controlled by the authority

or by the governing body within its area of operation and to compile and maintain a catalog of all authority owned real property that is in excess of the foreseeable needs of the authority, in order to determine and recommend if the real property compiled in either catalog is appropriate for disposal pursuant to the provisions of section 469.029, subdivisions 9 and 10;

(27) to recommend to the city concerning the enforcement of the applicable health, housing, building, fire prevention, and housing maintenance code requirements as they relate to residential dwelling structures that are being rehabilitated by low- or moderate-income persons pursuant to section 469.029, subdivision 9, for the period of time necessary to complete the rehabilitation, as determined by the authority;

(28) to recommend to the city the initiation of municipal powers, against certain real properties, relating to repair, closing, condemnation, or demolition of unsafe, unsanitary, hazardous, and unfit buildings, as provided in section 469.041, clause (5);

(29) to sell, at private or public sale, at the price or prices determined by the authority, any note, mortgage, lease, sublease, lease purchase, or other instrument or obligation evidencing or securing a loan made for the purpose of economic development, job creation, redevelopment, or community revitalization by a public agency to a business, for-profit or nonprofit organization, or an individual;

(30) within its area of operation, to acquire and sell real property that is benefited by federal housing assistance payments, other rental subsidies, interest reduction payments, or interest reduction contracts for the purpose of preserving the affordability of low- and moderate-income multifamily housing; ~~and~~

(31) to apply for, enter into contracts with the federal government, administer, and carry out a section 8 program. Authorization by the governing body creating the authority to administer the program at the authority's initial application is sufficient to authorize operation of the program in its area of operation for which it was created without additional local governing body approval. Approval by the governing body or bodies creating the authority constitutes approval of a housing program for purposes of any special or general law requiring local approval of section 8 programs undertaken by city, county, or multicounty authorities; *and*

(32) to secure a mortgage or loan for a rental housing project by obtaining the appointment of receivers or assignments of rents and profits under sections 559.17 and 576.01, except that the limitation relating to the minimum amounts of the original principal balances of mortgages specified in sections 559.17, subdivision 2, clause (2); and 576.01, subdivision 2, does not apply.

Sec. 4. Minnesota Statutes 1990, section 469.012, subdivision 3, is amended to read:

Subd. 3. [EXERCISE OF POWERS.] An authority may exercise all or any part or combination of the powers granted by sections 469.001 to 469.047 within its area of operation. Any two or more authorities may join with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing, including the issuance of bonds and giving security therefor, planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project located within the area of operation of any one or more of the authorities. For that purpose

an authority may by resolution prescribe and authorize any other housing authority, so joining with it, to act on its behalf with respect to any or all powers, as its agent or otherwise, in the name of the authority so joining or in its own name.

A city, county, or multicounty authority may by resolution authorize another housing authority to exercise its powers within the authorizing authority's area of operation at the same time that the authorizing authority is exercising the same powers.

A county or city may join with any authority to permit the authority, on behalf of the county, town within the county, or city, to plan, undertake, administer, and carry out a leased existing housing assistance payments program, pursuant to section 8 of the United States Housing Act of 1937 as amended, 42 United States Code, section 1437f. A city may so join with an authority unless there is an authority in the city which has been authorized by resolution under section 469.003 to transact business or exercise powers. A county may so join with an authority unless (a) there is a county authority which has been authorized by resolution under section 469.004 to exercise powers, or the county is a member of a multicounty authority, and (b) the authority has initiated or has in progress an active program or has applied for federal assistance in a public housing, section 8, or redevelopment program within 12 months after its establishment.

Notwithstanding the provisions of this subdivision, an authority administering and carrying out a leased existing housing assistance payments program, under section 8 of the United States Housing Act of 1937, United States Code, title 42, section 1437f, as amended through December 31, 1990, may administer the leased existing housing assistance payments program under the statutory and regulatory portability provisions of the federal section 8 existing housing assistance payments program, United States Code, title 42, section 1437f(r), as amended through December 31, 1990.

Sec. 5. Minnesota Statutes 1990, section 469.015, subdivision 3, is amended to read:

Subd. 3. [PERFORMANCE BONDS.] Performance bonds shall be required from contractors for any works of construction as provided in and subject to all the provisions of sections 574.26 to 574.31 except for contracts entered into by an authority for an expenditure of less than ~~$15,000~~ *$25,000*.

Sec. 6. Minnesota Statutes 1990, section 469.015, subdivision 4, is amended to read:

Subd. 4. [EXCEPTIONS.] (a) An authority need not require competitive bidding in the following circumstances:

(1) in the case of a contract for the acquisition of a low-rent housing project:

(i) for which financial assistance is provided by the federal government;

(ii) which does not require any direct loan or grant of money from the municipality as a condition of the federal financial assistance; and

(iii) for which the contract provides for the construction of the project upon land not owned by the authority at the time of the contract, or owned by the authority for redevelopment purposes, and provides for the conveyance or lease to the authority of the project or improvements upon completion of construction;

(2) with respect to a structured parking facility:

(i) constructed in conjunction with, and directly above or below, a development; and

(ii) financed with the proceeds of tax increment or parking ramp revenue bonds; and

(3) in the case of a housing development project if:

(i) the project is financed with the proceeds of bonds issued under section 469.034;

(ii) the project is located on land that is not owned by the authority at the time the contract is entered into, or is owned by the authority only for development purposes, and provides for conveyance or lease to the authority of the project or improvements upon completion of construction; and

(iii) the authority finds and determines that elimination of the public bidding requirements is necessary in order for the housing development project to be economical and feasible.

(b) An authority need not require a performance bond ~~in the case of~~ *for the following projects:*

(1) a contract described in paragraph (a), clause (1)*;*

(2) a construction change order for a housing project in which 30 percent of the construction has been completed;

(3) a construction contract for a single-family housing project in which the authority acts as the general construction contractor; or

(4) a services or materials contract for a housing project.

For purposes of this paragraph, "services or materials contract" does not include construction contracts.

Sec. 7. Minnesota Statutes 1990, section 469.015, is amended by adding a subdivision to read:

Subd. 5. [SECURITY IN LIEU OF BOND.] *The authority may accept a certified check or cashier's check in the same amount as required for a bond in lieu of a performance bond for contracts entered into by an authority for an expenditure of less than $25,000. The check must be held by the authority for 90 days after the contract has been completed. If no suit is brought within the 90 days, the authority must return the amount of the check to the person making it. If a suit is brought within the 90-day period, the authority must disburse the amount of the check pursuant to the order of the court.*

ARTICLE 6

LOCAL HOUSING AND ECONOMIC DEVELOPMENT PROGRAMS

Section 1. Minnesota Statutes 1990, section 462C.03, subdivision 10, is amended to read:

Subd. 10. Notwithstanding any provision of this chapter, not more than 20 percent of the aggregate dollar amount of *tax-exempt* bond proceeds and any other funds appropriated by any city within any calendar year to make or purchase loans providing single family housing or dwelling units for sale within multifamily housing developments described in section 462C.05, subdivision 3, shall be appropriated to provide single family housing for

persons or families, including renters of the single family housing, whose gross income exceeds the limit in section 462C.03, subdivision 2. If 20 percent of the total amount of funds so appropriated by the city in any calendar year is expended for housing not within the limit, no additional funds may be expended pursuant to any other similar appropriation until the remaining 80 percent is expended for housing within the limit. *Notwithstanding subdivision 2, the city may use taxable bond proceeds for the rehabilitation of single family housing for persons and families with adjusted gross incomes of up to 175 percent of the median family income as estimated by the United States Department of Housing and Urban Development for the nonmetropolitan county or standard metropolitan statistical area, as the case may be.*

Sec. 2. Minnesota Statutes 1990, section 504.33, subdivision 5, is amended to read:

Subd. 5. [LOW-INCOME HOUSING.] "Low-income housing" means rental housing with a rent less than or equal to 30 percent of 50 percent of the median income for the county in which the rental housing is located, adjusted by size. "Low-income housing" also includes ~~rental housing~~ *buildings as defined by section 566.18, subdivision 7,* that ~~has~~ *have* been vacant for less than two years, that *contain rental housing that* was low-income housing when it was last occupied, and that is not condemned as being unfit for human habitation by the applicable government unit.

Sec. 3. Minnesota Statutes 1990, section 504.33, subdivision 7, is amended to read:

Subd. 7. [REPLACEMENT HOUSING.] "Replacement housing" means ~~rental~~ housing that ~~is~~:

(1) ~~the lesser of (i) the~~ *is sufficient in* number ~~and corresponding~~, size ~~of~~, *and affordability as established under section 504.33, subdivision 5, to house no fewer than the number of occupants who could have been housed in the displaced* low-income housing ~~units displaced, or (ii) sufficient in number and corresponding size of those low-income housing units displaced to meet the demand for those units~~;

(2) *is* low-income housing for the greater of 15 years or the compliance period of the federal low-income housing tax credit under United States Code, title 26, section 42(i)(1), as amended. This section does not prohibit increases in rent to cover operating expenses;

(3) is in at least standard condition; ~~and~~

(4) *is* located in the *neighborhood of the* city where the displaced low-income housing units were located *to the extent possible, except where the land is zoned industrial or there is insufficient vacant or underutilized land for development or no vacant buildings as defined by section 566.18, subdivision 7, for redevelopment in the neighborhood;*

(5) has a preference for persons who occupied low-income housing that was displaced, who have resided in the neighborhood of the city where the displaced low-income housing was located, or who qualify for a preference under United States Code, title 42, section 1437(c)(4)(A); and

(6) in a city of the first class outside the metropolitan area as defined by section 473.121, subdivision 2, replacement housing can be used to achieve economic integration as described in the city plan.

Replacement housing may be provided as newly constructed housing, or rehabilitated or rent subsidized existing housing that does not already qualify as low-income housing. *Low-income housing designated as replacement housing for low-income housing displaced in one year cannot be designated as replacement housing for low-income housing displaced in another year.*

Sec. 4. Minnesota Statutes 1990, section 504.34, subdivision 3, is amended to read:

Subd. 3. [CONTENTS.] The draft and final annual housing impact reports must include:

(1) identification of each low-income housing unit that was displaced in the previous year in the city where housing was displaced by the government unit, including the unit's address, size, and rent; the number of persons who could have occupied the unit; the condition the unit was in, and whether it was habitable at the time of displacement; the owner of the unit; whether it was owner occupied; and how and when it was displaced;

(2) *identification of the cities and neighborhoods where occupants of displaced low-income housing moved immediately following displacement;*

(3) identification of each unit of replacement housing provided in the previous year in the city, including the unit's address, size, and rent; the number of persons who could occupy the unit; the owner of the unit; whether it is owner occupied; and an identification of the displaced low-income housing unit that was replaced by the unit of replacement housing;

~~(3)~~ *(4) identification of the cities and neighborhoods where occupants of replacement housing resided immediately before moving into replacement housing;*

(5) analysis of the supply of and demand for all sizes of low-income housing units, by size and rent, in the city;

~~(4)~~ *(6)* determination of whether there is an adequate supply of available and unoccupied low-income housing units to meet the demand for all sizes of low-income housing, by size and rent, in the city where housing has been displaced by the government unit;

~~(5)~~ *(7)* estimation of the cost of providing replacement housing for low-income housing not in adequate supply to meet the demand for all sizes of low-income housing, by size and rent, in the city where housing has been displaced by the government unit; and

~~(6)~~ *(8)* analysis of the government unit's compliance with the replacement plans of previous housing annual impact reports and project housing impact statements.

Sec. 5. Minnesota Statutes 1990, section 504.34, subdivision 5, is amended to read:

Subd. 5. [NOTICE; REQUEST FOR COMMENTS.] A government unit subject to this section must provide for public input in preparing the annual housing impact report, including a public comment period and a public hearing. The government unit must publish notice of its draft annual housing impact report in a newspaper of general circulation in the city by the deadline for completion of the draft annual housing impact report. The notice must include a request for comments on the draft annual housing impact report within the 30 days following the notice, and the date, time, and location of the public hearing on the draft annual housing impact report, to be held

within 15 to 30 days following the date of notice. Copies of the notice, *a summary of the findings of the report, and the list of persons and organizations receiving the notice and draft report* must be sent to the neighborhood and citizen participation organizations, district planning councils, housing referral and information services, shelters, homeless and tenants advocacy groups, ~~and~~ legal aid offices in the city where the displaced low-income housing was located~~. Copies of the notice and the draft annual housing impact report must be submitted to~~, the state planning agency, and the Minnesota housing finance agency.

Sec. 6. Minnesota Statutes 1990, section 504.34, subdivision 6, is amended to read:

Subd. 6. [FINAL ANNUAL HOUSING IMPACT REPORT.] In preparing and approving a final annual housing impact report, a government unit subject to this section must consider comments received during the comment period and at the public hearing on the draft report. The final report shall be prepared within 30 days following the deadline for receipt of comments on the draft annual housing impact report. *The final annual housing impact report must include all written comments and a summary of oral comments on the draft housing impact report and a response to the comments.* The government unit shall publish notice of the final annual housing impact report in a newspaper of general circulation in the city. Copies of the notice *and a summary of the findings of the final annual housing impact report* must be sent to neighborhood and citizen participation organizations, district planning councils, housing referral and information services, shelters, homeless and tenants advocacy groups, ~~and~~ legal aid offices in the city where the displaced low-income housing was located~~. Copies of the notice and the draft annual housing impact report must be submitted to~~, the state planning agency, and the Minnesota housing finance agency.

Sec. 7. Laws 1974, chapter 285, section 4, as amended by Laws 1989, chapter 328, article 4, section 6, is amended to read:

Sec. 4. [ISSUANCE OF BONDS.] To finance the programs authorized in sections 2, 2a, and 3 of this act, the governing body of the city may by resolution authorize, issue, and sell general obligation bonds of the city ~~in accordance with the provisions of Minnesota Statutes, Chapter 475~~ *without submission of the question to the electors of the city, notwithstanding any provision of the city charter or local ordinance. Minnesota Statutes, chapter 475, applies to the issuance of the bonds.* The total amount of all bonds outstanding for the programs shall not exceed $25,000,000. The amount of all bonds issued shall be ~~included in~~ *excluded from* the net indebtedness of the city for the purpose of any charter or statutory debt limitation.

Sec. 8. Laws 1988, chapter 594, section 6, is amended to read:

Sec. 6. [SMALL BUSINESS LOANS.]

The city council or the agency may make or guarantee working capital loans in an aggregate principal amount not exceeding ~~$450,000~~ *$2,000,000* outstanding at any time, subject to such terms and conditions as established by ordinance by the city, to expanding small businesses which are located in the city for the purpose of increasing the tax base and providing employment opportunities within the city. As used in this subdivision, the term "small business" has the meaning given it in Minnesota Statutes, section 645.445, subdivision 2. ~~This section expires June 30, 1991.~~

Sec. 9. [ST. PAUL ECONOMIC DEVELOPMENT PROGRAM.]

Subdivision 1. [AUTHORIZATION.] *The city of St. Paul and the housing and redevelopment authority of the city of St. Paul may implement a citywide economic development program. The program may:*

(1) provide working capital financing, except from the proceeds of bonds or other obligations which may be issued only to provide the capital costs of a project;

(2) apply funds of the city or housing and redevelopment authority within or without the boundaries of a presently existing or future redevelopment project area, housing development project, housing project, municipal development district, economic development district, development district, mined underground space development, industrial development district, or tax increment district, except that tax increments shall only be applied in accordance with Minnesota Statutes, sections 469.174 to 469.179;

(3) exercise the powers of an economic development authority under Minnesota Statutes, sections 469.090 to 469.108, and the powers granted to a city by Minnesota Statutes, sections 469.090 to 469.108, or Minnesota Statutes, sections 469.048 to 469.068, or other law, provided that: (i) only the city shall have the power under Minnesota Statutes, section 469.084, subdivision 11, to approve the issuance of revenue bonds by the port authority; and (ii) the housing and redevelopment authority shall not exercise the other powers of the city under sections 469.090 to 469.108 or sections 469.048 to 469.068 until and unless the city, by resolution, delegates the exercise of all or some of those powers to the housing and redevelopment authority; and

(4) apply funds as permitted by clauses (1) to (4) for the financing of a public or private parking facility, child care facility, or a project as defined by Minnesota Statutes, section 469.153, subdivision 2.

Subd. 2. [SUPPLEMENTAL POWERS.] *The powers authorized under this section are in addition and supplemental to any other provisions of general or special law or charter.*

Sec. 10. [EFFECTIVE DATE.]

Section 8 is effective on the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of the city of Minneapolis. Section 9 is effective on the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of the city of St. Paul.

ARTICLE 7

PARK AND RECREATION BOARDS.

Section 1. [PARK AND RECREATION BOARD DISTRICTS.]

Notwithstanding chapter 1, section 3, of the home rule charter of the city of Minneapolis, the Minneapolis park and recreation board may appoint two members to serve on the Minneapolis reapportionment commission to replace the two members of the commission appointed by the majority and minority caucuses of the city council for the purpose of determining the reapportionment of Minneapolis park and recreation districts.

The two members appointed by the park and recreation board shall participate with the other appointed members of the reapportionment commission to determine the reapportionment of park board districts. Park board commission appointees shall not sit in considering the reapportionment of

city council ward boundaries. City council appointees shall not sit in considering the reapportionment of park district boundaries. The reapportionment commission may adopt necessary procedures to ensure full participation by park and recreation board appointees in its process.

Sec. 2. [STANDARDS.]

Within the time specified in chapter 1, section 3, and chapter 16, section 1, of the home rule charter of the city of Minneapolis, the reapportionment commission shall set the boundaries of the park districts in accordance with the following standards:

(1) The ideal population for each district shall be determined by dividing the total population of the city by six. In no case shall any district, when readjusted, have a population more than five percent over or under the ideal population.

(2) Each district shall consist of a contiguous territory not more than twice as long as it is wide. The existence of a lake within a district shall not be contrary to this provision. Whenever possible, district boundary lines shall follow the center line of streets, avenues, alleys and boulevards and as nearly as practicable, shall run due east and west or north and south.

(3) To the extent possible, each newly drawn district shall retain the same numerical designation as the previously existing district from which the newly drawn ward received the largest portion of its population.

(4) The districts must not dilute the voting strength of racial or language minority populations. Where a concentration of a racial or language minority makes it possible, the districts must increase the probability that members of the minority will be elected.

(5) The districts should attempt to preserve communities of interest where that can be done in compliance with the preceding standards.

(6) Population shall be determined by use of the official population, as stated by census tracts and blocks in the official United States Census. Whenever it is necessary to modify census data in fixing a district boundary, the reapportionment commission may compute the population of any part by use of other pertinent data or may have a special enumeration made of any block or blocks using the standards of the United States Census. If the population of any block or blocks is so determined, the reapportionment commission may assume that the remainder of the census tract has the remaining population shown by the census. In every such case, the determination of the reapportionment commission as to population shall be conclusive, unless clearly contrary to the census.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by a majority of the Minneapolis park and recreation board.

ARTICLE 8

MISCELLANEOUS

Section 1. Minnesota Statutes 1990, section 268.362, is amended to read:

268.362 [GRANTS.]

Subdivision 1. [GENERALLY.] The commissioner shall make grants to

eligible organizations for programs to provide education and training services to targeted youth. The purpose of these programs is to provide specialized training and work experience to at-risk targeted youth who have not been served effectively by the current educational system. The programs are to include a work experience component with work projects that result in the rehabilitation or construction of residential units for the homeless. Two or more eligible organizations may jointly apply for a grant. The commissioner shall administer the grant program.

Subd. 2. [GRANT APPLICATIONS; AWARDS.] Interested eligible organizations must apply to the commissioner for the grants. The advisory committee must review the applications and provide to the commissioner a list of recommended eligible organizations that the advisory committee determines meet the requirements for receiving a grant. *The total grant award for any program may not exceed $50,000 per year. In awarding grants, the commissioner must give priority to (1) organizations that are operating or have operated successfully a program; and (2) to distributing programs throughout the state. To receive a grant under this section, the eligible organization must match the grant money with at least an equal amount of nonstate money. The commissioner must verify that the eligible organization has matched the grant money.*

Sec. 2. Minnesota Statutes 1990, section 268.364, subdivision 4, is amended to read:

Subd. 4. [JOB READINESS SKILLS COMPONENT.] A job readiness skills component must ~~be included in~~ *comprise at least 20 percent of* each program. The component must provide program participants with job search skills, placement assistance, and other job readiness skills to ensure that participants will *have an understanding of the building trades, unions, self-employment, and other employment opportunities and* be able to compete in the employment market.

Sec. 3. Minnesota Statutes 1990, section 268.365, subdivision 2, is amended to read:

Subd. 2. [PRIORITY FOR HOUSING.] Any residential units that become available through the program must be allocated in the following order:

(1) homeless individuals who have participated in constructing, rehabilitating, or improving the unit;

(2) homeless families with at least one dependent;

~~(2)~~ *(3)* other homeless individuals;

~~(3)~~ *(4)* other very low income families and individuals; and

~~(4)~~ *(5)* families or individuals that receive public assistance and that do not qualify in any other priority group.

Sec. 4. Minnesota Statutes 1990, section 504.33, subdivision 2, is amended to read:

Subd. 2. [CITY.] "City" means a city of the first class as defined in section 410.01, *except St. Paul.* The term "city" also includes, where applicable, a port authority, economic development authority, a housing and redevelopment authority, or any development agency established under chapter 469 which share common boundaries with the city.

Sec. 5. Minnesota Statutes 1990, section 566.34, subdivision 2, is

amended to read:

Subd. 2. [ESCROW OF RENT.] If a violation exists in a building, a tenant may deposit the amount of rent due to the owner with the court administrator using the following procedure:

(a) For a violation of section 566.18, subdivision 6, clause (a), the tenant may deposit with the court administrator the rent due the owner along with a copy of the written notice of the code violation as provided in section 566.19, subdivision 2. The tenant may not deposit the rent or file the written notice of the code violation until the time granted to make repairs has expired without satisfactory repairs being made, unless the tenant alleges that the time granted is excessive.

(b) For a violation of section 566.18, subdivision 6, clause (b) or (c), the tenant must give written notice to the owner specifying the violation. The notice must be delivered personally or sent to the person or place where rent is normally paid. If the violation is not corrected within 14 days, the tenant may deposit the amount of rent due to the owner with the court administrator along with an affidavit specifying the violation. The court must provide a simplified form affidavit for use under this clause.

(c) The tenant need not deposit rent if none is due to the owner at the time the tenant otherwise files the notice required by this subdivision. All rent which thereafter becomes due to the owner prior to the hearing under this section must be deposited with the court administrator. As long as proceedings are pending under this section, the tenant must pay rent to the owner or as directed by the court and may not withhold rent to remedy a violation.

ARTICLE 9

HOUSING AND ECONOMIC DEVELOPMENT PROGRAMS

Section 1. [TRAINING AND HOUSING PROGRAM FOR HOMELESS ADULTS.]

Subdivision 1. [DEFINITIONS.] *The definitions in this subdivision apply to this section.*

(a) "Eligible organization" means a nonprofit organization run by or for the homeless.

(b) "Homeless individual" or "homeless person" has the meaning given in United States Code, title 42, section 11302.

Subd. 2. [PLANNING GRANT.] *The commissioner may make a planning grant to eligible organizations for programs to provide homeownership opportunities, education and training, or services to homeless adults. The program must promote individual stability and responsibility of homeless adults through training for jobs that pay a living wage, job placement, life skills development, and access to community support services including health services, counseling, and drug rehabilitation. The program must include a work experience and training component, job skills component, and life skills component.*

Subd. 3. [WORK EXPERIENCE AND TRAINING COMPONENT.] *The work experience and training component must provide vocational skill training in an industry where there are potential opportunities for jobs that pay*

a living wage. A monetary compensation may be provided to program participants. The compensation must be provided to participants who are recipients of public assistance in a manner or amount which will not reduce public assistance benefits. The work experience component must be designed so that work projects result in the expansion of residential units for homeless persons and very low-income individuals and families. The work experience component must include work projects that provide residential units through construction or rehabilitation for the homeless and families with income that does not exceed 50 percent of the median income for the metropolitan area. The program design must include an examination of how program participants may achieve certification as a part of the work experience and training component by entering licensing, apprenticeship, or other educational programs.

Subd. 4. [JOB SKILLS COMPONENT.] *The job skills component must provide program participants with job search skills, placement assistance, and other job readiness skills to ensure that participants will be able to compete in the employment market.*

Subd. 5. [LIFE SKILLS COMPONENT.] *The life skills component must include mentoring to develop homeownership skills, and offer or coordinate participation in parenting and citizenship classes and leadership development to encourage community involvement and responsibility.*"

Amend the title accordingly

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

Senate Conferees: (Signed) James P. Metzen, Randy C. Kelly, John Bernhagen

House Conferees: (Signed) Karen Clark, Richard H. Jefferson, Connie Morrison

Mr. Metzen moved that the foregoing recommendations and Conference Committee Report on S.F. No. 720 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. 720 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Merriam	Ranum
Beckman	Day	Johnston	Metzen	Reichgott
Belanger	DeCramer	Kelly	Moe, R.D.	Riveness
Benson, D.D.	Finn	Knaak	Mondale	Sams
Benson, J.E.	Flynn	Kroening	Morse	Spear
Berg	Frank	Laidig	Neuville	Storm
Berglin	Frederickson, D.J.	Langseth	Novak	Stumpf
Bernhagen	Frederickson, D.R.	Larson	Olson	Traub
Bertram	Gustafson	Lessard	Pappas	Vickerman
Brataas	Halberg	Luther	Pariseau	Waldorf
Chmielewski	Hottinger	Marty	Piper	
Cohen	Hughes	McGowan	Pogemiller	
Dahl	Johnson, D.E.	Mehrkens	Price	

So the bill, as amended by the Conference Committee, was repassed and

its title was agreed to.

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 wishes to recall for the purpose of further consideration Senate File No. 1535.

S.F. No. 1535: A bill for an act relating to public administration; appropriating money for education and related purposes to the higher education coordinating board, state board of technical colleges, state board for community colleges, state university board, University of Minnesota, higher education board, and the Mayo medical foundation, with certain conditions; creating the higher education board; merging the state university, community college, and technical college systems; amending Minnesota Statutes 1990, sections 15A.081, subdivision 7b; 135A.03, subdivision 3; 135A.05; 136.11, subdivisions 3, 5, and by adding a subdivision; 136.142, subdivision 1, and by adding a subdivision; 136A.121, subdivision 10, and by adding subdivisions; 136A.233, subdivision 3; 179A.10, subdivision 2; and 298.28, subdivisions 4, 7, 10, 11, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 135A; 136; 136A; 136E; and 298; repealing Minnesota Statutes 1990, section 136A.05, subdivision 2.

Edward A. Burdick, Chief Clerk, House of Representatives

May 20, 1991

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. moved that S.F. No. 1535 be taken from the table. The motion prevailed

Mr. Moe, R.D. moved that the Senate accede to the request of the House to return S.F. No. 1535 for further consideration. The motion prevailed.

S.F. No. 1300 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1300

A bill for an act relating to agriculture; allowing exemption of certain garbage from requirements for feeding to livestock or poultry; amending Minnesota Statutes 1990, section 35.73, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 35.

May 20, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1300, report that we have

agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1300 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 35.73, subdivision 4, is amended to read:

Subd. 4. [GARBAGE.] "Garbage" means animal or vegetable refuse, including all waste material, by-products of a kitchen, restaurant, or slaughter house, and refuse accumulation of animal, fruit, or vegetable matter, liquid or solid, but does not mean vegetable waste or by-products resulting from the manufacture or processing of canned or frozen vegetables *or materials exempted under section 2*.

Sec. 2. [35.751] [EXEMPT MATERIALS PERMIT.]

Subdivision 1. [PERMIT REQUIRED.] *If it is considered by the board to be in the best interest of the livestock industry of the state and not detrimental to the public health, safety, or general welfare, the board may adopt rules authorizing an exempt materials permit for specified materials of a nonmeat nature. No person may feed material exempted under section 35.73, subdivision 4, to livestock or poultry without first securing a permit from the board, and no person may transport exempted material over the public highways of the state for the purpose of feeding it to livestock or poultry unless the person has a permit. A permit must be renewed on or before July 1 each year.*

Subd. 2. [APPLICATION.] *A person desiring a permit or the renewal of a permit under this section shall make written application to the board in accordance with its rules.*

Subd. 3. [REVOCATION; DENIAL.] *Upon determination that a person who has a permit or who has applied for a permit issued under this section has violated sections 35.73 to 35.79 or any rules made under those sections, the board may revoke the permit or refuse to issue a permit to the applicant.*

Sec. 3. Minnesota Statutes 1990, section 41.55, is amended to read:

41.55 [ELIGIBILITY.]

A family farm security loan approval may be granted if the following criteria are satisfied:

(a) that the applicant is a resident of the state of Minnesota;

(b) that the applicant has sufficient education, training, or experience in the type of farming for which the loan is desired and ~~continued~~ participation in a farm management program~~,~~ approved by the commissioner~~, for at least the first ten years of the family farm security loan~~;

(c) that the applicant and the applicant's dependents and spouse have total net worth valued at less than $75,000 and have demonstrated a need for the loan;

(d) that the applicant intends to purchase farm land to be used by the applicant for agricultural purposes;

(e) that the applicant is credit worthy according to standards prescribed by the commissioner.

Sec. 4. Minnesota Statutes 1990, section 41.57, subdivision 3, is amended to read:

Subd. 3. [ANNUAL REVIEW ~~OF NET WORTH~~.] *(a)* The participant and the participant's dependents and spouse shall annually submit to the commissioner a statement of their net worth. If their net worth in any year exceeds the sum of $135,000, the participant shall be ineligible for a payment adjustment in that year.

(b) The participant shall annually submit to the commissioner evidence of participation in an approved farm management program for at least the first ten years of the family farm security loan. The commissioner may waive this requirement if the participant requests a waiver and provides justification.

Sec. 5. Minnesota Statutes 1990, section 41B.036, is amended to read:

41B.036 [GENERAL POWERS OF THE AUTHORITY.]

For the purpose of exercising the specific powers granted in section 41B.04 and effectuating the other purposes of sections 41B.01 to 41B.23 the authority has the general powers granted in this section.

(a) It may sue and be sued.

(b) It may have a seal and alter the seal.

(c) It may make, and from time to time, amend and repeal rules consistent with sections 41B.01 to 41B.23.

(d) It may acquire, hold, and dispose of real or personal property for its corporate purposes.

(e) It may enter into agreements, contracts, or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association, or organization, including contracts or agreements for administration and implementation of all or part of sections 41B.01 to 41B.23.

(f) It may acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where such acquisition is necessary or appropriate.

(g) It may provide general technical services related to rural finance.

(h) It may provide general consultative assistance services related to rural finance.

(i) It may promote research and development in matters related to rural finance.

(j) It may enter into agreements with lenders, borrowers, or the issuers of securities for the purpose of regulating the development and management of farms financed in whole or in part by the proceeds of qualified agricultural loans.

(k) It may enter into agreements with other appropriate federal, state, or local governmental units to foster rural finance. It may give advance reservations of loan financing as part of the agreements, with the understanding that the authority will only approve the loans pursuant to normal procedures, and may adopt special procedures designed to meet problems inherent in such programs.

(l) It may undertake and carry out studies and analyses of rural financing needs within the state and ways of meeting such needs including: data with respect to geographical distribution; farm size; the distribution of farm credit needs according to debt ratios and similar factors; the amount and quality of available financing and its distribution according to factors affecting rural financing needs and the meeting thereof; and may make the results of such studies and analyses available to the public and may engage in research and disseminate information on rural finance.

(m) It may survey and investigate the rural financing needs throughout the state and make recommendations to the governor and the legislature as to legislation and other measures necessary or advisable to alleviate any existing shortage in the state.

(n) It may establish cooperative relationships with such county and multicounty authorities as may be established and may develop priorities for the utilization of authority resources and assistance within a region in cooperation with county and multicounty authorities.

(o) It may contract with, use, or employ any federal, state, regional, or local public or private agency or organization, legal counsel, financial advisors, investment bankers or others, upon terms it deems necessary or desirable, to assist in the exercise of any of the powers granted in sections 41B.01 to 41B.23 and to carry out the objectives of sections 41B.01 to 41B.23 and may pay for the services from authority funds.

(p) It may establish cooperative relationships with counties to develop priorities for the use of authority resources and assistance within counties and to consider county plans and programs in the process of setting the priorities.

(q) It may delegate any of its powers to its officers or staff.

(r) It may enter into agreements with qualified agricultural lenders or others insuring or guaranteeing to the state the payment of all or a portion of qualified agricultural loans.

(s) It may enter into agreements with eligible agricultural lenders providing for advance reservations of purchases of participation interests in restructuring loans, if the agreements provide that the authority may only purchase participation interests in restructuring loans under the normal procedure. The authority may provide in an agreement for special procedures or requirements designed to meet specific conditions or requirements.

(t) It may allow farmers who are natural persons to combine programs of the federal Agriculture Credit Act of 1987 with programs of the rural finance authority.

(u) From within available funds generated by program fees, it may provide partial or full tuition assistance for farm management programs required under section 41B.03, subdivision 3, clause (7).

Sec. 6. Minnesota Statutes 1990, section 41B.039, subdivision 2, is amended to read:

Subd. 2. [STATE PARTICIPATION.] The state may participate in a new real estate loan with an eligible lender to a beginning farmer to the extent of ~~35~~ *45* percent of the principal amount of the loan or $50,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may be different than the interest rates and repayment terms of the

lender's retained portion of the loan.

Sec. 7. Minnesota Statutes 1990, section 216D.01, subdivision 5, is amended to read:

Subd. 5. [EXCAVATION.] "Excavation" means an activity that moves, removes, or otherwise disturbs the soil by use of a motor, engine, hydraulic or pneumatically-powered tool, or machine-powered equipment of any kind, or by explosives. Excavation does not include:

(1) the repair or installation of agricultural drainage tile for which notice has been given as provided by section 116I.07, subdivision 2;

(2) the extraction of minerals;

(3) the opening of a grave in a cemetery;

(4) normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch;

(5) plowing, cultivating, planting, harvesting, and similar operations in connection with growing crops, unless any of these activities disturbs the soil to a depth of 18 inches or more; ~~or~~

(6) landscaping or gardening unless one of the activities disturbs the soil to a depth of 12 inches or more; *or*

(7) planting of windbreaks, shelterbelts, and tree plantations, unless any of these activities disturbs the soil to a depth of 18 inches or more.

Sec. 8. [MANDATORY ANAPLASMOSIS TESTING; REPORT.]

(a) The board of animal health must study the feasibility and consequences of eliminating mandatory anaplasmosis testing of breeding cattle entering Minnesota. It must consult with veterinarians, livestock producers, and others interested in anaplasmosis control.

(b) Not later than February 1, 1992, the board of animal health must report to the agriculture committees of the Minnesota senate and house of representatives on the findings of the study in paragraph (a) and recommendations for changes in statute or rule."

Delete the title and insert:

"A bill for an act relating to agriculture; allowing exemption of certain garbage from requirements for feeding to livestock or poultry; providing for certain farm loans; regulating excavations; regulating livestock tests; amending Minnesota Statutes 1990, sections 35.73, subdivision 4; 41.55; 41.57, subdivision 3; 41B.036; 41B.039; and 216D.01, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 35."

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

Senate Conferees: (Signed) Tracy L. Beckman, Charles R. Davis, David J. Frederickson

House Conferees: (Signed) Jim Girard, Andy Steensma, Bernie Omann

Mr. Beckman moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1300 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. 1300 was read the third time, as amended by the Conference

Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, J.B.	Metzen	Reichgott
Beckman	Davis	Johnston	Moe, R.D.	Renneke
Belanger	Day	Kelly	Mondale	Riveness
Benson, D.D.	DeCramer	Knaak	Morse	Sams
Benson, J.E.	Flynn	Laidig	Neuville	Storm
Berg	Frank	Langseth	Novak	Stumpf
Berglin	Frederickson, D.J.	Lessard	Olson	Traub
Bernhagen	Frederickson, D.R.	Luther	Pappas	Vickerman
Bertram	Halberg	Marty	Pariseau	Waldorf
Brataas	Hottinger	McGowan	Piper	
Chmielewski	Hughes	Mehrkens	Pogemiller	
Cohen	Johnson, D.E.	Merriam	Price	

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

House File No. 222 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 222

A bill for an act relating to international trade; establishing a regional international trade service center pilot project; appropriating money.

May 20, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 222, 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. 222 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [REGIONAL INTERNATIONAL TRADE SERVICE CENTER; PILOT PROJECT.]

Subdivision 1. [ESTABLISHMENT.] *A regional international trade service center pilot project is established to provide assistance in the area of international trade to businesses in the state. The pilot project shall terminate June 30, 1993. Overall administration of the center shall be provided by the board of directors of the Minnesota World Trade Center Corporation. The commissioner of trade and economic development shall ensure that no service provided under this section duplicates a service provided under other law.*

Subd. 2. [DUTIES.] *The regional international trade service center shall have at least the following duties:*

(1) to provide timely personalized assistance to businesses exporting or planning to export goods and services and to concentrate on providing direct assistance at the place of business;

(2) to establish and maintain access to a current library and resource center containing material relating to international trade and trade lead information;

(3) to establish contractual relationships with the Greater Minnesota Corporation small business development centers; the Minnesota trade office; and public higher education institutions, their foreign-based campuses, and affiliates, for referrals between these entities and the regional center for technical assistance;

(4) to enter into a formal agreement with the National Association of Small Business International Trade Educators as a state chapter, thus accessing a national pool of small business international trade expertise;

(5) to enter into a formal agreement with the department of trade and economic development that designates the regional center as a field office of the Minnesota trade office;

(6) to provide a calendar of regularly scheduled trade workshops and seminars for regional businesses and establish and act as regional recruiters for a privately funded International Education Academy, in cooperation with the Minnesota trade office, the United States Department of Commerce, small business development centers, the Small Business Administration, and public higher education institutions;

(7) to conduct annual regional surveys of the international trade service requirements of all existing exporters in the region, to perform a needs assessment of new-to-export companies that are beginning to export or participate in an international trade program, to research regional product and service firms that have export potential and to contact and contract with them for service programs, and to contract with each of the entities in this clause for an annual program;

(8) to design with available local, state, and federal service providers a computer-based service menu and annual service program for each client;

(9) to organize and conduct six regional trade workshops each year to provide international trade and export education and participate in other trade workshops;

(10) to recruit businesses and economic development professionals in the region for the full schedule of United States Department of Commerce foreign trade missions, catalog shows, and foreign international trade fairs;

(11) to establish direct FAX communication links for business communication with United States Department of Commerce overseas posts in 154 countries;

(12) to act as the "hot line" regional export information center for regional businesses, higher educational institutions, and economic development offices, small business development commissions, and chambers of commerce;

(13) to create partnerships with regional higher education institutions to expand international business, trade, and world cultural curriculum; and

(14) to follow up on an individual basis on trade leads.

Subd. 3. [STAFF.] *The center shall have a professional staff that is experienced in providing expert international trade assistance to small businesses with prior experience in the private sector in exporting goods and services.*

Subd. 4. [MATCHING FUNDS.] *The center must seek matching money from federal, state, and local public and private sources.*

Subd. 5. [CONTRACTS FOR SERVICES.] *The department of trade and economic development shall solicit proposals from vendors who are qualified to provide services required by this section and contract with a qualified vendor after thorough examination of the proposals.*

Sec. 2. [APPROPRIATION.]

(a) $50,000 is appropriated from the general fund for the biennium ending June 30, 1993, to the Minnesota World Trade Center Corporation board of directors for the purposes of section 1. No funds shall be released for the purposes of section 1 until the commissioner of trade and economic development has reviewed the services and determined that they do not duplicate other state services.

(b) $50,000 is appropriated from the general fund to the regents of the University of Minnesota for the fiscal year ending June 30, 1992, to make a grant to the Red River trade corridor project."

Delete the title and insert:

"A bill for an act relating to international trade; establishing a regional international trade service center pilot project; appropriating money for the project and for the Red River trade corridor project."

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

House Conferees: (Signed) Richard "Rick" Krueger, Wally Sparby, Gene Hugoson

Senate Conferees: (Signed) Gregory L. Dahl, Roger D. Moe, William P. Luther

Mr. Dahl moved that the foregoing recommendations and Conference Committee Report on H.F. No. 222 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. 222 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

Conference Committee.

The roll was called, and there were yeas 62 and nays 3, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, D.J.	Metzen	Renneke
Beckman	DeCramer	Johnson, J.B.	Moe, R.D.	Riveness
Belanger	Dicklich	Johnston	Mondale	Sams
Benson, J.E.	Finn	Kelly	Morse	Samuelson
Berg	Flynn	Kroening	Novak	Spear
Berglin	Frank	Laidig	Olson	Storm
Bernhagen	Frederickson, D.J.	Langseth	Pappas	Stumpf
Bertram	Frederickson, D.R.	Larson	Pariseau	Traub
Brataas	Gustafson	Lessard	Piper	Vickerman
Chmielewski	Halberg	Luther	Pogemiller	Waldorf
Cohen	Hottinger	Marty	Price	
Dahl	Hughes	McGowan	Ranum	
Davis	Johnson, D.E.	Mehrkens	Reichgott	

Messrs. Benson, D.D.; Merriam and Neuville 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. moved that H.F. No. 635 be taken from the table. The motion prevailed.

H.F. No. 635: A bill for an act relating to elections; authorizing a mail levy referendum; authorizing certain experimental procedures; setting certain redistricting goals and deadlines; authorizing certain actions by voters; limiting certain special elections; setting times and procedures for certain boundary changes; imposing duties on the secretary of state; changing requirements for polling places; appropriating money; amending Minnesota Statutes 1990, sections 10A.01, subdivisions 10 and 10c; 10A.02, subdivisions 5, 8, 9, 10, 12, and 13; 10A.065, subdivisions 1 and 5; 10A.20, subdivisions 3 and 5; 10A.25, subdivisions 5, 7, and 10; 10A.255, subdivision 3; 10A.27, subdivision 1; 10A.30, subdivision 2; 10A.31, subdivisions 3 and 10; 10A.324, subdivision 3; 10A.43, subdivisions 1, 3, and 4; 10A.44, subdivisions 1, 4, and 6; 201.091, subdivision 4; 202A.14, subdivision 1; 204B.135; 204B.14, subdivisions 3, 4, and 6, and by adding a subdivision; 204B.16, subdivisions 1 and 2; 205.84, subdivision 2; 205A.12, subdivision 6; and 375.025, subdivisions 2 and 4; proposing coding for new law in Minnesota Statutes, chapter 204B.

SUSPENSION OF RULES

Mr. Moe, R.D. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 635 and that the rules of the Senate be so far suspended as to give H.F. No. 635 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 635 was read the second time.

Mr. Laidig moved to amend H.F. No. 635 as follows:

Page 12, after line 14, insert:

"Sec. 21. Minnesota Statutes 1990, section 10A.322, is amended by adding a subdivision to read:

Subd. 5. [ADDITIONAL AGREEMENTS.] *As a condition of receiving a public subsidy from the state elections campaign fund, a candidate shall agree to:*

(1) refuse to accept total contributions from political associations other than political parties in an amount that exceeds 50 percent of the total amount of nonpublic political contributions received by the candidate during the calendar year in which the general election is held; and

(2) provide evidence to the board before receiving the public subsidy from the party account that the candidate is complying with clause (1)."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 24 and nays 41, as follows:

Those who voted in the affirmative were:

Adkins	Bertram	Knaak	Mehrkens	Renneke
Belanger	Day	Laidig	Mondale	Solon
Benson, D.D.	Dicklich	Langseth	Neuville	Storm
Berg	Frederickson, D.R.	Larson	Olson	Traub
Bernhagen	Johnson, D.E.	Lessard	Pariseau	

Those who voted in the negative were:

Beckman	Finn	Johnston	Morse	Samuelson
Benson, J.E.	Flynn	Kelly	Novak	Spear
Berglin	Frank	Kroening	Pappas	Stumpf
Brataas	Frederickson, D.J.	Luther	Piper	Vickerman
Chmielewski	Gustafson	Marty	Price	Waldorf
Cohen	Hottinger	McGowan	Ranum	
Dahl	Hughes	Merriam	Reichgott	
Davis	Johnson, D.J.	Metzen	Riveness	
DeCramer	Johnson, J.B.	Moe, R.D.	Sams	

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

Mr. Laidig then moved to amend H.F. No. 635 as follows:

Pages 1 and 2, delete section 1

Page 25, delete line 13

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

H.F. No. 635 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 46 and nays 17, as follows:

Those who voted in the affirmative were:

Beckman	Finn	Knaak	Novak	Solon
Berglin	Flynn	Kroening	Pappas	Spear
Bertram	Frank	Langseth	Piper	Stumpf
Brataas	Frederickson, D.J.	Lessard	Pogemiller	Traub
Chmielewski	Frederickson, D.R.	Luther	Price	Vickerman
Cohen	Hottinger	Marty	Ranum	Waldorf
Dahl	Hughes	Metzen	Reichgott	
Davis	Johnson, D.J.	Moe, R.D.	Riveness	
DeCramer	Johnson, J.B.	Mondale	Sams	
Dicklich	Kelly	Morse	Samuelson	

Those who voted in the negative were:

Belanger	Day	Laidig	Neuville	Storm
Benson, D.D.	Halberg	Larson	Olson	
Benson, J.E.	Johnson, D.E.	McGowan	Pariseau	
Bernhagen	Johnston	Mehrkens	Renneke	

So the bill passed and its title was agreed to.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills.

REPORTS OF COMMITTEES

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

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

S.F. No. 1562: A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors of a noncontroversial nature; amending Minnesota Statutes 1990, section 302A.461, subdivision 2, as amended.

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

Page 2, after line 12, insert:

"Sec. 2. [CORRECTION 1]

Subdivision 1. Minnesota Statutes 1990, section 82B.05, subdivision 1, as amended by Laws 1991, chapter 97, section 3, is amended to read:

Subdivision 1. [MEMBERS.] The real estate appraiser advisory board consists of 15 members appointed by the commissioner of commerce. Three of the members must be public members, four must be consumers of appraisal services, and eight must be ~~licensed~~ real estate appraisers of whom not less than two members shall be state real property appraisers, federal residential real property appraisers, or certified federal residential real property appraisers and not less than two members shall be certified federal general real property appraisers.

Subd. 2. Minnesota Statutes 1990, section 82B.11, subdivision 1, as amended by Laws 1991, chapter 97, section 4, is amended to read:

Subdivision 1. [GENERALLY.] There are five classes of license for ~~licensed~~ real estate appraisers.

Subd. 3. Minnesota Statutes 1990, section 82B.17, as amended by Laws 1991, chapter 97, section 10, is amended to read:

82B.17 [LICENSE DESIGNATION.]

When a ~~licensed~~ real estate appraiser uses the designation real estate appraiser or similar terms in an appraisal report or in a contract or other instrument used by the license holder in conducting real property appraisal activities or in advertisements, the appraiser shall place the appraiser's license number adjacent to or immediately below the designation used and indicate the class of license held.

Subd. 4. Minnesota Statutes 1990, section 82B.19, subdivision 3, as amended by Laws 1991, chapter 97, section 12, is amended to read:

Subd. 3. [REINSTATEMENTS.] A license as a real estate appraiser that has been revoked as a result of disciplinary action by the commissioner may not be reinstated unless the applicant presents evidence of completion of the continuing education required by this chapter. This requirement may not be imposed upon an applicant for reinstatement who has been required to successfully complete the examination for ~~licensed~~ real estate appraiser as a condition to reinstatement of a license.

Subd. 5. Laws 1989, chapter 341, article 1, section 26, is amended to read:

Sec. 26. [REPEALER.]

Section 23 is repealed ~~September~~ *January* 1, ~~1991~~ *1992*.

Subd. 6. Laws 1991, chapter 97, section 15, is amended to read:

Sec. 15. [EXISTING LICENSES.]

Licenses issued pursuant to Minnesota Statutes, chapter 82B, before the effective date of this act remain valid and in effect until ~~September 1, 1991~~ *January 1, 1992*. A licensee who satisfies the examination or education requirements of Minnesota Statutes, section 82B.225, no later than ~~August~~ *December* 31, 1991, is eligible for licensure under Minnesota Statutes, section 82B.11, subdivision 2.

Sec. 3. [CORRECTION 2]

Subdivision 1. [INCONSISTENT AMENDMENTS.] *The amendment to Minnesota Statutes 1990, section 549.09, subdivision 1, paragraph (b), clause (2), contained in H.F. No. 317, if enacted, prevails over the amendment to Minnesota Statutes 1990, section 549.09, subdivision 1, paragraph (b), clause (2), contained in H.F. No. 1142, if enacted.*

Subd. 2. [EFFECTIVE DATE.] *Subdivision 1 is effective August 1, 1991.*

Sec. 4. [CORRECTION 3]

1991 H.F. No. 719, article 4, section 67, subdivision 1, if enacted, is amended to read:

Subdivision 1. [HOSPITAL REIMBURSEMENT.] (a) Effective for admissions occurring on or after July 1, 1991, the commissioner shall make an indigent care payment to Minnesota and local trade area hospitals except facilities of the federal Indian Health Service and regional treatment centers, in addition to all other payment to hospitals for inpatient services. The *first* indigent care payment shall be ten percent of the amount of medical assistance payments issued to that provider for inpatient services in ~~a given~~ *the first* calendar quarter ~~or month~~ *of 1991*, excluding indigent care payments paid under this section, divided by the number of related admissions, or

patient days if applicable, and multiplying the result by 111 percent. *Subsequent indigent care payment amounts shall be calculated monthly.* The indigent care payment is added to each admission, or patient day if applicable, occurring (1) in the second calendar quarter beginning after the quarter on which the ~~September 15, 1991,~~ *first* indigent care payment amount is based and (2) in the month beginning six months after the month on which the subsequent monthly indigent care payment amount is based. Medicare crossovers are excluded from indigent care payments and from the payments and admissions on which the indigent care payment is based. The commissioner may issue indigent care payments as disproportionate population adjustments for eligible hospitals.

(b) Effective for services rendered on or after July 1, 1991, the commissioner shall reimburse outpatient hospital facility fees at 80 percent of calendar year 1990 submitted charges, not to exceed the medicare upper payment limit. Services excepted from this payment methodology are emergency room facility fees, clinic facility fees, and those services for which there is a federal maximum allowable payment.

Sec. 5. [CORRECTION 4]

1991 S.F. No. 598, article 7, section 9, if enacted, is amended to read:

Sec. 9. [ADVISORY TASK FORCE ON PARATRANSIT.]

Subdivision 1. [CREATION; MEMBERSHIP.] The regional transit board shall establish a paratransit advisory task force under section 15.059, subdivision 6, consisting of the following members:

(1) two members representing the regional transit board, appointed by the chair of the board;

(2) two members representing the department of human services, appointed by the commissioner of human services;

(3) one member representing the department of transportation, appointed by the commissioner of transportation;

(4) one member representing the metropolitan transit commission, appointed by the chair of the commission;

(5) one member representing the council on disability, appointed by the council;

(6) one member representing nonprofit providers, appointed by the commissioner of human services;

(7) one member representing for-profit providers, appointed by the commissioner of human services;

(8) one member representing the senior community, appointed by the commissioner of human services;

(9) one member representing the metropolitan area, appointed by the chair of the metropolitan council; and

(10) two members representing users of paratransit, appointed by the chair of the board.

The ~~committee~~ *task force* shall expire December 31, 1991.

Subd. 2. [ADMINISTRATION.] The regional transit board and the department of human services shall provide staff and administrative services

for the ~~committee~~ *task force*. The organizations whose representatives are listed in subdivision 1, clauses (4) to (8), shall provide information, staff, and technical assistance for the ~~committee~~ *task force* as needed.

Subd. 3. [STUDIES.] The ~~committee~~ *task force* shall study the feasibility of consolidating and coordinating existing metro mobility service trips with existing department of human services medical assistance service trips in the metropolitan area. The ~~committee~~ *task force* shall consult affected persons and organizations not represented by members appointed under subdivision 1, including day training and rehabilitation centers, nursing homes, and intermediate care facilities for the mentally retarded.

Subd 4. [REPORT.] The commissioner of human services and the chair of the regional transit board shall jointly submit the report and recommendations to the legislature and the governor no later than December 31, 1991.

Subd. 5. [DEFINITION.] For the purposes of this section, "metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2.

Sec. 6. [CORRECTION 5]

1991 H.F. No. 719, article 5, section 72, if enacted, is amended to read:

Sec. 72. Minnesota Statutes 1990, section 256I.05, is amended by adding a subdivision to read:

Subd. 1b. [RATES FOR UNCERTIFIED BOARDING CARE HOMES.] Effective July 1, 1992, the maximum rate for a boarding care home not certified to receive medical assistance is equal to 65 percent of the average nursing home level "A" rate in effect for the geographic area in which the boarding care home is located~~, except that a facility's rate must not be reduced by more than ten percent for the year ending June 30, 1992~~. This is effective until June 30, 1993. A noncertified boarding care home licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, is exempt from this rate limit. The commissioner shall study the numbers of facilities and residents that will be affected by the limit in this subdivision, the number of facilities likely to close because of the limit, the available alternatives for affected residents, methods of relocating or securing alternative placements for residents, and other effects of the limit. The commissioner shall provide a report to the legislature by January 1, 1992, on the commissioner's findings and recommendations relating to the rate limit.

Sec. 7. [CORRECTION 6]

Subdivision 1. [APPORTIONMENT OF NET INCOME.] Minnesota Statutes 1990, section 290.191, subdivision 4, is amended to read:

Subd. 4. [APPORTIONMENT FORMULA FOR CERTAIN MAIL ORDER BUSINESSES.] If the business consists exclusively of the selling of tangible personal property and services in response to orders received by United States mail or telephone, and 99 percent of the taxpayer's property and payroll is within Minnesota, then the taxpayer may apportion net income to Minnesota based solely upon the percentage that the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period. Property and payroll factors are disregarded. In determining eligibility for this subdivision~~,~~:

(1) the sale not in the ordinary course of business of tangible or intangible

assets used in conducting business activities must be disregarded; *and*

(2) property and payroll at a distribution center outside of Minnesota are disregarded if the sole activity at the distribution center is the filling of orders, and no solicitation of orders occurs at the distribution center.

Subd. 2. [EFFECTIVE DATE.] Subdivision 1 is effective for taxable years beginning after December 31, 1990.

Sec. 8. [CORRECTION 7]

Subdivision 1. [CLASS 4C PROPERTY.] Minnesota Statutes 1990, section 273.13, subdivision 25, as amended by 1991 H.F. No. 1698, article 1, section 22, if enacted, is amended to read:

Subd. 25. [CLASS 4.] (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other than hospitals exempt under section 272.02, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. Class 4a property has a class rate of 3.5 percent of market value for taxes payable in 1992, and 3.4 percent of market value for taxes payable in 1993 and thereafter.

(b) Class 4b includes:

(1) residential real estate containing less than four units, other than seasonal residential, and recreational;

(2) manufactured homes not classified under any other provision;

(3) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b).

Class 4b property has a class rate of 2.8 percent of market value for taxes payable in 1992, 2.5 percent of market value for taxes payable in 1993, and 2.3 percent of market value for taxes payable in 1994 and thereafter.

(c) Class 4c property includes:

(1) a structure that is:

(i) situated on real property that is used for housing for the elderly or for low- and moderate-income families as defined in Title II, as amended through December 31, 1990, of the National Housing Act *or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency* and financed by a direct federal loan or federally insured loan made pursuant to Title II of the act; or

(ii) situated on real property that is used for housing the elderly or for low- and moderate-income families as defined by the Minnesota housing finance agency law of 1971, as amended, or rules adopted by the agency pursuant thereto and financed by a loan made by the Minnesota housing finance agency pursuant to the provisions of the act.

This clause applies only to property of a nonprofit or limited dividend entity. Property is classified as class 4c under this clause for 15 years from the date of the completion of the original construction or substantial rehabilitation, or for the original term of the loan.

(2) a structure that is:

(i) situated upon real property that is used for housing lower income families or elderly or handicapped persons, as defined in section 8 of the United States Housing Act of 1937, as amended; and

(ii) owned by an entity which has entered into a housing assistance payments contract under section 8 which provides assistance for 100 percent of the dwelling units in the structure, other than dwelling units intended for management or maintenance personnel. Property is classified as class 4c under this clause for the term of the housing assistance payments contract, including all renewals, or for the term of its permanent financing, whichever is shorter; and

(3) a qualified low-income building as defined in section 42(c)(2) of the Internal Revenue Code of 1986, as amended through December 31, 1990, that (i) receives a low-income housing credit under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1990; or (ii) meets the requirements of that section and receives public financing, except financing provided under sections 469.174 to 469.179, which contains terms restricting the rents; or (iii) meets the requirements of section 273.1317. Classification pursuant to this clause is limited to a term of 15 years.

For all properties described in clauses (1), (2), and (3) and in paragraph (d), the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents unless the owner of the property elects to have the property assessed under section 55. If the owner of the property elects to have the market value determined on the basis of the actual restricted rents, as provided in section 55 the property will be assessed at the rate provided for class 4a or class 4b property, as appropriate. Properties described in clauses (1)(ii), (3), and (4) may apply to the assessor for valuation under section 55. The land on which these structures are situated has the class rate given in paragraph (b) if the structure contains fewer than four units, and the class rate given in paragraph (a) if the structure contains four or more units. This clause applies only to the property of a nonprofit or limited dividend entity.

(4) a parcel of land, not to exceed one acre, and its improvements or a parcel of unimproved land, not to exceed one acre, if it is owned by a neighborhood real estate trust and at least 60 percent of the dwelling units, if any, on all land owned by the trust are leased to or occupied by lower income families or individuals. This clause does not apply to any portion of the land or improvements used for nonresidential purposes. For purposes of this clause, a lower income family is a family with an income that does not exceed 65 percent of the median family income for the area, and a lower income individual is an individual whose income does not exceed 65 percent of the median individual income for the area, as determined by the United States Secretary of Housing and Urban Development. For purposes of this clause, "neighborhood real estate trust" means an entity which is certified by the governing body of the municipality in which it is located to have the following characteristics: (a) it is a nonprofit corporation organized under chapter 317A; (b) it has as its principal purpose providing housing for lower income families in a specific geographic community designated in its articles or bylaws; (c) it limits membership with voting rights to residents of the designated community; and (d) it has a board of directors consisting of at least seven directors, 60 percent of whom are members with voting rights and, to the extent feasible, 25 percent of whom are elected by resident members of buildings owned by the trust; and

(5) except as provided in subdivision 22, paragraph (c), real property devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment. For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property is used, or available for use for residential occupancy, and a fee is charged for residential occupancy. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than 250 days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Class 4c property classified in this clause also includes the remainder of class 1c resorts;

(6) real property up to a maximum of one acre of land owned by a nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, 1990. For purposes of this clause, "revenue-producing activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or nonintoxicating malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity;

(7) post-secondary student housing of not more than one acre of land that is owned by a nonprofit corporation organized under chapter 317A and is used exclusively by a student cooperative, sorority, or fraternity for on-campus housing or housing located within two miles of the border of a college campus; and

(8) manufactured home parks as defined in section 327.14, subdivision 3.

Class 4c property has a class rate of 2.3 percent of market value, except that seasonal residential recreational property not used for commercial purposes under clause (5) has a class rate of 2.2 percent of market value for taxes payable in 1992, and for taxes payable in 1993 and thereafter, the first $72,000 of market value has a class rate of two percent and the market value that exceeds $72,000 has a class rate of 2.5 percent.

(d) Class 4d property includes:

(1) a structure that is:

(i) situated on real property that is used for housing for the elderly or for low and moderate income families as defined by the Farmers Home Administration;

(ii) located in a municipality of less than 10,000 population; and

(iii) financed by a direct loan or insured loan from the Farmers Home Administration. Property is classified under this clause for 15 years from the date of the completion of the original construction or for the original term of the loan.

The class rates in paragraph (c), clauses (1), (2), and (3) and this clause apply to the properties described in them, only in proportion to occupancy of the structure by elderly or handicapped persons or low and moderate income families as defined in the applicable laws unless construction of the structure had been commenced prior to January 1, 1984; or the project had been approved by the governing body of the municipality in which it is located prior to June 30, 1983; or financing of the project had been approved by a federal or state agency prior to June 30, 1983. Classification under this clause is only available to property of a nonprofit or limited dividend entity.

(2) For taxes payable in 1992, 1993 and 1994, only, buildings and appurtenances, together with the land upon which they are located, leased by the occupant under the community lending model lease-purchase mortgage loan program administered by the Federal National Mortgage Association, provided the occupant's income is no greater than 60 percent of the county or area median income, adjusted for family size and the building consists of existing single family or duplex housing. The lease agreement must provide for a portion of the lease payment to be escrowed as a nonrefundable down payment on the housing. To qualify under this clause, the taxpayer must apply to the county assessor by May 30 of each year. The application must be accompanied by an affidavit or other proof required by the assessor to determine qualification under this clause.

(3) For taxes payable in 1992, 1993 and 1994, only, federally acquired buildings under four units and appurtenances, together with the land upon which they are located that is leased to a nonprofit corporation organized under chapter 317A that qualifies for tax exempt status under United States Code, title 26, section 501(c), or a housing and redevelopment authority authorized under sections 469.001 to 469.047; the purpose of the lease must be to allow the nonprofit corporation to provide transitional housing for homeless persons under the program established in Code of Federal Regulations, title 55, section 49489. As used in this clause, "transitional housing" has the meaning given in section 268.38, subdivision 1, except that the two-year restriction does not apply. If the property is purchased from the federal government by the nonprofit corporation for the purpose of continuing to provide transitional housing after the expiration of the lease, the property shall continue to be eligible for this classification. To qualify under this clause, the taxpayer must apply to the county assessor by May 30 of each year. The application must be accompanied by an affidavit or other proof required by the county assessor to determine qualification under this clause. Property qualifying under this clause in 1992, 1993, or 1994 continues to receive a two percent class rate until the five-year lease

has expired provided that the property continues to be used for the purposes as described in this clause.

Class 4d property has a class rate of two percent of market value.

(e) Residential rental property that would otherwise be assessed as class 4 property under paragraph (a); paragraph (b), clauses (1) and (3); paragraph (c), clause (1), (2), (3), or (4), is assessed at the class rate applicable to it under Minnesota Statutes 1988, section 273.13, if it is found to be a substandard building under section 273.1316. Residential rental property that would otherwise be assessed as class 4 property under paragraph (d) is assessed at 2.3 percent of market value if it is found to be a substandard building under section 273.1316.

Subd. 2. [EFFECTIVE DATE.] Subdivision 1 is effective for taxes levied in 1991, payable in 1992, and thereafter.

Sec. 9. [CORRECTION 8]

Subdivision 1. 1991 H.F. No. 2, article 2, section 7, if enacted, is amended to read:

Sec. 7. [62J.13] [PROVISION OF HEALTH CARE SERVICES; MANAGED CARE.]

In areas of the state where managed care health plans operate, the commissioner must deliver health care through contracts with managed care health plans. *The commissioner may solicit bids and contract separately for dental care services, which may be provided by the same health plan that provides other services. Health plans may bid and contract to provide only dental care services or to provide only nondental services.* The commissioner may require contractors to provide all services under the intermediate benefit set, or may contract separately for certain services if the commissioner determines this to be in the best interests of the state plan. In order to qualify for participation in the state plan, a managed care health plan must meet the specifications in this section.

(a) The health plan must demonstrate to the satisfaction of the commissioner that it is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees.

(b) The health plan must have sufficient provider network capacity to adequately serve enrollees and prospective enrollees.

(c) The health plan must have established procedures adequate to manage the delivery of health care. The procedures must incorporate clear standards of practice or protocols where they exist. The procedures must also require enrollees to register with a specific primary care clinic which will coordinate referrals, hospitalizations, and other health care delivery. A plan that has not established these procedures may participate in the program if the plan demonstrates to the satisfaction of the commissioner that an alternative, comparably effective system of case management has been established. A managed care health plan that has not established procedures satisfactory to the commissioner may participate in the program if the plan agrees to implement satisfactory procedures within three years from the date it is accepted for participation by the commissioner.

(d) The health plan must demonstrate a long-term commitment to improving the quality and efficiency of health care.

(e) The health plan must have established programs to educate enrollees

about appropriate use of the health care system. The programs may include self-care education, telephone nurse access, encouragement of healthy lifestyles, and encouragement of conformance to prescribed courses of treatment.

(f) Health plans must notify enrollees by mail when coverage limits under the intermediate benefit set have been reached and explain that payment for future services in excess of the coverage limits are the responsibility of the patient.

(g) The health plan must include appropriate use of nonphysician providers within its overall framework of managed care. Nothing in this section is intended to limit direct access to chiropractic care under article 3, section 3, subdivision 2, subject to reasonable managed care protocols and criteria for determining appropriate use of chiropractic care.

Subd. 2. This section takes effect the same day as the section it amends."

Amend the title as follows:

Page 1, line 6, delete "section" and insert "sections 82B.05, subdivision 1, as amended; 82B.11, subdivision 1, as amended; 82B.17, as amended; 82B.19, subdivision 3, as amended; 273.13, subdivision 25, as amended; 290.191, subdivision 4;"

Page 1, line 7, before the period, insert "; 1991 H.F. No. 719, article 4, section 67, subdivision 1; 1991 S.F. No. 598, article 7, section 9; 1991 H.F. No. 719, article 5, section 72; 1991 H.F. No. 2, article 2, section 7; Laws 1989, chapter 341, article 1, section 26; Laws 1991, chapter 97, section 15"

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

SECOND READING OF SENATE BILLS

S.F. No. 1562 was read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Mr. Spear moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to S.F. No. 1562 and that the rules of the Senate be so far suspended as to give S.F. No. 1562, its third reading and place it on its final passage. The motion prevailed.

Mr. Spear moved to amend S.F. No. 1562, as amended, as follows:

Page 1, after line 8, insert:

"ARTICLE 1"

Page 2, after line 12, insert:

"ARTICLE 2

REDISTRICTING

Section 1. [CORRECTION A.] Minnesota Statutes 1990, section 2.031, subdivision 2, as amended by Laws 1991, chapter 246, section 1, if enacted,

is amended to read as follows:

Subd. 2. [DEFINITION.] The terms "county," "town," "township," "city," "ward," "precinct," "census tract," "block," and "unorganized territory" when used in a description of a legislative district in ~~this act~~ *sections 2 to 68* mean a geographical area established as such by law and as it existed for purposes of the 1990 federal census.

Sec. 2. [CORRECTION B.] Laws 1991, chapter 246, section 4, subdivision 1, if enacted, is amended to read as follows:

Subdivision 1. [SENATE DISTRICT.] Senate district 3 consists of all of Itasca County except the unorganized territory of Bowstring Lake, that portion of ~~Aitken~~ *Aitkin* County consisting of the city of Aitkin, Aitkin Township, Ball Bluff Township, Balsam Township, Cornish Township, Fleming Township, the city of Hill City, Hill Lake Township, Jevne Township, Libby Township, Logan Township, Macville Township, Morrison Township, the unorganized territory of Northeast Aitkin, the unorganized territory of Northwest Aitkin, the city of Palisade, Spencer Township, Turner Township, Verdon Township, Waukenabo Township, and Workman Township, that portion of Koochiching County not included in senate district 6, and that portion of St. Louis County consisting of Alango Township, Fine Lakes Township, the city of Floodwood, Floodwood Township, French Township, Halden Township, Linden Grove Township, the unorganized territory of McCormack Lake, Morcom Township, Prairie Lake Township, unorganized precinct numbers 62-21 and 59-21, West Sand Lake Precinct, and Sturgeon Township.

Sec. 3. [CORRECTION C.] Laws 1991, chapter 246, section 7, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 6 is divided into two house districts as follows:

(a) House district 6A consists of that portion of senate district 6 not included in house district 6B.

(b) House district 6B consists of that portion of St. Louis ~~County consisting of Alden Township, North Star Township, Normanna Township, Gnesen Township, Rice Lake Township, Lakewood Township, Duluth Township, Canosia Township, and Fredenburg~~ *County consisting of Alden Township, Canosia Township, Duluth Township, Fredenburg Township, Gnesen Township, Lakewood Township, Normanna Township, North Star Township, and Rice Lake* Township, and that portion of the city of Duluth not included in senate district 7.

Sec. 4. [CORRECTION D.] Laws 1991, chapter 246, section 12, subdivision 1, if enacted, is amended to read as follows:

Sec. 12. [2.143] [ELEVENTH DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 11 6consists of all of Todd County, that portion of Becker County consisting of Burlington Township, Detroit Township, the city of Detroit Lakes, Erie Township, the city of Frazee, and Lake View Township, that portion of Douglas County consisting of Belle River Township, the city of Osakis, Osakis Township, and Spruce Hill Township, that portion of Otter Tail County consisting of Blowers Township, the city of Bluffton, Bluffton Township, Butler Township, Candor Township, Compton Township, Corliss Township, the city of Deer Creek, Deer Creek Township, the city of Dent, Dora Township, Eastern Township, Edna Township, Gorman Township, Hobart Township, Homestead

Township, Newton Township, the city of New York Mills, Oak Valley Township, Otto Township, Paddock Township, the city of Perham, Perham Township, Pine Lake Township, the city of Vergas, ~~the city of Wadena,~~ and Woodside Township, that portion of Stearns County consisting of Melrose Township, Millwood Township, and the city of St. Rosa, and that portion of Wadena County consisting of the city of Aldrich, Aldrich Township, Bullard Township, Leaf River Township, Red Eye Township, Rockwood Township, the city of Sebeka, the city of Staples, Thomastown Township, the city of Verndale, the city of Wadena, Wadena Township, and Wing River Township.

Sec. 5. [CORRECTION E.] Laws 1991, chapter 246, section 17, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 16 is divided into two house districts as follows:

(a) House district 16A consists of that portion of Benton County in senate district 16, and that portion of Stearns County consisting of that portion of the city of St. Cloud lying east and north of a line described as follows: commencing at the intersection of the northern boundary of the city of St. Cloud and the extension of 25th Avenue North, southerly along the extension of 25th Avenue North to the Sauk River, southerly and westerly along the Sauk River to *an extension of* 33rd Avenue North, southerly along *the extension of 33rd Avenue North and* 33rd Avenue North to 5th Street North, easterly along 5th Street North to 30th Avenue North, southerly along 30th Avenue North and 30th Avenue South to 1st Street South, easterly along 1st Street South to 25th Avenue South, northerly along 25th Avenue South and 25th Avenue North to 2nd Street North, easterly along 2nd Street North to Cooper Avenue North, southerly along Cooper Avenue North to West St. Germain Street, northeasterly along West St. Germain Street to 8th Avenue South, southeasterly along 8th Avenue South to 1st Street South, southwesterly along 1st Street South to 8th Avenue South, southeasterly along 8th Avenue South to 2nd Street South, southwesterly along 2nd Street South to 10th Avenue South, southeasterly along 10th Avenue South to *an extension of* 2nd Street South, southwesterly along *an extension of* 2nd Street South to East Lake Boulevard *South*, southerly along East Lake Boulevard *South* to 5th Street South, easterly along 5th Street South to 4th Avenue South, southerly along 4th Avenue South to 10th Street South, easterly along 10th Street south to the Mississippi River.

(b) House district 16B consists of that portion of senate district 16 not included in house district 16A.

Sec. 6. [CORRECTION F.] Laws 1991, chapter 246, section 23, subdivision 1, if enacted, is amended to read as follows:

Sec. 23. [2.253] [TWENTY-SECOND DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 22 consists of all ~~of all~~ of Cottonwood and Jackson Counties, that portion of Brown County consisting of Albin Township, Bashaw Township, the city of Comfrey, Mulligan Township, and Stately Township, that portion of Lyon County consisting of the city of Balaton, Custer Township, the city of Garvin, Monroe Township, Rock Lake Township, and the city of Tracy, that portion of Martin County consisting of Cedar Township, the city of Ceylon, the city of Dunnell, Elm Creek Township, Fox Lake Township, Galena Township, Jay Township, Lake Belt Township, Lake Fremont Township, Manyaska Township, the city

of Ormsby, the city of Sherburn, the city of Trimont, and the city of Welcome, that portion of Murray County not included in senate district 21, that portion of Nobles County not included in senate district 21, that portion of Redwood County consisting of the city of Lamberton, Lamberton Township, North Hero Township, the city of Revere, Springdale Township, and the city of Walnut Grove, and that portion of Watonwan County consisting of Adrian Township, the city of Butterfield, Butterfield Township, the city of Darfur, Long Lake Township, Nelson Township, the city of Odin, Odin Township, the city of Ormsby, and St. James Township.

Sec. 7. [CORRECTION G.] Laws 1991, chapter 246, section 29, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 28 is divided into two house districts as follows:

(a) House district 28A consists of that portion of Steele County consisting of Clinton Falls Township, Deerfield Township, Meriden Township, Owatonna Township, and the city of Owatonna, and that portion of Waseca County consisting of Blooming Grove Township, ~~Lasco~~ *Iosco* Township, St. Mary Township, the city of Waseca, and Woodville Township.

(b) House district 28B consists of that portion of senate district 28 not included in house district 28A.

Sec. 8. [CORRECTION H.] Laws 1991, chapter 246, section 31, if enacted, is amended to read as follows:

Sec. 31. [2.333] [THIRTIETH DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 30 consists of that portion of Olmstead County consisting of the city of Rochester *excluding that portion of the city of Rochester lying north of a line described as follows: commencing at the intersection of the northern boundary of the city of Rochester and State Highway 52, southeasterly along State Highway 52 to 37th Street Northwest, easterly along 37th Street Northwest to 18th Avenue Northwest, northerly along 18th Avenue Northwest to the northern boundary of the city of Rochester.*

Subd. 2. [HOUSE DISTRICTS.] Senate district 30 is divided into two house districts as follows:

(a) House district 30A consists of that portion of senate district 30 lying north of a line described as follows: commencing at the intersection of Country Club Road West with the western boundary of the city of Rochester, easterly along Country Club Road West and 2nd Street Southwest to 6th Avenue Southwest, northerly along 6th Avenue Southwest and 6th Avenue Northwest to 7th Street Northwest, westerly along 7th Street Northwest to 7th Avenue Northwest, northerly along 7th Avenue Northwest to 11th Street Northwest, easterly along 11th Street Northwest to 5th Avenue Northwest, northerly along 5th Avenue Northwest to 14th Street Northwest, easterly along 14th Street Northwest to Cascade Creek, northeasterly along Cascade Creek to the Zumbro River, southeasterly and southerly along the Zumbro River *and Silver Lake* to 7th Street Northeast, easterly along 7th Street Northeast to 11th Avenue Northeast, northerly along 11th Avenue Northeast to 14th Street ~~Northwest~~ *Northeast*, easterly along 14th Street Northwest and northeasterly along Viola Road Northeast to 19th Street Northeast, westerly along 19th Street Northeast to 13th Avenue Northeast, northerly along 13th Avenue Northeast to the northeastern boundary of the city of

Rochester.

(b) House district 30B consists of that portion of senate district 30 not included in house district 30A.

Sec. 9. [CORRECTION I.] Laws 1991, chapter 246, section 34, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 33 is divided into two house districts as follows:

(a) House district 33A consists of that portion of senate district 33 not included in house district 33B.

(b) House district 33B consists of that portion of the city of Plymouth in senate district 33 and that portion of the city of Maple Grove lying south and east of a line described as follows: commencing at the intersection of the eastern boundary of the city of ~~Plymouth~~ *Maple Grove* with 101st Avenue North, westerly along 101st Avenue North to Zachary Lane, southerly along Zachary Lane to 97th Avenue North, easterly along 97th Avenue North and its extension to the extension of Xenium Lane, southerly along the extension of Xenium Lane ~~and Xenium Lane~~ to County Road 30, westerly along County Road 30 to Interstate Highway 494, southerly along Interstate Highway 494 to 85th Avenue North, westerly along 85th Avenue North to Fish Lake, southerly along the western shore of Fish Lake to Fernbrook Lane, southerly along Fernbrook Lane to Timbercrest Drive, easterly along Timbercrest Drive to Zinnia, northerly along Zinnia to 73rd Avenue North, easterly along 73rd Avenue North to Interstate Highway 494, southerly along Interstate Highway 494 to the southern boundary of the city of Maple Grove.

Sec. 10. [CORRECTION J.] Laws 1991, chapter 246, section 38, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 37 is divided into two house districts as follows:

(a) House district 37A consists of that portion of house district 37 not included in house district 37B.

(b) House district 37B consists of that portion of senate district 37 consisting of that portion of Scott County located in senate district 37 and that portion of Dakota County consisting of that portion of the city of Lakeville included in senate district 37 and that portion of the city of Farmington lying north of a line described as follows: commencing at the intersection of the northern boundary of the city of Farmington and the eastern boundary of the city of Farmington, southerly along the eastern boundary of the city of Farmington to the point where it turns east, westerly along an extension of that boundary of the city of Farmington to ~~Aiken~~ *Akin* Road, northwesterly along ~~Aiken~~ *Akin* Road to 195th Street West, westerly along 195th Street West to Flagstaff Avenue, southerly along Flagstaff Avenue to 200th Street West, westerly along 200th Street West to the western boundary of the city of Farmington.

Sec. 11. [CORRECTION K.] Laws 1991, chapter 246, section 39, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 38 is divided into two house districts as follows:

(a) House district ~~38A~~ *38B* consists of that portion of senate district 38 not included in house district ~~38B~~ *38A*.

(b) House district ~~38B~~ *38A* consists of that portion of the city of Apple Valley in senate district 38, that portion of the city of Burnsville east of a line described as follows: commencing at the intersection of State Highway 13 and the eastern boundary of the city of Burnsville, southwesterly along State Highway 13 to Cliff Road, easterly along Cliff Road to the eastern boundary of the city of Burnsville, and that portion of the city of Eagan lying south of a line described as follows: commencing at the intersection of the western boundary of the city of Eagan and Diffley Road, easterly along Diffley Road to Lexington Avenue, northerly along Lexington Avenue to Yankee Doodle Road, easterly along Yankee Doodle Road to the Soo Line railroad tracks, southeasterly along the Soo Line railroad tracks to the eastern boundary of the city of Eagan.

Sec. 12. [CORRECTION L.] Laws 1991, chapter 246, section 40, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 39 is divided into two house districts as follows:

(a) House district 39A consists of that portion of senate district 39 consisting of the cities of West St. Paul and Sunfish Lake, that portion of the city of Mendota Heights included in senate district 39, that portion of the city of South St. Paul lying north and west of a line described as follows: commencing at the intersection of the southern boundary of the city of South St. Paul and 18th Avenue South, northerly along 18th Avenue South to Southview Boulevard, easterly along Southview Boulevard to 17th Avenue South, northerly along 17th Avenue South to 4th Street North, easterly along 4th Street North to 14th Avenue North, northerly along 14th Avenue North to Wentworth Avenue, easterly along Wentworth Avenue and its extension to the Mississippi River, and that portion of the city of Inver Grove Heights lying west and north of a line described as follows: commencing at the intersection of the northern boundary of the city of Inver Grove Heights and Babcock Trail, southerly along Babcock Trail to Upper 55th Street *East*, westerly along Upper 55th Street *East* to the western boundary of the city of Inver Grove Heights.

(b) House district 39B consists of that portion of senate district 39 not included in house district 39A.

Sec. 13. [CORRECTION M.] Laws 1991, chapter 246, section 41, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 40 is divided into two house districts as follows:

(a) House district 40A consists of that portion of senate district 40 lying north and east of a line described as follows: commencing at the intersection of the northern boundary of the city of Bloomington and Interstate Highway 35W, southerly along Interstate Highway 35W to the Soo Line railroad tracks, northeasterly along the Soo Line railroad tracks to 95th Street, ~~easterly along 95th Street to Chicago Avenue South, northerly along Chicago Avenue South to 94th Street, easterly along 94th Street to Old Shakopee Road, northeasterly along Old Shakopee~~ *easterly along 95th Street to 3rd Avenue South, southerly along 3rd Avenue South to 96th Street, easterly along 96th Street to Chicago Avenue South, northerly along Chicago Avenue South to 94th Street, easterly along 94th Street to Riverview Avenue, southerly along Riverview Avenue to Old Shakopee Road, northeasterly along Old Shakopee* Road to Old Cedar Avenue, southeasterly along Old Cedar Avenue to the

Minnesota River.

(b) House district 40B consists of that portion of senate district 40 not included in house district 40A.

Sec. 14. [CORRECTION N.] Laws 1991, chapter 246, section 42, subdivision 1, if enacted, is amended to read as follows:

Sec. 42. [2.443] [FORTY-FIRST DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 41 consists of that portion of Dakota County consisting of that portion of the city of Burnsville not included in senate district 36 or 38, that portion of Scott County consisting of the city of Savage, and that portion of Hennepin County consisting of that portion of the city of Bloomington lying west of a line described as follows: commencing at the intersection of the southern boundary of the city of Bloomington with the extension of France Avenue South, north of the extension of France Avenue South to Overlook Drive, west on Overlook Drive to Normandale Boulevard, north on Normandale Boulevard to Old Shakopee Road, easterly along Old Shakopee Road to Kell Avenue, southerly along Kell Avenue to 108th Street, easterly along 108th Street to Xerxes Avenue South, northerly along Xerxes Avenue South to Old Shakopee Road, northeasterly along Old Shakopee Road to Nine Mile Creek, northerly and westerly along Nine Mile Creek to West 90th Street, southwesterly along West 90th Street to Poplar Bridge Road, easterly along Poplar Bridge Road to Kingsdale Drive, southwesterly along Kingsdale Drive to Poplar Bridge Road, southwesterly along Poplar Bridge Road to Normandale Boulevard, northerly along Normandale Boulevard to the northern boundary of the city of Bloomington, and that portion of the city of Eden ~~Praire~~ *Prairie* not included in senate district 42 or 43.

Sec. 15. [CORRECTION O.] Laws 1991, chapter 246, section 43, subdivision 1, if enacted, is amended to read as follows:

Sec. 43. [2.453] [FORTY-SECOND DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 42 consists of that portion of Hennepin County consisting of the city of Edina and that portion of the city of Eden Prairie not included in senate district 43 and lying west and north of a line described as follows: commencing at the intersection of the southern boundary of Hennepin County with the extension of Concord Drive, northerly along the extension of Concord Drive to Riverview Road, westerly along Riverview Road to Noder Lane, northerly along Noder Lane to Silverwood Drive, easterly along Silverwood Drive to Homeward Mills Road, northerly along Homeward Mills Road to Anderson Lakes Parkway, easterly along Anderson Lakes Parkway to Hidden Oaks Drive, northeasterly along Hidden Oaks Drive and its extension to the southern shore of Anderson Lake, southerly southeasterly and northeasterly along the southern shore of Anderson Lake to the eastern boundary of the city of Eden Prairie.

Subd. 2. [HOUSE DISTRICTS.] Senate district 42 is divided into two house districts as follows:

(a) House district ~~42A~~ *42B* consists of that portion of the city of Edina lying north and east of a line described as follows: commencing at the intersection of the western boundary of the city of Edina with State Highway 62, easterly along State Highway 62 to State Highway 100, southerly along State Highway 100 to West 66th Street, easterly along West 66th Street to West Shore Drive, southeasterly along West Shore Drive to Laguna Drive,

easterly along Laguna Drive to Wooddale Avenue, southerly along Wooddale Avenue to Dunberry Lane, easterly along Dunberry Lane to Cornelia Drive, southerly along Cornelia Drive to West 70th Street, easterly along West 70th Street to France Avenue, southerly along France Avenue to the southern boundary of the city of Edina.

(b) House district ~~42B~~ *42A* consists of that portion of senate district 42 not contained in house district ~~42A~~ *42B*.

Sec. 16. [CORRECTION P.] Laws 1991, chapter 246, section 44, subdivision 1, if enacted, is amended to read as follows:

Sec. 44. [2.463] [FORTY-THIRD DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 43 consists of that portion of Carver County consisting of the cities of Chanhassen and Victoria, and that portion of Hennepin County consisting of the city of Deephaven, that portion of the city of Eden Prairie ~~not included in senate district 42~~, *lying north and west of a line described as follows: commencing at the intersection of the western boundary of the city of Eden Prairie and the Soo Line railroad tracks, northeasterly along the Soo Line railroad tracks to Valley View Road, easterly along Valley View Road to Mitchell Road, northeasterly along Mitchell Road to Baker Road, northerly along Baker Road to the northern boundary of the city of Eden Prairie*, the city of Excelsior, the city of Greenwood, that portion of the city of Minnetonka lying south and west of a line described as follows: commencing at the intersection of the southern boundary of the city of Woodland and State Highway 101, southerly along State Highway 101 to Minnetonka Boulevard, easterly along Minnetonka Boulevard to Williston Road, southerly along Williston Road to Lake Street, easterly along Lake Street to Christy Lane, southerly along Christy Lane to State Highway 7, easterly along State Highway 7 to Interstate Highway 494, southerly along Interstate Highway 494 to the southern boundary of the city of Minnetonka, the city of Minnetonka Beach, that portion of the city of Orono lying south of the northern shore of Lake Minnetonka along Crystal Bay, Smith Bay, and Browns Bay, the city of Shorewood, the city of Tonka Bay, ~~the city of Wayzata,~~ and the city of Woodland.

Sec. 17. [CORRECTION Q.] Laws 1991, chapter 246, section 47, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 46 is divided into two house districts as follows:

(a) House district 46A consists of that portion of senate district 46 lying west of a line described as follows: commencing at the intersection of the northern boundary of the city of Crystal with U.S. Highway 52, southeasterly along U.S. Highway 52 to the northern boundary of the city of Robbinsdale, westerly, southerly, and westerly along the northern and western boundaries of the city of Robbinsdale to 42nd Avenue North, westerly along 42nd Avenue North to the Soo Line Railroad Company tracks, southerly along the Soo Line Railroad Company tracks to the western boundary of the city of Crystal, westerly and southerly along the western boundary of the city of Crystal to the southern boundary of senate district 46.

(b) House district 46B consists of that portion of senate district 46 not included in house district 46A.

Sec. 18. [CORRECTION R.] Laws 1991, chapter 246, section 49, subdivision 1, if enacted, is amended to read as follows:

Sec. 49. [2.513] [FORTY-EIGHTH DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 48 consists of that portion of Anoka County consisting of that portion of the city of Coon Rapids not included in senate district 49, the city of Spring Lake Park, that portion of the city of Blaine south and west of a line described as follows: commencing at the intersection of the western boundary of the city of Blaine with the right-of-way of State Highway 610, southeasterly along the right-of-way of State Highway 610 to Central Avenue Northeast, southerly along Central Avenue Northeast to 89th Avenue, easterly along 89th Avenue ~~Northeast~~ and its extension to Hastings Street Northeast, southerly along Hastings Street Northeast to the southern boundary of the city of Blaine, and that portion of the city of Fridley lying north of a line described as follows: commencing at the intersection of the Mississippi River with Rice Creek, easterly along Rice Creek to East River Road, southeasterly along East River Road to Mississippi Street, easterly along Mississippi Street to Seventh Street Northeast, southerly along Seventh Street Northeast to 61st Avenue ~~East~~ *Northeast*, easterly along 61st Avenue ~~East~~ *Northeast* to West Moore Lake Drive, southeasterly along West Moore Lake Drive to State Highway 65, southerly along State Highway 65 to an extension of Lynde Drive, easterly along the extension of Lynde Drive and Lynde Drive to Regis Street, northerly along Regis Street to Hathaway Lane, easterly along Hathaway Lane to Matterhorn Drive, northerly along Matterhorn Drive to Gardena Avenue, easterly along Gardena Avenue to the eastern boundary of the city of Fridley, that portion of Ramsey County consisting of the city of Spring Lake Park, and that portion of Hennepin County consisting of that portion of the city of Brooklyn Park not included in senate district 47, the city of Osseo, and that portion of the city of Champlin lying east of a line described as follows: commencing at the intersection of the southern boundary of the city of Champlin with United States Highway 169, northerly along United States Highway 169 to Hayden Lake Road, westerly along Hayden Lake Road to Vera Street, northerly along Vera Street and its extension to the extension of Baker Lane, northerly along Baker Lane and its extension to French Lake Road, northeasterly along French Lake Road to Dayton River Road, southeasterly along Dayton River Road to United States Highway 169, northerly along United States Highway 169 to the Mississippi River.

Sec. 19. [CORRECTION S.] Laws 1991, chapter 246, section 50, if enacted, is amended to read as follows:

Sec. 50. [2.523] [FORTY-NINTH DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 49 consists of that portion of Anoka County consisting of the city of Anoka and that portion of the city of Coon Rapids lying north of a line described as follows: commencing at the intersection of the Mississippi River with Coon Creek, northerly along Coon Creek to the Burlington Northern Railroad tracks, southeasterly along the Burlington Northern Railroad tracks to Coon Rapids Boulevard *Extension*, easterly along Coon Rapids Boulevard *Extension* to the north-south Burlington Northern Railroad tracks, northerly along the north-south Burlington Northern Railroad tracks to Egret Boulevard, easterly along Egret Boulevard to *U.S.* Highway 10, southeasterly along *U.S.* Highway 10 to the extension of 94th Avenue, ~~northeasterly~~ *easterly* along

the extension of 94th Avenue to the eastern boundary of the city of Coon Rapids.

Subd. 2. [HOUSE DISTRICTS.] Senate district 49 is divided into two house districts as follows:

(a) House district 49A consists of that portion of senate district 49 lying north and west of a line described as follows: commencing at the intersection of the Mississippi River with the southern boundary of the campus of Anoka Ramsey State Community College, easterly along the southern boundary of the campus of Anoka Ramsey State Community College to Mississippi Boulevard, northerly along Mississippi Boulevard to Coon Rapids Boulevard, northwesterly along Coon Rapids Boulevard to Round Lake Boulevard, northerly along Round Lake Boulevard to 119th Avenue Northwest, easterly along 119th Avenue Northwest ~~an extension of~~ *to* Magnolia Street, northerly along ~~the~~ *Magnolia Street and an* extension of Magnolia Street to the Burlington Northern Railroad tracks, northwesterly along the Burlington Northern Railroad tracks to Main Street, easterly along Main Street to ~~United States~~ *U.S.* Highway 10, southeasterly along ~~United States~~ *U.S.* Highway 10 to Hanson Boulevard, northeasterly along Hanson Boulevard to North Dale Boulevard, easterly along North Dale Boulevard to Sand Creek, northeasterly and southeasterly along Sand Creek to the eastern boundary of the city of Coon Rapids.

(b) House district 49B consists of that portion of senate district 49 not located in house district 49A.

Sec. 20. [CORRECTION T.] Laws 1991, chapter 246, section 51, if enacted, is amended to read as follows:

Sec. 51. [2.533] [FIFTIETH DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 50 consists of that portion of Anoka County north of a line described as follows: commencing at the intersection of the Mississippi River with the northwestern boundary of the city of Anoka, northerly and easterly along the northern boundary of the city of Anoka to the northern boundary of the city of Coon Rapids, easterly along the northern boundary of the city of Coon Rapids to University Avenue Northeast, southerly along University Avenue Northeast to Main Street, easterly along Main Street to Jefferson Street Northeast, northerly along Jefferson Street Northeast to Madison Street, northeasterly along Madison Street to 127th Avenue, easterly along 127th Avenue to Able Street, southerly along Able Street to ~~128th~~ *126th* Avenue, easterly along ~~128th~~ *126th* Avenue to Taylor Street, northerly along Taylor Street to ~~126th~~ *128th* Avenue, easterly along ~~126th~~ *128th* Avenue to Buchanan Street, northerly along Buchanan Street to 129th Avenue, easterly along 129th Avenue to Lincoln Street, northerly along Lincoln Street to 129th Avenue, easterly along 129th Avenue to Central Avenue Northeast, northerly along Central Avenue Northeast to the northern boundary of the city of Blaine, easterly along the northern boundary of the city of Blaine and the northern boundary of the city of Lino Lakes to the eastern boundary of Anoka County.

Subd. 2. [HOUSE DISTRICTS.] Senate district 50 is divided into two house districts as follows:

(a) House district 50A consists of that portion of senate district 50 lying north of a line described as follows: commencing at the intersection of the ~~eastern~~ *western* boundary of Anoka County ~~with~~ *and* the northern boundary of the city of ~~Andover~~ *Ramsey*, easterly along the northern boundary of

the ~~city of Andover and the northern boundary of the city of Ham Lake~~ *cities of Andover, Ham Lake, and Ramsey* to Central Avenue Northeast, southerly along Central Avenue Northeast to the northern boundary of the city of Blaine, easterly along the northern boundary of the city of Blaine and the northern boundary of the city of Lino Lakes to the eastern boundary of Anoka County.

(b) House district 50B consists of that portion of senate district 50 not included in house district 50A.

Sec. 21. [CORRECTION U.] Laws 1991, chapter 246, section 53, if enacted, is amended to read as follows:

Sec. 53. [2.543] [FIFTY-SECOND DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 52 consists of that portion of Anoka County consisting of the cities of Columbia Heights and Hilltop and that portion of the city of Fridley not included in senate district 48, and that ~~portion of Ramsey County consisting of the city of Mounds View and the city of New Brighton.~~ *portion of Ramsey County consisting of the cities of Blaine, Mounds View, and New Brighton.*

Subd. 2. [HOUSE DISTRICTS.] Senate district 52 is divided into two house districts as follows:

(a) House district 52A consists of that portion of senate district 52 not included in house district 52B.

(b) House district 52B consists of the city of Mounds View and that portion ~~of the city of~~ *and that portion of Ramsey County consisting of the cities of Blaine and* New Brighton located ~~within~~ *east and north of* a line described as follows: commencing at the intersection of 16th Street Northwest with the western boundary of the city of ~~New Brighton, easterly along the western boundary of the city of New Brighton to Silver Lake Road, southerly along Silver Lake Road to County Road E, westerly along County Road E to the western boundary of the city of New Brighton, and northerly along the western boundary of the city of New Brighton to the point of origin.~~ *New Brighton, easterly along 16th Street Northwest to Silver Lake Road, southerly along Silver Lake Road to the northern boundary of the city of St. Anthony.*

Sec. 22. [CORRECTION V.] Laws 1991, chapter 246, section 54, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 53 is divided into two house districts as follows:

(a) House district 53A consists of that portion of senate district 53 not included in house district 53B.

(b) House district 53B consists of that portion of senate district 53 consisting of the cities of North Oaks, Gem Lake, and Vadnais Heights; those portions of White Bear Township and the city of White Bear Lake ~~described in subdivision 1~~ *included in senate district 53*; and that ~~portion of the city of Shoreview lying westerly of Hodgson Road and that portion lying within a line described as follows: commencing at the intersection of Hodgson Road and Snail Lake Boulevard, westerly, southerly, and westerly along Snail Lake Boulevard to County Road F, westerly along County Road F to Lexington Avenue and the western boundary of the city, southerly, easterly, and northerly~~

~~along the boundaries of the city of Shoreview to Hodgson Road, and northwesterly along Hodgson Road to the point of origin.~~ *portion of the city of Shoreview lying east and south of a line described as follows: commencing at the intersection of State Highway 49 and Turtle Lake Road southerly along State Highway 49 to Snail Lake Boulevard, westerly, southerly, and westerly along Snail Lake Boulevard to County Road F, westerly along County Road F to the western boundary of the city of Shoreview.*

Sec. 23. [CORRECTION W.] Laws 1991, chapter 246, section 55, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 54 is divided into two house districts as follows:

(a) House district 54A consists of that portion of senate district 54 not included in house district 54B.

(b) House district 54B consists of those portions of the cities of Little Canada and Maplewood ~~contained~~ *included* in senate district 54, and that portion of the city of Roseville lying within a line described as follows: commencing at the intersection of Snelling Avenue with the northern boundary of the city, southerly along Snelling Avenue to County Road C, easterly along County Road C to Hamline Avenue, southerly along Hamline Avenue to ~~Trunk~~ *State* Highway 36, easterly along ~~Trunk~~ *State* Highway 36 to Lexington Avenue, southerly along Lexington Avenue to County Road B, easterly along County Road B to the eastern boundary of the city of Roseville, and northerly and easterly along the boundaries of the city of Roseville to the point of origin.

Sec. 24. [CORRECTION X.] Laws 1991, chapter 246, section 56, subdivision 1, if enacted, is amended to read as follows:

Sec. 56. [2.573] [FIFTY-FIFTH DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 55 consists of that portion of Ramsey County consisting of the city of North St. Paul; that portion of the city of White Bear Lake not included in senate district 53; that portion of White Bear Township not included in senate district 53; that portion of *the city of* Maplewood lying ~~within~~ *east of* a line described as follows: commencing at the intersection of Century Avenue and Interstate Highway ~~694, westerly along Interstate Highway 694 to White Bear Avenue, southerly along White Bear Avenue to Trunk Highway 36, westerly along Trunk Highway 36 to Hazelwood Street, southerly along Hazelwood Street to a railroad right-of-way, westerly along the railroad right-of-way to Chamber Street, southerly along Chamber Street to Frost Avenue, westerly and southwesterly along Frost Avenue to the extension of said railroad right-of-way, southwesterly along the extension and the railroad right-of-way to Larpenteur Avenue, easterly along Larpenteur Avenue to Century Avenue, northerly along Century Avenue to Holloway Avenue and the southern boundary of the city of North St. Paul, westerly, northerly, and easterly along the boundaries of the city of North St. Paul to Century Avenue, and northerly along Century Avenue to the point of origin; and, that part of the city of St. Paul lying within a line described as follows: commencing at the intersection of Larpenteur Avenue and Interstate Highway 35E, southerly along Interstate Highway 35E to Arlington Avenue, easterly along Arlington Avenue to Wheelock Parkway, easterly along Wheelock Parkway and its extension to the shoreline of Lake Phalen, southeasterly along the shoreline of Lake Phalen and an extension of the shoreline to Johnson Parkway, southerly along Johnson~~

~~Parkway to Maryland Avenue, easterly along Maryland Avenue to Kennard Street, northerly along Kennard Street to Sherwood Avenue, easterly along Sherwood Avenue to White Bear Avenue, northerly along White Bear Avenue to Larpenteur Avenue, and westerly along Larpenteur Avenue to the point of origin; and, that portion of Washington County~~ *694, easterly along Interstate Highway 694 to White Bear Avenue, southerly along White Bear Avenue to the eastern boundary of senate district 54, southwesterly along the eastern boundary of senate district 54 to the southern boundary of the city of Maplewood, and that part of the city of St. Paul lying north of a line described as follows: commencing at the intersection of the northern boundary of the city of St. Paul and the eastern boundary of senate district 66, southeasterly along the eastern boundary of senate district 66 to the western boundary of senate district 67, northeasterly along the western boundary of senate district 67 to the northern boundary of the city of St. Paul; and that portion of Washington County* lying within a line described as follows: the intersection of the southerly shoreline of White Bear Lake with the boundary between Ramsey and Washington counties, southeasterly along the ~~shoreline and its extension to Cedar Hall Avenue, southeasterly along Cedar Hall Avenue to Wildwood Road, northeasterly along Wildwood Road to Ideal Avenue North, southerly along Ideal Avenue North to the boundaries of the city of Pine Springs, easterly, southerly, easterly, southerly, easterly, and southerly along the boundaries of the city of Pine Springs to Interstate Highway 694, westerly to the eastern boundary of Washington County, and northerly along the boundary to the point of origin.~~ *northeast boundary of the city of Birchwood to Hall Avenue, easterly along Hall Avenue to Wildwood Road, northeasterly along Wildwood Road to Ideal Avenue North, southerly along Ideal Avenue North to the southern boundary of the city of Mahtomedi, southwesterly along the southern boundary of the city Mahtomedi to the western boundary of Washington County and northerly along the western boundary of Washington County to the point of origin.*

Sec. 25. [CORRECTION Y.] Laws 1991, chapter 246, section 58, subdivision 1, if enacted, is amended to read as follows:

Sec. 58. [2.593] [FIFTY-SEVENTH DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 57 consists of that portion of Ramsey County consisting of that portion of the city of Maplewood lying south of Larpenteur Avenue, and that portion of Washington County ~~south and west of~~ *within an area* ~~a line~~ described as follows: commencing at the intersection of the western boundary of Washington County and the Chicago and Northwestern Transportation Company railroad tracks in the city of Oakdale, easterly along the Chicago and Northwestern Transportation Company railroad tracks to Interstate Highway 694, southerly along Interstate Highway 694 to Valley Creek Road, easterly along Valley Creek Road to Queens Drive, southerly along Queens Drive to Afton Road, southeasterly along Afton Road to Tower Drive, northerly along Tower Drive to Valley Creek Road, easterly along Valley Creek Road to Pioneer Drive, southerly along Pioneer Drive to Bailey Road, easterly along Bailey Road to Woodbury Drive, southerly along Woodbury Drive to the southern boundary of the city of Woodbury, easterly along the southern boundary of Woodbury to the eastern boundary of the ~~city of Cottage Grove, southerly and westerly along the eastern and southern boundaries of Cottage Grove to the Mississippi River.~~ *city of Cottage Grove, southerly along the eastern boundary of the city of Cottage Grove and westerly along the southern boundary of the city of Cottage Grove to the southern boundary of Washington County,*

westerly along the southern boundary of Washington County and northerly along the western boundary of Washington County to the point of origin.

Sec. 26. [CORRECTION Z.] Laws 1991, chapter 246, section 60, subdivision 1, if enacted, is amended to read as follows:

Sec. 60. [2.613] [FIFTY-NINTH DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 59 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows: commencing at the intersection of the Mississippi River and the northern boundary of the city of Minneapolis, easterly along the northern boundary of the city of Minneapolis to the eastern boundary of the city of Minneapolis, southerly along the eastern boundary of the city of Minneapolis to the Mississippi River, northwesterly along the Mississippi River to U.S. Highway 12, southwesterly along U.S. Highway 12 to Interstate Highway 35W, southwesterly along Interstate Highway 35W to *an extension of* 7th Street South, northwesterly along *the extension of 7th Street South and* 7th Street South to 5th Avenue South, southwesterly along 5th Avenue South to 9th Street South, northwesterly along 9th Street South to the eastern boundary of senate district 58, northerly along the eastern boundary of senate district 58 to the point of origin.

Sec. 27. [CORRECTION AA.] Laws 1991, chapter 246, section 62, subdivision 1, if enacted, is amended to read as follows:

Sec. 62. [2.633] [SIXTY-FIRST DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 61 consists of that portion of Hennepin County consisting of that portion of the city of Minneapolis located within an area described as follows: commencing at the intersection of Lyndale Avenue South and Interstate Highway 94, easterly ~~and northeasterly~~ along Interstate Highway 94 and *northeasterly along* Interstate Highway 35W to U.S. Highway 12, easterly along U.S. Highway 12 to Cedar Avenue South, southerly along Cedar Avenue South to Hiawatha Avenue, southerly along Hiawatha Avenue to East 28th Street, westerly along East 28th Street to 21st Avenue South, southerly along 21st Avenue South to East 32nd Street, westerly along East 32nd Street to 19th Avenue South, southerly along 19th Avenue South to East 34th Street, westerly along East 34th Street to Bloomington Avenue South, southerly along Bloomington Avenue South to East 36th Street, westerly along East 36th Street to 10th Avenue South, southerly along 10th Avenue South to East 38th Street, westerly along East 38th Street to Elliot Avenue South, southerly along Elliot Avenue South to East 44th Street, westerly along East 44th Street to Chicago Avenue South, southerly along Chicago Avenue South to East 50th Street, westerly along East 50th Street to Park Avenue South, southerly along Park Avenue South to East Minnehaha Parkway, westerly along East Minnehaha Parkway to East 50th Street, westerly along East 50th Street to Stevens Avenue South, northerly along Stevens Avenue South to East 46th Street, westerly along East 46th Street to the eastern boundary of senate district 60, northerly along the eastern boundary of senate district 60, to the point of origin.

Sec. 28. [CORRECTION BB.] Laws 1991, chapter 246, section 64, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 63 is divided into two house districts as follows:

(a) House district 63A consists of that portion of senate district 63 north of a line described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and State Highway 62, easterly along State Highway 62 to Lyndale Avenue South, northerly along Lyndale Avenue South to West 58th Street, easterly along West 58th Street to ~~interstate highway~~ *Interstate Highway* 35W, southerly along ~~interstate highway~~ *Interstate Highway* 35W to East 60th Street, easterly along East 60th Street to Portland Avenue South, northerly along Portland Avenue South to East 57th Street, southeasterly along East 57th Street to Chicago Avenue South, southerly along Chicago Avenue South to East 58th Street, easterly along East 58th Street to the western boundary of senate district 62.

(b) House district 63B consists of that portion of senate district 63 not included in house district 63A.

Sec. 29. [CORRECTION CC.] Laws 1991, chapter 246, section 65, subdivision 1, if enacted, is amended to read as follows: subdivision 1, if

Sec. 65. [2.673] [SIXTY-FOURTH DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 64 consists of that portion of Ramsey County consisting of that portion of the city of St. Paul located within an area described as follows: commencing at the intersection of the western boundary of the city of St. Paul and the southern boundary of senate district 66, easterly along the southern boundary of senate district 66 to Hamline Avenue, southerly along Hamline Avenue to Ayd Mill Road, southeasterly along Ayd Mill Road to Summit Avenue, easterly along Summit Avenue to Griggs Street, northerly along Griggs Street to Portland Avenue, easterly along Portland Avenue to Dale Street, southerly along Dale Street to Summit Avenue, easterly and northeasterly along Summit Avenue to Western Avenue, southerly along Western Avenue and its extension to Ramsey Street, easterly along Ramsey Street and Grand Avenue to Interstate Highway 35E, southwesterly along Interstate Highway 35E to St. Clair Avenue, westerly along St. Clair Avenue to Victoria ~~Avenue~~ *Street*, southerly along Victoria ~~Avenue~~ *Street* to Jefferson Avenue, westerly along Jefferson Avenue to Interstate Highway 35E, southerly along Interstate Highway 35E to the southern boundary of the city of St. Paul, southwesterly, northerly, westerly, and northwesterly along the southern boundary of the city of St. Paul to the western boundary of the city of St. Paul, northerly along the western boundary of the city of St. Paul to the point of origin.

Sec. 30. [CORRECTION DD.] Laws 1991, chapter 246, section 66, subdivision 1, if enacted, is amended to read as follows:

Sec. 66. [2.683] [SIXTY-FIFTH DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 65 consists of that portion of Ramsey County consisting of that portion of the city of St. Paul located within an area described as follows: commencing at the intersection of the southern boundary of the city of St. Paul and the eastern boundary of senate district 64, northerly, easterly, northerly, and northeasterly along the eastern boundary of senate district 64 to Grand Avenue, westerly along Grand Avenue and Ramsey Street to the extension of Western Avenue, northerly along the extension of Western Avenue and Western Avenue to Summit Avenue, southwesterly and westerly along Summit Avenue to Dale Street, northerly along Dale Street, to Portland Avenue, westerly along Portland Avenue to Griggs Street, southerly along Griggs Street to Summit Avenue, westerly along Summit Avenue to Ayd Mill Road, northwesterly

along Ayd Mill Road to Hamline Avenue, northerly along Hamline Avenue to Charles Avenue, easterly along Charles Avenue to Lexington Parkway, northerly along Lexington Parkway to Minnehaha Avenue, easterly along Minnehaha Avenue to Dale Street, northerly along Dale Street to the Burlington Northern Railroad tracks, easterly along the Burlington Northern Railroad tracks past Interstate Highway 35E to the north-south Burlington Northern Railroad tracks, southeasterly along the north-south Burlington Northern Railroad tracks and their extension to the Mississippi River, southerly along the Mississippi River to the *southern boundary of the city of St. Paul, westerly and southwesterly along the southern boundary of the city of St. Paul to the point of origin.*

Sec. 31. [CORRECTION EE.] Laws 1991, chapter 246, section 67, if enacted, is amended to read as follows:

Sec. 67. [2.693] [SIXTY-SIXTH DISTRICT.]

Subdivision 1. [SENATE DISTRICT.] Senate district 66 consists of that portion of Ramsey County consisting of that portion of the city of St. Paul located within an area described as follows: commencing at the intersection of the western boundary of the city St. Paul with the northern boundary of the city of St. Paul, easterly along the northern boundary of the city of St. Paul to Interstate Highway 35E, southerly along Interstate Highway 35E to Arlington Avenue, easterly and southeasterly along Arlington Avenue and Wheelock Parkway to Maryland Avenue, westerly along Maryland Avenue to Edgerton Street, southerly along Edgerton Street to Cook Avenue, westerly along Cook Avenue to DeSoto Street, southerly along DeSoto Street to Case Avenue, westerly along Case Avenue and its extension to Interstate Highway 35E, southerly along Interstate Highway 35E to the *east-west* Burlington Northern railroad tracks, westerly along the *east-west* Burlington Northern railroad tracks to Dale Street, southerly along Dale Street to Minnehaha Avenue, westerly along Minnehaha Avenue to Lexington Parkway, southerly along Lexington Parkway to Charles Avenue, westerly along Charles Avenue to Hamline Avenue, southerly along Hamline Avenue to Interstate Highway 94, westerly along Interstate Highway 94 to the western boundary of the city of St. Paul, northerly along the western boundary of the city of St. Paul to the point of origin.

Subd. 2. [HOUSE DISTRICTS.] Senate district 66 is divided into two house districts as follows:

(a) House district 66A consists of that portion of senate portion 66 lying east of a line described as follows: commencing at the intersection of the northern boundary of the city of St. Paul with Grotto Street, southerly along Grotto Street to Arlington Avenue, westerly along Arlington Avenue to Lexington Parkway, ~~southerly~~ *southeasterly* along Lexington Parkway to East Como Lake Road, southerly along East Como Lake Road to Victoria Street, southerly along Victoria Street to the Burlington Northern Railroad tracks, westerly along the Burlington Northern Railroad tracks to Chatsworth Street, southerly along Chatsworth Street to Front Avenue, easterly along Front Avenue to Western Avenue, southerly along Western Avenue to the southern boundary of senate district 66.

(b) House district 66B consists of that portion of senate district 66 not included in house district 66A.

Sec. 32. [CORRECTION FF.] Laws 1991, chapter 246, section 68, subdivision 2, if enacted, is amended to read as follows:

Subd. 2. [HOUSE DISTRICTS.] Senate district 67 is divided into two house districts as follows:

(a) House district 67A consists of that portion of senate district 67 lying north of a line described as follows: commencing at the intersection of the eastern boundary of senate district 67 with Old Hudson Road, westerly along Old Hudson Road to Ruth Street, northerly along Ruth Street to *East* Minnehaha Avenue, ~~easterly~~ *westerly* along Minnehaha Avenue to Frank Street, northerly along Frank Street to East Seventh Street, ~~easterly~~ *westerly* along East Seventh Street to Earl Street, northerly along Earl Street to the Burlington Northern railroad tracks, ~~easterly~~ *westerly* along the Burlington Northern railroad tracks to the ~~eastern~~ *western* boundary of senate district 67.

(b) House district 67B consists of that portion of senate district 67 not included in house district 67A.

Sec. 33. [CORRECTION GG.] Laws 1991, chapter 246, if enacted, is amended by adding a section to read:

Sec. 69. [CONTROLLING DESCRIPTION.]

If a territory in this state is not named in sections 2 to 68, but (1) lies within the boundaries of a legislative district, or (2) lies between the boundaries of two or more legislative districts, for the purposes of sections 2 to 68, the territory referred to in clause (1) is a part of the legislative district within which it lies, and the territory referred to in clause (2) is a part of the contiguous legislative district having the smallest population.

If a territory in this state is within the boundaries of two or more legislative districts, for the purposes of sections 2 to 68, the territory is a part of the legislative district having the smallest population.

Sec. 34. [CORRECTION II.] Laws 1991, chapter 246, section 69, if enacted, is amended to read as follows:

Sec. ~~69.~~ *70.* [REPEALER.]

Minnesota Statutes 1990, sections 2.019; 2.042; 2.052; 2.062; 2.072; 2.082; 2.092; 2.102; 2.112; 2.122; 2.132; 2.142; 2.152; 2.162; 2.172; 2.182; 2.192; 2.202; 2.212; 2.222; 2.232; 2.242; 2.252; 2.262; 2.272; 2.282; 2.292; 2.302; 2.312; 2.322; 2.332; 2.342; 2.352; 2.362; 2.372; 2.382; 2.392; 2.402; 2.412; 2.422; 2.432; 2.442; 2.452; 2.462; 2.472; 2.482; 2.492; 2.502; 2.512; 2.522; 2.532; 2.542; 2.552; 2.562; 2.572; 2.582; 2.592; 2.602; 2.612; 2.622; 2.632; 2.642; 2.652; 2.662; 2.672; 2.682; 2.692; and 2.702, are repealed."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Spear then moved to amend S.F. No. 1562, as amended, as follows:

Page 2, after line 12, insert:

"Sec. 10. [CORRECTION II]

Sec. 2. Minnesota Statutes 1990, section 469.101, subdivision 23, as added by 1991 H.F. No. 1088, section 2, is amended to read:

Subd. 23. [SUPPLYING SMALL BUSINESS CAPITAL.] Notwithstanding any contrary law, the authority may participate with public or private corporations or other entities, whose purpose is to provide seed or venture

capital to small businesses that have facilities located or to be located in the district. For that purpose the authority may use not more than ~ ~ ~ ~ ~ *ten* percent of available annual net income or $ ~ ~ ~ ~ ~ *$1,000,000* annually, whichever is less, to invest in equities or acquire equity-type investments. These investments can be made directly in eligible corporations or entities or acquired through participation in a public or private seed or venture capital fund. The participation by the authority may not exceed in any year 25 percent of the total amount of funds provided for venture or seed capital purposes by all of the participants. The corporation, entity, or fund shall report in writing each six months to the commissioners of the authority all investments and other action taken by it since the last report. Funds contributed to the corporation or entity must be invested pro rata with each contributor of capital taking proportional risks on each investment. As used in this subdivision, the term "small business" has the meaning given it in section 645.445, subdivision 2.

Sec. 11. [CORRECTION 14]

Subdivision 1. The amendment to Minnesota Statutes 1990, section 92.67, subdivision 1, as amended by 1991 S.F. No. 1533, is of no effect.

Subd. 2. Minnesota Statutes 1990, section 92.46, subdivision 1, is amended to read:

Subdivision 1. [PUBLIC CAMPGROUNDS.] (a) The director may designate suitable portions of the state lands withdrawn from sale and not reserved, as provided in section 92.45, as permanent state public campgrounds. The director may have the land surveyed and platted into lots of convenient size, and lease them for cottage and camp purposes under terms and conditions the director prescribes, subject to the provisions of this section.

(b) A lease may not be for a term more than 20 years. The lease may allow renewal, from time to time, for additional terms of no longer than 20 years each. The lease may be canceled by the commissioner 90 days after giving the person leasing the land written notice of violation of lease conditions. The lease rate shall be based on the appraised value of leased land as determined by the commissioner of natural resources and shall be adjusted by the commissioner at the fifth, tenth, and 15th anniversary of the lease, if the appraised value has increased or decreased. For leases that are renewed in 1991 and following years, the lease rate shall be five percent of the appraised value of the leased land. The appraised value shall be the value of the leased land without any private improvements and must be comparable to similar land without any improvements within the same county. The minimum appraised value that the commissioner assigns to the leased land must be substantially equal to the county assessor's estimated market value of similar land adjusted by the assessment/sales ratio as determined by the department of revenue.

(c) By July 1, 1986, the commissioner of natural resources shall adopt rules under chapter 14 to establish procedures for leasing land under this section. The rules shall be subject to review and approval by the commissioners of revenue and administration prior to the initial publication pursuant to chapter 14 and prior to their final adoption. The rules must address at least the following:

(1) method of appraising the property; and

(2) an appeal procedure for both the appraised values and lease rates.

(d) All money received from these leases must be credited to the fund to which the proceeds of the land belong.

Notwithstanding section 16A.125 or any other law to the contrary, 50 percent of the money received from the lease of permanent school fund lands leased pursuant to this subdivision shall be deposited into the permanent school trust fund. However, in fiscal years 1987, 1988, 1989, 1990, 1991, ~~and~~ 1992, *1993, and 1994*, the money received from the lease of permanent school fund lands that would otherwise be deposited into the permanent school fund is hereby appropriated to survey, appraise, and pay associated selling costs of lots as required in section 92.67, subdivision 3. The money appropriated may not be used to pay the cost of surveying lots not scheduled for sale. Any money designated for deposit in the permanent school fund that is not needed to survey, appraise, and pay associated selling costs of lots, as required in section 92.67, shall be deposited in the permanent school fund. The commissioner shall add to the appraised value of any lot offered for sale the costs of surveying, appraising, and selling the lot, and shall first deposit into the permanent school fund an amount equal to the costs of surveying, appraising, and selling any lot paid out of the permanent school fund. Any remaining money shall be deposited into any other contributing funds in proportion to the contribution from each fund. In no case may the commissioner add to the appraised value of any lot offered for sale an amount more than $700 for the costs of surveying and appraising the lot."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Spear then moved to amend S.F. No. 1562, as amended, as follows:

Page 2, after line 12, insert:

"ARTICLE 3

CORRECTION, EDUCATION FUNDING

Section 1. [CORRECTION AA.] 1991 H.F. No. 700, article 6, section 67, subdivision 1, if enacted, is amended to read:

Sec. 67. [REPEALER.]

Subdivision 1. [JULY 1, 1991.] Minnesota Statutes 1990, 124C.02; 136D.27, subdivision 1; 136D.74, subdivision 2; *136D.76, subdivision 3;* 136D.87, subdivision 1; and 275.125, subdivisions 8d, are repealed.

Sec. 2. [CORRECTION BB.] Minnesota Statutes 1990, section 136D.90, subdivision 1, as amended by 1991 H.F. No. 700, article 6, section 55, if enacted, is amended to read:

136D.90 [*TERM OF AGREEMENT;* DISSOLUTION, BOND TAXES.]

~~Subdivision 1. [TERM OF AGREEMENT AND TERMINATION.]~~ The agreement shall state the term of its duration and may provide for the method of termination and distribution of assets after payment of all liabilities of the joint school board. No termination shall affect the obligation to continue to levy taxes required for payment of any bonds issued before termination.

Sec. 3. [CORRECTION CC.] Minnesota Statutes 1990, section 136D.90, subdivision 2, as added by 1991 H.F. No. 700, article 6, section 55, if enacted, is repealed.

Sec. 4. [CORRECTION EE.] Minnesota Statutes 1990, section 123.3514,

subdivision 6, as amended by 1991 H.F. No. 700, article 9, section 37, if enacted, is amended to read:

Subd. 6. [FINANCIAL ARRANGEMENTS.] At the end of each school year, the department of education shall pay the tuition reimbursement amount within 30 days to the post-secondary institutions for courses that were taken for secondary credit. The amount of tuition reimbursement shall equal the lesser of:

(1) the actual costs of tuition, textbooks, materials, and fees directly related to the course taken by the secondary pupil; or

(2) an amount equal to the difference between the basic revenue of the district for that pupil and an amount computed by multiplying the basic revenue of the district for that pupil by a ratio. The ratio to be used is the total number of hours that the pupil is enrolled in courses in the secondary school during the regular school year over the total number of secondary instructional hours per pupil in that pupil's resident district.

For fiscal year 1992, for a pupil attending a post-secondary institution under this section, whether the pupil is enrolled in the post-secondary institution for secondary credit, post-secondary credit, or a combination of both, a school district shall receive aid equal to the sum of:

(1) 12 percent of the formula allowance, according to section 124.22, subdivision 2, times 1.3; plus

(2) for a pupil who attends a secondary school part time, the formula allowance, according to section 124.22, subdivision 2, times 1.3, times the ratio of the total number of hours the pupil is in membership for courses taken by the pupil for credit, to 1020 hours.

If a pupil is enrolled in a course for post-secondary credit, the school district shall include the pupil in the average daily membership only for the portion of time during which the pupil is enrolled in courses at the secondary school and enrolled in courses at a post-secondary institution for secondary credit.

The department shall not pay any tuition reimbursement or other costs of a course taken for post-secondary credit only.

For fiscal year 1993 and thereafter, a post-secondary institution shall be reimbursed according to the following:

(1) for an institution granting quarter credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the formula allowance, multiplied by 1.3, and divided by 45; or

(2) for an institution granting semester credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the general revenue formula allowance, multiplied by 1.3, and divided by 30.

For fiscal year 1993 and thereafter, a school district shall receive:

(1) for a pupil who is not enrolled in classes at a secondary school, 12 percent of the formula allowance, according to section 124.22, subdivision 2, times 1.3; or

(2) for a pupil who attends a secondary school part time, 88 percent of the product of the formula allowance, according to section 124.22, subdivision 2, times 1.3, times the ratio of the total number of hours the pupil is in membership for courses taken by the pupil for credit, to 1020 hours.

The department of education shall pay to each public post-secondary system or institution, as determined by the system, and to each private institution 100 percent of the amount due within 30 days of receiving enrollment information each quarter or semester. The department may not require any enrollment information except the total number of credits taken by pupils under this section and, for a private institution, the names of courses taken by pupils under this section. Changes in enrollment during a quarter or semester may be reported by the post-secondary system or institution at the time the enrollment information for the succeeding quarter or semester is submitted. At any time the department of education notifies a post-secondary system or institution that an overpayment has been made, the system or institution shall promptly remit the amount due.

Sec. 5. [CORRECTION EE.] Minnesota Statutes 1990, section 124A.03, subdivision 2, as amended by 1991 H.F. No. 700, article 1, section 10, subdivision 2, if enacted, is amended to read:

Subd. 2. [REFERENDUM REVENUE.] (a) The revenue authorized by section 124A.22, subdivision 1, may be increased in the amount approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the school board or shall be called by the school board upon written petition of qualified voters of the district. The referendum must be held on the first Tuesday after the first Monday in November. The ballot shall state the maximum amount of the increased revenue per actual pupil unit, *the total amount that will be raised in the first year it is to be levied*, the estimated net tax capacity rate in the first year it is to be levied, and that the revenue shall be used to finance school operations. The ballot shall designate the specific number of years, not to exceed five, for which the referendum authorization shall apply. The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the revenue proposed by (petition to) the board of . . . . . , School District No. . . . . , be approved?"

If approved, an amount equal to the approved revenue per actual pupil unit times the actual pupil units for the school year beginning in the year after the levy is certified shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(b) The school board shall prepare and deliver by first class mail at least 15 days but no more than 30 days prior to the day of the referendum to each taxpayer at the address listed on the school district's current year's assessment roll, a notice of the referendum and the proposed revenue increase. For the purpose of giving mailed notice under this subdivision, owners shall be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer shall be deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. The notice must project the anticipated amount of tax increase in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district.

The notice must include the following statement: "Passage of this referendum will result in an increase in your property taxes."

(c) A referendum on the question of revoking or reducing the increased revenue amount authorized pursuant to paragraph (a) may be called by the school board and shall be called by the school board upon the written petition of qualified voters of the district. A referendum to revoke or reduce the levy amount must be based upon the dollar amount, local tax rate, or amount per actual pupil unit, that was stated to be the basis for the initial authorization. Revenue approved by the voters of the district pursuant to paragraph (a) must be received at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction referendum may be held to revoke or reduce referendum revenue for any specific year and for years thereafter.

(d) A petition authorized by paragraph (a) or (c) shall be effective if signed by a number of qualified voters in excess of 15 percent of the registered voters of the school district on the day the petition is filed with the school board. A referendum invoked by petition shall be held on the date specified in paragraph (a).

(e) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(f) At least 15 days prior to the day of the referendum, the district shall submit a copy of the notice required under paragraph (b) to the commissioner of education. Within 15 days after the results of the referendum have been certified by the school board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district shall notify the commissioner of education of the results of the referendum.

Sec. 6. [CORRECTION FF.] 1991 H.F. No. 700, article 1, section 29, if enacted, is amended to read:

Sec. 29. [1991 REFERENDUM APPROVAL.]

(a) Notwithstanding any law to the contrary, the commissioner of education may authorize referendum levy elections *for 1991 taxes payable in 1992* under ~~Minnesota Statutes,~~ section ~~124A.03, or~~ *10, subdivision 2, and* any ~~successor section for 1991 taxes payable in 1992~~ *act amending Minnesota Statutes, section 124A.03, subdivision 2.*

(b) The aggregrate amount of referendum levies authorized by the commissioner may not exceed $10,000,000.

(c) A school district that desires to hold an election under Minnesota Statutes, section 124A.03, must submit an application to the commissioner by August 1, 1991.

(d) The commissioner shall prioritize applications and grant authority to hold an election to districts in the following order:

(1) districts that ~~are in statutory operating debt and have an approved plan or have received an extension from the department to file a plan to eliminate the statutory operating debt~~ *submitted a special operating plan between July 1, 1990, and May 1, 1991, as required by Minnesota Statutes, section 121.917, subdivision 4, for a net negative undesignated operating fund balance as of June 30, 1990;*

(2) districts that have referendum levy authority expiring in fiscal year 1992 *and that have not passed a referendum to continue the authority* or that

have a documented hardship; and

(3) all other districts.

(e) The commissioner must approve, deny, or modify each district's application for referendum levy authority by August 31, 1991.

Sec. 7. [CORRECTION GG.] Minnesota Statutes 1990, section 126.22, subdivision 8, as amended by 1991 H.F. No. 700, article 4, section 24, if enacted, is amended to read:

Sec. 24. Minnesota Statutes 1990, section 126.22, subdivision 8, is amended to read:

Subd. 8. [ENROLLMENT VERIFICATION.] For a pupil attending an eligible program *full time* under subdivision 3, paragraph (d), the department of education shall pay 88 percent of the basic revenue of the district to the eligible program and 12 percent of the basic revenue to the resident district within 30 days after the eligible program verifies enrollment using the form provided by the department. *For a pupil attending an eligible program part time, basic revenue shall be reduced proportionately, according to the amount of time the pupil attends the program, and the payments to the eligible program and the resident district shall be reduced accordingly.* A pupil for whom payment is made according to this section may not be counted by any district for any purpose other than computation of basic revenue, according to section 124A.22, subdivision 2. If payment is made for a pupil under this subdivision, a school district shall not reimburse a program under section 126.23 for the same pupil.

Sec. 8. [CORRECTION HH.] 1991 H.F. No. 700, article 4, section 34, if enacted, is amended to read:

Sec. 34. [EFFECTIVE DATE.]

Section 10, subdivision 4, is effective July 1, 1991. Section 10, subdivisions 1, 2, 3, 5, 6, and 7, are effective July 1, 1992. ~~Reimbursements according to~~ Section 11 ~~are available~~ *is effective* July 1, 1992.

Sec. 9. [CORRECTION II.] 1991 H.F. No. 700, article 6, section 39, subdivision 6, if enacted, is amended to read:

Subd. 6. [ALTERNATIVE LEVY AUTHORITY.] (a) An intermediate school district may levy, as a single taxing district, according to this paragraph, an amount that may not exceed the greater of:

(1) five-sixths of the levy certified for taxes payable in 1989; or

(2) the lesser of (i) $50 times the actual pupil units in each participating district for the fiscal year to which the levy is attributable, or (ii) 1.43 percent of the adjusted net tax capacity. The levy shall be certified according to section 275.07. Upon such certification, the county auditors shall levy and collect the levies and remit the proceeds of the levy to the intermediate school district. The levies shall not be included in computing the limitation upon the levy of any of the participating districts.

(b) Five-sixths of the proceeds of the levy shall be used for special education. Six-elevenths of the proceeds of the levy shall be used for secondary vocational education.

(c) To levy according to paragraph (a), a majority of the full membership of the school board of each member of the intermediate school district shall adopt a resolution in August of any year stating its decision not to levy

according to ~~this section~~ *subdivision 3* and authorizing the intermediate district to levy according to paragraph (a). Any member district may adopt a resolution by the following February 1 or February 1 of any subsequent year to levy as a school district the amount authorized by ~~this section~~ *subdivision 3*. The resolution may or may not also contain the school board's decision to withdraw from the intermediate school district or to cease participating in or providing financial support for any of the services or activities of the intermediate school district. Upon withdrawal from or cessation of participation in or support for the services or activities of the intermediate district, the board of the intermediate district shall pay to the district $50 times the number of actual pupil units in the school district, or a prorated amount if the member district ceases participation in or providing financial support for any activities or services of the intermediate district.

Sec. 10. [CORRECTION JJ.] 1991 H.F. No. 700, article 7, section 13, subdivision 1, if enacted, is amended to read:

Subdivision 1. [PROGRAM REVIEW AND APPROVAL.] By February 15, ~~1991~~ *1992*, for the 1991-1992 school year or by January 1 of subsequent school years, a district must submit to the commissioners of education, health, human services, and jobs and training:

(1) a description of the services to be provided;

(2) a plan to ensure children at greatest risk receive appropriate services;

(3) a description of procedures and methods to be used to coordinate public and private resources to maximize use of existing community resources, including school districts, health care facilities, government agencies, neighborhood organizations, and other resources knowledgeable in early childhood development;

(4) comments about the district's proposed program by the advisory council required by section 6, subdivision 7; and

(5) agreements with all participating service providers.

Each commissioner may review and comment on the program, and make recommendations to the commissioner of education, within 30 days of receiving the plan.

Sec. 11. [CORRECTION KK.] 1991 H.F. No. 700, article 8, section 20, if enacted, is amended to read:

Sec. 20. [REPEALER.]

Minnesota Statutes 1990, sections 3.865; 3.866; 124.252; *124.646, subdivision 2;* 124C.01, subdivision 2; and 124C.41, subdivision 7, are repealed.

Sec. 12. [CORRECTION LL.] Minnesota Statutes 1990, section 121.11, subdivision 12, as amended by 1991 H.F. No. 700, article 9, section 13, if enacted, is amended to read:

Subd. 12. [ADMINISTRATIVE RULES.] The state board may adopt new rules only upon specific authority other than under this subdivision. The state board may amend or repeal any of its existing rules. Notwithstanding the provisions of section 14.05, subdivision 4, the state board may grant a variance to its rules upon application by a school district for purposes of implementing experimental programs in learning or school management.

Notwithstanding any law to the contrary, and only upon receiving the agreement of the state board of teaching, the state board of education may grant a variance to its rules governing licensure of teachers for those teachers licensed by the board of teaching. The state board may grant a variance, without the agreement of the board of teaching, to its rules governing licensure of ~~teachers for those teachers it licenses~~ *supervisory personnel, as defined in section 125.03, subdivision 4*.

Sec. 13. [CORRECTION MM.] 1991 H.F. No. 700, article 9, section 33, subdivision 5, if enacted, is amended to read:

Subd. 5. [RIGHTS OF OTHER TEACHERS UPON DISSOLUTION.] (a) This subdivision applies to a teacher who:

(1) has a continuing contract with the cooperative; and

(2) either did not have a continuing contract with any member district or does not return to a member district according to the procedures set forth in subdivision 4, paragraph (b).

(b) By May 10 of the school year in which the cooperative provides the notice required by subdivision 3, clause (1), the cooperative shall provide to each teacher described in subdivision 4 and this subdivision a written notice of available teaching positions in any member district to which the cooperative was providing services at the time of dissolution. Available teaching positions are all teaching positions that, during the school year following dissolution:

(1) are positions for which the teacher is licensed; and

(2) are not assigned to a continuing contract teacher employed by a member school district after any reasonable realignments which may be necessary under the applicable provisions of section 125.12, subdivision 6a or 6b, to accommodate the seniority rights of teachers employed by the member district.

(c) On or before June 1 of the school year in which the cooperative provides the notice required by subdivision 3, clause (1), any teacher wishing to do so must file with the school board a written notice of the teacher's intention to exercise the teacher's rights to an available teaching position. Available teaching positions shall be offered to teachers in order of their seniority within the dissolved cooperative.

(d) Paragraph (e) applies to:

(1) a district that was a member of a dissolved cooperative; or

(2) any other district that, except as a result of open enrollment according to section 120.062, provides essentially the same instruction provided by the dissolved cooperative to pupils enrolled in a former member district.

(e) For five years following dissolution of a cooperative, a district to which this ~~subdivision~~ *paragraph* applies may not appoint a new teacher or assign a probationary or provisionally licensed teacher to any position requiring licensure in a field in which the dissolved cooperative provided instruction until the following conditions are met:

(1) a district to which this ~~subdivision~~ *paragraph* applies has provided each teacher formerly employed by the dissolved cooperative, who holds the requisite license, written notice of the position; and

(2) no teacher holding the requisite license has filed a written request to

be appointed to the position with the school board within 30 days of receiving the notice.

If no teacher files a request according to clause (2), the district may fill the position as it sees fit. During any part of the school year in which dissolution occurs and the first school year following dissolution, a teacher may file a request for an appointment according to this paragraph regardless of prior contractual commitments with other member districts. Available teaching positions shall be offered to teachers in order of their seniority on a combined seniority list of the teachers employed by the cooperative and the appointing district.

(f) A teacher appointed according to this subdivision is not required to serve a probationary period. The teacher shall receive credit on the appointing district's salary schedule for the teacher's years of continuous service under contract with the cooperative and the member district and the teacher's educational attainment at the time of appointment or shall receive a comparable salary, whichever is less. The teacher shall receive credit for accumulations of sick leave and rights to severance benefits as if the teacher had been employed by the member district during the teacher's years of employment by the cooperative.

Sec. 14. [CORRECTION NN.] 1991 H.F. No. 700, article 9, section 76, if enacted, is amended to read:

Sec. 76. [EFFECTIVE DATE.]

Section 123.38, subdivision 2b, is effective the day following final enactment and applies to the 1990-1991 school year and thereafter. Sections 123.33, subdivision 1; and 123.3514, subdivision 4 are effective the day following final enactment and apply to 1991-1992 and later school years.

Sections 122.895; 123.35, subdivision 20; 125.09, subdivision 4; 128C.01, subdivision 5; 214.10, subdivision 9 are effective the day following final enactment. Section 122.41 is effective July 1, 1992. Section 120.062, subdivision 8a, paragraphs (b) and (c), are effective retroactively to December 1, 1990. Sections 123.3514, subdivision 4; and 124.17, subdivision 1c are effective retroactively to July 1, 1990. Section 281.17 is effective for taxes deemed delinquent after December 31, 1991. Sections 125.12, subdivisions 3a and 4a; and 125.17, subdivisions 2a and 3a are effective July 1, 1993. Sections 121.931, subdivisions 6a, 7, and 8; 121.932, subdivisions 2, 3, and 5; ~~121.933, subdivision 1;~~ 121.934, subdivision 7; 121.935, subdivisions 1, 4, 6, and 8; 121.936, subdivisions 1, 2, and 4; and 121.937, subdivision 1, are effective July 1, 1993.

Under Minnesota Statutes, section 123.34, subdivision 9, a contract executed before July 1, 1991, between a superintendent and a school board that continues in effect beyond June 30, 1991, shall continue until terminated under those terms that were lawful at the time the contract was executed.

Sections 15 to 30 are effective July 1, 1993. Section 74 is effective the day following final enactment."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 1562 was read the third time, as amended, and placed on its final passage.

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

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

Those who voted in the affirmative were:

Adkins	Day	Johnson, J.B.	Metzen	Renneke
Beckman	DeCramer	Johnston	Moe, R.D.	Riveness
Belanger	Dicklich	Kelly	Mondale	Sams
Benson, D.D.	Finn	Knaak	Morse	Samuelson
Benson, J.E.	Flynn	Kroening	Neuville	Solon
Berg	Frank	Laidig	Novak	Spear
Berglin	Frederickson, D.J.	Langseth	Olson	Storm
Bernhagen	Frederickson, D.R.	Larson	Pappas	Stumpf
Bertram	Gustafson	Lessard	Pariseau	Traub
Brataas	Halberg	Luther	Piper	Vickerman
Chmielewski	Hottinger	Marty	Pogemiller	
Cohen	Hughes	McGowan	Price	
Dahl	Johnson, D.E.	Mehrkens	Ranum	
Davis	Johnson, D.J.	Merriam	Reichgott	

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

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

House File No. 1 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1

A bill for an act relating to waters; establishing a program for the enhancement, preservation, and protection of wetlands within the state; providing penalties; appropriating money; amending Minnesota Statutes 1990, sections 103A.201; 103B.311, subdivision 6; 103E.701, by adding a subdivision; 103G.005, subdivisions 15 and 18, and by adding subdivisions; 103G.221, subdivision 1; 103G.231, by adding subdivisions; and 446A.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 84; 103F; and 103G; repealing Minnesota Statutes 1990, section 103G.221, subdivisions 2 and 3.

May 20, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1, 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. 1 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

POLICY

Section 1. [CITATION.]

This act may be cited as the "wetland conservation act of 1991."

Sec. 2. Minnesota Statutes 1990, section 103A.201, is amended to read:

103A.201 [REGULATORY POLICY.]

Subdivision 1. [POLICY.] To conserve and use water resources of the state in the best interests of its people, and to promote the public health, safety, and welfare, it is the policy of the state that:

(1) subject to existing rights, public waters are subject to the control of the state;

(2) the state, to the extent provided by law, shall control the appropriation and use of waters of the state; and

(3) the state shall control and supervise activity that changes or will change the course, current, or cross section of public waters, including the construction, reconstruction, repair, removal, abandonment, alteration, or the transfer of ownership of dams, reservoirs, control structures, and waterway obstructions in public waters.

Subd. 2. [WETLANDS FINDINGS; PUBLIC INTEREST.] *(a) Wetlands identified in the state under article 6, section 6, do not:*

(1) grant the public additional or greater right of access to the wetlands;

(2) diminish the right of ownership or usage of the beds underlying the wetlands, except as otherwise provided by law;

(3) affect state law forbidding trespass on private lands; and

(4) require the commissioner to acquire access to the wetlands.

(b) The legislature finds that the wetlands of Minnesota provide public value by conserving surface waters, maintaining and improving water quality, preserving wildlife habitat, providing recreational opportunities, reducing runoff, providing for floodwater retention, reducing stream sedimentation, contributing to improved subsurface moisture, helping moderate climatic change, and enhancing the natural beauty of the landscape, and are important to comprehensive water management, and that it is in the public interest to:

(1) achieve no net loss in the quantity, quality, and biological diversity of Minnesota's existing wetlands;

(2) increase the quantity, quality, and biological diversity of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands;

(3) avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands; and

(4) replace wetland values where avoidance of activity is not feasible and prudent.

ARTICLE 2

WETLAND PRIORITIZATION AND PLANNING

Section 1. Minnesota Statutes 1990, section 103B.155, is amended to read:

103B.155 [STATE WATER AND RELATED LAND RESOURCE PLAN.]

The commissioner of natural resources, in cooperation with other state and federal agencies, regional development commissions, the metropolitan council, local governmental units, and citizens, shall prepare a statewide framework and assessment water and related land resources plan for presentation to the legislature by November 15, 1975, for its review and approval or disapproval. This plan must relate each of the programs of the department of natural resources for specific aspects of water management to the others. The statewide plan must include:

(1) regulation of improvements and land development by abutting landowners of the beds, banks, and shores of lakes, streams, watercourses, and marshes by permit or otherwise to preserve them for beneficial use;

(2) regulation of construction of improvements on and prevention of encroachments in the flood plains of the rivers, streams, lakes, and marshes of the state;

(3) reclamation or filling of wet and overflowed lands;

(4) repair, improvement, relocation, modification or consolidation in whole or in part of previously established public drainage systems within the state;

(5) preservation of wetland areas;

(6) management of game and fish resources as related to water resources;

(7) control of water weeds;

(8) control or alleviation of damages by flood waters;

(9) alteration of stream channels for conveyance of surface waters, navigation, and any other public purposes;

(10) diversion or changing of watercourses in whole or in part;

(11) regulation of the flow of streams and conservation of their waters;

(12) regulation of lake water levels;

(13) maintenance of water supply for municipal, domestic, industrial, recreational, agricultural, aesthetic, wildlife, fishery, or other public use;

(14) sanitation and public health and regulation of uses of streams, ditches, or watercourses to dispose of waste and maintain water quality;

(15) preventive or remedial measures to control or alleviate land and soil erosion and siltation of affected watercourses or bodies of water; ~~and~~

(16) regulation of uses of water surfaces; *and*

(17) identification of high priority regions for wetland preservation, enhancement, restoration, and establishment.

Sec. 2. Minnesota Statutes 1990, section 103B.231, subdivision 6, is amended to read:

Subd. 6. [CONTENTS.] (a) The plan shall:

(1) describe the existing physical environment, land use, and development in the area and the environment, land use, and development proposed in existing local and metropolitan comprehensive plans;

(2) present information on the hydrologic system and its components, including drainage systems previously constructed under chapter 103E, and existing and potential problems related thereto;

(3) state objectives and policies, including management principles, alternatives and modifications, water quality, and protection of natural characteristics;

(4) set forth a management plan, including the hydrologic and water quality conditions that will be sought and significant opportunities for improvement;

(5) describe the effect of the plan on existing drainage systems;

(6) *identify high priority areas for wetland preservation, enhancement, restoration, and establishment and describe any conflicts with wetlands and land use in these areas;*

(7) describe conflicts between the watershed plan and existing plans of local government units;

~~(7)~~ *(8)* set forth an implementation program consistent with the management plan, which includes a capital improvement program and standards and schedules for amending the comprehensive plans and official controls of local government units in the watershed to bring about conformance with the watershed plan; and

~~(8)~~ *(9)* set out a procedure for amending the plan.

(b) The board shall adopt rules to establish standards and requirements for amendments to watershed plans. The rules must include:

(1) performance standards for the watershed plans, which may distinguish between plans for urban areas and rural areas;

(2) minimum requirements for the content of watershed plans and plan amendments, including public participation process requirements for amendment and implementation of watershed plans;

(3) standards for the content of capital improvement programs to implement watershed plans, including a requirement that capital improvement programs identify structural and nonstructural alternatives that would lessen capital expenditures; and

(4) how watershed plans are to specify the nature of the official controls required to be adopted by the local units of government, including uniform erosion control, stormwater retention, and wetland protection ordinances in the metropolitan area.

Sec. 3. Minnesota Statutes 1990, section 103B.311, subdivision 6, is amended to read:

Subd. 6. [SCOPE OF PLANS.] Comprehensive water plans must include:

(1) a description of the existing and expected changes to physical environment, land use, and development in the county;

(2) available information about the surface water, groundwater, and related

land resources in the county, including existing and potential distribution, availability, quality, and use;

(3) objectives for future development, use, and conservation of water and related land resources, including objectives that concern water quality and quantity, and sensitive areas, wellhead protection areas, *high priority areas for wetland preservation, enhancement, restoration, and establishment,* and related land use conditions, and a description of actions that will be taken in affected watersheds or groundwater systems to achieve the objectives;

(4) a description of potential changes in state programs, policies, and requirements considered important by the county to management of water resources in the county;

(5) a description of conflicts between the comprehensive water plan and existing plans of other local units of government;

(6) a description of possible conflicts between the comprehensive water plan and existing or proposed comprehensive water plans of other counties in the affected watershed units or groundwater systems;

(7) a program for implementation of the plan that is consistent with the plan's management objectives and includes schedules for amending official controls and water and related land resources plans of local units of government to conform with the comprehensive water plan, and the schedule, components, and expected state and local costs of any projects to implement the comprehensive water plan that may be proposed, although this does not mean that projects are required by this section; and

(8) a procedure for amending the comprehensive water plan.

PUBLIC VALUE OF WETLANDS

Sec. 4. [103B.3355] [PUBLIC VALUE CRITERIA FOR WETLANDS.]

(a) The board of water and soil resources, in consultation with the commissioner of natural resources, shall adopt rules establishing criteria to determine the public value of wetlands. The rules must consider the public benefit and use of the wetlands and include:

(1) criteria to determine the benefits of wetlands for water quality, including filtering of pollutants to surface and groundwater, utilization of nutrients that would otherwise pollute public waters, trapping of sediments, and utilization of the wetland as a recharge area for groundwater;

(2) criteria to determine the benefits of wetlands for floodwater retention, including the potential for flooding in the watershed, the value of property subject to flooding, and the reduction in potential flooding by the wetland;

(3) criteria to determine the benefits of wetlands for public recreation, including wildlife habitat, hunting and fishing areas, wildlife breeding areas, wildlife viewing areas, aesthetically enhanced areas, and nature areas;

(4) criteria to determine the benefits of wetlands for commercial uses, including wild rice growing and harvesting and aquaculture; and

(5) criteria to determine the benefits of wetlands for other public uses.

(b) The criteria established under this subdivision must be used to determine the public value of wetlands in the state. The board of water and soil resources, in consultation with the commissioner of natural resources, shall

also use the criteria in identifying regions of the state where preservation, enhancement, restoration, and establishment of wetlands would have high public value. Before the criteria are adopted, the board, in consultation with the commissioner, may identify high priority wetland regions using available information relating to the factors listed in paragraph (a). The board shall notify local units of government with water planning authority of these high priority regions.

ARTICLE 3

PERMANENT WETLAND PRESERVES

Section 1. [103F.516] [PERMANENT WETLANDS PRESERVE.]

Subdivision 1. [EASEMENTS.] *Upon application by a landowner, the board may acquire permanent easements on land containing type 1, 2, or 3 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition).*

Subd. 2. [NATURE OF PROPERTY RIGHTS ACQUIRED.] *(a) The nature of property rights acquired in an easement under this section must be consistent with the provisions of section 103F.515, subdivision 4.*

(b) A permanent easement may include four adjacent upland acres of land for each acre of wetland included.

(c) The easement must require that the landowner control noxious weeds in accordance with sections 18.171 to 18.317.

(d) The permanent easement must be conveyed to the state in recordable form free of any prior title, lien, or encumbrance and must provide for a right of entry by the state for inspection and correction of violations.

Subd. 3. [PAYMENT.] *(a) Payment for the conservation easement may be made in ten equal annual payments or, at the option of the land owner, in a lump sum at:*

(1) 50 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application for wetlands located outside of the metropolitan counties, as defined in section 473.121, subdivision 4, and wetlands located on agricultural lands within a metropolitan county; or

(2) for wetlands located on nonagricultural land within the metropolitan county, 20 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application.

(b) Payment for adjacent upland acreage of cropped and noncropped land under subdivision 2, paragraph (b), must be made at 90 percent and 60 percent, respectively, of the township average equalized market value of agricultural land as established by the commissioner of revenue at the time of easement application.

Subd. 4. [ENFORCEMENT AND CORRECTIONS.] *Enforcement of the permanent easement and violation corrections is governed by section 103F.515, subdivisions 8 and 9.*

Subd. 5. [AVAILABLE FUNDS.] *A property owner eligible for payments under this section must receive payments to the extent that funds are available. If funds are not available and payments are not made, restrictions on the use of the property owner's wetlands are terminated under this section.*

ARTICLE 4

WETLAND PRESERVATION AREAS

Section 1. [103F.6112] [WETLAND PRESERVATION AREAS.]

Subdivision 1. [DEFINITION.] *For purposes of sections 1 to 5, "wetland" has the meaning given in article 6, section 6.*

Subd. 2. [APPLICATION.] *(a) A wetland owner may apply to the county where a wetland is located for designation of a wetland preservation area in a high priority wetland area identified in a comprehensive local water plan, as defined in section 103B.3363, subdivision 3, and located within a high priority wetland region designated by the board of water and soil resources. The application must be made on forms provided by the board. If a wetland is located in more than one county, the application must be submitted to the county where the majority of the wetland is located.*

(b) The application must contain at least the following information and other information the board of soil and water resources requires:

(1) legal description of the area to be approved, which must include an upland strip at least 16-1/2 feet in width around the perimeter of wetlands within the area and may include total upland area of up to four acres for each acre of wetland;

(2) parcel identification numbers where designated by the county auditor;

(3) name and address of the owner;

(4) a witnessed signature of the owner covenanting that the land will be preserved as a wetland and will only be used in accordance with conditions prescribed by the board of water and soil resources; and

(5) a statement that the restrictive covenant will be binding on the owner and the owner's successors or assigns, and will run with the land.

(c) The upland strip required in paragraph (b), clause (1), must be planted with permanent vegetation other than a noxious weed.

(d) For registered property, the owner shall submit the owner's duplicate certificate of title with the application.

Subd. 3. [REVIEW AND NOTICE.] *Upon receipt of an application, the county shall determine if all material required by subdivision 2 has been submitted and, if so, shall determine that the application is complete. The term "date of application" means the date the application is determined to be complete by the county. The county shall send a copy of the application to the county assessor, the regional development commission, where applicable, the board of water and soil resources, and the soil and water conservation district where the land is located. The soil and water conservation district shall prepare an advisory statement of existing and potential preservation problems or conflicts and send the statement to the owner of record and to the county.*

Subd. 4. [RECORDING.] *Within five days of the date of application, the county shall forward the application to the county recorder, with the owner's duplicate certificate of title in the case of registered property. The county recorder shall record the restrictive covenant and return it to the applicant. In the case of registered property, the recorder shall memorialize the restrictive covenant upon the certificate of title and the owner's duplicate certificate*

of title. The recorder shall notify the county that the covenant has been recorded or memorialized.

Subd. 5. [COMMENCEMENT OF WETLAND PRESERVATION AREA.] *The wetland is a wetland preservation area commencing 30 days from the date the county determines the application is complete under subdivision 3.*

Subd. 6. [FEE.] *The county may require an application fee, not to exceed $50.*

Subd. 7. [MAPS.] *The board of water and soil resources shall maintain wetland preservation area maps illustrating land covenanted as wetland preservation areas.*

Sec. 2. [103F.6113] [DURATION OF WETLAND PRESERVATION AREA.]

Subdivision 1. [GENERAL.] *A wetland preservation area continues in existence until the owner initiates expiration as provided in this section. The date of expiration must be at least eight years from the date of notice under this section.*

Subd. 2. [TERMINATION BY OWNER.] *The owner may initiate expiration of a wetland preservation area by notifying the county on a form prepared by the board of water and soil resources and made available in each county. The notice must describe the property involved and must state the date of expiration. The notice may be rescinded by the owner during the first two years following notice.*

Subd. 3. [NOTICE AND RECORDING; TERMINATION.] *When the county receives notice under subdivision 2, the county shall forward the original notice to the county recorder for recording and shall notify the regional development commission, where applicable, the board of water and soil resources, and the county soil and water conservation district of the date of expiration. The benefits and limitations of the wetland preservation area and the restrictive covenant filed with the application cease on the date of expiration. For registered property, the county recorder shall cancel the restrictive covenant upon the certificate of title and the owner's duplicate certificate of title on the effective date of the expiration.*

Subd. 4. [EARLY EXPIRATION.] *A wetland preservation area may be terminated earlier than as provided in this section only in the event of a public emergency upon petition from the owner or county to the governor. The determination of a public emergency must be made by the governor through executive order under section 4.035 and chapter 12. The executive order must identify the wetland preservation area, the reasons requiring the action, and the date of expiration.*

Sec. 3. [103F.6114] [EMINENT DOMAIN ACTIONS.]

Subdivision 1. [APPLICABILITY.] *An agency of the state, a public benefit corporation, a local government, or any other entity with the power of eminent domain under chapter 117, except a public utility as defined in section 216B.02, a municipal electric or gas utility, a municipal power agency, a cooperative electric association organized under chapter 308A, or a pipeline operating under the authority of the Natural Gas Act, United States Code, title 15, sections 717 to 717z, shall follow the procedures in this section before:*

(1) acquiring land or an easement in land with a total area over ten acres within a wetland preservation area; or

(2) advancing a grant, loan, interest subsidy, or other funds for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities that could be used to serve structures in areas that are not for agricultural use, that require an acquisition of land or an easement in a wetland preservation area.

Subd. 2. [NOTICE OF INTENT.] *At least 60 days before an action described in subdivision 1, notice of intent must be filed with the environmental quality board containing information and in the manner and form required by the environmental quality board. The notice of intent must contain a report justifying the proposed action, including an evaluation of alternatives that would not affect land within a wetland preservation area.*

Subd. 3. [REVIEW AND ORDER.] *The environmental quality board, in consultation with affected local governments, shall review the proposed action to determine its effect on the preservation and enhancement of wetlands and the relationship to local and regional comprehensive plans. If the environmental quality board finds that the proposed action might have an unreasonable effect on a wetland preservation area, the environmental quality board shall issue an order within the 60-day period under subdivision 2 for the party to refrain from the proposed action for an additional 60 days.*

Subd. 4. [PUBLIC HEARING.] *During the additional 60 days, the environmental quality board shall hold a public hearing concerning the proposed action at a place within the affected wetland preservation area or easily accessible to the wetland preservation area. Notice of the hearing must be published in a newspaper having a general circulation within the area. Individual written notice must be given to the local governments with jurisdiction over the wetland preservation area, the agency, corporation or government proposing to take the action, the owner of land in the wetland preservation area, and any public agency having the power of review or approval of the action.*

Subd. 5. [JOINT REVIEW.] *The review process required in this section may be conducted jointly with any other environmental impact review by the environmental quality board.*

Subd. 6. [SUSPENSION OF ACTION.] *The environmental quality board may suspend an eminent domain action for up to one year if it determines that the action is contrary to wetland preservation and that there are feasible and prudent alternatives that may have a less negative impact on the wetland preservation area.*

Subd. 7. [TERMINATION OF WETLAND PRESERVATION AREA.] *The benefits and limitations of a wetland preservation area, including the restrictive covenant for the portion of the wetland preservation area taken, end on the date title and possession of the property is obtained.*

Subd. 8. [ACTION BY ATTORNEY GENERAL.] *The environmental quality board may request the attorney general to bring an action to enjoin an agency, corporation, or government from violating this section.*

Subd. 9. [EXCEPTION.] *This section does not apply to an emergency project that is immediately necessary for the protection of life and property.*

Sec. 4. [103F.6115] [LIMITATION ON CERTAIN PUBLIC PROJECTS.]

Subdivision 1. [PROJECTS AND ASSESSMENTS PROHIBITED; EXCEPTION.] *Notwithstanding any other law, construction projects for public sanitary sewer systems, public water systems, and new public drainage systems are prohibited in wetland preservation areas. New connections between land or buildings in a wetland preservation area and public projects are prohibited. Land in a wetland preservation area may not be assessed for public projects built in the vicinity of the wetland preservation area.*

Subd. 2. [EXCEPTION; OWNER OPTION.] *Subdivision 1 does not apply to public projects if the owner of the wetland preservation area elects to use and benefit from a public project.*

Sec. 5. [103F.6116] [SOIL CONSERVATION PRACTICES.]

An owner of a wetland preservation area shall manage the area and surrounding upland areas with sound soil conservation practices that prevent excessive soil loss according to the model ordinance adopted by the board of water and soil resources. The model ordinance and soil loss provisions under sections 103F.401 to 103F.455 relating to soil loss apply to all upland areas within a wetland preservation area and to surrounding upland areas. A sound soil conservation practice prevents excessive soil loss or reduces soil loss to the most practicable extent.

Sec. 6. Minnesota Statutes 1990, section 272.02, subdivision 1, is amended to read:

Subdivision 1. All property described in this section to the extent herein limited shall be exempt from taxation:

(1) all public burying grounds;

(2) all public schoolhouses;

(3) all public hospitals;

(4) all academies, colleges, and universities, and all seminaries of learning;

(5) all churches, church property, and houses of worship;

(6) institutions of purely public charity except parcels of property containing structures and the structures described in section 273.13, subdivision 25, paragraph (c), clauses (1), (2), and (3), or paragraph (d);

(7) all public property exclusively used for any public purpose;

(8) except for the taxable personal property enumerated below, all personal property and the property described in section 272.03, subdivision 1, paragraphs (c) and (d), shall be exempt.

The following personal property shall be taxable:

(a) personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures;

(b) railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;

(c) personal property defined in section 272.03, subdivision 2, clause (3);

(d) leasehold or other personal property interests which are taxed pursuant to section 272.01, subdivision 2; 273.124, subdivision 7; or 273.19, subdivision 1; or any other law providing the property is taxable as if the lessee or user were the fee owner;

(e) manufactured homes and sectional structures; and

(f) flight property as defined in section 270.071.

(9) Personal property used primarily for the abatement and control of air, water, or land pollution to the extent that it is so used, and real property which is used primarily for abatement and control of air, water, or land pollution as part of an agricultural operation or as part of an electric generation system. For purposes of this clause, personal property includes ponderous machinery and equipment used in a business or production activity that at common law is considered real property.

Any taxpayer requesting exemption of all or a portion of any equipment or device, or part thereof, operated primarily for the control or abatement of air or water pollution shall file an application with the commissioner of revenue. The equipment or device shall meet standards, rules, or criteria prescribed by the Minnesota pollution control agency, and must be installed or operated in accordance with a permit or order issued by that agency. The Minnesota pollution control agency shall upon request of the commissioner furnish information or advice to the commissioner. On determining that property qualifies for exemption, the commissioner shall issue an order exempting the property from taxation. The equipment or device shall continue to be exempt from taxation as long as the permit issued by the Minnesota pollution control agency remains in effect.

(10) Wetlands. For purposes of this subdivision, "wetlands" means ~~(1)~~*: (i)* land described in section 103G.005, subdivision 18~~, or (2)~~*; (ii)* land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice*; or (iii) land in a wetland preservation area under sections 1 to 5*. "Wetlands" ~~shall~~ *under items (i) and (ii)* include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands~~. "Wetlands" shall~~*, but do* not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms. Exemption of wetlands from taxation pursuant to this section shall not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership to the wetlands.

(11) Native prairie. The commissioner of the department of natural resources shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which the lands are located. Pasture land used for livestock grazing purposes shall not be considered native prairie for the purposes of this clause. Upon receipt of an application for the exemption provided in this clause for lands for which the assessor has no determination from the commissioner of natural resources, the assessor shall refer the application to the commissioner of natural resources who shall determine within 30 days whether the land is native prairie and notify the county assessor of the decision. Exemption of native prairie pursuant to this clause shall not grant the public any additional or greater right of access to the native prairie or diminish any right of

ownership to it.

(12) Property used in a continuous program to provide emergency shelter for victims of domestic abuse, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, notwithstanding the fact that the sponsoring organization receives funding under section 8 of the United States Housing Act of 1937, as amended.

(13) If approved by the governing body of the municipality in which the property is located, property not exceeding one acre which is owned and operated by any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders; provided the property is used primarily as a clubhouse, meeting facility, or recreational facility by the group or association and the property is not used for residential purposes on either a temporary or permanent basis.

(14) To the extent provided by section 295.44, real and personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the state or a local governmental unit which is developed and operated pursuant to the provisions of section 103G.535.

(15) If approved by the governing body of the municipality in which the property is located, and if construction is commenced after June 30, 1983:

(a) a "direct satellite broadcasting facility" operated by a corporation licensed by the federal communications commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band; and

(b) a "fixed satellite regional or national program service facility" operated by a corporation licensed by the federal communications commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz. band.

An exemption provided by clause (15) shall apply for a period not to exceed five years. When the facility no longer qualifies for exemption, it shall be placed on the assessment rolls as provided in subdivision 4. Before approving a tax exemption pursuant to this paragraph, the governing body of the municipality shall provide an opportunity to the members of the county board of commissioners of the county in which the facility is proposed to be located and the members of the school board of the school district in which the facility is proposed to be located to meet with the governing body. The governing body shall present to the members of those boards its estimate of the fiscal impact of the proposed property tax exemption. The tax exemption shall not be approved by the governing body until the county board of commissioners has presented its written comment on the proposal to the governing body or 30 days has passed from the date of the transmittal by the governing body to the board of the information on the fiscal impact, whichever occurs first.

(16) Real and personal property owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used in the generation

and distribution of hot water for heating buildings and structures.

(17) Notwithstanding section 273.19, state lands that are leased from the department of natural resources under section 92.46.

(18) Electric power distribution lines and their attachments and appurtenances, that are used primarily for supplying electricity to farmers at retail.

(19) Transitional housing facilities. "Transitional housing facility" means a facility that meets the following requirements. (i) It provides temporary housing to parents and children who are receiving AFDC or parents of children who are temporarily in foster care. (ii) It has the purpose of reuniting families and enabling parents to obtain self-sufficiency, advance their education, get job training, or become employed in jobs that provide a living wage. (iii) It provides support services such as child care, work readiness training, and career development counseling; and a self-sufficiency program with periodic monitoring of each resident's progress in completing the program's goals. (iv) It provides services to a resident of the facility for at least six months but no longer than three years, except residents enrolled in an educational or vocational institution or job training program. These residents may receive services during the time they are enrolled but in no event longer than four years. (v) It is sponsored by an organization that has received a grant under either section 256.7365 for the biennium ending June 30, 1989, or section 462A.07, subdivision 15, for the biennium ending June 30, 1991, for the purposes of providing the services in items (i) to (iv). (vi) It is sponsored by an organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1987. This exemption applies notwithstanding the fact that the sponsoring organization receives financing by a direct federal loan or federally insured loan or a loan made by the Minnesota housing finance agency under the provisions of either Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant to it, and notwithstanding the fact that the sponsoring organization receives funding under Section 8 of the United States Housing Act of 1937, as amended.

Sec. 7. [WETLANDS EXEMPTION; REPLACEMENT OF REVENUE.]

Subdivision 1. [CERTIFICATION.] *The total amount of revenue lost as a result of the exemption provided in Minnesota Statutes, section 272.02, subdivision 1, paragraph (10), clause (3), must be certified by the county auditor to the commissioner of revenue and submitted to the commissioner as part of the abstract of tax lists to be filed with the commissioner under the provisions of Minnesota Statutes, section 275.29. The amount of revenue lost as a result of the exemption must be computed each year by applying the current tax rates of the taxing jurisdictions in which the wetlands are located to the assessed valuation of the wetlands. Payment to the county for lost revenue must not be less than the revenue that would have been received in taxes if the wetlands had an assessed value of $5 per acre. The commissioner of revenue shall review the certification for accuracy and may make necessary changes or return the certification to the county auditor for corrections.*

Subd. 2. [PAYMENT.] *Based on current year tax data reported in the abstracts of tax lists, the commissioner of revenue shall annually determine the taxing district distribution of the amounts certified under subdivision 1. The commissioner shall pay to each taxing district, other than school districts, its total payment for the year in equal installments on or before*

July 15 and December 15 of each year.

Subd. 3. [APPROPRIATION.] *There is appropriated from the general fund to the commissioner of revenue the amount necessary to make the payments required in subdivision 2.*

Sec. 8. [EFFECTIVE DATE.]

Sections 6 and 7 are effective for taxes levied in 1992, payable in 1993, and thereafter.

ARTICLE 5

WETLAND ESTABLISHMENT AND RESTORATION PROGRAM

Section 1. [103F.901] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *The definitions in this section apply to sections 1 to 5.*

Subd. 2. [BOARD.] *"Board" means the board of water and soil resources.*

Subd. 3. [COMMISSIONER.] *"Commissioner" means the commissioner of natural resources.*

Subd. 4. [COMPREHENSIVE LOCAL WATER PLAN.] *"Comprehensive local water plan" has the meaning given in section 103B.3363, subdivision 3.*

Subd. 5. [LOCAL UNIT OF GOVERNMENT.] *"Local unit of government" means a county board, joint county board, watershed management organization, or watershed district.*

Subd. 6. [WATERSHED DISTRICT.] *"Watershed district" means a district established under chapter 103D.*

Subd. 7. [WATERSHED MANAGEMENT ORGANIZATION.] *"Watershed management organization" has the meaning given in section 103B.205, subdivision 13.*

Subd. 8. [WETLAND.] *"Wetland" has the meaning given in article 6, section 6.*

Sec. 2. [103F.902] [LOCAL PLANNING AND APPROVAL.]

Subdivision 1. [APPLICATION.] *A willing landowner may apply, on forms provided by the board, to a local unit of government for the establishment or restoration of a wetland on property owned by the landowner in an area that is:*

(1) designated by the board as a high priority wetland region; and

(2) identified as a high priority wetland area in the local unit of government's comprehensive local water plan.

Subd. 2. [NOTICE AND PRELIMINARY HEARING.] *(a) Within 30 days after receiving an application, the local unit of government shall hold a public hearing. At least ten days before the hearing, the local unit of government shall give notice of the hearing to the applicant and publish notice in an official newspaper of general circulation in the county.*

(b) At the hearing, the local unit of government shall describe the application and hear comments from interested persons regarding the application and the planned establishment or restoration project.

Subd. 3. [PRELIMINARY APPROVAL.] *Within 30 days of the public hearing, the local unit of government must give preliminary approval or disapproval of the application.*

Subd. 4. [SURVEY REPORT.] *After preliminary approval, the local unit of government shall direct and pay the costs of a soil and water conservation engineer to conduct a survey of the property where the wetland restoration or establishment project is proposed to be located. The engineer must file a report, including a map of the proposed wetland, that describes the effects of the proposed wetland on:*

(1) the hydrology in the area;

(2) property of persons other than the applicant;

(3) groundwater recharge;

(4) flooding;

(5) fish and wildlife habitat;

(6) water quality; and

(7) other characteristics as determined by the local unit of government.

Subd. 5. [NOTICE AND FINAL HEARING.] *Within 30 days of receiving the completed survey, the local unit of government shall hold a public hearing on the proposed project. At least ten days before the hearing, the local unit of government shall notify the landowner and the commissioner and provide public notice of the hearing and the availability of the survey report in an official newspaper of general circulation in the county. The commissioner may provide comment on the proposed wetland.*

Subd. 6. [FINAL LOCAL APPROVAL.] *Within 30 days of the public hearing, the local unit of government shall notify the applicant and the commissioner of the final approval or disapproval of the proposed wetland.*

Sec. 3. [103F.903] [WETLAND ESTABLISHMENT AND RESTORATION COST-SHARE PROGRAM.]

Subdivision 1. [APPLICATION.] *A local unit of government shall apply to the board to receive cost-share funding for a proposed wetland restoration project that receives final local approval under section 2. The application must include a copy of the survey report and any comments received on the proposed wetland. Within 30 days of receiving an application, the board shall notify the local unit of government on whether the application and survey report are complete.*

Subd. 2. [COST-SHARE.] *The board may provide up to the lesser of $20,000 or 50 percent of the cost of a wetland establishment or restoration project, including engineering costs, establishment or restoration costs, and compensation costs.*

Subd. 3. [CONSERVATION EASEMENT.] *In exchange for cost-share financing under subdivision 2, the board shall acquire a permanent conservation easement, as defined in section 84C.01, paragraph (1). The easement agreement must contain the conditions listed in section 103F.515, subdivision 4.*

Subd. 4. [PRIORITIES.] *In reviewing requests from local units of government under this section, the board must give priority to applications based on the public value of the proposed wetland. The public value of the*

wetland must include the value of the wetland for:

(1) water quality;

(2) flood protection;

(3) recreation including fish and wildlife habitat;

(4) groundwater recharge; and

(5) other public uses.

Sec. 4. [103F.904] [WETLAND ESTABLISHMENT.]

Subdivision 1. [ESTABLISHMENT ORDER.] *After receiving approval of cost-share funding from the board, the local unit of government shall order the establishment or restoration of the wetland. The local unit of government shall pay all costs of establishing or restoring the wetland including the compensation required under subdivision 2.*

Subd. 2. [COMPENSATION.] *In exchange for the permanent conservation easement on an established or restored wetland, the local unit of government shall pay the applicant the amount required under section 103F.515, subdivision 6, for a permanent conservation easement.*

Sec. 5. [103F.905] [RULES.]

The board may adopt rules to implement sections 1 to 4.

ARTICLE 6

REGULATION OF WETLAND ACTIVITIES

Section 1. Minnesota Statutes 1990, section 103G.005, is amended by adding a subdivision to read:

Subd. 6a. [BOARD.] *"Board" means the board of water and soil resources.*

Sec. 2. Minnesota Statutes 1990, section 103G.005, is amended by adding a subdivision to read:

Subd. 10a. [LOCAL GOVERNMENT UNIT.] *"Local government unit" means:*

(1) outside of the seven-county metropolitan area, a city council or county board of commissioners; and

(2) in the seven-county metropolitan area, a city council, a town board under section 368.01, or a watershed management organization under section 103B.211.

Sec. 3. Minnesota Statutes 1990, section 103G.005, subdivision 15, is amended to read:

Subd. 15. [PUBLIC WATERS.] (a) "Public waters" means:

(1) waterbasins assigned a shoreland management classification by the commissioner under sections 103F.201 to 103F.221, except wetlands less than 80 acres in size that are classified as natural environment lakes;

(2) waters of the state that have been finally determined to be public waters or navigable waters by a court of competent jurisdiction;

(3) meandered lakes, excluding lakes that have been legally drained;

(4) waterbasins previously designated by the commissioner for management for a specific purpose such as trout lakes and game lakes pursuant to applicable laws;

(5) waterbasins designated as scientific and natural areas under section 84.033;

(6) waterbasins located within and totally surrounded by publicly owned lands;

(7) waterbasins where the state of Minnesota or the federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of the public ownership;

(8) waterbasins where there is a publicly owned and controlled access that is intended to provide for public access to the waterbasin;

(9) natural and altered watercourses with a total drainage area greater than two square miles;

(10) natural and altered watercourses designated by the commissioner as trout streams; and

(11) *public waters* wetlands, unless the statute expressly states otherwise.

(b) Public waters are not determined exclusively by the proprietorship of the underlying, overlying, or surrounding land or by whether it is a body or stream of water that was navigable in fact or susceptible of being used as a highway for commerce at the time this state was admitted to the union.

Sec. 4. Minnesota Statutes 1990, section 103G.005, is amended by adding a subdivision to read:

Subd. 17a. [WATERSHED.] *"Watershed" means the 81 major watershed units delineated by the map, "State of Minnesota Watershed Boundaries - 1979".*

Sec. 5. Minnesota Statutes 1990, section 103G.005, subdivision 18, is amended to read:

Subd. 18. [*PUBLIC WATERS* WETLANDS.] "*Public waters* wetlands" means all types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, that are ten or more acres in size in unincorporated areas or 2-1/2 or more acres in incorporated areas.

Sec. 6. Minnesota Statutes 1990, section 103G.005, is amended by adding a subdivision to read:

Subd. 19. [WETLANDS.] *(a) "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:*

(1) have a predominance of hydric soils;

(2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(3) under normal circumstances support a prevalence of such vegetation.

(b) Wetlands does not include public waters wetlands as defined in subdivision 18.

Sec. 7. Minnesota Statutes 1990, section 103G.221, is amended to read:

103G.221 [DRAINAGE OF *PUBLIC WATERS* WETLANDS.]

Subdivision 1. [DRAINAGE OF *PUBLIC WATERS* WETLANDS GENERALLY PROHIBITED WITHOUT REPLACEMENT.] Except as provided in subdivisions 2 and 3, *public waters* wetlands may not be drained, and a permit authorizing drainage of *public waters* wetlands may not be issued, unless the *public waters* wetlands to be drained are replaced by wetlands that will have equal or greater public value.

Subd. 2. [DRAINAGE OF *PUBLIC WATERS* WETLANDS FOR CROPLAND.] (a) *Public waters* wetlands that are lawful, feasible, and practical to drain and if drained would provide high quality cropland and that is the projected land use, as determined by the commissioner, may be drained without a permit and without replacement ~~of~~ *by* wetlands of equal or greater public value if the commissioner does not choose, within 60 days of receiving an application for a permit to drain the *public waters* wetlands to:

(1) place the *public waters* wetlands in the state water bank program under section 103F.601; or

(2) acquire them in fee under section 97A.145.

(b) If the commissioner does not make the offer under paragraph (a), clause (1) or (2), to a person applying for a permit, the *public waters* wetlands may be drained without a permit.

Subd. 3. [PERMIT TO DRAIN *PUBLIC WATERS* WETLANDS TEN YEARS AFTER PUBLIC WATERS DESIGNATION.] (a) The owner of property underneath *public waters* wetlands on privately owned property may apply to the commissioner for a permit to drain the *public waters* wetlands after ten years from their original designation as public waters. After receiving the application, the commissioner shall review the status of the *public waters* wetlands and current conditions.

(b) If the commissioner finds that the status of the *public waters* wetlands and the current conditions make it likely that the economic or other benefits from agricultural use to the owner from drainage would exceed the public benefits of maintaining the *public waters* wetlands, the commissioner shall grant the application and issue a drainage permit.

(c) If the application is denied, the owner may not apply again for another ten years.

Sec. 8. [103G.222] [REPLACEMENT OF WETLANDS.]

(a) After the effective date of the rules adopted under section 11 or article 2, section 4, whichever is later, wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value under either a replacement plan approved as provided in section 11 or, if a permit to mine is required under section 93.481, under a mining reclamation plan approved by the commissioner under the permit to mine. Mining reclamation plans shall apply the same principles and standards for replacing wetlands by restoration or creation of wetland areas that are applicable to mitigation plans approved as provided in section 11.

(b) Replacement must be guided by the following principles in descending order of priority:

(1) avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

(2) minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

(3) rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

(4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and

(5) compensating for the impact by replacing or providing substitute wetland resources or environments.

(c) If a wetland is located in a cultivated field, then replacement must be accomplished through restoration only without regard to the priority order in paragraph (b), provided that a deed restriction is placed on the altered wetland prohibiting nonagricultural use for at least ten years.

(d) Restoration and replacement of wetlands must be accomplished in accordance with the ecology of the landscape area affected.

(e) Replacement shall be within the same watershed or county as the impacted wetlands, as based on the wetland evaluation in section 11, subdivision 2, except that counties or watersheds in which 80 percent or more of the presettlement wetland acreage is intact may accomplish replacement in counties or watersheds in which 50 percent or more of the presettlement wetland acreage has been filled, drained, or otherwise degraded. Wetlands impacted by public transportation projects may be replaced statewide, provided they are approved by the commissioner under an established wetland banking system, or under the rules for wetland banking as provided for under section 11.

(f) For a wetland located on nonagricultural land, replacement must be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland.

(g) For a wetland located on agricultural land, replacement must be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland.

(h) Wetlands that are restored or created as a result of an approved replacement plan are subject to the provisions of this section for any subsequent drainage or filling.

Sec. 9. [103G.223] [CALCAREOUS FENS.]

Calcareous fens, as identified by the commissioner, may not be filled, drained, or otherwise degraded, wholly or partially, by any activity, unless the commissioner, under an approved management plan, decides some alteration is necessary.

Sec. 10. [103G.2241] [EXEMPTIONS.]

Subdivision 1. [EXEMPTIONS.] *(a) Subject to the conditions in paragraph (b), a replacement plan for wetlands is not required for:*

(1) activities in a wetland that was planted with annually seeded crops, was in a crop rotation seeding of pasture grasses or legumes, or was required to be set aside to receive price support or other payments under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior

to January 1, 1991;

(2) activities in a wetland that is or has been enrolled in the federal conservation reserve program under United States Code, title 16, section 3831, that:

(i) was planted with annually seeded crops, was in a crop rotation seeding, or was required to be set aside to receive price support or payment under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior to being enrolled in the program; and

(ii) has not been restored with assistance from a public or private wetland restoration program.

(3) activities necessary to repair and maintain existing public or private drainage systems as long as wetlands that have been in existence for more than 20 years are not drained;

(4) activities in a wetland that has received a commenced drainage determination provided for by the federal Food Security Act of 1985, that was made to the county agricultural stabilization and conservation service office prior to September 19, 1988, and a ruling and any subsequent appeals or reviews have determined that drainage of the wetland had been commenced prior to December 23, 1985;

(5) activities exempted from federal regulation under United States Code, title 33, section 1344(f);

(6) activities authorized under, and conducted in accordance with, an applicable general permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344, except the nationwide permit in Code of Federal Regulations, title 33, section 330.5, paragraph (a), clause (14), limited to when a new road crosses a wetland, and all of clause (26);

(7) activities in a type 1 wetland on agricultural land, as defined in United States Fish and Wildlife Circular No. 39 (1971 edition) except for bottomland hardwood type 1 wetlands;

(8) activities in a type 2 wetland that is two acres in size or less located on agricultural land;

(9) activities in a wetland restored for conservation purposes under a contract or easement providing the landowner with the right to drain the restored wetland;

(10) activities in a wetland created solely as a result of:

(i) beaver dam construction;

(ii) blockage of culverts through roadways maintained by a public or private entity;

(iii) actions by public entities that were taken for a purpose other than creating the wetland; or

(iv) any combination of (i) to (iii);

(11) placement, maintenance, repair, enhancement, or replacement of utility or utility-type service, including the transmission, distribution, or furnishing, at wholesale or retail, of natural or manufactured gas, electricity, telephone, or radio service or communications if:

(i) the impacts of the proposed project on the hydrologic and biological characteristics of the wetland have been avoided and minimized to the extent possible; and

(ii) the proposed project significantly modifies or alters less than one-half acre of wetlands;

(12) activities associated with routine maintenance of utility and pipeline rights-of-way, provided the activities do not result in additional intrusion into the wetland;

(13) alteration of a wetland associated with the operation, maintenance, or repair of an interstate pipeline;

(14) temporarily crossing or entering a wetland to perform silvicultural activities, including timber harvest as part of a forest management activity, so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the activities do not result in the construction of dikes, drainage ditches, tile lines, or buildings; and the timber harvesting and other silvicultural practices do not result in the drainage of the wetland or public waters;

(15) permanent access for forest roads across wetlands so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the construction activities do not result in the access becoming a dike, drainage ditch or tile line; with filling avoided wherever possible; and there is no drainage of the wetland or public waters;

(16) activities associated with routine maintenance of existing public highways, roads, streets, and bridges, provided the activities do not result in additional intrusion into the wetland and do not result in the draining or filling, wholly or partially, of a wetland;

(17) emergency repair and normal maintenance and repair of existing public works, provided the activity does not result in additional intrusion of the public works into the wetland and do not result in the draining or filling, wholly or partially, of a wetland;

(18) normal maintenance and minor repair of structures causing no additional intrusion of an existing structure into the wetland, and maintenance and repair of private crossings that do not result in the draining or filling, wholly or partially, of a wetland;

(19) duck blinds;

(20) aquaculture activities, except building or altering of docks and activities involving the draining or filling, wholly or partially, of a wetland;

(21) wild rice production activities, including necessary diking and other activities authorized under a permit issued by the United State Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344;

(22) normal agricultural practices to control pests or weeds, defined by rule as either noxious or secondary weeds, in accordance with applicable requirements under state and federal law, including established best management practices;

(23) activities in a wetland that is on agricultural land annually enrolled in the federal Food, Agricultural, Conservation, and Trade Act of 1990, United States Code, title 16, section 3821, subsection (a), clauses (1) to

(3), as amended, and is subject to sections 1421 to 1424 of the federal act in effect on January 1, 1991, except that land enrolled in a federal farm program is eligible for easement participation for those acres not already compensated under a federal program;

(24) development projects and ditch improvement projects in the state that have received preliminary or final plat approval, or infrastructure that has been installed, or having local site plan approval, conditional use permits, or similar official approval by a governing body or government agency, within five years before the effective date of this article. In the seven-county metropolitan area and in cities of the first and second class, plat approval must be preliminary as approved by the appropriate governing body.

(b) A person conducting an activity in a wetland under an exemption in paragraph (a) shall ensure that:

(1) appropriate erosion control measures are taken to prevent sedimentation of the water;

(2) the activity does not block fish passage in a watercourse; and

(3) the activity is conducted in compliance with all other applicable federal, state, and local requirements, including best management practices and water resource protection requirements established under chapter 103H.

Sec. 11. [103G.2242] [WETLAND VALUE REPLACEMENT PLANS.]

Subdivision 1. [RULES.] *(a) By July 1, 1993, the board, in consultation with the commissioner, shall adopt rules governing the approval of wetland value replacement plans under this section. These rules must address the criteria, procedure, timing, and location of acceptable replacement of wetland values; may address the state establishment and administration of a wetland banking program for public and private projects, which may include provisions allowing monetary payment to the wetland banking program for alteration of wetlands on agricultural land; the methodology to be used in identifying and evaluating wetland functions; the administrative, monitoring, and enforcement procedures to be used; and a procedure for the review and appeal of decisions under this section. In the case of peatlands, the replacement plan rules must consider the impact on carbon balance described in the report required by Laws 1990, chapter 587, and include the planting of trees or shrubs.*

(b) After the adoption of the rules, a replacement plan must be approved by a resolution of the governing body of the local government unit, consistent with the provisions of the rules.

(c) If the local government unit fails to apply the rules, the government unit is subject to penalty as determined by the board.

Subd. 2. [EVALUATION.] *Questions concerning the public value, location, size, or type of a wetland shall be submitted to and determined by a technical evaluation panel after an on-site inspection. The technical evaluation panel shall be composed of a technical professional employee of the board, a technical professional employee of the local soil and water conservation district or districts, and an engineer for the local government unit. The panel shall use the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" (January 1989). The panel shall provide the wetland determination to the local government unit that must approve a replacement plan under this section, and may recommend approval or denial*

of the plan. The authority must consider and include the decision of the technical evaluation panel in their approval or denial of a plan.

Subd. 3. [REPLACEMENT COMPLETION.] *Replacement of wetland values must be completed prior to or concurrent with the actual draining or filling of a wetland, or an irrevocable bank letter of credit or other security acceptable to the local government unit must be given to the local government unit to guarantee the successful completion of the replacement.*

Subd. 4. [DECISION.] *Upon receiving and considering all required data, the local government unit approving a replacement plan must act on all applications for plan approval within 60 days.*

Subd. 5. [PROCESSING FEE.] *The local government unit may charge a processing fee of up to $75.*

Subd. 6. [NOTICE OF APPLICATION.] *Within ten days of receiving an application for approval of a replacement plan under this section, a copy of the application must be submitted to the board for publication in the Environmental Quality Board Monitor and separate copies mailed to individual members of the public who request a copy, the board of supervisors of the soil and water conservation district, the managers of the watershed district, the board of county commissioners, the commissioner of agriculture, and the mayors of the cities within the area watershed. At the same time, the local government unit must give general notice to the public in a general circulation newspaper within the area affected.*

Subd. 7. [NOTICE OF DECISION.] *At least 30 days prior to the effective date of the approval or denial of a replacement plan under this section, a copy of the approval or denial must be submitted for publication in the Environmental Quality Board Monitor and separate copies mailed to the applicant, the board, individual members of the public who request a copy, the board of supervisors of the soil and water conservation district, the managers of the watershed district, the board of county commissioners, the commissioner of agriculture, and the mayors of the cities within the area watershed.*

Subd. 8. [PUBLIC COMMENT PERIOD.] *Before approval or denial of a replacement plan under this section, comments may be made by the public to the local government unit for a period of 30 days.*

Subd. 9. [APPEAL.] *Appeal of the decision may be obtained by mailing a notice of appeal to the board within 30 days after the postmarked date of the mailing specified in subdivision 7. If appeal is not sought within 30 days, the decision becomes final. Appeal may be made by the wetland owner, by any of those to whom notice is required to be mailed under subdivision 7, or by 100 residents of the county in which a majority of the wetland is located. All appeals must be heard by the committee for dispute resolution of the board, and a decision made within 60 days of the appeal. The decision must be served by mail on the parties to the appeal, and is not subject to the provisions of chapter 14. The decision must be considered the decision of an agency in a contested case for purposes of judicial review under sections 14.63 to 14.69.*

Subd. 10. [LOCAL REQUIREMENTS.] *The rules adopted under subdivision 1 shall allow for local government units to use their own notice and public comment procedures so long as the requirements of this section are satisfied.*

Subd. 11. [WETLAND HERITAGE ADVISORY COMMITTEE.] *The governor shall establish a wetland heritage advisory committee consisting of a balanced diversity of interests including agriculture, environmental, and sporting organizations, land development organizations, local government organizations, and other agencies. The committee must consist of nine members including the commissioner of agriculture, or a designee of the commissioner, the commissioner of natural resources, and seven members appointed by the governor. The governor's appointees must include one county commissioner, one representative each from a statewide sporting organization, a statewide conservation organization, an agricultural commodity group, one faculty member of an institution of higher education with expertise in the natural sciences, and one member each from two statewide farm organizations. The committee shall advise the board on the development of rules under this section and, after rule adoption, shall meet twice a year to review implementation of the program, to identify strengths and weaknesses, and to recommend changes to the rules and the law to improve the program.*

Subd. 12. [REPLACEMENT CREDITS.] *No public or private wetland restoration, enhancement, or construction may be allowed for replacement unless specifically designated for replacement and paid for by the individual or organization performing the wetland restoration, enhancement, or construction, and is completed prior to any draining or filling of the wetland.*

This subdivision does not apply to a wetland whose owner has paid back with interest the individual or organization restoring, enhancing, or constructing the wetland.

Subd. 13. [REPLACEMENT WETLAND ELIGIBLE FOR RIM.] *A wetland replaced under this section, in which the replacement is located on the wetland owner's land, is eligible for enrollment under section 103F.515 one year after the completion of replacement.*

Sec. 12. Minnesota Statutes 1990, section 103G.225, is amended to read:

103G.225 [STATE WETLANDS AND PUBLIC DRAINAGE SYSTEMS.]

If the state owns *public waters* wetlands on or adjacent to existing public drainage systems, the state shall consider the use of the *public waters* wetlands as part of the drainage system. If the *public waters* wetlands interfere with or prevent the authorized functioning of the public drainage system, the state shall provide for necessary work to allow proper use and maintenance of the drainage system while still preserving the *public waters* wetlands.

Sec. 13. Minnesota Statutes 1990, section 103G.231, is amended to read:

103G.231 [PROPERTY OWNER'S USE OF *PUBLIC WATERS* WETLANDS.]

Subdivision 1. [AGRICULTURAL USE DURING DROUGHT.] A property owner may use the bed of *public waters* wetlands for pasture or cropland during periods of drought if:

(1) dikes, ditches, tile lines, or buildings are not constructed; and

(2) the agricultural use does not result in the drainage of the *public waters* wetlands.

Subd. 2. [FILLING *PUBLIC WATERS* WETLANDS FOR IRRIGATION

BOOMS.] A landowner may fill a *public waters* wetland to accommodate wheeled booms on irrigation devices if the fill does not impede normal drainage.

Sec. 14. Minnesota Statutes 1990, section 103G.235, is amended to read:

103G.235 [RESTRICTIONS ON ACCESS TO *PUBLIC WATERS* WETLANDS.]

To protect the public health or safety, local units of government may by ordinance restrict public access to *public waters* wetlands from municipality, county, or township roads that abut *public waters* wetlands.

Sec. 15. [103G.2364] [PROPERTY OWNER'S USE OF WETLANDS.]

(a) A property owner may use the bed of wetlands for pasture or cropland during periods of drought if:

(1) dikes, ditches, tile lines, or buildings are not constructed; and

(2) the agricultural use does not result in the drainage of the wetlands.

(b) A landowner may fill a wetland to accommodate wheeled booms on irrigation devices if the fill does not impede normal drainage.

Sec. 16. [103G.2365] [CONTROL OF NOXIOUS WEEDS.]

Noxious weeds, as defined in section 18.171, subdivision 5, must be controlled on wetlands as required in section 18.191.

Sec. 17. [103G.237] [COMPENSATION FOR LOSS OF PRIVATE USE.]

Subdivision 1. [GENERAL.] *A person whose replacement plan is not approved must be compensated as provided in this section. The person may drain or fill the wetland without an approved replacement plan if the person:*

(1) is eligible for compensation under subdivision 2;

(2) applies for compensation in accordance with subdivision 3; and

(3) does not receive the compensation required in subdivision 4 within 90 days after the application for compensation is received by the board.

Subd. 2. [ELIGIBILITY.] *A person is eligible for compensation if:*

(1) the person applies for replacement plan approval under section 11;

(2) the replacement plan is not approved or the plan conditions make the proposed use unworkable or not feasible;

(3) the person appeals the disapproval of the plan;

(4) the proposed use would otherwise be allowed under federal, state, and local laws, rules, ordinances, and other legal requirements;

(5) the person has suffered or will suffer damages;

(6) disallowing the proposed use will enhance the public value of the wetland; and

(7) the person applies to the board for compensation.

Subd. 3. [APPLICATION.] *An application for compensation must be made on forms prescribed by the board and include:*

(1) the location and public value of the wetland where the use was proposed;

(2) a description and reason for the proposed wetland use; and

(3) the objection to the replacement plan, if any.

Subd. 4. [COMPENSATION.] *The board shall award compensation in an amount equal to 50 percent of the average equalized estimated market value of agricultural property in the township as established by the commissioner of revenue at the time application for compensation is made.*

Sec. 18. [103G.2372] [ENFORCEMENT.]

Subdivision 1. [COMMISSIONER OF NATURAL RESOURCES.] *The commissioner of natural resources, conservation officers, and peace officers shall enforce laws preserving and protecting wetlands. The commissioner of natural resources, a conservation officer, or a peace officer may issue a cease and desist order to stop any illegal activity adversely affecting a wetland. In the order, or by separate order, the commissioner, conservation officer, or peace officer may require restoration or replacement of the wetland, as determined by the local soil and water conservation district.*

Subd. 2. [MISDEMEANOR.] *A violation of an order issued under subdivision 1 is a misdemeanor and must be prosecuted by the county attorney where the wetland is located or the illegal activity occurred.*

Subd. 3. [RESTITUTION.] *The court may, as part of sentencing, require a person convicted under subdivision 2 to restore or replace the wetland, as determined by the local soil and water conservation district.*

Sec. 19. Minnesota Statutes 1990, section 645.44, subdivision 8a, is amended to read:

Subd. 8a. [PUBLIC WATERS.] "Public waters" means public waters as defined in section 103G.005, subdivision 15, and includes "*public waters* wetlands" as defined in section 103G.005, subdivision 18.

Sec. 20. [REGULATORY SIMPLIFICATION REPORT.]

The board of water and soil resources and the commissioner of the department of natural resources, in consultation with the appropriate federal agencies, shall jointly develop a plan to simplify and coordinate state and federal regulatory procedures related to wetland use and shall report on the plan to the legislature by January 1, 1992.

Sec. 21. [AVAILABILITY OF NATIONAL WETLANDS INVENTORY MAPS.]

By February 1, 1993, the commissioner of natural resources shall file with each soil and water conservation district copies of the national wetlands inventory maps covering the district and shall publish notice of the availability of the maps in an official newspaper of general circulation in each county.

For purposes of this paragraph, "notice" means the following information in 8-point or larger type:

"NOTICE OF AVAILABILITY OF NATIONAL WETLANDS INVENTORY MAPS

National wetlands inventory maps for (name of county) county are available from the Minnesota Department of Natural Resources. The national wetlands inventory maps are for general informational use only, and should

not be relied upon in determining the exact location or boundaries of wetlands. Persons wishing to obtain further information regarding the maps should contact (name, address, and telephone number of regional contact person at the department) or their local soil and water conservation district office. WETLANDS ARE SUBJECT TO REGULATION BY THE STATE AND ACTIVITIES AFFECTING WETLANDS MAY BE RESTRICTED OR PROHIBITED UNDER RULES TO BE ADOPTED BY THE BOARD OF WATER AND SOIL RESOURCES AND THE DEPARTMENT OF NATURAL RESOURCES. Persons wishing to participate in the rulemaking process should contact (name, address, and telephone number of contact person at the board) or (name, address, and telephone number of contact person at the department).

THE NATIONAL WETLANDS INVENTORY MAPS, MAPS PREPARED BY THE UNITED STATES SOIL CONSERVATION SERVICE, AND OTHER AVAILABLE MAPS MAY PROVIDE USEFUL INFORMATION, BUT PERSONS PLANNING TO CONDUCT ACTIVITIES THAT MAY AFFECT WETLANDS SHOULD FIRST CONSULT THEIR LOCAL SOIL AND WATER CONSERVATION DISTRICT OFFICE."

Sec. 22. [LEGISLATIVE REVIEW OF RULES.]

Before adoption of the rules required in article 2, section 4, and article 6, section 11, and no later than March 1, 1993, the proposed rules and any public comments on the proposed rules must be submitted to the agriculture and environment committees of the legislature. The rules must not be adopted earlier than 60 days after submittal to the legislature under this section.

ARTICLE 7

INTERIM WETLAND ACTIVITIES

Section 1. [103G.2369] [INTERIM.]

Subdivision 1. [DELINEATION.] *The "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" (January 1989) must be used in identifying and delineating wetlands.*

Subd. 2. [PROHIBITED ACTIVITIES.] *(a) Except as provided in subdivision 3, until July 1, 1993, a person may not drain, burn, or fill a wetland.*

(b) Except as provided in subdivision 3, until July 1, 1993, a state agency or local unit of government may not issue a permit for an activity prohibited in paragraph (a) or for an activity that would include an activity prohibited in paragraph (a).

Subd. 3. [EXEMPTIONS.] *The prohibitions in subdivision 2 do not apply to:*

(1) activities exempted under, and conducted in accordance with, article 6, section 10;

(2) development projects and drainage system improvement projects that have received preliminary or final plat approval or for which infrastructure has been installed, or that have received site plan approval or a conditional use permit, within five years before the effective date of this section;

(3) activities for which the local soil and water conservation district or other local permitting authority certifies that any loss of wetland area

resulting from the activity will be replaced; and

(4) a person who is enrolled or participating in a program listed in United States Code, title 16, section 3821, subsection (a), clauses (1) to (3).

Subd. 4. [CERTIFICATION FEE.] *A soil and water conservation district or other local permitting authority may charge a fee of up to $75 for a certification under subdivision 3, clause (3).*

Subd. 5. [ENFORCEMENT.] *This section must be enforced as provided in article 6, section 18.*

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1992, and is repealed July 1, 1993.

ARTICLE 8

PEATLAND PROTECTION

Section 1. [84.034] [PEATLAND PROTECTION.]

Subdivision 1. [CITATION.] *Sections 1 and 2 may be cited as the "Minnesota peatland protection act."*

Subd. 2. [FINDINGS.] *The legislature finds that certain Minnesota peatlands possess unique scientific, aesthetic, vegetative, hydrologic, geologic, wildlife, wilderness, and educational values and represent the various peatland ecological types in the state. The legislature finds that it is desirable and appropriate to protect and preserve these patterned peatlands as a peatland management system through establishment and designation of certain peatland core areas as scientific and natural areas.*

Subd. 3. [DEFINITIONS.] *Unless language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of sections 1 and 2, have the meanings given to them.*

(a) "Winter road" means an access route which may be used by vehicles only when the substrate is frozen, except as provided in subdivision 5, paragraph (b), clause (3).

(b) "Corridors of disturbance" means rights of way which are in existence on the effective date of this act, such as ditches, ditch banks, transmission lines, pipelines, permanent roads, winter roads, and recreational trails. The existence, on the effective date of this act, of a corridor of disturbance may be demonstrated by physical evidence, document recorded in the office of county recorder or other public official, aerial survey, or other evidence similar to the above.

(c) "State land" means land owned by the state of Minnesota and administered by the commissioner.

Subd. 4. [DESIGNATION OF PEATLAND SCIENTIFIC AND NATURAL AREAS.] *Within the peatland areas described in section 2, state lands are hereby established and designated as scientific and natural areas to be preserved and managed by the commissioner in accordance with subdivision 5 and section 86A.05, subdivision 5.*

Subd. 5. [ACTIVITIES IN PEATLAND SCIENTIFIC AND NATURAL AREAS.] *Areas designated in subdivision 4 as peatland scientific and natural areas are subject to the following conditions:*

(a) Except as provided in paragraph (b), all restrictions otherwise applicable to scientific and natural areas designated under section 86A.05, subdivision 5, apply to the surface use and to any use of the mineral estate which would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas, including, but not limited to, the following prohibitions:

(1) construction of any new public drainage systems after the effective date of this act or improvement or repair to a public drainage system in existence on the effective date of this act, under authority of chapter 103E, or any other alteration of surface water or ground water levels or flows unless specifically permitted under paragraph (b), clause (5) or (6);

(2) removal of peat, sand, gravel, or other industrial minerals;

(3) exploratory boring or other exploration or removal of oil, natural gas, radioactive materials or metallic minerals which would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or natural features of the peatland scientific and natural areas, except in the event of a national emergency declared by Congress;

(4) commercial timber harvesting;

(5) construction of new corridors of disturbance, of the kind defined in subdivision 3, after the effective date of this article; and

(6) ditching, draining, filling, or any other activities which modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas.

(b) The following activities are allowed:

(1) recreational activities, including hunting, fishing, trapping, cross-country skiing, snowshoeing, nature observation, or other recreational activities permitted in the management plan approved by the commissioner;

(2) scientific and educational work and research;

(3) maintenance of corridors of disturbance, including survey lines and preparation of winter roads, consistent with protection of the peatland ecosystem;

(4) use of corridors of disturbance unless limited by a management plan adopted by the commissioner under subdivision 6;

(5) improvements to a public drainage system in existence on the effective date of this act only when it is for the protection and maintenance of the ecological integrity of the peatland scientific and natural area and when included in a management plan adopted by the commissioner under subdivision 6;

(6) repairs to a public drainage system in existence on the effective date of this act which crosses a peatland scientific and natural area and is used for the purposes of providing a drainage outlet for lands outside of the peatland scientific and natural area, provided that there are no other feasible and prudent alternative means of providing the drainage outlet. The commissioner shall cooperate with the ditch authority in the determination of any feasible and prudent alternatives. No repairs which would significantly

modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas shall be made unless approved by the commissioner;

(7) motorized uses that are engaged in, on corridors of disturbance, on or before the effective date of this act;

(8) control of forest insects, disease, and wildfires, as described in a management plan adopted by the commissioner under subdivision 6; and

(9) geological and geophysical surveys which would not significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas.

Subd. 6. [MANAGEMENT PLANS.] *The commissioner shall develop a management plan for each peatland scientific and natural area designated under section 2 in a manner prescribed by section 86A.09.*

Subd. 7. [ESTABLISHING BASELINE ECOLOGICAL DATA.] *The commissioner shall establish baseline data on the ecology and biological diversity of peatland scientific and natural areas and provide for ongoing, long-term ecological monitoring to determine whether changes are occurring in the peatland scientific and natural areas. This research is intended to identify any changes occurring in peatland scientific and natural areas as a result of any permitted activities outside the peatland scientific and natural areas. This baseline data may include, but is not limited to, the history of the peatlands and their geologic origins, plant and animal communities, hydrology, water chemistry, and contaminants introduced from remote sources of atmospheric deposition.*

Subd. 8. [DITCH ABANDONMENTS.] *In order to eliminate repairs or improvements to any public drainage system that crosses a peatland scientific and natural area in those instances where the repair or improvement adversely affects an area, the commissioner may petition for the abandonment of parts of the public drainage system under section 106A.811. If the public drainage system is necessary as a drainage outlet for lands outside of the peatland scientific and natural area, the commissioner will cooperate with the ditch authority in the development of feasible and prudent alternative means of providing a drainage outlet which avoids the crossing of and damage to the peatland scientific and natural area. In so doing, the commissioner shall grant flowage easements to the ditch authority for disposal of the outlet water on other state lands. The ditch authority shall approve the abandonment of parts of any public drainage system crossing a peatland scientific and natural area if the public drainage system crossing of those areas is not necessary as a drainage outlet for lands outside of the areas or if there are feasible and prudent alternative means of providing a drainage outlet without crossing such areas. In any abandonment under this subdivision the commissioner may enter into an agreement with the ditch authority regarding apportionment of costs and, contingent upon appropriations of money for that purpose, may agree to pay a reasonable share of the cost of abandonment.*

Subd. 9. [COMPENSATION FOR TRUST FUND LANDS.] *The commissioner shall acquire by exchange or eminent domain the surface interests, including peat, on trust fund lands contained in peatland scientific and natural areas established in subdivision 4.*

Subd. 10. [ACQUISITION OF PEATLAND SCIENTIFIC AND NATURAL AREAS.] *The commissioner may acquire by purchase the surface interests, including peat, of lands within the boundaries of the peatland areas described in section 2, that are owned, or that hereafter become owned, by the state and administered by the local county board.*

The commissioner shall designate any land acquired under this subdivision as peatland scientific and natural area and preserve and administer any land so acquired and designated in accordance with subdivision 5 and section 86A.05.

Sec. 2. [84.035] [PEATLAND SCIENTIFIC AND NATURAL AREAS; DESIGNATION.]

The following scientific and natural areas are established and are composed of all of the core peatland areas identified on maps in the 1984 commissioner of natural resources report, "Recommendations for the Protection of Ecologically Significant Peatlands in Minnesota" and maps on file at the department of natural resources:

(1) Red Lake Scientific and Natural Area in Beltrami, Koochiching, and Lake of the Woods counties;

(2) Myrtle Lake Scientific and Natural Area in Koochiching county;

(3) Lost River Scientific and Natural Area in Koochiching county;

(4) North Black River Scientific and Natural Area in Koochiching county;

(5) Sand Lake Scientific and Natural Area in Lake county;

(6) Mulligan Lake Scientific and Natural Area in Lake of the Woods county;

(7) Lost Lake Scientific and Natural Area in St. Louis county;

(8) Pine Creek Scientific and Natural Area in Roseau county;

(9) Hole in the Bog Scientific and Natural Area in Cass county;

(10) Wawina Scientific and Natural Area in St. Louis county;

(11) Nett Lake Scientific and Natural Area in Koochiching county;

(12) East Rat Root River Scientific and Natural Area in Koochiching county;

(13) South Black River Scientific and Natural Area in Koochiching county;

(14) Winter Road Lake Scientific and Natural Area in Koochiching county;

(15) Sprague Creek Scientific and Natural Area in Roseau county;

(16) Luxemberg Scientific and Natural Area in Roseau county;

(17) West Rat Root River Scientific and Natural Area in Koochiching county; and

(18) Norris Camp Scientific and Natural Area in Lake of the Woods county.

Sec. 3. Minnesota Statutes 1990, section 103G.231, is amended by adding a subdivision to read:

Subd. 3. [PEAT MINING.] *Peat mining, as defined in section 93.461, is permitted subject to the mine permit and reclamation requirements of sections 93.44 to 93.51, and the rules adopted under those restrictions,*

except as provided for in sections 1 and 2.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following final enactment.

ARTICLE 9

SECTION 404 PROGRAM

Section 1. [103G.127] [PERMIT PROGRAM UNDER SECTION 404 OF THE FEDERAL CLEAN WATER ACT.]

Notwithstanding any other law to the contrary, the commissioner may adopt rules establishing a permit program for regulating the discharge of dredged and fill material into the waters of the state as necessary to obtain approval from the United States Environmental Protection Agency to administer the permit program under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344. The rules may not be more restrictive than the program under section 404, or state law, if it is more restrictive than the federal program.

Sec. 2. Minnesota Statutes 1990, section 103G.141, is amended to read:

103G.141 [PENALTIES.]

Subdivision 1. [MISDEMEANORS.] *Except as provided in subdivision 2,* a person is guilty of a misdemeanor who:

(1) undertakes or procures another to undertake an alteration in the course, current, or cross section of public waters or appropriates waters of the state without previously obtaining a permit from the commissioner, regardless of whether the commissioner would have granted a permit had an application been filed;

(2) undertakes or procures another to undertake an alteration in the course, current, or cross section of public waters or appropriates waters of the state in violation of or in excess of authority granted under a permit issued by the commissioner, regardless of whether an application had been filed for permission to perform the act involved or whether the act involved would have been permitted had a proper application been filed;

(3) undertakes or procures another to undertake an alteration in the course, current, or cross section of public waters or appropriates waters of the state after a permit to undertake the project has been denied by the commissioner; or

(4) violates a provision of this chapter.

Subd. 2. [VIOLATION OF SECTION 404 PERMITS.] *(a) Whenever the commissioner finds that a person is in violation of a condition or limitation set forth in a permit issued under the rules adopted by the commissioner under section 1, the commissioner shall issue an order requiring the person to comply with the condition or limitation, or the commissioner shall bring a civil action in accordance with paragraph (b).*

(b) The commissioner may commence a civil action for appropriate relief in district court, including a permanent or temporary injunction, for a violation for which the commissioner is authorized to issue a compliance order under paragraph (a). The court may restrain the violation and require compliance.

(c) A person who violates a condition or limitation in a permit issued by

the commissioner under section 1, and a person who violates an order issued by the commissioner under paragraph (a), is subject to a civil penalty not to exceed $25,000 per day for each violation. In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit, if any, resulting from the violation, any history of violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and other matters justice may require.

Sec. 3. [SECTION 404 PROGRAM SUBMISSION.]

Subdivision 1. [DEFINITION.] *For purposes of this section, "section 404 program" means the permit program under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344.*

Subd. 2. [INTENT.] *The legislature intends that as expeditiously as possible the state obtain approval from the administrator of the United States Environmental Protection Agency to administer the section 404 program in this state.*

Subd. 3. [REQUIREMENTS.] *(a) By February 1, 1993, the commissioner of natural resources shall:*

(1) adopt rules under section 1 that provide adequate authority for administering the section 404 program; and

(2) after consulting with the attorney general, report to the environment and natural resources committees of the legislature on existing laws that are inconsistent with the authority necessary for administering the section 404 program.

(b) By March 1, 1993, the governor shall make the submission to the administrator of the United States Environmental Protection Agency required in United States Code, title 33, section 1344(g), to obtain authority to administer the section 404 program.

ARTICLE 10

MISCELLANEOUS

Section 1. Minnesota Statutes 1990, section 84.085, is amended to read:

84.085 [ACCEPTANCE OF GIFTS.]

Subdivision 1. [AUTHORITY.] *(a)* The commissioner of natural resources may accept for and on behalf of the state any gift, bequest, ~~devise~~ *devise*, or grants of lands or interest in lands or personal property of any kind or of money tendered to the state for any purpose pertaining to the activities of the department or any of its divisions. Any money so received is hereby appropriated and dedicated for the purpose for which it is granted. Lands and interests in lands so received may be sold or exchanged as provided in chapter 94.

(b) The commissioner may accept for and on behalf of the permanent school fund a donation of lands, interest in lands, or improvements on lands. A donation so received shall become state property, be classified as school trust land as defined in section 92.025, and be managed consistent with section 120.85.

Subd. 2. [WETLANDS.] *The commissioner of natural resources must accept a gift, bequest, devise, or grant of wetlands, as defined in article 6, section 6, or public waters wetlands, as defined in section 103G.005,*

subdivision 18, unless:

(1) the commissioner determines that the value of the wetland for water quality, floodwater retention, public recreation, wildlife habitat, or other public benefits is minimal;

(2) the wetland has been degraded by activities conducted without a required permit by the person offering the wetland and the person has not taken actions determined by the commissioner to be necessary to restore the wetland;

(3) the commissioner determines that the wetland has been contaminated by a hazardous substance as defined in section 115B.02, subdivision 8, a pollutant or contaminant as defined in section 115B.02, subdivision 13, or petroleum as defined in section 115C.02, subdivision 10, and the contamination has not been remedied as required under chapter 115B or 115C;

(4) the wetland is subject to a lien or other encumbrance; or

(5) the commissioner, after reasonable effort, has been unable to obtain an access to the wetland.

Sec. 2. Minnesota Statutes 1990, section 103E.701, is amended by adding a subdivision to read:

Subd. 6. [WETLAND RESTORATION AND MITIGATION.] *Repair of a drainage system may include the restoration or enhancement of wetlands; wetland replacement under section 103G.222; and the realignment of a drainage system to prevent drainage of a wetland.*

Sec. 3. Minnesota Statutes 1990, section 103F.515, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE LAND.] (a) Land may be placed in the conservation reserve program if the land meets the requirements of paragraphs (b) and (c).

(b) Land is eligible if the land:

(1) is marginal agricultural land;

(2) is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description;

(3) consists of a drained wetland;

(4) is land that with a windbreak would be beneficial to resource protection;

(5) is land in a sensitive groundwater area;

(6) is cropland adjacent to public waters;

(7) is cropland *or noncropland* adjacent to restored wetlands to the extent of up to four acres of cropland *or one acre of noncropland* for each acre of wetland restored;

(8) is a woodlot on agricultural land;

(9) is abandoned building site on agricultural land, provided that funds are not used for compensation of the value of the buildings; or

(10) is land on a hillside used for pasture.

(c) Eligible land under paragraph (a) must:

(1) have been owned by the landowner on January 1, 1985, or be owned by the landowner, or a parent or other blood relative of the landowner, for at least one year before the date of application;

(2) be at least five acres in size, except for a windbreak, woodlot, or abandoned building site, or be a whole field as defined by the United States Agricultural Stabilization and Conservation Services;

(3) not be set aside, enrolled or diverted under another federal or state government program; and

(4) have been in agricultural crop production for at least two years during the period 1981 to 1985 except drained wetlands, woodlots, abandoned building sites, or land on a hillside used for pasture.

(d) The enrolled land of a landowner may not exceed 20 percent of the average farm size in the county where the land is being enrolled according to the average farm size determined by the United States Department of Agriculture, Census of Agriculture.

(e) In selecting drained wetlands for enrollment in the program, the highest priority must be given to wetlands with a cropping history during the period 1976 to 1985.

(f) In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in section 103F.505.

Sec. 4. Minnesota Statutes 1990, section 103G.005, subdivision 13a, is amended to read:

Subd. 13a. [ONCE-THROUGH SYSTEM.] "Once-through system" means a space heating, ventilating, air conditioning (HVAC), or refrigeration system used for any type of temperature or humidity control application, utilizing groundwater, that circulates through the system and is then discharged without ~~recirculating the majority of the water in the system components or~~ reusing it for ~~another~~ *a higher priority* purpose.

Sec. 5. Minnesota Statutes 1990, section 103G.271, subdivision 6, is amended to read:

Subd. 6. [WATER USE PERMIT PROCESSING FEE.] (a) Except as described in paragraphs (b) to ~~(e)~~ *(f)*, a water use permit processing fee must be prescribed by the commissioner in accordance with the following schedule of fees for each water use permit in force at any time during the year:

(1) 0.05 cents per 1,000 gallons for the first 50,000,000 gallons per year;

(2) 0.10 cents per 1,000 gallons for amounts greater than 50,000,000 gallons but less than 100,000,000 gallons per year;

(3) 0.15 cents per 1,000 gallons for amounts greater than 100,000,000 gallons but less than 150,000,000 gallons per year; and

(4) 0.20 cents per 1,000 gallons for amounts greater than 150,000,000 gallons but less than 200,000,000 gallons per year;

(5) 0.25 cents per 1,000 gallons for amounts greater than 200,000,000 gallons but less than 250,000,000 gallons per year;

(6) 0.30 cents per 1,000 gallons for amounts greater than 250,000,000 gallons but less than 300,000,000 gallons per year;

(7) 0.35 cents per 1,000 gallons for amounts greater than 300,000,000 gallons but less than 350,000,000 gallons per year;

(8) 0.40 cents per 1,000 gallons for amounts greater than 350,000,000 gallons but less than 400,000,000 gallons per year; and

(9) 0.45 cents per 1,000 gallons for amounts greater than 400,000,000 gallons per year.

(b) For once-through cooling systems, a water use processing fee must be prescribed by the commissioner in accordance with the following schedule of fees for each water use permit in force at any time during the year:

(1) for nonprofit corporations and school districts:

(i) 5.0 cents per 1,000 gallons until December 31, 1991;

(ii) 10.0 cents per 1,000 gallons from January 1, 1992, until December 31, 1996; and

(iii) 15.0 cents per 1,000 gallons after January 1, 1997; and

(2) for all other users ~~after January 1, 1990~~, 20 cents per 1,000 gallons.

(c) The fee is payable based on the amount of water appropriated during the year and ~~in no case may~~, *except as provided in paragraph (f),* the *minimum* fee ~~be less than~~ *is* $50. ~~The commissioner shall notify all permittees of the fee changes authorized by this law by July 1, 1990. The commissioner is authorized to refund 1989 water use report processing fees under this subdivision.~~

(d) For water use processing fees other than once-through cooling systems:

(1) the fee for a city of the first class may not exceed $175,000 per year;

(2) the fee for other entities for any permitted use may not exceed:

(i) $35,000 per year for an entity holding three or fewer permits;

(ii) $50,000 per year for an entity holding four or five permits;

(iii) $175,000 per year for an entity holding more than five permits;

(3) the fee for agricultural irrigation may not exceed $750 per year.

(e) Failure to pay the fee is sufficient cause for revoking a permit. *A penalty of two percent per month calculated from the original due date must be imposed on the unpaid balance of fees remaining 30 days after the sending of a second notice of fees due.* A fee may not be imposed on an agency, as defined in section 16B.01, subdivision 2, or federal governmental agency holding a water appropriation permit.

(f) *The minimum water use processing fee for a permit issued for irrigation of agricultural land is $10 for years in which:*

(1) there is no appropriation of water under the permit; or

(2) the permit is suspended for more than seven consecutive days between May 1 and October 1.

(g) For once-through systems fees payable after July 1, 1993, at least 50 percent of the fee deposited in the general fund shall be used for grants, loans, or other financial assistance as appropriated by the legislature to

assist in financing retrofitting of permitted once-through systems until December 31, 1999. The commissioner shall adopt rules for determining eligibility and criteria for the issuance of grants, loans, or other financial assistance for retrofitting according to chapter 14, by July 1, 1993.

~~(g) This subdivision applies to permits issued or effective on or after January 1, 1990.~~

Sec. 6. [103G.2373] [ANNUAL WETLANDS REPORT.]

By January 1 of each year, the commissioner of natural resources and the board of water and soil resources shall jointly report to the committees of the legislature with jurisdiction over matters relating to agriculture, the environment, and natural resources on:

(1) the status of implementation of state laws and programs relating to wetlands;

(2) the quantity, quality, acreage, types, and public value of wetlands in the state; and

(3) changes in the items in clause (2).

Sec. 7. Minnesota Statutes 1990, section 273.11, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] Except as provided in subdivisions 6, 8, ~~and~~ 9, *and 11* or section 273.17, subdivision 1, all property shall be valued at its market value. The market value as determined pursuant to this section shall be stated such that any amount under $100 is rounded up to $100 and any amount exceeding $100 shall be rounded to the nearest $100. In estimating and determining such value, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall the assessor adopt as a criterion of value the price for which such property would sell at a forced sale, or in the aggregate with all the property in the town or district; but the assessor shall value each article or description of property by itself, and at such sum or price as the assessor believes the same to be fairly worth in money. The assessor shall take into account the effect on the market value of property of environmental factors in the vicinity of the property. In assessing any tract or lot of real property, the value of the land, exclusive of structures and improvements, shall be determined, and also the value of all structures and improvements thereon, and the aggregate value of the property, including all structures and improvements, excluding the value of crops growing upon cultivated land. In valuing real property upon which there is a mine or quarry, it shall be valued at such price as such property, including the mine or quarry, would sell for a fair, voluntary sale, for cash. In valuing real property which is vacant, the fact that such property is platted shall not be taken into account. An individual lot of such platted property shall not be assessed in excess of the valuation of the land as if it were unplatted until the lot is improved with a permanent improvement all or a portion of which is located upon the lot, or for a period of three years after final approval of said plat whichever is shorter. When a lot is sold or construction begun, that lot or any single contiguous lot fronting on the same street shall be eligible for revaluation. All property, or the use thereof, which is taxable under section 272.01, subdivision 2, or 273.19, shall be valued at the market value of such property and not at the value of a leasehold estate in such property, or at some lesser value than its market value.

Sec. 8. Minnesota Statutes 1990, section 273.11, is amended by adding a subdivision to read:

Subd. 11. [VALUATION OF RESTORED OR PRESERVED WETLAND.] *Wetlands restored by the federal, state, or local government, or by a nonprofit organization, or preserved under the terms of a temporary or perpetual easement by the federal or state government, must be valued by assessors at their wetland value. "Wetland value" in this subdivision means the market value of wetlands in any potential use in which the wetland character is not permanently altered. Wetland value shall not reflect potential uses of the wetland that would violate the terms of any existing conservation easement, or any one-time payment received by the wetland owner under the terms of a state or federal conservation easement. Wetland value shall reflect any potential income consistent with a property's wetland character, including but not limited to lease payments for hunting or other recreational uses. The commissioner of revenue shall issue a bulletin advising assessors of the provisions of this section by October 1, 1991.*

For purposes of this subdivision, "wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

(1) have a predominance of hydric soils;

(2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(3) under normal circumstances support a prevalence of such vegetation.

Sec. 9. Minnesota Statutes 1990, section 282.018, subdivision 2, is amended to read:

Subd. 2. [MARGINAL LAND AND WETLANDS.] Nonforested marginal land and wetlands on land that is property of the state as a result of forfeiture to the state for nonpayment of taxes is withdrawn from sale as provided in section 103F.535 unless ~~restricted by a conservation easement as provided in section 103F.535~~:

(1) notice of the existence of the nonforested marginal land or wetlands, in a form prescribed by the board of water and soil resources, is provided to prospective purchasers; and

(2) the deed contains a restrictive covenant, in a form prescribed by the board of water and soil resources, that precludes enrollment of the land in a state-funded program providing compensation for conservation of marginal land or wetlands.

Sec. 10. Minnesota Statutes 1990, section 446A.12, subdivision 1, is amended to read:

Subdivision 1. [BONDING AUTHORITY.] The authority may issue negotiable bonds in a principal amount that the authority determines necessary to provide sufficient funds for achieving its purposes, including the making of loans and purchase of securities, the payment of interest on bonds of the authority, the establishment of reserves to secure its bonds, the payment of fees to a third party providing credit enhancement, and the payment of all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers, but not including the making

of grants. Bonds of the authority may be issued as bonds or notes or in any other form authorized by law. The principal amount of bonds issued and outstanding under this section at any time may not exceed ~~$150,000,000~~ *$250,000,000*.

Sec. 11. [STUDY OF FARMLAND VALUATION.]

(a) The commissioner of revenue shall appoint a five-member farmland assessment technical advisory board, consisting of technical experts from the schools of agriculture of the University of Minnesota and the state university system and from state and federal agricultural agencies, to advise in and provide technical information regarding the method of valuing farmland according to productivity factors as described in this section. The department of revenue shall determine the following data on a per acre basis by soil productivity index, based on moving averages for the most recent five-year period for which statistics are available:

(1) gross income, estimated by using yields per acre as assigned to soil productivity indices, the crop mix for each soil productivity index as determined by the Minnesota extension service, and average prices received by farmers for principal crops as published by the Minnesota crop reporting service;

(2) production costs, other than land costs, provided by the Minnesota extension service; and

(3) net return to land, which is the difference between clauses (1) and (2).

(b) The department of revenue shall certify a proposed agricultural economic value per acre for each soil productivity index, determined by dividing the net return to land as calculated in paragraph (a), clause (3), by the moving average of the federal land bank farmland mortgage interest rate for the same five-year period used in calculating the net return to land.

(c) If the crop equivalency rating is not available in a county, the department of revenue shall use rentals or yield records of the United States Department of Agriculture Agricultural Stabilization and Conservation Service in determining the net income. The rentals or yield records must be capitalized in the same manner to determine the valuation of the tillable agricultural land. The commissioner shall provide a report to the legislature on the results of the study by December 1, 1991, that includes a plan for implementation of this method of valuing farmland and an analysis of the impacts on assessments of implementing it.

Sec. 12. [REPEALER.]

Minnesota Statutes 1990, section 103G.221, subdivisions 2 and 3, are repealed.

ARTICLE 11

APPROPRIATIONS

Section 1. [APPROPRIATIONS; INCREASED COMPLEMENT.]

Subdivision 1. $12,000,000 is appropriated from the bond proceeds fund to be divided as follows:

(a) $5,000,000 is appropriated to the board of water and soil resources for wetland restoration under Minnesota Statutes, section 103F.515; and

(b) $7,000,000 is appropriated to the board of water and soil resources for acquisition of conservation easements on wetlands.

Subd. 2. $1,900,000 in fiscal year 1992 and $1,100,000 in fiscal year 1993 is appropriated from the general fund to be divided as follows:

(a) Board of water and soil resources for the following purposes:

(1) $297,500 in fiscal year 1992 and $425,000 in fiscal year 1993 for implementation of this act. The complement of the board is increased by 12 positions.

(2) $100,000 in fiscal year 1992 and $100,000 in fiscal year 1993 for grants to the Minnesota association of soil and water conservation districts for education and training of local government officials relating to the implementation of this act. Not more than five percent of a grant made under this section may be used for administrative expenses.

(3) $1,100,000 for fiscal year 1992 for wetland restoration under Minnesota Statutes, section 103F.515.

(b) $402,500 in fiscal year 1992 and $575,000 in fiscal year 1993 to the commissioner of natural resources for implementation of this act. The complement of the department of natural resources is increased by nine in fiscal year 1992 and by an additional five in fiscal year 1993.

(c) $77,000 in fiscal year 1992 and $77,000 in fiscal year 1993 to the attorney general for costs incurred under this act.

(d) The appropriations under this subdivision are available in either year of the biennium.

Sec. 2. [SALE OF BONDS.]

Subdivision 1. (a) To provide the money appropriated from the bond proceeds fund in 1991 S.F. No. 1533, the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to $16,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI.

(b) To provide the money appropriated from the bond proceeds fund in this act, the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to $12,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI.

Subd. 2. [EXISTING BONDING AUTHORITY.] *Existing funds previously appropriated from the bond proceeds fund for the waterbank program under Minnesota Statutes, section 105.392 are transferred and appropriated to the board of water and soil resources for easements under article 3, section 1.*

Sec. 3. [EFFECTIVE DATE.]

This article is effective July 1, 1991."

Delete the title and insert:

"A bill for an act relating to wetlands; declaring legislative findings and stating public policy; establishing a program of wetland prioritization and planning; providing for wetland preservation areas and for cost sharing for wetland establishment and restoration; establishing a program for peatland

area protection and designating peatland scientific and natural areas; regulating discharge of dredged and fill material into state waters; regulating activities altering the character of wetlands; authorizing bond sales and appropriating proceeds; amending Minnesota Statutes 1990, sections 84.085; 103A.201; 103B.155; 103B.231, subdivision 6; 103B.311, subdivision 6; 103E.701, by adding a subdivision; 103F.515, subdivision 2; 103G.005, subdivisions 13a, 15, 18, and by adding subdivisions; 103G.141; 103G.221; 103G.225; 103G.231; 103G.235; 103G.271, subdivision 6; 272.02, subdivision 1; 273.11, subdivision 1, and by adding a subdivision; 282.018, subdivision 2; 446A.12, subdivision 1; and 645.44, subdivision 8a; proposing coding for new law in Minnesota Statutes, chapters 84; 103B; 103F; and 103G; repealing Minnesota Statutes, section 103G.221, subdivisions 2 and 3."

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

House Conferees: (Signed) Willard Munger, Steve Dille, Marcus Marsh, Phyllis Kahn, Jeff Bertram

Senate Conferees: (Signed) Charles R. Davis, Gene Merriam, Jim Vickerman, Earl W. Renneke

Mr. Davis moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1 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. 1 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 63 and nays 3, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnson, J.B.	Metzen	Reichgott
Beckman	DeCramer	Johnston	Moe, R.D.	Renneke
Belanger	Dicklich	Kelly	Mondale	Riveness
Benson, D.D.	Finn	Knaak	Morse	Sams
Benson, J.E.	Flynn	Kroening	Neuville	Samuelson
Berglin	Frank	Laidig	Novak	Solon
Bernhagen	Frederickson, D.J.	Larson	Olson	Spear
Bertram	Frederickson, D.R.	Lessard	Pappas	Storm
Brataas	Halberg	Luther	Pariseau	Traub
Chmielewski	Hottinger	Marty	Piper	Vickerman
Cohen	Hughes	McGowan	Pogemiller	Waldorf
Dahl	Johnson, D.E.	Mehrkens	Price	
Davis	Johnson, D.J.	Merriam	Ranum	

Messrs. Berg, Langseth and Stumpf voted in the negative.

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 the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 100, 565 and 1019.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. introduced—

Senate Concurrent Resolution No. 7: A Senate concurrent resolution relating to adjournment of the Senate and House of Representatives until 1992.

BE IT RESOLVED, by the Senate of the State of Minnesota, the House of Representatives concurring:

(1) Upon their adjournments on May 20, 1991, the Senate may set its next day of meeting for Monday, January 6, 1992, at 2:00 p.m. and the House of Representatives may set its next day of meeting for Monday, January 6, 1992, at 2:00 p.m.

(2) By the adoption of this resolution, each house consents to adjournment of the other house for more than three days.

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

Mr. Moe, R.D. introduced—

Senate Resolution No. 77: A Senate resolution relating to conduct of Senate business during the interim between Sessions.

BE IT RESOLVED, by the Senate of the State of Minnesota:

The powers, duties and procedures set forth in this resolution apply during the interim between the adjournment of the 77th Legislature, 1991 session and the convening of the 77th Legislature, 1992 session.

The Subcommittee on Committees of the Committee on Rules and Administration shall appoint persons as necessary to fill any vacancies that may occur in committees, commissions, and other bodies whose members are to be appointed by the Senate authorized by rule, statute, resolution, or otherwise.

The Committee on Rules and Administration shall establish positions, set compensation and benefits, appoint employees and authorize expense reimbursement as it deems proper to carry out the work of the Senate.

The Secretary of the Senate shall classify as "permanent" for purposes of Minnesota Statutes, sections 3.095 and 43A.24 the Senate employees certified as "permanent" by the Committee on Rules and Administration.

The Secretary of the Senate may employ after the close of the session the employees necessary to finish the business of the Senate at the salaries paid under the rules of the Senate for the 1991 regular session. The Secretary of the Senate may employ the necessary employees to prepare for the 1992 session at the salaries in effect at that time.

The Secretary of the Senate, as authorized and directed by the Committee on Rules and Administration, shall furnish each member of the Senate with postage and supplies, and may reimburse each member for long distance telephone calls and answering service upon proper verification of the

expenses incurred, and for such other expenses authorized from time to time by the Committee on Rules and Administration.

The Secretary of the Senate shall correct and approve the Journal of the Senate for those days that have not been corrected and approved by the Senate, and shall correct printing errors found in the Journal of the Senate for the 1991 session. The Secretary of the Senate may include in the Senate Journal proceedings of the last day, appointments by the Subcommittee on Committees to interim commissions created by legislative action, permanent commissions or committees established by statute, standing committees, official communications and other matters of record received on or after May 20, 1991.

The Secretary of the Senate may pay election and litigation costs as authorized by the Committee on Rules and Administration.

The Secretary of the Senate, with the approval of the Committee on Rules and Administration, shall secure bids and enter into contracts for remodeling and improvement of Senate office space, and shall purchase all supplies, equipment, and other goods and services necessary to carry out the work of the Senate. Contracts in excess of $5,000 must be signed by the Chair of the Committee on Rules and Administration and another member designated by the Chair.

The Secretary of the Senate shall draw warrants from the legislative expense fund in payment of the accounts referred to in this resolution.

All Senate records, including committee books, are subject to the direction of the Committee on Rules and Administration.

The Senate Chamber, retiring room, committee rooms, all conference rooms, storage rooms, Secretary of the Senate's office, Rules and Administration office, and any and all other space assigned to the Senate, are reserved for use by the Senate and its standing committees only and must not be released or used for any other purpose except upon the authorization of the Secretary of the Senate with the approval of the Committee on Rules and Administration or its Chair.

The Custodian of the Capitol shall continue to provide parking space for members and staff of the Legislature under Senate Concurrent Resolution No. 2.

Mr. Moe, R.D. moved the adoption of the foregoing resolution.

The question was taken on the adoption of the foregoing resolution.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, J.B.	Merriam	Reichgott
Beckman	Day	Johnston	Moe, R.D.	Renneke
Belanger	DeCramer	Kelly	Mondale	Riveness
Benson, D.D.	Dicklich	Knaak	Morse	Sams
Benson, J.E.	Frank	Kroening	Neuville	Samuelson
Berg	Frederickson, D.J.	Laidig	Novak	Solon
Berglin	Frederickson, D.R.	Langseth	Olson	Spear
Bernhagen	Gustafson	Larson	Pappas	Storm
Bertram	Halberg	Lessard	Pariseau	Traub
Brataas	Hottinger	Luther	Piper	Vickerman
Chmielewski	Hughes	Marty	Pogemiller	Waldorf
Cohen	Johnson, D.E.	McGowan	Price	
Dahl	Johnson, D.J.	Mehrkens	Ranum	

The motion prevailed. So the resolution was adopted.

Mr. Metzen introduced—

Senate Resolution No. 78: A Senate resolution congratulating Andrea Bennett for 13 years of perfect school attendance.

Referred to the Committee on Rules and Administration.

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

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Moe, R.D. introduced—

S.F. No. 1589: A bill for an act relating to railroads; requiring reflectorized tape on railroad engines and cars; amending Minnesota Statutes 1990, section 219.383, by adding a subdivision.

Referred to the Committee on Transportation.

Messrs. Stumpf and Chmielewski introduced—

S.F. No. 1590: A bill for an act relating to unemployment compensation; pertaining to treatment of American Indian tribes as employers for purposes of unemployment compensation insurance contributions; amending Minnesota Statutes 1990, section 268.06, by adding a subdivision.

Referred to the Committee on Employment.

Messrs. Spear, Marty and Belanger introduced—

S.F. No. 1591: A bill for an act relating to crime victims; providing for mediation programs for crime victims and offenders; appropriating money.

Referred to the Committee on Judiciary.

Mses. Piper; Ranum; Flynn; Johnson, J.B. and Mr. Moe, R.D. introduced—

S.F. No. 1592: A bill for an act relating to state government; providing for an official state book; proposing coding for new law in Minnesota Statutes, chapter 1.

Referred to the Committee on Governmental Operations.

Ms. Pappas, Mr. Cohen, Mses. Traub and Piper introduced—

S.F. No. 1593: A resolution memorializing Congress to direct the federal Food and Drug Administration to conduct clinical trials on the drug RU-486.

Referred to the Committee on Health and Human Services.

Mr. Merriam introduced—

S.F. No. 1594: A bill for an act relating to forfeiture; limiting the evidentiary presumption applicable to administrative forfeiture; requiring a preliminary determination of probable cause to continue holding certain seized property; amending Minnesota Statutes 1990, sections 609.5314, subdivisions 1, 2, and by adding a subdivision; and 609.5315, subdivision 5.

Referred to the Committee on Judiciary.

Mr. Kelly, Mses. Pappas, Traub and Mr. McGowan introduced—

S.F. No. 1595: A bill for an act relating to crimes; making it a crime for a parent to endanger a child by using, selling, or manufacturing controlled substances in the child's presence; prescribing penalties; amending Minnesota Statutes 1990, section 609.378, subdivision 1.

Referred to the Committee on Judiciary.

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

House File No. 783 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1991

CONFERENCE COMMITTEE REPORT ON H.F. NO. 783

A bill for an act relating to health; modifying requirements for drilling, sealing, and construction of wells, borings, and elevator shafts; amending Minnesota Statutes 1990, sections 103I.005, subdivisions 2, 22, and by adding a subdivision; 103I.101, subdivisions 2, 4, 5, and 6; 103I.105; 103I.111, subdivisions 2b, 3, and by adding a subdivision; 103I.205, subdivisions 1, 3, 4, 7, 8, and 9; 103I.208, subdivision 2; 103I.231; 103I.235; 103I.301, subdivision 1, and by adding a subdivision; 103I.311, subdivision 3; 103I.331, subdivision 2; 103I.525, subdivisions 1, 4, 8, and 9; 103I.531, subdivisions 5, 8, and 9; 103I.535, subdivisions 8 and 9; 103I.541, subdivisions 4 and 5; 103I.545, subdivision 2; 103I.621, subdivision 3; 103I.701, subdivisions 1 and 4; 103I.705, subdivisions 2, 3, 4, and 5; and 103I.711, subdivision 1; repealing Minnesota Statutes 1990, section 103I.005, subdivision 18.

May 20, 1991

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 783, 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. 783 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 18E.03, subdivision 4, is amended to read:

Subd. 4. [FEE THROUGH 1990.] (a) The response and reimbursement fee consists of the surcharge fees in this subdivision and shall be collected until March 1, 1991.

(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26, subdivision 3, that is equal to 0.1 percent of sales of the pesticide in the state and sales of pesticides for use in the state during the period April 1, 1990, through December 31, 1990~~, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner~~. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under section 18B.26, subdivision 3, paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the surcharge in this paragraph if the registrant properly documents the sale location and the distributors.

(c) The commissioner shall impose a ten cents per ton surcharge on the inspection fee under section 18C.425, subdivision 6, for fertilizers, soil amendments, and plant amendments.

(d) The commissioner shall impose a surcharge on the license application of persons licensed under chapters 18B and 18C consisting of:

(1) a $150 surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under section 18B.31, subdivision 5;

(2) a $150 surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under sections 18C.415 and 18C.425;

(3) a $50 surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;

(4) a $20 surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7;

(5) a $20 surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency,

political subdivision of the state, the federal government, or an agency of the federal government; and

(6) a ~~$50~~ *$25* surcharge for licensed lawn service applicators under chapter 18B or 18C, to be imposed on license application fees.

(e) If a person has more than one license for a site, only one surcharge may be imposed to cover all the licenses for the site.

(f) A $1,000 fee shall be imposed on each site where pesticides are stored and sold for use outside of the state unless:

(1) the distributor properly documents that it has less than $2,000,000 per year in wholesale value of pesticides stored and transferred through the site; or

(2) the registrant pays the surcharge under paragraph (b) and the registration fee under section 18B.26, subdivision 3, for all of the pesticides stored at the site and sold for use outside of the state.

(g) Paragraphs (c) to (f) apply to sales, licenses issued, applications received for licenses, and inspection fees imposed on or after July 1, 1990.

Sec. 2. Minnesota Statutes 1990, section 18E.03, subdivision 5, is amended to read:

Subd. 5. [FEE AFTER 1990.] (a) The response and reimbursement fee for calendar years after calendar year 1990 consists of the surcharges in this subdivision and shall be collected by the commissioner. The amount of the response and reimbursement fee shall be determined and imposed annually as required under subdivision 3. The amount of the surcharges shall be proportionate to the surcharges in subdivision 4.

(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26, subdivision 3, as a percent of gross sales of the pesticide in the state and sales of the pesticide for use in the state during the previous calendar year~~, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner~~. *No surcharge is required if the surcharge amount based upon percent of annual gross sales is less than $10.* The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under section 18B.26, subdivision 3, paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the surcharge in this paragraph if the registrant properly documents the sale locations and the distributors.

(c) The commissioner shall impose a fee per ton surcharge on the inspection fee under section 18C.425, subdivision 6, for fertilizers, soil amendments, and plant amendments.

(d) The commissioner shall impose a surcharge on the application fee of persons licensed under chapters 18B and 18C consisting of:

(1) a surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under

section 18B.31, subdivision 5;

(2) a surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under sections 18C.415 and 18C.425;

(3) a surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;

(4) a surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7;

(5) a surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency, a political subdivision of the state, the federal government, or an agency of the federal government; and

(6) a surcharge for licensed lawn service applicators under chapter 18B or 18C, to be imposed on license application fees.

(e) If a person has more than one license for a site, only one surcharge may be imposed to cover all the licenses for the site.

(f) A $1,000 fee shall be imposed on each site where pesticides are stored and sold for use outside of the state unless:

(1) the distributor properly documents that it has less than $2,000,000 per year in wholesale value of pesticides stored and transferred through the site; or

(2) the registrant pays the surcharge under paragraph (b) and the registration fee under section 18B.26, subdivision 3, for all of the pesticides stored at the site and sold for use outside of the state.

Sec. 3. Minnesota Statutes 1990, section 18E.04, subdivision 4, is amended to read:

Subd. 4. [REIMBURSEMENT PAYMENTS.] (a) The board shall pay a person that is eligible for reimbursement or payment under subdivisions 1, 2, and 3 from the agricultural chemical response and reimbursement account for:

(1) 90 percent of the total reasonable and necessary corrective action costs greater than $1,000 and less than *or equal to* $100,000; and

(2) 100 percent of the total reasonable and necessary corrective action costs ~~equal to or~~ greater than $100,000 but less than *or equal to* $200,000.

(b) A reimbursement or payment may not be made until the board has determined that the costs are reasonable and are for a reimbursement of the costs that were actually incurred.

(c) The board may make periodic payments or reimbursements as corrective action costs are incurred upon receipt of invoices for the corrective action costs.

(d) Money in the agricultural chemical response and reimbursement account is appropriated to the commissioner to make payments and reimbursements directed by the board under this subdivision.

Sec. 4. Minnesota Statutes 1990, section 18E.04, subdivision 5, is

amended to read:

Subd. 5. [REIMBURSEMENT OR PAYMENT DECISIONS.] (a) The board may issue a letter of intent on whether a person is eligible for payment or reimbursement. The letter is not binding on the board.

(b) The board must issue an order granting or denying a request within 30 days following *the board meeting at which the board votes to grant or deny* a request for reimbursement or for payment under subdivision 1, 2, or 3.

(c) After an initial request is made for reimbursement, notwithstanding subdivisions 1 to 4, the board may deny additional requests for reimbursement.

(d) If a request is denied, the eligible person may appeal the decision as a contested case hearing under chapter 14.

Sec. 5. Minnesota Statutes 1990, section 18E.05, subdivision 3, is amended to read:

Subd. 3. [PROCEDURES.] The board must ~~issue an order granting or denying a request within 30 days of receipt of a completed application unless the applicant and the commissioner agree to a longer time period.~~ *receive a completed application at least 30 days before a board meeting in order for a request for reimbursement or payment to be considered at that meeting, unless the applicant and the commissioner agree to a longer time period. The board may waive the 30-day requirement if it determines that undue financial hardship to the applicant will result if action is delayed until the next regular meeting. The board must act upon a completed application request at the next regular board meeting, unless additional information is required from the applicant or the commissioner.* If the board denies reimbursement *or payment*, its decision may be appealed in a contested case proceeding under chapter 14.

Sec. 6. Minnesota Statutes 1990, section 103I.005, subdivision 2, is amended to read:

Subd. 2. [BORING.] "Boring" means a hole or excavation that is not used to extract water and includes exploratory borings ~~and~~, environmental bore holes, *vertical heat exchangers, and elevator shafts*.

Sec. 7. Minnesota Statutes 1990, section 103I.005, subdivision 22, is amended to read:

Subd. 22. [WELL *DISCLOSURE* CERTIFICATE.] "Well *disclosure* certificate" means a certificate containing the requirements of section 103I.235, subdivision 1, paragraph (e).

Sec. 8. Minnesota Statutes 1990, section 103I.005, is amended by adding a subdivision to read:

Subd. 23a. [WELL THAT IS IN USE.] *A "well that is in use" means a well that operates on a daily, regular, or seasonal basis. A well in use includes a well that operates for the purpose of irrigation, fire protection, or emergency pumping.*

Sec. 9. Minnesota Statutes 1990, section 103I.101, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] The commissioner shall:

(1) regulate the drilling, construction, *modification, repair,* and sealing of wells and borings;

(2) examine and license well contractors, persons modifying or repairing well casings, well screens, or well diameters; constructing, repairing, and sealing unconventional wells such as drive point wells or dug wells; constructing, repairing, and sealing dewatering wells; sealing wells; installing well pumps or pumping equipment; and excavating or drilling holes for the installation of elevator shafts or hydraulic cylinders;

(3) register and examine monitoring well contractors;

(4) license explorers engaged in exploratory boring and examine individuals who supervise or oversee exploratory boring;

(5) after consultation with the commissioner of natural resources and the pollution control agency, establish standards for the design, location, construction, repair, and sealing of wells, elevator shafts, and borings within the state; and

(6) issue permits for wells, groundwater thermal devices, vertical heat exchangers, and excavation for holes to install elevator shafts or hydraulic cylinders.

Sec. 10. Minnesota Statutes 1990, section 1031.101, subdivision 4, is amended to read:

Subd. 4. [INSPECTIONS BY COMMISSIONER.] The commissioner may inspect, collect water samples, and have access, at all reasonable times, to a well *or boring* site, including wells *or borings* drilled, sealed, or repaired.

Sec. 11. Minnesota Statutes 1990, section 1031.101, subdivision 5, is amended to read:

Subd. 5. [COMMISSIONER TO ADOPT RULES.] The commissioner shall adopt rules including:

(1) issuance of licenses for:

(i) qualified well contractors, persons modifying or repairing well casings, well screens, or well diameters;

(ii) persons constructing, repairing, and sealing unconventional wells such as drive points or dug wells;

(iii) persons constructing, repairing, and sealing dewatering wells;

(iv) persons sealing wells; and

(v) persons installing well pumps or pumping equipment and excavating holes for installing elevator shafts or hydraulic cylinders;

(2) issuance of registration for monitoring well contractors;

(3) establishment of conditions for examination and review of applications for license and registration;

(4) establishment of conditions for revocation and suspension of license and registration;

(5) establishment of minimum standards for design, location, construction, repair, and sealing of wells to implement the purpose and intent of this chapter;

(6) establishment of a system for reporting on wells *and borings* drilled and sealed;

(7) modification of fees prescribed in this chapter, according to the procedures for setting fees in section 16A.128;

(8) establishment of standards for the construction, maintenance, sealing, and water quality monitoring of wells in areas of known or suspected contamination, for which the commissioner may adopt emergency rules;

(9) establishment of wellhead protection measures for wells serving public water supplies;

(10) establishment of procedures to coordinate collection of well data with other state and local governmental agencies; ~~and~~

(11) establishment of criteria and procedures for submission of well logs, formation samples or well cuttings, water samples, or other special information required for and water resource mapping~~.~~*; and*

(12) establishment of minimum standards for design, location, construction, maintenance, repair, sealing, safety, and resource conservation related to borings, including exploratory borings as defined in section 1031.005, subdivision 9.

Until the commissioner adopts rules under this chapter to replace rules relating to wells and borings that were adopted under chapter 156A, the rules adopted under chapter 156A shall remain in effect.

Sec. 12. Minnesota Statutes 1990, section 1031.101, subdivision 6, is amended to read:

Subd. 6. [FEES FOR VARIANCES.] The commissioner shall charge a nonrefundable application fee of $100 to cover the administrative cost of processing a request for a variance or modification of rules ~~under Minnesota Rules, chapter 4725, for wells and borings~~ *adopted by the commissioner under this chapter.*

Sec. 13. Minnesota Statutes 1990, section 1031.105, is amended to read:

1031.105 [ADVISORY COUNCIL ON WELLS AND BORINGS.]

(a) The advisory council on wells and borings is established as an advisory council to the commissioner. The advisory council shall consist of ~~15~~ *17* voting members. Of the ~~15~~ *17* voting members:

(1) one member must be from the department of health, appointed by the commissioner of health;

(2) one member must be from the department of natural resources, appointed by the commissioner of natural resources;

(3) one member must be a member of the Minnesota geological survey of the University of Minnesota, appointed by the director;

(4) one member must be a licensed exploratory borer;

(5) one member must be a licensed elevator shaft contractor;

(6) two members must be members of the public who are not connected with the business of exploratory boring or the well drilling industry;

(7) one member must be from the pollution control agency, appointed by the commissioner of the pollution control agency;

(8) *one member must be from the department of transportation, appointed by the commissioner of transportation;*

(9) one member from the board of water and soil resources appointed by its chair;

(10) one member must be a monitoring well contractor; and

~~(9)~~ *(11)* six members must be residents of this state appointed by the commissioner, who are actively engaged in the well drilling industry, with not more than two from the seven-county metropolitan area and at least four from other areas of the state who represent different geographical regions.

(b) An appointee of the well drilling industry may not serve more than two consecutive terms.

(c) The appointees to the advisory council from the well drilling industry must:

(1) have been residents of this state for at least three years before appointment; and

(2) have at least five years' experience in the well drilling business.

(d) The terms of the appointed members and the compensation and removal of all members are governed by section 15.059, except section 15.059, subdivision 5, relating to expiration of the advisory council does not apply.

Sec. 14. Minnesota Statutes 1990, section 103I.111, subdivision 2a, is amended to read:

Subd. 2a. [FEES.] A board of health under a delegation agreement with the commissioner may charge permit and notification fees, *including a fee for well sealing,* in excess of the fees specified in section 103I.208 if the fees do not exceed the total direct and indirect costs to administer the delegated duties.

Sec. 15. Minnesota Statutes 1990, section 103I.111, subdivision 2b, is amended to read:

Subd. 2b. [ORDINANCE AUTHORITY.] A political subdivision may adopt ordinances to enforce and administer powers and duties delegated under this section. The ordinances may not ~~conflict~~ *be inconsistent* with or be less restrictive than standards in state law or rule. Ordinances adopted by the governing body of a statutory or home rule charter city or town may not ~~conflict~~ *be inconsistent* with or be less restrictive than ordinances adopted by the county board. *The commissioner shall review ordinances proposed under a delegation agreement. The commissioner shall approve ordinances if the commissioner determines the ordinances are not inconsistent with and not less restrictive than the provisions of this chapter.*

Sec. 16. Minnesota Statutes 1990, section 103I.111, is amended by adding a subdivision to read:

Subd. 2c. [PERMITS.] *A board of health under a delegation agreement with the commissioner may require permits in lieu of the notifications required under sections 103I.205 and 103I.301.*

Sec. 17. Minnesota Statutes 1990, section 103I.111, subdivision 3, is amended to read:

Subd. 3. [PREEMPTION UNLESS DELEGATION.] Notwithstanding any other law, a political subdivision may not regulate the ~~permitting,~~ construction, repair, or sealing of wells or elevator shafts unless the commissioner delegates authority under subdivisions 1 and 2.

Sec. 18. Minnesota Statutes 1990, section 103I.205, subdivision 1, is amended to read:

Subdivision 1. [NOTIFICATION REQUIRED.] (a) Except as provided in paragraphs (d) and (e), a person may not construct a well until a notification of the proposed well on a form prescribed by the commissioner is filed with the commissioner with the filing fee in section 103I.208. If after filing the well notification an attempt to construct a well is unsuccessful, a new notification is not required unless the information relating to the successful well has substantially changed.

(b) The property owner, the property owner's agent, or the well contractor where a well is to be located must file the well notification with the commissioner.

(c) The well notification under this subdivision preempts local permits and notifications, and counties or home rule charter or statutory cities may not require a permit or notification for wells *unless the commissioner has delegated the permitting or notification authority under section 103I.111.*

(d) A person who is an individual that constructs a drive point well on property owned or leased by the individual for farming or agricultural purposes or as the individual's place of abode must notify the commissioner of the installation and location of the well. The person must complete the notification form prescribed by the commissioner and mail it to the commissioner by ten days after the well is completed. A fee may not be charged for the notification. A person who sells drive point wells at retail must provide buyers with notification forms and informational materials including requirements regarding wells, their location, construction, and disclosure. The commissioner must provide the notification forms and informational materials to the sellers.

(e) A person may not construct a monitoring well or dewatering well until a permit ~~for the monitoring well~~ is issued by the commissioner for the construction. If after obtaining a permit an attempt to construct a well is unsuccessful, a new permit is not required as long as the initial permit is modified to indicate the location of the successful well.

Sec. 19. Minnesota Statutes 1990, section 103I.205, subdivision 3, is amended to read:

Subd. 3. [MAINTENANCE PERMIT.] (a) Except as provided under paragraph (b), a well that is not in use ~~and is inoperable~~ must be sealed or have a maintenance permit.

(b) If a monitoring well or a dewatering well is not sealed by 14 months after completion of construction, the owner of the property on which the well is located must obtain and annually renew a maintenance permit from the commissioner.

Sec. 20. Minnesota Statutes 1990, section 103I.205, subdivision 4, is amended to read:

Subd. 4. [LICENSE REQUIRED.] (a) Except as provided in paragraph (b), (c), *or* (d), ~~or (c),~~ a person may not drill, construct, ~~or~~ repair, *or seal*

a well unless the person has a well contractor's license in possession.

(b) A person may construct a monitoring well if the person:

(1) is a professional engineer registered under sections 326.02 to 326.15 in the branches of civil or geological engineering~~, or hydrologists~~;

(2) is a hydrologist or ~~hydrogeologists~~ *hydrogeologist* certified by the American Institute of Hydrology~~, any~~;

(3) is a professional engineer registered with the board of architecture, engineering, land surveying, or landscape architecture~~, or~~;

(4) is a geologist certified by the American Institute of Professional Geologists~~, and registers~~; *or*

(5) meets the qualifications established by the commissioner in rule.

A person must register with the commissioner as a monitoring well contractor on forms provided by the commissioner.

(c) A person may do the following work with a limited well contractor's license in possession. A separate license is required for each of the five activities:

(1) installing or repairing well screens or pitless units or pitless adaptors and well casings from the pitless adaptor or pitless unit to the upper termination of the well casing;

(2) constructing, repairing, and sealing drive point wells or dug wells;

(3) installing well pumps or pumping equipment;

(4) sealing wells; or

(5) constructing, repairing, or sealing dewatering wells.

(d) Notwithstanding other provisions of this chapter requiring a license *or registration*, a license *or registration* is not required for a person who complies with the other provisions of this chapter if the person is:

(1) an individual who constructs a well on land that is owned or leased by the individual and is used by the individual for farming or agricultural purposes or as the individual's place of abode; or

(2) an individual who performs labor or services for a ~~well~~ contractor *licensed or registered under the provisions of this chapter* in connection with the construction, *sealing*, or repair of a well or ~~sealing a well~~ *boring* at the direction and ~~at~~ *under* the personal supervision of a ~~well~~ contractor *licensed or registered under the provisions of this chapter*.

Sec. 21. Minnesota Statutes 1990, section 103I.205, subdivision 7, is amended to read:

Subd. 7. [WELL IDENTIFICATION LABEL REQUIRED.] After a well has been constructed, the person constructing the well must attach a label to the well showing the unique well number~~, the depth of the well, the name of the person who constructed the well, and the date the well was constructed~~.

Sec. 22. Minnesota Statutes 1990, section 103I.205, subdivision 8, is amended to read:

Subd. 8. [~~MONITORING~~ WELLS ON PROPERTY OF ANOTHER.] A person may not construct *or have constructed* a ~~monitoring~~ well *for the person's own use* on the property of another until the owner of the property

on which the well is to be located and the *intended* well ~~owner~~ *user* sign a written agreement that identifies which party will be responsible for obtaining ~~maintenance~~ *all* permits *or filing notification, paying applicable fees* and for sealing the ~~monitoring~~ well. If the property owner refuses to sign the agreement, the *intended* well ~~owner~~ *user* may, in lieu of a written agreement, state in writing to the commissioner that the well ~~owner~~ *user* will be responsible for obtaining ~~maintenance~~ permits, *filing notification, paying applicable fees,* and sealing the well. Nothing in this subdivision eliminates the responsibilities of the property owner under this chapter, or allows a person to construct a well on the property of another without consent or other legal authority.

Sec. 23. Minnesota Statutes 1990, section 103I.205, subdivision 9, is amended to read:

Subd. 9. [REPORT OF WORK.] ~~(a)~~ Within 30 days after completion or sealing of a well *or boring*, the person doing the work must submit a verified report to the commissioner ~~on forms provided by the commissioner~~ *containing the information specified by rules adopted under this chapter.*

~~(b) The report must contain:~~

~~(1) the name and address of the owner of the well and the actual location of the well;~~

~~(2) a log of the materials and water encountered in connection with drilling the well, and pumping tests relating to the well; and~~

~~(3) other information the commissioner may require concerning the drilling or sealing of the well.~~

~~(c)~~ Within 30 days after receiving the report, the commissioner shall send a copy of the report to the commissioner of natural resources, *to* the local soil and water conservation district where the well is located, and to the director of the Minnesota geological survey.

Sec. 24. Minnesota Statutes 1990, section 103I.208, subdivision 2, is amended to read:

Subd. 2. [PERMIT FEE.] The permit fee to be paid by a property owner is:

(1) for a well that is ~~inoperable or disconnected from a power supply~~ *not in use* under a maintenance permit, $50 *annually*;

(2) for construction of a monitoring well, $50;

(3) ~~annually~~ for a monitoring well that is unsealed under a maintenance permit, $50 *annually*;

(4) for monitoring wells used as a leak detection device at a single motor fuel retail outlet or petroleum bulk storage site excluding tank farms, the construction permit fee is $50 per site regardless of the number of wells constructed on the site, and the annual fee for a maintenance permit for unsealed monitoring wells is $50 per site regardless of the number of monitoring wells located on site;

(5) for a groundwater thermal exchange device, *in addition to the notification fee for wells,* $50;

(6) for a vertical heat exchanger, ~~in addition to the permit fee for wells,~~ $50;

(7) for construction of the dewatering well, $50 for each well except a dewatering project comprising more than ten wells shall be issued a single permit for the wells recorded on the permit for $500; and

(8) ~~annually~~ for a dewatering well that is unsealed under a maintenance permit, $25 *annually* for each well, except a dewatering project comprising more than ten wells shall be issued a single permit *for $250 annually* for wells recorded on the permit ~~for $250~~.

Sec. 25. Minnesota Statutes 1990, section 1031.231, is amended to read:

1031.231 [COMMISSIONER MAY ORDER REPAIRS.]

(a) The commissioner may order ~~the~~ *a property* owner ~~of a well~~ to take remedial measures, including making repairs, reconstructing, or sealing ~~the~~ *a* well *or boring* according to ~~rules of the commissioner~~ *provisions of this chapter*. The order may be issued if the commissioner determines, based on inspection of the water or the well *or boring* site or an analysis of water from the well *or boring*, that the well *or boring*:

(1) is contaminated *or may contribute to the spread of contamination*;

(2) is required to be sealed under this chapter and has not been sealed according to ~~the rules of the commissioner~~ *provisions of this chapter*;

(3) is in a state of disrepair so that its continued existence endangers the quality of the groundwater;

(4) is a health or safety hazard; or

(5) is located in a place or constructed in a manner that its continued use or existence endangers the quality of the groundwater.

(b) The order of the commissioner may be enforced in an action to seek compliance brought by the commissioner in the district court of the county where the well is located.

Sec. 26. Minnesota Statutes 1990, section 1031.235, is amended to read:

1031.235 [SALE OF PROPERTY WHERE WELLS ARE LOCATED.]

Subdivision 1. [DISCLOSURE OF WELLS TO BUYER.] (a) Before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and location of all known wells on the property, by delivering to the buyer either a statement by the seller that the seller does not know of any wells on the property, or a disclosure statement indicating the legal description and county, and a map drawn from available information showing the location of each well to the extent practicable. In the disclosure statement, the seller must indicate, for each well, whether the well is in use, not in use, or sealed.

(b) At the time of closing of the sale, the disclosure statement information, *name and mailing address of the buyer*, and the quartile, section, township, and range in which each well is located must be provided on a well *disclosure* certificate signed by the seller or a person authorized to act on behalf of the seller.

(c) A well certificate need not be provided if ~~the closing occurs before November 1, 1990, or~~ the seller does not know of any wells on the property and the deed or other instrument of conveyance contains the statement: "The Seller certifies that the Seller does not know of any wells on the described real property."

(d) If a deed is given pursuant to a contract for deed, the well *disclosure* certificate required by this subdivision shall be signed by the buyer or a person authorized to act on behalf of the buyer. *If the buyer knows of no wells on the property, a well disclosure certificate is not required if the following statement appears on the deed followed by the signature of the grantee or, if there is more than one grantee, the signature of at least one of the grantees: "The Grantee certifies that the Grantee does not know of any wells on the described real property." The statement and signature of the grantee may be on the front or back of the deed or on an attached sheet and an acknowledgment of the statement by the grantee is not required for the deed to be recordable.*

(e) This subdivision does not apply to the sale, exchange, or transfer of real property:

(1) that consists solely of a sale or transfer of severed mineral interests; or

(2) that consists of an individual condominium unit as described in chapters 515 and 515A.

(f) For an area owned in common under chapter 515 or 515A the association or other responsible person must report to the commissioner by July 1, 1992, the location and status of all wells in the common area. The association or other responsible person must notify the commissioner within 30 days of any change in the reported status of wells.

(g) For real property sold by the state under section 92.67, the lessee at the time of the sale is responsible for compliance with this subdivision.

~~(c)~~ *(h)* If the seller fails to provide a required well *disclosure* certificate, the buyer, or a person authorized to act on behalf of the buyer, may sign a well *disclosure* certificate based on the information provided on the disclosure statement required by this section or based on other available information.

~~(d)~~ *(i)* A county recorder or registrar of titles may not record a deed or other instrument of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance ~~either~~ contains the statement ~~"The Seller certifies that the Seller does not know of any wells on the described real property,"~~ *made in accordance with paragraph (c) or (d) of this subdivision* or is accompanied by the well *disclosure* certificate *containing all the information* required by *paragraph (b) or (d) of* this subdivision. The county recorder or registrar of titles ~~shall note on each deed or other~~ *must not accept a certificate unless it contains all the required information. The county recorder or registrar of titles shall note on each deed or other* instrument of conveyance accompanied by a well *disclosure* certificate that the well *disclosure* certificate was received. *The notation must include the statement "No wells on property" if the disclosure certificate states there are no wells on the property.* The well *disclosure* certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. *After noting "No wells on property" on the deed or other instrument of conveyance, the county recorder or registrar of titles shall destroy or return to the buyer the well disclosure certificate.* The county recorder or registrar of titles shall *collect from the buyer or the person seeking to record a deed, a fee*

of $10 for receipt of a completed well disclosure certificate for filing. By the tenth day of each month, the county recorder or registrar of titles shall transmit the well *disclosure* ~~certificate~~ *certificates* to the commissioner of health ~~within 15 days after receiving the well certificate~~. *By the tenth day after the end of each calendar quarter, the county recorder or registrar of titles shall transmit to the commissioner of health $7.50 of the fee for each well disclosure certificate received during the quarter. The commissioner shall maintain the well disclosure certificate for at least six years. The commissioner may store the certificate as an electronic image. A copy of that image shall be as valid as the original.*

(j) No new well disclosure certificate is required on property unless the status or numbers of wells on the property has changed from the last previously filed well disclosure certificate.

~~(e)~~ *(k)* The commissioner in consultation with county recorders shall prescribe the form for a well *disclosure* certificate and provide well *disclosure* certificate forms to county recorders and registrars of titles and other interested persons.

~~(f)~~ *(l)* Failure to comply with a requirement of this subdivision does not impair:

(1) the validity of a deed or other instrument of conveyance as between the parties to the deed or instrument or as to any other person who otherwise would be bound by the deed or instrument; or

(2) the record, as notice, of any deed or other instrument of conveyance accepted for filing or recording contrary to the provisions of this subdivision.

Subd. 2. [LIABILITY FOR FAILURE TO DISCLOSE.] Unless the buyer and seller agree to the contrary, in writing, before the closing of the sale, a seller who fails to disclose the existence *or known status* of a well at the time of sale and knew or had reason to know of the existence *or known status* of the well, is liable to the buyer for costs relating to sealing of the well and reasonable attorney fees for collection of costs from the seller, if the action is commenced within six years after the date the buyer closed the purchase of the real property where the well is located.

Sec. 27. Minnesota Statutes 1990, section 103I.301, subdivision 1, is amended to read:

Subdivision 1. [WELLS.] (a) A ~~well~~ *property* owner must have a well sealed if:

(1) the well is contaminated;

(2) the well was attempted to be sealed but was not sealed according to the provisions of this chapter; or

(3) the well is located, constructed, or maintained in a manner that its continued use or existence endangers groundwater quality or is a safety or health hazard.

(b) A well that is ~~inoperable~~ *not in use* must be sealed unless the ~~well~~ *property* owner has a maintenance permit for the well.

(c) The ~~well~~ *property* owner must have a well contractor or limited well sealing contractor seal a well *consistent with provisions of this chapter.*

Sec. 28. Minnesota Statutes 1990, section 103I.301, is amended by adding a subdivision to read:

Subd. 6. [NOTIFICATION REQUIRED.] *A person may not seal a well until a notification of the proposed sealing is filed as prescribed by the commissioner.*

Sec. 29. Minnesota Statutes 1990, section 103I.311, subdivision 3, is amended to read:

Subd. 3. [PROHIBITION ON STATE LAND PURCHASED WITHOUT WELL IDENTIFICATION.] The state may not purchase or sell ~~real property or an~~ *a fee* interest in real property without identifying the location of all wells on the property, whether in use, not in use, or sealed, and making provisions to have the wells not in use properly sealed at the cost of the seller as part of the contract. *For real property sold by the state under section 92.67, the lessee at the time of the sale is responsible for compliance under this subdivision.* The deed or other instrument of conveyance evidencing the sale may not be recorded with the county recorder or registrar of titles unless this subdivision is complied with. Failure to comply with a requirement of this subdivision does not impair:

(1) the validity of a deed or other instrument of conveyance as between the parties to the deed or instrument or as to any other person who otherwise would be bound by the deed or instrument; or

(2) the record, as notice, of any deed or other instrument of conveyance accepted for filing or recording contrary to the provisions of this subdivision.

Sec. 30. Minnesota Statutes 1990, section 103I.331, subdivision 2, is amended to read:

Subd. 2. [CRITERIA FOR SELECTING COUNTIES FOR WELL SEALING.] (a) The board of water and soil resources, in selecting counties for participation, shall consult with the commissioners of natural resources, the pollution control agency, and health, and the director of the Minnesota geological survey, and must consider appropriate criteria including the following:

(1) diversity of well construction;

(2) diversity of geologic conditions;

(3) current use of affected aquifers;

(4) diversity of land use; and

(5) aquifer susceptibility to contamination by unsealed wells.

(b) After July 1, 1991, only well sealings that are a part of, or responsive to~~:~~ *the following are eligible for assistance:*

(1) the priority actions identified in an approved comprehensive local water plan, as defined in section 103B.3363, subdivision 3~~, are eligible for assistance~~*; or*

(2) a plan that is undergoing local review and comment as described in section 103B.255, subdivision 8.

Sec. 31. Minnesota Statutes 1990, section 103I.525, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] (a) A person must file an application and application fee with the commissioner to apply for a well contractor's license.

(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.

(c) A person may apply as an individual if the person:

(1) is not the licensed well contractor representing a firm, *sole proprietorship,* partnership, association, corporation, or other entity including the United States government, any interstate body, the state and agency, department or political subdivision of the state; and

(2) meets the well contractor license requirements under *provisions of* this chapter ~~and Minnesota Rules, chapter 4725~~.

Sec. 32. Minnesota Statutes 1990, section 103I.525, subdivision 4, is amended to read:

Subd. 4. [ISSUANCE OF LICENSE.] If an applicant *meets the experience requirements established by rule,* passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a well contractor's license.

Sec. 33. Minnesota Statutes 1990, section 103I.525, subdivision 8, is amended to read:

Subd. 8. [RENEWAL.] (a) A licensee must file an application and a renewal application fee to renew the license by the date stated in the license.

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

(d) At the time of the renewal, the commissioner must have on file all properly completed well reports, well sealing reports, reports of excavations to construct elevator shafts, well permits, and well notifications for work conducted by the licensee since the last license renewal.

Sec. 34. Minnesota Statutes 1990, section 103I.525, subdivision 9, is amended to read:

Subd. 9. [*INCOMPLETE OR* LATE RENEWAL ~~APPLICATION~~.] If a licensee ~~submits a~~ *fails to submit all information required for* renewal *in subdivision 8 or submits the* application *and information* after the required renewal date:

(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and

(2) the licensee may not conduct activities authorized by the well contractor's license until the renewal application, renewal application fee, ~~and~~ late fee, *and all other information required in subdivision 8* are submitted.

Sec. 35. Minnesota Statutes 1990, section 103I.531, subdivision 5, is amended to read:

Subd. 5. [BOND.] (a) As a condition of being issued a limited well contractor's license *for constructing, repairing, and sealing drive point wells*

or dug wells, sealing wells, or constructing, repairing, and sealing dewatering wells, the applicant must submit a corporate surety bond for $10,000 approved by the commissioner. *As a condition of being issued a limited well contractor's license for installing or repairing well screens or pitless units or pitless adaptors and well casings from the pitless adaptor or pitless unit to the upper termination of the well casing, or installing well pumps or pumping equipment, the applicant must submit a corporate surety bond for $2,000 approved by the commissioner.* The ~~bond~~ *bonds required in this paragraph* must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The ~~bond is~~ *bonds are* in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of ~~the bond~~ *a bond required in paragraph (a)*, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.

Sec. 36. Minnesota Statutes 1990, section 103I.531, subdivision 8, is amended to read:

Subd. 8. [RENEWAL.] (a) A person must file an application and a renewal application fee to renew the limited well contractor's license by the date stated in the license.

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

(d) At the time of the renewal, the commissioner must have on file all properly completed well sealing reports, well permits, and well notifications for work conducted by the licensee since the last license renewal.

Sec. 37. Minnesota Statutes 1990, section 103I.531, subdivision 9, is amended to read:

Subd. 9. [*INCOMPLETE OR* LATE RENEWAL ~~APPLICATION~~.] If a licensee ~~submits a~~ *fails to submit all information required for* renewal *in subdivision 8 or submits the* application *and information* after the required renewal date:

(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and

(2) the licensee may not conduct activities authorized by the limited well contractor's license until the renewal application, renewal application fee, and late fee, *and all other information required in subdivision 8* are submitted.

Sec. 38. Minnesota Statutes 1990, section 103I.535, subdivision 8, is amended to read:

Subd. 8. [RENEWAL.] (a) A person must file an application and a renewal application fee to renew the license by the date stated in the license.

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

(d) At the time of renewal, the commissioner must have on file all reports and permits for elevator shaft work conducted by the licensee since the last license renewal.

Sec. 39. Minnesota Statutes 1990, section 103I.535, subdivision 9, is amended to read:

Subd. 9. [*INCOMPLETE OR* LATE RENEWAL ~~APPLICATION~~.] If a licensee ~~submits~~ ~~a~~ *fails to submit all information required for* renewal *in subdivision 8 or submits the* application *and information* after the required renewal date:

(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and

(2) the licensee may not conduct activities authorized by the elevator shaft contractor's license until the renewal application, renewal application fee, and late fee, *and all other information required in subdivision 8* are submitted.

Sec. 40. Minnesota Statutes 1990, section 103I.541, subdivision 4, is amended to read:

Subd. 4. [RENEWAL.] (a) A person must file an application and a renewal application fee to renew the registration by the date stated in the registration.

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

(d) At the time of the renewal, the commissioner must have on file all well reports, well sealing reports, well permits, and notifications for work conducted by the registered person since the last registration renewal.

Sec. 41. Minnesota Statutes 1990, section 103I.541, subdivision 5, is amended to read:

Subd. 5. [*INCOMPLETE OR* LATE RENEWAL ~~APPLICATION~~.] If a registered person submits a renewal application after the required renewal date:

(1) the registered person must include an additional late fee set by the commissioner under section 16A.128; and

(2) the registered person may not conduct activities authorized by the monitoring well contractor's registration until the renewal application, renewal application fee, ~~and~~ late fee, *and all other information required in subdivision 4* are submitted.

Sec. 42. Minnesota Statutes 1990, section 103I.545, subdivision 2, is amended to read:

Subd. 2. [PUMP HOIST.] (a) A person may not use a machine such as a pump hoist for an activity requiring a license or registration under this chapter to repair wells *or borings*, seal wells *or borings*, or install pumps unless the machine is registered with the commissioner.

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a $50 registration fee.

(c) A registration is valid for one year.

Sec. 43. Minnesota Statutes 1990, section 103I.621, subdivision 3, is amended to read:

Subd. 3. [CONSTRUCTION REQUIREMENTS.] (a) Withdrawal and reinjection for the groundwater thermal exchange device must be accomplished by a closed system in which the waters drawn for thermal exchange do not have contact or commingle with water from other sources or with polluting material or substances. The closed system must be constructed to allow an opening for inspection by the commissioner.

(b) Wells that are part of a groundwater thermal exchange system may not serve another function, except water may be supplied to the domestic water system if:

(1) the supply is taken from the thermal exchange system ahead of the heat exchange unit; and

(2) the ~~water discharges to a break tank through an air gap that is at least twice the effective diameter of the water inlet to the tank~~ *domestic water system is protected by an airgap or backflow prevention device as described in rules relating to plumbing enforced by the commissioner.*

(c) A groundwater thermal exchange system may be used for domestic water heating only if the water heating device is an integral part of the heat exchange unit that is used for space heating and cooling.

Sec. 44. Minnesota Statutes 1990, section 103I.701, subdivision 1, is amended to read:

Subdivision 1. [DENIAL OF LICENSE ~~OR~~, REGISTRATION, *OR* RENEWAL.] (a) The commissioner may deny an application for ~~renewal of~~ a license or registration if the applicant has violated a provision of this chapter.

(b) *The commissioner may refuse renewal for* failure to submit a well report~~;~~ *or* well sealing report, ~~or~~ *failure* to report an excavation to construct an elevator shaft, ~~or~~ *failure* to obtain a well permit ~~before construction is a violation of this chapter and the commissioner may refuse renewal~~, *failure to file a notification, or failure to obtain continuing education credit.*

Sec. 45. Minnesota Statutes 1990, section 103I.701, subdivision 4, is amended to read:

Subd. 4. [CORRECTIVE ORDERS.] *(a)* The commissioner may issue corrective orders for persons to comply with the provisions of this chapter. *The corrective order must state the deficiencies that constitute the violation, the specific statute or rule violated, and the time period in which the deficiencies must be corrected.*

(b) If the person believes that the information contained in the order is in error, the person may ask the commissioner to reconsider those parts of the order that the person alleges to be in error. The person shall submit the request in writing to the commissioner within seven days after receipt of the order. The request must specify which parts of the order are alleged to be in error and provide documentation to support the allegation of the error. The commissioner shall respond to requests within 15 calendar days after receipt of the request.

(c) A request for reconsideration does not stay the corrective order;

however, after reviewing the request for reconsideration, the commissioner may provide additional time to comply with the order. The commissioner's disposition of a request for reconsideration is final.

(d) If a deficiency specified in a corrective order has not been corrected within the specified time period, the commissioner shall issue a notice of noncompliance which identifies each uncorrected deficiency and assesses the administrative penalty for the deficiency authorized in section 1031.705.

Sec. 46. Minnesota Statutes 1990, section 1031.705, subdivision 2, is amended to read:

Subd. 2. [SEALING WELLS, *BORINGS,* AND ELEVATOR SHAFTS.] A well contractor or limited well sealing contractor who seals a well, *elevator shaft or boring,* a monitoring well contractor who seals a monitoring well *or environmental borehole*, or a well contractor or an elevator shaft contractor who seals a hole that was used for an elevator shaft under a corrective order of the commissioner in a manner that does not comply with rules adopted under this chapter, shall be assessed an administrative penalty of $500.

Sec. 47. Minnesota Statutes 1990, section 1031.705, subdivision 3, is amended to read:

Subd. 3. [~~CONTAMINATION RELATING TO~~ WELL *OR BORING* CONSTRUCTION *AND LOCATION*.] A well contractor, limited well contractor, *elevator shaft contractor,* or monitoring well contractor working under a corrective order of the commissioner who fails to comply with the rules adopted under this chapter relating to location of wells ~~in relation to potential sources of contamination~~ *or borings*, grouting, materials, or construction techniques shall be assessed an administrative penalty of $500.

Sec. 48. Minnesota Statutes 1990, section 1031.705, subdivision 4, is amended to read:

Subd. 4. [WELL CONSTRUCTION AND MACHINERY.] A well contractor, limited well contractor, *elevator shaft contractor,* or monitoring well contractor working under a corrective order shall be assessed an administrative penalty of $250 if the contractor fails as required in the order:

(1) to have a plan review approved before a well is constructed; construct a well without if a plan review is required;

(2) to have a permit *or to file notification* before a well is constructed;

(3) to register a drilling ~~rig~~ *machine* or ~~pump rig~~ *hoist* or to display the state decal and the registration number on the machine; or

(4) to comply with the rules ~~in the water well construction code~~ *adopted under the provisions of this chapter* relating to disinfection of wells and submission of well construction or well sealing logs and water samples.

Sec. 49. Minnesota Statutes 1990, section 1031.705, subdivision 5, is amended to read:

Subd. 5. [FALSE INFORMATION.] A person under a corrective order shall be assessed an administration penalty of $250 if the person:

(1) fails to disclose or falsifies information about the status and location of wells on property before signing an agreement of sale or transfer of the property; or

(2) fails to disclose or falsifies information on a well *disclosure* certificate.

Sec. 50. Minnesota Statutes 1990, section 103I.711, subdivision 1, is amended to read:

Subdivision 1. [IMPOUNDMENT.] ~~If~~ The commissioner ~~issues an order finding~~ *may apply to district court for a warrant authorizing seizure and impoundment of all drilling machines or hoists owned or used by a person. The court shall issue an impoundment order upon the commissioner's showing* that a person is constructing, repairing, or sealing wells *or borings* or installing pumps or pumping equipment or excavating holes for installing elevator shafts ~~or hydraulic cylinders~~ without a license or registration as required under this chapter~~,~~. A sheriff on receipt of the ~~order~~ *warrant* must seize and impound ~~equipment of~~ *all drilling machines and hoists owned or used by* the person. *A person from whom equipment is seized under this subdivision may file an action in district court for the purpose of establishing that the equipment was wrongfully seized.*

Sec. 51. [WATER WELL COMPLIANCE IN CERTAIN CASES.]

(a) When substantial alterations or improvements are made to an existing agricultural chemical facility in Steele county, a variance for a water well may not be denied if:

(1) the well existed and was in use by the operators of the agricultural chemical facility prior to the alterations or improvements;

(2) the well is a minimum of 50 feet from facilities where agricultural chemicals are stored or handled; and

(3) the alterations or improvements are installed with safeguards as defined in Minnesota Statutes, section 18B.01, subdivision 26.

(b) Water from the existing well shall be tested semi-annually for nitrates, pesticides, and other volatile organic compounds. The testing must be paid for by the owner of the well.

Sec. 52. [DEPARTMENT COMPLEMENT.]

The complement of the department of health is increased by one full-time equivalent.

Sec. 53. [APPROPRIATION.]

$400,000 is appropriated from the general fund to the regents of the University of Minnesota to continue the integrated pest management and research by agricultural experiment stations on the impact of agriculture on groundwater funded by Laws 1989, chapter 326, article 10, section 1, subdivision 9. $200,000 is for fiscal year 1992 and $200,000 is for fiscal year 1993. This appropriation is available only if matched by the University of Minnesota in an amount determined by the commissioner of finance to be adequate to maintain these activities at the fiscal year 1991 level.

Sec. 54. [REPEALER.]

Minnesota Statutes 1990, section 103I.005, subdivision 18, is repealed.

Sec. 55. [EFFECTIVE DATE.]

Section 26, subdivision 1, paragraph (j), takes effect January 1, 1993. Section 51 is effective the day following final enactment and shall expire on June 1, 1994."

Delete the title and insert:

"A bill for an act relating to health; lowering the fee for licensed lawn service applicators; authorizing a surcharge on sanitizers and disinfectants; abolishing surcharges on pesticides that are less than $10; changing certain reimbursement figures and deadlines of the agricultural chemical response compensation board; continuing integrated pest management and groundwater research; appropriating money; amending Minnesota Statutes 1990, sections 18E.03, subdivisions 4 and 5; 18E.04, subdivisions 4 and 5; 18E.05, subdivision 3; 103I.005, subdivisions 2, 22, and by adding a subdivision; 103I.101, subdivisions 2, 4, 5, and 6; 103I.105; 103I.111, subdivisions 2a, 2b, 3, and by adding a subdivision; 103I.205, subdivisions 1, 3, 4, 7, 8, and 9; 103I.208, subdivision 2; 103I.231; 103I.235; 103I.301, subdivision 1, and by adding a subdivision; 103I.311, subdivision 3; 103I.331, subdivision 2; 103I.525, subdivisions 1, 4, 8, and 9; 103I.531, subdivisions 5, 8, and 9; 103I.535, subdivisions 8 and 9; 103I.541, subdivisions 4 and 5; 103I.545, subdivision 2; 103I.621, subdivision 3; 103I.701, subdivisions 1 and 4; 103I.705, subdivisions 2, 3, 4, and 5; and 103I.711, subdivision 1; repealing Minnesota Statutes 1990, section 103I.005, subdivision 18."

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

House Conferees: (Signed) Dave Bishop, Mary Murphy, Willard Munger

Senate Conferees: (Signed) Steven Morse, Leonard R. Price, Janet B. Johnson

Mr. Morse moved that the foregoing recommendations and Conference Committee Report on H.F. No. 783 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. 783 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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.J.	Merriam	Ranum
Beckman	Day	Johnson, J.B.	Metzen	Reichgott
Belanger	DeCramer	Johnston	Moe, R.D.	Renneke
Benson, D.D.	Dicklich	Knaak	Mondale	Riveness
Benson, J.E.	Finn	Kroening	Morse	Sams
Berg	Flynn	Laidig	Neuville	Samuelson
Berglin	Frank	Langseth	Novak	Solon
Bernhagen	Frederickson, D.J.	Larson	Olson	Storm
Bertram	Frederickson, D.R.	Lessard	Pappas	Traub
Brataas	Halberg	Luther	Pariseau	Vickerman
Chmielewski	Hottinger	Marty	Piper	Waldorf
Cohen	Hughes	McGowan	Pogemiller	
Dahl	Johnson, D.E.	Mehrkens	Price	

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 Senate File No. 1535, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1535: A bill for an act relating to public administration; appropriating money for education and related purposes to the higher education coordinating board, state board of technical colleges, state board for community colleges, state university board, University of Minnesota, higher education board, and the Mayo medical foundation, with certain conditions; creating the higher education board; merging the state university, community college, and technical college systems; amending Minnesota Statutes 1990, sections 15A.081, subdivision 7b; 135A.03, subdivision 3; 135A.05; 136.11, subdivisions 3, 5, and by adding a subdivision; 136.142, subdivision 1, and by adding a subdivision; 136A.121, subdivision 10, and by adding subdivisions; 136A.233, subdivision 3; 179A.10, subdivision 2; and 298.28, subdivisions 4, 7, 10, 11, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 135A; 136; 136A; 136E; and 298; repealing Minnesota Statutes 1990, section 136A.05, subdivision 2.

Senate File No. 1535 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 764 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 764

A bill for an act relating to public safety; regulating amusement rides; requiring insurance and inspections; providing penalties; proposing coding for new law as Minnesota Statutes, chapter 184B.

May 20, 1991

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 764, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendment and that S.F. No. 764 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [184B.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *For the purposes of this chapter, the terms*

defined in this section have the meanings given them.

Subd. 2. [AMUSEMENT RIDE.] *"Amusement ride" means a mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement.*

"Amusement ride" does not include:

(1) a coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator; or

(2) nonmechanized playground equipment, including but not limited to swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, playground slides, trampolines, and physical fitness devices.

Subd. 3. [COMMISSIONER.] *"Commissioner" means the commissioner of labor and industry.*

Subd. 4. [OPERATOR.] *"Operator" means a person, who owns an amusement ride.*

Sec. 2. [184B.02] [INSURANCE REQUIREMENTS.]

An operator must have an insurance policy in force written by an insurance company authorized to do business in this state, in an amount of not less than $1,000,000 per occurrence, insuring the operator against liability for injury to persons arising out of the use of an amusement ride.

Sec. 3. [184B.03] [INSPECTION.]

(a) An amusement ride must be inspected at least once annually by an insurer or a person with whom the insurer has contracted. If an inspection reveals that an amusement ride does not meet the insurer's underwriting standards, the insurer must notify the operator. An operator must not operate an amusement ride until the ride passes an insurer's inspection for all items related to safe operation of the amusement ride.

(b) The inspection required under this section must include testing consistent with current American Society for Testing and Material standards and specifications for amusement rides and devices. The inspection required by this section is in addition to any other inspection required or permitted by law.

(c) An operator must permit reasonable inspection of an amusement ride by the insurance company that insures the ride.

(d) Paragraphs (a) and (b) do not apply to amusement rides permanently located in an amusement park where the owner has a rehabilitative and preventative ride maintenance program that includes daily ride inspections for the protection of the general public and a full-time, permanent maintenance staff and has an insurance policy in force written by an insurance company authorized to do business in this state, in an amount of not less than $50,000,000, insuring the operator against liability for injury to persons arising out of the use of an amusement ride.

Sec. 4. [184B.04] [FILING.]

An operator must file with each sponsor, lessor, landowner, or other person responsible for an amusement ride being offered for use by the public:

(1) a certificate stating that the insurance required by section 2 is in effect; and

(2) an affidavit attesting that the inspection required by section 3 has been performed.

Sec. 5. [184B.05] [COMMISSIONER INFORMATION REQUESTS.]

The commissioner may request from the sponsor, lessor, landowner, or other person responsible for an amusement ride being offered for use by the public, whether or not the person is the operator, information concerning whether the insurance required by section 2 is in effect on the amusement ride, and whether the inspection required by section 3 has occurred. The person to whom the information request is made must respond to the commissioner within 15 days after the request is made.

Sec. 6. [184B.06] [CIVIL PENALTY.]

A person that violates sections 1 to 5 is subject to a fine of up to $2,000 for each day the violation exists. A county attorney in a county in which an amusement ride is operated in violation of this chapter may enforce this section by action in district court.

Sec. 7. [184B.07] [INJUNCTIONS.]

A county attorney in a county in which an amusement ride is operated or, on request of the commissioner, the attorney general, may obtain an injunction or other equitable relief against an actual or threatened violation of this chapter.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective August 1, 1991."

Delete the title and insert:

"A bill for an act relating to public safety; regulating amusement rides; requiring insurance and inspections; providing penalties; proposing coding for new law as Minnesota Statutes, chapter 184B."

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

Senate Conferees: (Signed) Gregory L. Dahl, Ronald R. Dicklich, James P. Metzen

House Conferees: (Signed) Tom Osthoff, Linda Scheid, Gil Gutknecht

Mr. Dahl moved that the foregoing recommendations and Conference Committee Report on S.F. No. 764 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. 764 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 3, as follows:

Those who voted in the affirmative were:

Beckman	DeCramer	Johnson, J.B.	Moe, R.D.	Riveness
Belanger	Dicklich	Knaak	Mondale	Sams
Benson, D.D.	Finn	Kroening	Morse	Samuelson
Benson, J.E.	Flynn	Laidig	Novak	Solon
Berg	Frank	Langseth	Olson	Spear
Berglin	Frederickson, D.J.	Larson	Pappas	Storm
Bernhagen	Frederickson, D.R.	Lessard	Pariseau	Stumpf
Bertram	Gustafson	Luther	Piper	Traub
Brataas	Halberg	Marty	Pogemiller	Vickerman
Cohen	Hottinger	McGowan	Price	Waldorf
Dahl	Hughes	Mehrkens	Ranum	
Davis	Johnson, D.E.	Merriam	Reichgott	
Day	Johnson, D.J.	Metzen	Renneke	

Mrs. Adkins, Mr. Chmielewski and Ms. Johnston voted in the negative.

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

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 adoption by the House of the following Senate Concurrent Resolution, herewith returned:

Senate Concurrrent Resolution No. 7: A Senate concurrent resolution relating to adjournment of the Senate and House of Representatives until 1992.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1991

MEMBERS EXCUSED

Messrs. Johnson, D.J.; Frederickson, D.J; Pogemiller; Price and Ms. Reichgott were excused from the Session of today for brief periods of time. Messrs. DeCramer, Langseth and Mehrkens were excused from the Session of today from 10:30 a.m. to 12:00 noon. Mr. Mondale was excused from the Session of today from 8:30 to 9:45 a.m. Ms. Reichgott was excused from the Session of today from 1:00 to 2:00 p.m. Ms. Olson was excused from the Session of today from 11:00 to 11:30 a.m. and from 6:45 to 7:15 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 2:00 p.m., Monday, January 6, 1992. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

COMMUNICATIONS RECEIVED SUBSEQUENT TO ADJOURNMENT

EXECUTIVE AND OFFICIAL COMMUNICATIONS

May 17, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 231 and 1315.

Warmest regards,
Arne H. Carlson, Governor

May 19, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 437, 531, 635, 636, 691, 953 and 1032.

Warmest regards,
Arne H. Carlson, Governor

May 20, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 355 and 958.

Warmest regards,
Arne H. Carlson, Governor

May 20, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 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 1991	Date Filed 1991
231		95	11:18 a.m. May 17	May 17
	579	96	11:22 a.m. May 17	May 17
1315		97	11:26 a.m. May 17	May 17
	1151	98	11:24 a.m. May 17	May 17
	357	99	11:26 a.m. May 17	May 17
	178	100	11:20 a.m. May 17	May 17
	276	101	11:14 a.m. May 17	May 17
	192	102	11:16 a.m. May 17	May 17
	239	103	11:11 a.m. May 17	May 17
	671	104	11:07 a.m. May 17	May 17
	36	106	11:04 a.m. May 17	May 17
	456	107	11:02 a.m. May 17	May 17

Sincerely,
Joan Anderson Growe
Secretary of State

May 20, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 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 1991	Date Filed 1991
	90	105	5:12 p.m. May 17	May 20
635		109	5:15 p.m. May 19	May 20
	1006	110	5:24 p.m. May 19	May 20
	87	111	5:28 p.m. May 19	May 20
	466	112	7:12 p.m. May 19	May 20
	146	113	7:16 p.m. May 19	May 20
	121	114	5:30 p.m. May 19	May 20
	525	115	5:32 p.m. May 19	May 20
437		116	7:18 p.m. May 19	May 20
531		117	7:21 p.m. May 19	May 20
691		118	5:35 p.m. May 19	May 20
953		119	7:25 p.m. May 19	May 20
636		120	7:28 p.m. May 19	May 20
1032		121	5:41 p.m. May 19	May 20

Sincerely,
Joan Anderson Growe
Secretary of State

May 21, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 328, 417, 460 and 918.

Warmest regards,
Arne H. Carlson, Governor

May 21, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 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 1991	Date Filed 1991
958		108	9:18 p.m. May 20	May 21
355		122	5:02 p.m. May 20	May 21

Sincerely,
Joan Anderson Growe
Secretary of State

May 22, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 187.

Warmest regards,
Arne H. Carlson, Governor

May 22, 1991

The Honorable Roger D. Moe, Chair
Committee on Rules and Administration

Pursuant to Rule 51, the following bills remaining on General Orders after adjournment on May 20, 1991, were returned to the committees indicated:

S.F. No. 644 to the Committee on Elections and Ethics.

S.F. Nos. 985 and 1214 to the Committee on Employment.

S.F. Nos. 263, 496, 513 and 862 to the Committee on Finance.

H.F. No. 1025 to the Committee on Governmental Operations.

S.F. No. 1323 to the Committee on Rules and Administration.

H.F. No. 57 and S.F. Nos. 362 and 1517 to the Committee on Taxes and Tax Laws.

Pursuant to Joint Rule 3.02, the following Conference Committees were discharged and the Senate bills laid on the table.

S.F. Nos. 81 and 687.

H.F. Nos. 155, 289, 655 and 1197.

Patrick E. Flahaven
Secretary of the Senate

May 23, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 132 and 397.

Warmest regards,
Arne H. Carlson, Governor

May 23, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 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 1991	Date Filed 1991
460		123	1:12 p.m. May 21	May 21
	934	124	1:15 p.m. May 21	May 21
	1551	125	1:16 p.m. May 21	May 21
	1475	126	1:20 p.m. May 21	May 21
	1039	128	1:21 p.m. May 21	May 21
328		129	1:24 p.m. May 21	May 21
417		130	5:15 p.m. May 21	May 21
918		131	1:25 p.m. May 21	May 21
	1592	133	1:26 p.m. May 21	May 21
	910	134	1:58 p.m. May 21	May 21

932	135	1:30 p.m. May 21	May 21
825	136	1:32 p.m. May 21	May 21
1066	137	1:33 p.m. May 21	May 21
882	138	1:34 p.m. May 21	May 21
722	139	1:36 p.m. May 21	May 21

Sincerely,
Joan Anderson Growe
Secretary of State

May 24, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 269 (with the exception of Section 2), 350, 510 (with the exception of Sections 16 and 17), 588, 1034, 1164 and 1289.

Warmest regards,
Arne H. Carlson, Governor

May 24, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

Today I have signed into law Chapter 178, Senate File 269/House File 382, a bill requiring the posting of warning signs on any premises licensed for retail sale of alcoholic beverages. The signs are intended to warn patrons of the maximum penalty for driving when under the influence of alcohol and the prohibition imposed on license holders from serving anyone under age of 21 or anyone obviously intoxicated.

Additionally, Chapter 178 carries a $50,000 General Fund appropriation for the City of St. Paul and the Dayton's Bluff Historic Association to purchase and partially rehabilitate the Warren Burger home. This appropriation I have line-item vetoed, pursuant to the powers vested in me by Article IV, Section 23 of the Minnesota Constitution.

Recognizing the national prominence that is likely to accrue to this residence and its restoration, the decision not to allow State funding is a difficult one. I personally support this restoration project. However, the Legislature's proposed budget is not in balance and, therefore, funds are not available for this type of expenditure.

Sincerely,
Arne H. Carlson, Governor

Pursuant to Joint Rule 3.02, (c), the foregoing message was laid on the table.

May 24, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

Today I have signed into law Chapter 179, Senate File 510/House File 1340, a bill relating to agriculture, specifically egg handlers and the proper preparation of eggs for retail sale.

Additionally, Chapter 179 carries a $10,000 General Fund appropriation and directive to the Department of Agriculture to conduct a survey of meat handlers to determine their interest in starting a state meat inspection program. This appropriation, contained in Section 17 of the bill, along with Section 16 which describes the survey, I have line-item vetoed.

With the Legislature's proposed budget not in balance, funds are not available for this type of expenditure. If the Department of Agriculture considers this a necessary and critical project, it will have to be funded within the existing base budget.

Sincerely,
Arne H. Carlson, Governor

Pursuant to Joint Rule 3.02, (c), the foregoing message was laid on the table.

May 24, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

I have vetoed and am returning to you Chapter 213, Senate File 971/House file 929, which extends the ban on Bovine Somatotropin (BST), a laboratory copy of a naturally occurring hormone used to increase milk production. If signed into law, Chapter 213 would allow the ban to continue until June 1992, or until the prohibition is lifted in our neighboring State of Wisconsin.

The U.S. Food and Drug Administration has determined BST is safe for commercial use. Counsel has advised us that a Minnesota ban after federal approval would be unconstitutional and, therefore, would likely be preempted.

More importantly, I believe any attempt by Minnesota to ban BST would interfere with interstate trade of milk and dairy products. Milk and milk products consumed in this State come from both Minnesota and non-Minnesota processors. Accordingly, prohibiting the use of BST in Minnesota would not stop the sale of milk from BST supplemented cows within our borders.

Minnesotans, along with Wisconsin residents, are very proud of the national recognition we have long received as the "dairy states." In recent years,

however, our share of national milk production has declined, partly because we have been slower in adapting to new technologies and production methods. This moratorium would worsen our competitive position.

Published scientific research demonstrates that when BST is administered to cows, it works with natural biological functions to produce more milk. Milk produced by cows injected with BST is identical to other milk. No scientific evidence exists to suggest adverse human health effects from consuming milk from cows that have received supplemental BST.

Taking into thoughtful consideration the assurances of public health protection and the competitive edge BST allows our farmers, it is critical that Minnesota not raise a barrier to the opportunity this technological tool offers.

Sincerely,
Arne H. Carlson, Governor

While the Governor attempted to veto this Chapter, the Secretary of the Senate filed the bill with the Secretary of State.

May 24, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 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 1991	Date Filed 1991
	1201	140	6:49 p.m. May 23	May 24
	414	141	5:40 p.m. May 22	May 23
	808	142	5:42 p.m. May 22	May 23
	654	143	5:46 p.m. May 22	May 23
	726	144	5:46 p.m. May 22	May 23
	200	146	5:47 p.m. May 22	May 23
	282	147	5:50 p.m. May 22	May 23
187		148	5:51 p.m. May 22	May 23
	132	149	5:58 p.m. May 22	May 23
	1657	150	6:52 p.m. May 23	May 24
	365	151	7:00 p.m. May 23	May 24
	1127	152	5:58 p.m. May 22	May 23
	696	153	7:02 p.m. May 23	May 24
	564	154	7:04 p.m. May 23	May 24
	1189	155	7:05 p.m. May 23	May 24
	594	156	7:08 p.m. May 23	May 24
	1326	157	7:08 p.m. May 23	May 24
	1509	158	7:10 p.m. May 23	May 24
	914	159	7:11 p.m. May 23	May 24
	128	160	7:12 p.m. May 23	May 24

	71	161	7:15 p.m. May 23	May 24
	74	162	7:18 p.m. May 23	May 24
132		163	7:20 p.m. May 23	May 24
397		164	7:25 p.m. May 23	May 24

Sincerely,
Joan Anderson Growe
Secretary of State

May 27, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 86, 274, 302, 561, 762, 858, 910, 950, 962, 998, 1053, 1129, 1238 and 1411.

Warmest regards,
Arne H. Carlson, Governor

May 28, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 83, 84, 425, 800, 811, 822, 837, 1027, 1064, 1128, 1178 and 1216.

Warmest regards,
Arne H. Carlson, Governor

May 28, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

I have vetoed and am returning to you Chapter 216, Senate File 820/House File 883, a bill relating to the maintenance and renovation of State Fair buildings. The major policy change in this bill is the exemption of these buildings from governance by the Minnesota Department of Administration for any maintenance or renovation activity.

With the exemption proposed in this bill, no jurisdiction may impose even a minimum level of life safety in State Fair buildings. The Department of Administration points out, and rightly so, that sleeping occupancies are especially vulnerable to loss of life in case of fire or other emergencies.

In the past a State Fair 4-H renovation project converted the third floor of a highly combustible structure to a dormitory for 900 juveniles. The dormitory was equipped with only one means of exit and no fire fighting capabilities. Other incidents that call into question whether an exemption of this kind is in order include the structural collapse of the State Fair education building and the erection of a "fun house" with seriously inadequate fire and life safety capabilities.

State Fair buildings are public structures which house tens of thousands of people annually. Accordingly, the State must take every precaution to ensure some reasonable level of public safety. Legislation that weakens our jurisdiction in this area cannot be signed into law.

Sincerely,
Arne H. Carlson, Governor

Pursuant to Joint Rule 3.02, (c), Senate File No. 820 was laid on the table.

May 28, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

I have vetoed and am returning to you Chapter 218, Senate File 268/House file 1170, a bill relating to human rights. This legislation would extend the time period from one year to two years within which to file a complaint under the Human Rights Act.

Present law is consistent with policy throughout the nation. Only North Dakota has a statute of limitations on filing human rights' claims that is longer than Minnesota's one year limitation. Most state statutes of limitation are 300 days or less.

The intent of the one year statute is to promptly identify and remedy discriminatory practices. There is no evidence that doubling the time period will enhance this process. Rather, it will contribute to bringing of stale claims which are harder to investigate, more difficult to prove and harder to settle. Stale claims will strain limited Human Rights Department resources that should be applied to the promptly-brought claims.

Vindication of discrimination complaints remains an important priority with me. Continuing the one year statute of limitations will not harm this worthwhile goal.

Sincerely,
Arne H. Carlson, Governor

Pursuant to Joint Rule 3.02, (c), Senate File No. 268 was laid on the table.

May 28, 1991

The Honorable Jerome M. Hughes

President of the Senate

Dear President Hughes:

I have vetoed and am returning to you Chapter 222, Senate File 449/House file 684 relating to retirement. The legislation at Sections 1 and 2 provides that the Saint Paul and Duluth teachers' retirement funds may calculate and pay lump sum post-retirement adjustments which do not depend on investment performance.

Each fund already has legal authority to award lump sum post-retirement adjustments based on investment performance. To expand this authority for a pension fund with a large unfunded liability is not sound pension policy. The Saint Paul Teacher's Retirement fund alone has a contribution deficiency of $3 million annually.

I have always advocated secure pensions for public employees but pension funds must be managed with prudence. Without a funding mechanism this bill increases the burdens on the retirement funds and passes them on to presently employed teachers and taxpayers. Under these circumstances, it is not in the best interest of future retirees or taxpayers that this legislation be signed into law.

Sincerely,
Arne H. Carlson, Governor

Pursuant to Joint Rule 3.02, (c), Senate File No. 449 was laid on the table.

May 28, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

I have vetoed and am returning to you Chapter 246, Senate File 1571/House File 1699, a bill changing the boundaries of State legislative districts. This legislation would provide new State Senate and House of Representative districts for the next 10 years.

Recently I appointed a bi-partisan Reapportionment Advisory Committee to give me their recommendations on criteria that should be considered in any legislative redistricting plan. The Committee consisted of people from all walks of life. Some members had been involved with the League of Women Voters, Common Cause, and the University of Minnesota. Other members had served as local government officials and one was a former legislator.

I have applied their standards to Chapter 246 and find that the legislation does not meet these standards.

The bi-partisan Committee found that, in upholding constitutional principles, legislative districts must be contiguous and adhere to the one person,

one vote principle. To accomplish this, the Committee recommended a maximum deviation of one percent from the ideal population. The vetoed bill, which permits two percent deviation, has 63 house districts with a deviation of one percent or more.

The Committee also listed three policy priorities for a redistricting plan in this order: (a) to enhance the interests of minority groups as counted in the census, (b) to maintain as far as possible the boundaries of existing political subdivisions such as municipalities and counties, and, (c) to develop geographically and geometrically compact and convenient districts.

The proposed redistricting plan falls short of attaining the first priority. Instead of reflecting changes in Minnesota's population, it preserves the status quo - one minority district in the House and none in the Senate. Minnesota's largest minority group, its African American community, is no more than 29 percent of any Senate district. The plan also makes the assumption that all persons of color have common interests and should be grouped together. Even with this insensitive assumption, no Senate district has 50 percent minorities. I believe Minnesota can do better than that. The way to do better is to draw the minority districts first.

The bill puts two northwestern Minnesota Native American reservations into one Senate district and a third into a different district. Consistent with the Committee's interest in consolidating minority voting power, these three reservations ought to be in the same Senate district.

Chapter 246 is also contrary to the Committee's recommendation respecting political lines, as far as possible. The cutting of county lines is severe. From all appearances, this plan fractures counties more than the 1981 redistricting plan. For example, Stearns County has nearly enough population for two Senate districts, yet it is divided into five Senate districts, none of them entirely within the county. Twelve greater Minnesota counties with populations small enough to fit into one Senate district are split into three, including Pope County with fewer than 11,000 people.

Among the 63 counties with populations small enough to fit into a House district, only 24 are undivided, including 15 of the 18 with the smallest populations. Twenty-five of the 63 are split two ways, nine are split three ways, and five are split four ways.

Political boundaries receive no more respect in the metropolitan area. Hennepin County suburbs, which have enough population for 10 Senate districts, have only seven. The 200,000 plus people in the rest of the Hennepin suburbs are scattered into five districts extending into six other counties and Minneapolis. Although Ramsey County suburbs have enough population to have three Senate Districts, they have none entirely within the county. Instead, the population is spread across six districts extending into three other counties. Carver County is broken into three Senate districts and Scott County into four. District 53, a particularly bad example of fragmentation, contains six cities, parts of four other cities and a part of a township, and is in two counties. District 48 has two cities and parts of five other cities, and is in three counties. District 41 has one city in Scott County, a part of a city in Dakota County and parts of two cities in Hennepin County.

Finally, Chapter 246 violates the Committee's third priority that districts be geographically and geometrically compact and convenient. The metro district boundaries are very confusing and not compact. For example, district 67A is shaped like a "T" lying on its side, 66A and 61B also are "T" shaped districts standing upright, 41B is a fat upside-down "T" and 40B meanders all over Bloomington. In greater Minnesota, District 13A dips down into 13B which could have squared off its corners near the Dakota border.

It is also important to point out that our reviews of the bill turned up a significant number of errors in the boundary lines of the metropolitan districts. We are informed that these errors were corrected in the Revisor's Bill passed in the Senate, but the clock ran out before the House could act on the Revisor's Bill.

The abundance of errors is a reflection of the haste in which the redistricting bill was written, and the flawed process by which it was advanced. Because this is very important legislation which will affect Minnesota for the next 10 years, I believe the Legislature should reconsider both the issue and the process when it reconvenes in January 1992. Further, it is my hope that DFL and IR legislators will work with the bi-partisan Committee to develop a plan that will meet that group's criteria.

Sincerely,
Arne H. Carlson, Governor

While the Governor attempted to veto this Chapter, the Secretary of the Senate filed the bill with the Secretary of State and the Ramsey County District Court found the attempted veto to be invalid.

May 28, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 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 1991	Date Filed 1991
	815	165	5:10 p.m. May 24	May 28
	1001	166	4:32 p.m. May 24	May 28
	743	167	4:29 p.m. May 24	May 28
	424	168	3:30 p.m. May 24	May 28
	85	169	5:40 p.m. May 24	May 28
	716	170	3:27 p.m. May 24	May 28
	154	171	4:50 p.m. May 24	May 28
	870	172	5:00 p.m. May 24	May 28
	1119	173	5:25 p.m. May 24	May 28
	267	174	4:40 p.m. May 24	May 28
	744	175	5:40 p.m. May 24	May 28

1289		176	5:08 p.m. May 24	May 28
1164		177	5:05 p.m. May 24	May 28
269		178*	5:47 p.m. May 24	May 28
510		179**	6:27 p.m. May 24	May 28
588		180	4:35 p.m. May 24	May 28
1034		181	5:45 p.m. May 24	May 28
350		182	5:30 p.m. May 24	May 28
	1179	183	5:35 p.m. May 24	May 28
	924	184	5:01 p.m. May 24	May 28

*Line-item veto of Section 2, Chapter 178.
**Line-item veto of Sections 16 and 17, Chapter 179.

Sincerely,
Joan Anderson Growe
Secretary of State

May 30, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 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 1991	Date Filed 1991
	609	186	11:12 p.m. May 27	May 29
	499	187	10:08 p.m. May 27	May 29
	205	188	9:10 p.m. May 27	May 29
	1125	189	10:12 p.m. May 27	May 29
	1299	191	10:16 p.m. May 27	May 29
	118	192	10:17 p.m. May 27	May 29
950		193	10:20 p.m. May 27	May 29
962		194	10:22 p.m. May 27	May 29
274		195	10:24 p.m. May 27	May 29
86		196	10:28 p.m. May 27	May 29
302		197	10:30 p.m. May 27	May 29
998		198	10:32 p.m. May 27	May 29
1411		201	10:40 p.m. May 27	May 29
910		202	10:01 p.m. May 27	May 29
762		203	10:42 p.m. May 27	May 29
	628	204	10:47 p.m. May 27	May 29
	1286	205	10:50 p.m. May 27	May 29
	571	206	10:55 p.m. May 27	May 29
	875	207	11:00 p.m. May 27	May 29
	961	208*	9:48 p.m. May 27	May 29
	752	209	11:02 p.m. May 27	May 29
1238		210	11:04 p.m. May 27	May 29
858		211	11:08 p.m. May 27	May 29
	786	190	10:14 p.m. May 27	May 29

1053		199	10:35 p.m. May 27	May 29
561		200	10:36 p.m. May 27	May 29
1129		212	10:06 p.m. May 27	May 29
1064		214	9:15 a.m. May 28	May 29
84		215	9:15 a.m. May 28	May 29
83		217	10:18 a.m. May 28	May 29
1216		219	10:20 a.m. May 28	May 29
	1353	220	10:22 p.m. May 28	May 29
1178		221	10:22 a.m. May 28	May 29
822		223	10:25 a.m. May 28	May 29
	236	224	9:56 p.m. May 28	May 29
	633	225	10:24 a.m. May 28	May 29
	809	226	9:20 a.m. May 28	May 29
	478	227	9:31 a.m. May 28	May 29
837		228	9:32 a.m. May 28	May 29
425		229	9:34 a.m. May 28	May 29
811		230	9:36 a.m. May 28	May 29
	21	231	10:38 a.m. May 28	May 29
	345	232	10:40 a.m. May 28	May 29
	1190	234	9:42 a.m. May 28	May 29
	1246	235**	8:55 p.m. May 28	May 29
	398	237	9:44 a.m. May 28	May 29
	1147	238	8:40 p.m. May 28	May 29
	1387	240	9:48 a.m. May 28	May 29
800		241	9:50 a.m. May 28	May 29
1027		242	9:51 a.m. May 28	May 29
	922	243	9:52 a.m. May 28	May 29
1128		244	9:54 a.m. May 28	May 29
	326	245	9:58 a.m. May 28	May 29
	126	248	10:00 a.m. May 28	May 29

*Line-item veto in Chapter 208 of Section 3.
**Line-item veto in Chapter 235 of Article 1, Section 8; Article 7, Sections 1, 2 and 4.

Sincerely,
Joan Anderson Growe
Secretary of State

May 31, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 432, 526, 793, 880 and 919.

Warmest regards,
Arne H. Carlson, Governor

May 31, 1991

The Honorable Jerome M. Hughes

President of the Senate

Dear President Hughes:

I have vetoed and am returning to you Chapter 255, Senate File 300/House File 313 relating to the licensing of psychologists. This bill would require that a person have a doctoral degree in psychology in order to be a licensed psychologist. Professionals below the doctoral level would be licensed as "psychological practitioners," and would be barred from independent practice.

According to information provided to my office, this bill would increase the costs of the Board of Psychology by about $400,000 for fiscal years 1992-93. The Board notified the Legislature of this cost, but no appropriation was put into the bill.

Because of insufficient funds, portions of the bill would be difficult to execute. Specifically, the Board of Psychology has stated that it could not comply with the requirement to certify psychologists by specialty as of January 1, 1992.

I am also troubled by the license and title structure that would be created under the legislation. The bill allows all current sub-doctoral licensed psychologists to continue holding licenses with the same title. The "practitioner" title would be imposed only on new persons entering the field. Anyone who enrolls in a psychology course before November 1, 1991, would be covered by the old standards, provided he or she graduated by 1997. While the purpose of this differentiation is unclear, it appears that these "grandparent" features were added to diminish opposition from licensed psychologists with Master's degrees. What is clear is that this compromise is a recognition of the fact that persons who lack doctoral degrees can successfully provide psychological services. There is no apparent reason why the passage of seven years would alter this fact.

Protection of the public from the practice of psychology by unqualified persons is an important function of state government. This bill, however, has too many troubling features for us to be confident that it would enhance protection of the public.

My administration is committed to working with professionals and consumers to make sure that the highest standards are upheld for this profession and stands ready to help make this happen in the next legislative session.

Sincerely,
Arne H. Carlson, Governor

While the Governor attempted to veto this Chapter, the Secretary of the Senate filed the bill with the Secretary of State and the Ramsey County District Court found the attempted veto to be invalid.

June 1, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 109, 205, 371, 652, 774 (with the exception of Section 19), 780, 906, 1284, 1317, 1440 and 1474.

Warmest regards,
Arne H. Carlson, Governor

June 1, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

Today I have signed into law Chapter 286, Senate File 774/House File 1243, a bill relating to residential chemical dependency programs and nursing home transfers and discharges.

Additionally, Chapter 286 carries a $130,000 General Fund appropriation in Section 19 to continue a health screening and intervention program for herbicide and fumigant application. This appropriation, which is directed to the Commissioner of Health for pass through to the University of Minnesota, I have line-item vetoed.

The Department of Health has stated that this program and the appropriation are not a priority. With this understanding and the knowledge that the Legislature's proposed budget is not in balance, it is not appropriate to proceed with this type of expenditure.

Sincerely,
Arne H. Carlson, Governor

Pursuant to Joint Rule 3.02, (c), the foregoing message was laid on the table.

June 1, 1991

Ms. Joan Anderson Growe
Secretary of State

Dear Secretary of State Growe:

This is to inform you that I have allowed Chapter 279, Senate File 525/House File 1621, an expansive bill relating primarily to controlled substance crimes and gang activity, to become law without my signature.

With this correspondence, Chapter 279 is submitted to you for official filing.

Sincerely,
Arne H. Carlson, Governor

June 1, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

I have vetoed Chapter 284, Senate File 1152/House File 1199, a bill that creates a new system of limousine regulation within the Department of Transportation.

It has been brought to my attention that the limousine law was appended to a bill allowing group registration of motor vehicles. From the information we received with Chapter 284, the new limousine provisions were a product of a conference committee.

The work of conference committees is sometimes hard to comprehend. After every session, eagle-eyed reporters, staff, lobbyists, and even legislators, discover little pieces of laws favoring some group or person, hidden in apparently innocuous bills. Chapter 284 is a good example of this practice.

I have no objection to establishing new regulatory programs, and investing financially in those programs, if the public safety is at stake and we can make a significant difference in ensuring public safety. My problem with this proposal lies in the difficulty in determining exactly what it is that the bill accomplishes. The system it establishes is expensive, cumbersome, and easily evaded. Its few beneficial provisions, like the slightly higher insurance and annual inspections, could be accomplished simply by amending current insurance statutes, and bear no relationship to the need for a regulatory system.

There are only a few hundred limousines in the state of Minnesota, and virtually all of those limousines are in the Twin Cities area. A case has not been made that abuses exist in this industry which would justify state preemption of local regulatory authority. Until presented with more compelling need, I believe it would be far better for us to continue to leave this issue in the hands of the localities, who apparently have not deemed limousine use serious enough to warrant special regulation.

Sincerely,
Arne H. Carlson, Governor

While the Governor attempted to veto this Chapter, the Secretary of the Senate filed the bill with the Secretary of State and the Ramsey County District Court found the attempted veto to be invalid.

June 3, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 204, 520, 598, 559, 765, 785, 804, 861, 899, 928, 1112, 1127, 1224, 1231, 1244, 1295

and 1466.

Warmest regards,
Arne H. Carlson, Governor

June 3, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

Today I have signed into law Chapter 298, Senate File 598/House File 723, a bill which relates to railroad grade crossing safety and a natural preservation highway program.

Additionally, Chapter 298 carries an appropriation of $290,000 from the transportation services fund to continue the activities of the Transportation Study Board. The Transportation Study Board has been in existence for two years and its contribution to the state's long-range transportation policy are unquestionable.

The Board, however, has completed its mission. Its chair, vice chair, and executive director affirmed that fact in the cover memorandum which was part of their January 15, 1991, final report. That memorandum stated that "...the Transportation Study Board has completed its study of Minnesota surface transportation needs and adopted a program that will meet the state's transportation needs into the 21st century."

The Board's work now completed, I have line-item vetoed the two $145,000 fiscal year 1992-93 appropriations contained in Article 5, Section 7, on page 23, lines 8 and 9.

Sincerely,
Arne H. Carlson, Governor

Pursuant to Joint Rule 3.02, (c), the foregoing message was laid on the table.

June 3, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

Today I have signed into law Chapter 302, Senate File 559/House File 552, a bill which provides financial incentives for ethanol production and a mandate for use of the product by 1995.

Chapter 302 also contains two General Fund appropriations which total $240,000 for fiscal years 1992-93 which I have line-item vetoed. These appropriations for promotion and marketing of ethanol are on page 2, lines 26 through 36, and on page 3, lines 1 through 8.

In presenting my budget to the Legislature, I recommended elimination of this funding. It is unclear to me why we would need to promote and market a product where the State mandates its use. With this understanding, and the knowledge that the Legislature's proposed budget is not in balance, it is not appropriate to proceed with this type of expenditure.

Sincerely,
Arne H. Carlson, Governor

Pursuant to Joint Rule 3.02, (c), the foregoing message was laid on the table.

June 3, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

I have vetoed and am returning to you Chapter 303, Senate File 931/House File 1635, a bill which is intended to strengthen policy planning on problem materials and household hazardous waste. Chapter 303 also requires a comprehensive study on energy and environmental strategy.

It is with deep regret that I am compelled to veto environmental legislation, particularly when the original bill mandated sound public policy planning for certain toxic materials. However, Sections 6 and 7, major policy initiatives, were a House proposal with no Senate companion, and were added during the conference committee.

Sections 6 and 7 require an intensely detailed state energy and environmental policy study that must incorporate national security strategies of the federal government and coordinate with international policies. These sections also mandate the size of the sheets of paper to be used to report the study, the number of sheets that can be used by the various departments participating in the study, and how the document is to be formatted. Even though a comprehensive study of this magnitude will consume a significant amount of the state's resources, a fiscal note was never prepared. Clearly, the research required for this study would put an enormous strain on both human and financial resources of the seven state agencies required to participate in its development. This kind of unnecessary micro-management, I believe, is a detriment to fulfilling the important and worthy duties the Legislature intended the state agencies to accomplish.

Unfortunately, the action I am forced to take on this bill also will adversely impact the City of South Saint Paul. The federal Mississippi National River Critical Area is contained in this legislation and its special preservation status would have benefited the city in land and water planning. Perhaps it is time the Legislature reminded itself of Article IV, Section 17 of the State Constitution.

Sincerely,
Arne H. Carlson, Governor

While the Governor attempted to veto this Chapter, the Secretary of the Senate filed the bill with the Secretary of State and the Ramsey County

District Court found the attempted veto to be invalid.

June 3, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear President Hughes:

I have vetoed and am returning Chapter 307, Senate File 505/House File 530, a bill relating to a private sale of public land and a state-county land exchange. The land exchange, involving Itasca State Park, is a sensible policy, but the bill is deficient on constitutional grounds.

The Constitution specifies that exchanges of state lands are to be approved by the Land Exchange Board. This bill does not provide for involvement of the Board in the exchange. I have vetoed two land exchanges already in this session for the same reason.

The land exchange in this bill would solve a problem which the Legislature created in 1985 by drawing the boundaries of Itasca State Park around 120 acres of land owned by Clearwater County. The Legislature declared that ownership of the land would remain with the County until an exchange for state land of equal value. The County objected to this act, and it took five years to reach this compromise. Unfortunately, the Legislature will have to try again to set this matter straight.

Sincerely,
Arne H. Carlson, Governor

While the Governor attempted to veto this Chapter, the Secretary of the Senate filed the bill with the Secretary of State and the Ramsey County District Court found the attempted veto to be invalid.

June 4, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Senator Hughes:

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. 100, 208, 351, 506, 565, 601, 621, 707, 782, 783, 1019, 1050, 1179, 1316, 1533 and 1535 (with exceptions as noted in the attached document).

The attachment to the preceding letter reads as follows:

HIGHER EDUCATION, CHAPTER 356, SENATE FILE 1535

In Chapter 356, the Higher Education bill, the line-item vetoes are:

Article 1, Section 3, page 6, line 46, deletion of $1,546,000 appropriation.

Article 1, Section 4, page 8, lines 33 through 35, includes deletion of two $50,000 appropriations.

Article 1, Section 4, page 8, line 41, deletion of $14,585,000 appropriation.

Article 1, Section 5, page 9, line 30, deletion of $14,359,000 appropriation.

Article 1, Section 6, page 12, line 37, deletion of $3,605,000 FY93 appropriation.

Article 1, Section 6, page 12, line 47, deletion of FY93 $19,602,000 appropriation.

Article 1, Section 9, page 14, line 21, deletion of $1,000,000 appropriation.

Article 4, Section 5, page 32, lines 16 through 22, an appropriation to a commissioner.

Article 5, Section 1, page 33, lines 19 through 24, deletion of a $25,000 appropriation.

Arne H. Carlson
Governor

Pursuant to Joint Rule 3.02, (c), the foregoing message was laid on the table.

June 4, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 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 1991	Date Filed 1991
	1549	Res. No. 8	3:40 p.m. May 31	June 3
	683	249	4:43 p.m. May 31	June 3
	1129	250	4:45 p.m. May 31	June 3
	540	251	4:54 p.m. May 31	June 3
	1109	252	4:50 p.m. May 31	June 3
	354	253	5:08 p.m. May 31	June 3
880		256	4:56 p.m. May 31	June 3
793		257	5:00 p.m. May 31	June 3
526		258	5:02 p.m. May 31	June 3
919		259	5:06 p.m. May 31	June 3
432		260	4:47 p.m. May 31	June 3
	1371	263	3:27 p.m. June 1	June 3
	20	264	3:28 p.m. June 1	June 3
	317	266	3:29 p.m. June 1	June 3
780		267	3:30 p.m. June 1	June 3
1317		268	3:32 p.m. June 1	June 3

	299	269	3:34 p.m. June 1	June 3
	551	270*	5:01 p.m. June 1	June 3
	321	271	3:40 p.m. June 1	June 3
	695	272	3:42 p.m. June 1	June 3
	543	273	3:45 p.m. June 1	June 3
	99	274	3:47 p.m. June 1	June 3
	1009	275	3:49 p.m. June 1	June 3
	761	276	3:50 p.m. June 1	June 3
	244	277	3:53 p.m. June 1	June 3
	106	278	3:54 p.m. June 1	June 3
525		279**		June 3
1440		280	3:25 p.m. June 1	June 3
109		281	3:56 p.m. June 1	June 3
1474		282	3:57 p.m. June 1	June 3
205		283	3:58 p.m. June 1	June 3
371		285	4:00 p.m. June 1	June 3
774		286***	5:12 p.m. June 1	June 3
652		287	4:02 p.m. June 1	June 3
1284		288	4:04 p.m. June 1	June 3
	611	290	4:05 p.m. June 1	June 3
	1698	291****	4:25 p.m. May 31	June 3
906		293	4:06 p.m. June 1	June 3
	181	294	4:08 p.m. June 1	June 3
	1655	350	12:52 p.m. May 30	June 3

*Chapter 270 line-item veto of Section 9, page 9, lines 8 through 19.

**Chapter 279 became law without signature.

***Chapter 286 line-item veto of Section 19, page 14, lines 24-33.

****Chapter 291 line-item veto of Article 2, Section 4, page 79, lines 1 through 36; Article 14, Section 9, page 331, lines 35 and 36 and page 332, lines 1 through 5.

Sincerely,
Joan Anderson Growe
Secretary of State

June 6, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 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 1991	Date Filed 1991
	1088	295	4:25 p.m. June 3	June 4
785		296	4:27 p.m. June 3	June 4
1466		297	4:24 p.m. June 3	June 4
598		298*	4:50 p.m. June 3	June 4

520		299	4:20 p.m. June 3	June 4
1295		300	9:40 p.m. June 3	June 4
765		301	4:24 p.m. June 3	June 4
559		302**	10:05 p.m. June 3	June 4
	322	304	4:19 p.m. June 3	June 4
	977	305	4:18 p.m. June 3	June 4
	218	306	4:17 p.m. June 3	June 4
	202	308***		June 4
	958	309	4:16 p.m. June 3	June 4
804		310	3:48 p.m. June 3	June 4
1244		311	4:15 p.m. June 3	June 4
1231		312	4:15 p.m. June 3	June 4
899		313	4:14 p.m. June 3	June 4
204		314	4:05 p.m. June 3	June 4
1112		315	4:04 p.m. June 3	June 4
928		316	4:01 p.m. June 3	June 4
1224		317	5:23 p.m. June 3	June 4
1127		318	3:45 p.m. June 3	June 4
	693	319	4:00 p.m. June 3	June 4
	1142	321	3:58 p.m. June 3	June 4
	930	322	9:52 p.m. June 3	June 4
	459	323	9:50 p.m. June 3	June 4
	143	324	9:47 p.m. June 3	June 4
	12	325	9:45 p.m. June 3	June 4
861		326	9:42 p.m. June 3	June 4

*Chapter 298, line-item veto, Article 5, Section 7, page 23, lines 8 and 9.

**Chapter 302, line-item veto, page 2, lines 1 through 8.

***Chapter 308 became law without signature.

Sincerely,
Joan Anderson Growe
Secretary of State

June 6, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 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 1991	Date Filed 1991
	53	233*	9:02 p.m. June 4	June 5
1533		254*	9:58 p.m. June 3	June 6
	700	265*	9:05 p.m. June 4	June 5
	719	292*	9:10 p.m. June 4	June 5
1050		327	8:54 p.m. June 4	June 5
782		328	8:55 p.m. June 4	June 5

601		329	8:55 p.m. June 4	June 5
1316		330	8:56 p.m. June 4	June 5
707		331	8:57 p.m. June 4	June 5
	702	332	8:57 p.m. June 4	June 5
208		333	8:57 p.m. June 4	June 5
351		334	8:33 p.m. June 4	June 5
506		336	8:34 p.m. June 4	June 5
	303	337	8:42 p.m. June 4	June 5
	578	338	8:44 p.m. June 4	June 5
	606	339	8:45 p.m. June 4	June 5
	1035	340	8:59 p.m. June 4	June 5
	1584	341	9:00 p.m. June 4	June 5
1179		342	8:55 p.m. June 4	June 5
621		343	8:49 p.m. June 4	June 5
783		344	8:32 p.m. June 4	June 5
	1631	345*	9:14 p.m. June 4	June 5
	833	346	8:30 p.m. June 4	June 5
	694	347	8:34 p.m. June 4	June 5
100		351	8:33 p.m. June 4	June 5
565		352	8:35 p.m. June 4	June 5
1019		353	8:37 p.m. June 4	June 5
	1	354	8:31 p.m. June 4	June 5
	783	355*	9:52 p.m. June 4	June 5
1535		356*	9:07 p.m. June 4	June 5

*Chapter 233 - See attached for line-item veto information.
*Chapter 254 - See attached for line-item veto information.
*Chapter 265 - See attached for line-item veto information.
*Chapter 292 - See attached for line-item veto information.
*Chapter 345 - See attached for line-item veto information.
*Chapter 355 - Line-item veto Section 53, page 31, lines 18-28.
*Chapter 356 - See attached for line-item veto information.

Sincerely,
Joan Anderson Growe
Secretary of State

The following letter from the Governor was an attachment to the preceding letter from the Secretary of State.

June 4, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

Dear Speaker Vanasek and President Hughes:

I have signed into law the major appropriations bills approved by the 1991 Legislature:

Education Aids, Chapter 265, House File 700/Senate File 467

Higher Education, Chapter 356, Senate File 1535

Human Services, Chapter 292, House File 719/Senate File 1550

Environment and Natural Resources, Chapter 254, Senate File 1533/ House File 493

Transportation and Semi-States, Chapter 233, House File 53/Senate File 1530

State Departments, Chapter 345, House File 1631

I sign these laws with major misgivings because they continue a troubling pattern of overspending.

First of all, the fiscal year 1992-93 budget passed by the Legislature is $32 million out of balance. I believe it was caused in part by the last minute rush to complete business by the required adjournment date. This type of eleventh hour chaos is not new. Regrettably it has become characteristic of the way the Legislature chooses to operate. An example of this disconcerting process is the State Departments Bill which was developed and written well into the early morning hours just before the close of the session and passed just one day later.

But what concerns me more is that again the Legislature has mortgaged the state's future by not exercising spending restraint. Many of the bills passed this year start spending programs which cost small amounts of money today, but which compound into major spending in 1994 and 1995. We cannot continue to write checks when there is not enough money in the bank.

I also think that it is important to recount the events which resulted in the 1991 budget crisis. It began with the over-spending that took place during the 1989 legislative session. In looking back, we learned that on July 1, 1989, which was the start of the current biennium, the state had a healthy beginning balance forward of $946 million. The 1989 Legislature, rather than adopting the prudent course, chose to spend all of the $946 million balance, and then kept on spending. When the numbers were all added up, the 1989 Legislature's spending exceeded revenue by over $500 million for fiscal years 1990-91. Their decisions, together with their spending tails, have contributed heavily to our current budget difficulties.

When I took office on January 7, 1991, Minnesota faced a $1.9 billion deficit. Working with the Legislature, in a bipartisan manner, $194 million was cut from the current budget so that we would end fiscal year 1991 (June 30, 1991) in the black. Even with that budget adjustment, Minnesota still faced a $1.7 billion shortage going into fiscal years 1992 and 1993.

To address the $1.7 billion problem which I inherited, I asked all state departments to make major cuts in the budgets they had proposed for the next two years. The cuts included:

1. All proposed salary increases for state employees.
2. All inflation costs for rent, equipment, etc.
3. All new programs.

Through this process we cut nearly $600 million from the 1992-1993 fiscal year budgets. Now we had a $1.1 billion deficit.

I again went to all state agencies and had them cut another $250 million from their budgets. I proposed a fiscal year 1992-93 reduction of a like amount ($250 million) in aids to local governments. Additionally, I recommended $276 million in tax increases and proposed other revenue changes of $183 million. These changes, together with a $150 million use of the reserve fund, balanced the budget.

In February I presented my balanced budget to the Legislature. I stated that Minnesota must get its spending under control and that a reserve fund must remain intact to finance major and unexpected economic changes. The Legislature rejected my balanced budget and ignored the budgetary guidelines I laid out.

In these guidelines, I stated that there must be money available for program commitments and increased demand for services in 1994 and 1995 so that we do not simply move from one financial crisis into another. We must look farther down the road. Our Finance Commissioner estimates we need $500 to $600 million for this purpose.

In rejecting my budget, the Legislature continued its past practice, the same bad habit displayed in 1989. They spent money they did not have. Recognizing that the Legislature is not able to exercise restraint and get serious about how it spends taxpayer's dollars, I directed my staff, the Department of Finance, and appropriate agency commissioners to analyze each bill in order to limit spending to essential programs and services.

To accomplish this, I have had to make adjustments that affect many programs. Some are new programs that are of questionable need with long-term cost implications; some are local government programs that the state has funded in the past, but which should rightly be the responsibility of the local government and local taxpayers; some are mandated studies which are either unnecessary or duplicative.

It is very difficult to cut new, possibly needed programs, and programs of long standing, but we cannot keep spending and raising taxes. For those of you who are frustrated and displeased with these line-item vetoes, I can appreciate your displeasure. We do not like these cuts either. We would love to spend money on new programs - but - where will the money come from? It takes no skill to make promises to spend money you do not have. It however takes enormous skill to set priorities and engage in judicious decision-making.

So that the Legislature would not be caught off guard, I shared with legislative leaders on April 29, 1991, "Principles Governing Legislation Presented for Signature". I also stated publicly at many press conferences that Minnesota will not mortgage its future while I am here to provide leadership.

The people of Minnesota want smarter state government spending and we must provide it. In many of the major spending bills, the Legislature has tried to take away the Governor's constitutional right to line-item veto by aggregating questionable programs with vital services. Therefore, some of the cuts are not necessarily those we would have made if we had access to the entire budget. Unfortunately, these were the only options the Legislature

allowed.

I was not willing to let this kind of clever packaging interfere with this sacred constitutional authority, so I have exercised my veto right, pursuant to the powers vested in me by Article IV, Section 23 of the Minnesota Constitution, extensively but judiciously.

Minnesotans, I am sure, when informed will be surprised at the way the legislative leaders tried to hide their spending from the Governor and from many of their own members. The process has become so convoluted that when legislators voted on some bills, they were unaware of the line-item expenditures because the specific provisions were hidden in so-called "working papers". Minnesotans should not and cannot tolerate this abuse of legislative power.

Accordingly, I have exercised the line-item veto power and in doing so have generated more than $115 million in savings for fiscal years 1992-93. For the next biennium, fiscal years 1994-95, this figure will be in excess of $182 million. The total impact of these veto decisions is to reduce spending by $297 million over the next four years.

Even with the cuts achieved through this line-item veto process, we still have unfunded spending commitments after inflation in excess of $302 million going into fiscal years 1994-95. To further ratchet down this over commitment, I will look to CORE - the Commission on Reform and Efficiency. CORE will be operational within the next two months and has been established to undertake a comprehensive examination of our state government structure. CORE will be the first serious effort in decades to streamline state government, improve efficiency, reduce costs and increase accountability over the long-term. It is my hope that CORE's first progress report in January 1992 will give us a good forecast on the savings we can realistically book for the 1994-95 biennium.

For all of the reasons I have cited, I have made line-item vetoes in each of the major appropriations bills. In reviewing this legislation, which contains long-term policy initiatives and funding for on-going basic programs, we used the thorough analysis that has been applied for all bills presented to me for signature. In particular, I have attempted to balance the need for essential programs and services with the non-negotiable mandate that we end the 1991-93 biennium with a balanced budget and start the next two-year cycle with equally prudent planning.

In Chapter 265, the Education Aids bill, the line-item vetoes are:

Article 1, Section 21, page 20, lines 24 and 25, deletion of an open and standing appropriation.

Article 5, Section 9, page 115, lines 29 through 33, deletion of an open end standing appropriation.

Article 5, Section 24, page 124, line 32, deletion of $4,950,000 appropriation.

Article 6, Section 66, page 183, line 31, deletion of FY93 $1,895,000 appropriation.

Article 6, Section 66, page 184, line 13, deletion of FY93 $138,000 appropriation.

Article 7, Section 42, page 213, line 14 and lines 24 through 25, deletion of a FY93 $20,000,000 appropriation.

Article 7, Section 42, page 213, line 30, deletion of $100,000 appropriation.

Article 8, Section 19, page 233, line 24, deletion of $750,000 appropriation.

Article 8, Section 19, page 234, lines 12, 17, 23, and 35, deletion of $25,000 appropriation, deletion of two $70,000 appropriations, deletion of the $250,000 appropriation, and deletion of the $25,000 appropriation.

Article 8, Section 19, page 235, line 10, deletion of the two $20,000 appropriations.

Article 8, Section 19, page 236, line 1, deletion of the $20,000 appropriation.

The Education Aids line-item vetoes are necessary to maintain a fiscally prudent budget but will still allow us to focus state resources on basic programs that are essential for the education of Minnesota's children. It is also important to point out that no appropriations cuts affect existing classroom instructional programs.

With regard to primary budget considerations, the Education Aids bill passed by the Legislature exceeds my recommendations for FY92-93 by nearly $5.0 million and creates spending obligations in excess of $71 million for the FY94-95 biennium. The aggregate impact of these line-item vetoes for FY92-93 is a savings of $28 million. For FY94-95 the savings is projected to be $62 million.

In Chapter 356, the Higher Education bill, the line-item vetoes are:

Article 1, Section 3, page 6, line 46, deletion of $1,546,000 appropriation.

Article 1, Section 4, page 8, lines 33 through 35, includes deletion of two $50,000 appropriations.

Article 1, Section 4, page 8, line 41, deletion of $14,585,000 appropriation.

Article 1, Section 5, page 9, line 30, deletion of $14,359,000 appropriation.

Article 1, Section 6, page 12, line 37, deletion of $3,650,000 FY93 appropriation.

Article 1, Section 6, page 12, line 47, deletion of FY93 $19,602,000 appropriation.

Article 1, Section 9, page 14, line 21, deletion of $1,000,000 appropriation.

Article 4, Section 5, page 32, lines 16 through 22, an appropriation to a commissioner.

Article 5, Section 1, page 33, lines 19 through 24, deletion of a $25,000 appropriation.

The Higher Education line-item vetoes are difficult ones, and, because of the complicated appropriations process employed by the Legislature, the changes cannot be equitably allocated among the individual systems. Nevertheless, the changes are necessary in order to bring the higher education budget closer to my original recommendation.

With regard to budget specifics, the Higher Education bill passed by the Legislature exceeds my recommendation by $70.0 million for the FY92-93 biennium and by more than $76 million for the FY94-95 biennium. The aggregate impact of these line-item vetoes is a savings of more than $55 million for FY92-93 and for FY94-95 a projected savings of $54 million.

In Chapter 292, the Human Services bill, the line-item vetoes are:

Article 1, Section 2, page 10, lines 28 through 39, deletion of a transfer of funds.

Article 1, Section 2, page 14, lines 59 through 67, and page 15, lines 1 through 9, deletion of a $250,000 appropriation.

Article 1, Section 2, page 18, lines 48 through 56, deletion of $80,000 appropriation.

Article 1, Section 5, page 21, lines 31 through 55, deletion of the $300,000 and $100,000 appropriations.

Article 6, Section 56, page 394, lines 32 through 36, and page 395, lines 1 through 21, deletion of $75,000 appropriation.

Article 8, Section 23, pages 498 through 500, deletion of $50,000 appropriation.

The Human Services line-item vetoes, while certainly sensitive, still assure delivery of essential services for the state residents who are most "at risk". With regard to budget specifics, the Human Services adjustments are necessary in order to bring the budget more in line with my recommendations.

Left untouched, the Human Services bill passed by the Legislature would exceed my budget recommendation for the FY92-93 biennium by more than $131 million (includes federal reimbursement for medicaid provider surcharge) and would create unfunded future spending obligations in excess of $136 million (assumes federal reimbursement for medicaid provider surcharge) for the FY94-95 biennium. The aggregate impact of these line-item vetoes is a savings of approximately $1 million for the FY92-93 biennium and a projected savings of $400,000 for the FY94-95 biennium.

In Chapter 254, the Environment and Natural Resources bill, the line-item vetoes are:

Section 5, page 7, lines 48 and 49, deletion of $10,000 appropriation.

Section 5, page 8, lines 50 through 52, deletion of $50,000 appropriation.

Section 7, page 16, lines 38 through 56, deletion of $200,000 appropriation.

The Environment and Natural Resources line-item vetoes are targeted and consistent with the immediate need to assure taxpayers that we will have a balanced budget for the FY92-93 biennium. The aggregate impact of these line-item vetoes is a savings of $260,000 for the FY92-93 biennium and a projected savings of $50,000 for the FY94-95 biennium.

In Chapter 233, the Transportation and Semi-states bill, the line-item vetos are:

Section 2, page 8, lines 22 through 26, deletion of $35,000 appropriation.

Section 6, page 14, lines 59, 60, page 15, lines 1, 2, deletion of $1,000,000 appropriation.

Section 18, page 19, lines 7 through 17, deletion of $446,000 appropriation.

Section 18, page 19, lines 41 through 48, page 20, lines 4 through 15, lines 21 through 31, deletion of $40,000 appropriation, deletion of two $25,000 appropriations, and deletion of $50,000 appropriation.

Section 20, page 21, lines 4 through 13, deletion of $25,000 appropriation.

Section 21, page 21, lines 16 through 25, deletion of $1,000,000 appropriation as contained in item two of the working paper referenced in the bill and filed with the Secretary of State.

Section 28, page 24, lines 18 through 24, deletion of $250,000 appropriation.

Section 94, page 58, lines 13 through 24, 35, 36; page 59, lines 1 through 25.

The Transportation and Semi-States line-item vetoes are directed at non-essential programs which for the most part go beyond the target set in my budget. Broad-based programs of major statewide significance are preserved. The aggregate impact of these line-item vetoes is a savings of $2.6 million for the FY92-93 biennium and a projected savings of $39 million for the FY94-95 biennium.

In Chapter 345, the State Departments bill, the line-item vetoes are:

Article 1, Section 2, page 4, lines 24 through 29, deletion of FY91 $600,000 appropriation carryforward.

Article 1, Section 2, page 4, lines 46 through 48, and page 5, line 1, deletion of FY91 $300,000 appropriation carryforward.

Article 1, Section 5, page 8, lines 13 through 18, deletion of $70,000 appropriation.

Article 1, Section 12, page 10, lines 50 through 56, deletion of $200,000 appropriation.

Article 1, Section 17, page 15, lines 53 through 55, deletion of a $10,000 appropriation and lines 56 through 58, deletion of a $480,000 appropriation.

Article 1, Section 17, page 16, lines 2 through 7, deletion of a $1,680,000 appropriation, and lines 16 through 22, deletion of a $264,000 appropriation, and lines 23 through 29, deletion of a $180,000 appropriation.

Article 1, Section 19, page 18, line 23, deletion of FY93 $2,500,000 appropriation.

Article 1, Section 21, page 21, line 40, deletion of $178,000 appropriation.

Article 1, Section 23, page 24, lines 6 through 10, deletion of $754,000 appropriation.

Article 1, Section 23, page 24, lines 25 through 28, deletion of $11,808,000 appropriation.

Article 1, Section 23, page 24, line 37, deletion of FY93 $2,791,000 appropriation.

Article 1, Section 23, page 24, lines 53 through 63, and page 25, lines 1 through 3, deletion of $4,012,000 appropriation.

Article 1, Section 23, page 25, lines 4 through 8, deletion of $118,000 appropriation.

Article 1, Section 23, page 25, lines 12 through 14, deletion of $75,000 appropriation.

Article 1, Section 23, page 25, lines 61 and 62, and page 26, lines 1 through 7, deletion of $500,000 appropriation.

Article 1, Section 23, page 26, lines 43 through 46, deletion of $120,000 appropriation.

Article 1, Section 23, page 27, lines 23 through 30, deletion of $150,000 appropriation.

Article 1, Section 23, page 28, lines 33 through 36, and lines 43 through 45, deletion of the $400,000 and $100,000 appropriations.

Article 1, Section 23, page 28, lines 53 through 55, deletion of FY93 $500,000 appropriation.

Article 1, Section 24, page 29, lines 30 through 34, deletion of $97,000 appropriation.

The State Departments line-item vetoes in general are grant funds for numerous local initiatives that represent duplicative services, or services with only limited geographic significance. With regard to many of these programs, it is questionable whether the state should maintain any level of involvement, regardless of budget constraints. If allowed to proceed, the State Departments budget passed by the Legislature would exceed my recommended budget by $49 million for the FY92-93 biennium. The aggregate impact of these line-item vetoes is a savings of $28 million for the FY92-93 biennium and a projected savings of $26 million for the FY94-95 biennium.

By eliminating all of these spending items, we have reduced total state spending by $115 million for the next two-year budget period, fiscal years 1992-93. Further, these cuts mean savings in the 1994-1995 biennium of $182 million resulting in a total impact of $297 million over the next four years.

Sincerely,
Arne H. Carlson, Governor

Pursuant to Joint Rule 3.02, (c), the foregoing message was laid on the table.

June 7, 1991

Joan Anderson Growe
Secretary of State

Dear Secretary of State Growe:

I am enclosing the following Senate files which were passed by the 1991 Legislature and which the Governor returned to the Senate after the three day constitutional requirement.

Senate File	Chapter
1571	246
300	255
1152	284
931	303
505	307

Senate Counsel informs me that under the Minnesota Constitution, article IV, section 23, these bills become law and should be filed appropriately.

Very truly yours,
Patrick E. Flahaven
Secretary of the Senate

June 11, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 Session of the State Legislature have been received from the Offices of the Chief Clerk of the House of Representatives and the Secretary of the Senate 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.	Date Received 1991	Date Filed 1991
1571		246	June 7	June 10
300		255	June 7	June 10
1152		284	June 7	June 10
931		303	June 7	June 10
505		307	June 7	June 10
	1405	145	June 7	June 10
	425	185	June 7	June 10
	1042	261	June 7	June 10
	1050	262	June 7	June 10
	871	289	June 7	June 10
	137	320	June 7	June 10
	222	348	June 7	June 10
	635	349	June 7	June 10

304	239	June 7	June 10

Sincerely,
Joan Anderson Growe
Secretary of State

June 21, 1991

Joan Anderson Growe
Secretary of State

Dear Secretary of State Growe:

I am enclosing Senate File 971, which was passed by the 1991 Legislature and which the Governor returned to the Senate after the three day constitutional requirement.

Senate Counsel informs me that under the Minnesota Constitution, article IV, section 23, this bill became law and should be filed appropriately.

Sincerely,
Patrick E. Flahaven
Secretary of the Senate

June 24, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Act of the 1991 Session of the State Legislature has been received from the Office of the Secretary of the Senate and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Date Received 1991	Date Filed 1991
971		213	June 21	June 21

Sincerely,
Joan Anderson Growe
Secretary of State

July 17, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

Pursuant to Minnesota Laws 1991 I have made the following appointments:

Chapter 252, Section 1: Advantage Minnesota, Inc. - Mr. Metzen

Chapter 337, Section 89: Air Quality Advisory Task Force - Messrs. Dahl; Frederickson, D.J.; Mondale and Laidig

Chapter 345, Article 1, Section 24: Amateur Sports Commission - Ms. Johnson, J.B.

Respectfully,
Roger D. Moe
Senate Majority Leader

July 17, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

The Subcommittee on Committees met on July 10, 1991, and by appropriate action made the following appointments:

Pursuant to Laws 1989

Chapter 335, Article 1, Section 53: Legislative Task Force on Minerals - Mr. Gustafson

Pursuant to Laws 1991

Chapter 291, Article 2, Section 1: Advisory Commission on Intergovernmental Relations - Ms. Reichgott, Messrs. Pogemiller; Frederickson, D.J; Hottinger and Ms. Olson

Chapter 297, Section 1: Advisory Task Force on Low-Income Energy Assistance - Mr. Finn

Chapter 356, Article 2, Section 6: Commission on Post-Secondary Education/Task Force on Post-Secondary Funding - Mr. Stumpf and Mrs. Benson, J.E.

Chapter 170, Section 6: Crime Victim and Witness Advisory Council - Mr. Kelly

Chapter 265, Article 8, Section 1: Legislative Commission on Children, Youth, and Their Families - Mr. Dicklich, Ms. Traub, Mr. Hottinger, Mses. Piper, Ranum, Messrs. Riveness, Knaak and Ms. Johnston

Chapter 265, Article 8, Section 16: Task Force on Education and Employment Transitions - Messrs. Beckman and Gustafson

Chapter 292, Article 6, Section 57: Task Force to Study the Feasibility of Establishing an Integrated Children's Mental Health Fund - Ms. Berglin and Mr. McGowan

Chapter 298, Article 8, Section 3, Subdivision 1: Transportation Study Board - Messrs. Langseth, DeCramer, Vickerman, Ms. Flynn, Mr. Novak, Ms. Johnston and Mr. Mehrkens

Respectfully,
Roger D. Moe, Chair
Subcommittee on Committees

July 25, 1991

Mr. Patrick E. Flahaven
Secretary of the Senate

Dear Sir:

Pursuant to Minnesota Laws 1991, I have made the following appointments:

Chapter 292, Article 5, Section 62: Minnesota Early Childhood Care and Education Council - Mr. Sams and Ms. Olson

Sincerely,
Jerome M. Hughes
President of the Senate

July 26, 1991

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

Pursuant to Minnesota Laws 1991, I have made the following appointments:

Chapter 322, Section 1: Minnesota Technology Inc. - Mr. Tom Jorgens

Respectfully,
Roger D. Moe
Senate Majority Leader