

1.1 **Senator Betzold from the Committee on Judiciary, to which was referred**

1.2 **S.F. No. 1287:** A bill for an act relating to real property; regulating causes of
1.3 action arising out of construction defects in residential housing; providing for notice and
1.4 opportunity to repair; proposing coding for new law as Minnesota Statutes, chapter 337A.

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

1.6 Delete everything after the enacting clause and insert:

1.7 "Section 1. Minnesota Statutes 2004, section 60A.08, subdivision 6, is amended to
1.8 read:

1.9 Subd. 6. **Bankruptcy ~~or~~, insolvency, or dissolution** clause. Every bond or
1.10 policy of insurance issued in this state insuring against either actual loss suffered by the
1.11 insured, and imposed by law for damages on account of personal injury, death, or injury
1.12 to property caused by accident, or legal liability imposed upon the insured by reason of
1.13 such injuries or death, shall, notwithstanding anything in the policy to the contrary, be
deemed to contain the following condition:

1.15 The bankruptcy ~~or~~, insolvency, or dissolution of the insured shall not relieve the
1.16 insurer of any of its obligations under this policy, and in case an execution against the
1.17 insured on a final judgment is returned unsatisfied, then such judgment creditor shall have
1.18 a right of action on this policy against the company to the same extent that the insured
1.19 would have, had the insured paid the final judgment.

1.20 Sec. 2. Minnesota Statutes 2004, section 302A.781, is amended by adding a
1.21 subdivision to read:

1.22 Subd. 4. **Statutory homeowner warranty claims preserved.** The statutory
1.23 warranties provided under section 327A.02 are not affected by a dissolution under this
chapter.

1.25 Sec. 3. Minnesota Statutes 2004, section 322B.863, is amended by adding a
1.26 subdivision to read:

1.27 Subd. 4. **Statutory homeowner warranty claims preserved.** The statutory
1.28 warranties provided under section 327A.02 are not affected by a dissolution under this
1.29 chapter.

1.30 Sec. 4. Minnesota Statutes 2004, section 327A.02, is amended by adding a subdivision
1.31 to read:

1.32 Subd. 2a. **Remedies unaffected by corporate dissolution.** The statutory
warranties provided in this section are not affected by the dissolution of a vendor or home
1.34 improvement contractor that is a corporation or limited liability company.

2.1 Sec. 5. Minnesota Statutes 2004, section 327A.02, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 4. Response from vendor to notice of claim. (a) Following notice under
2.4 section 327A.03, the vendee must allow an inspection and opportunity to offer to repair
2.5 the known loss or damage. Upon request of the vendee, a court may order the vendor to
2.6 conduct the inspection. The inspection must be performed and any offer to repair must be
2.7 made in writing to the vendee within 30 days of the vendor's receipt of the written notice
2.8 required under section 327A.03, clause (a), alleging loss or damage. The applicable
2.9 statute of limitations is tolled from the date the written notice provided by the vendee is
2.10 postmarked, or if not sent through the mail, received by the vendor until the earliest of
2.11 the following:

- 2.12 (1) the date the vendee rejects the vendor's offer to repair;
- 2.13 (2) the date the vendor rejects the vendee's claim in writing;
- 2.14 (3) failure by the vendor to make an offer to repair within the 30-day period
2.15 described in this subdivision; or
- 2.16 (4) 180 days.

2.17 For purposes of this subdivision, "vendor" includes a home improvement contractor.

2.18 (b) Upon completion of repairs as described in an offer to repair, the vendor must
2.19 provide the vendee with a list of the repairs made and a notice that the vendee may have a
2.20 right to pursue a warranty claim under chapter 327A. Provision of this statement is not
2.21 an admission of liability. Compliance with this subdivision does not affect any rights
2.22 of the vendee under this chapter.

2.23 **Sec. 6. EFFECTIVE DATE.**

2.24 Sections 1 to 4 are effective the day following final enactment and apply to actions
2.25 pending on or commenced on or after that date, provided that the action is brought within
2.26 the time limitation in Minnesota Statutes, section 541.051, subdivision 4."

2.27 Amend the title accordingly

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

2.29 
2.30 (Committee Chair)

2.31 April 4, 2006
2.32 (Date of Committee recommendation)

1 Subd. 6. [CONSTRUCTION DEFECT.] A "construction defect" or
2 "defect" has the meaning assigned by an express, written
3 warranty provided by a contractor, or if no express warranty
4 provides a definition, means a matter concerning the design,
5 construction, or repair of a dwelling, of an alteration of or
6 repair or addition to an existing dwelling, or of an
7 appurtenance to a dwelling, on which a person has a complaint
8 against a contractor. A defect includes any physical damage to
9 the dwelling or any appurtenance, or the real property on which
10 the dwelling or appurtenance is affixed, caused by a
11 construction defect. A "major construction defect" has the
12 meaning given in section 327A.01, subdivision 5.

13 Subd. 7. [CONTRACTOR.] A "contractor" means any person,
14 firm, partnership, corporation, or other organization that is
15 engaged in the business of design, development, construction,
16 alteration, addition to, or repair of, a new or existing
17 dwelling, or of an appurtenance to a new or existing dwelling.

18 A contractor includes an:

19 (1) owner, officer, director, shareholder, partner, or
20 employee of the contractor;

21 (2) subcontractors, suppliers, and other agents of the
22 contractor; and

23 (3) a risk retention group, if any, registered by law, that
24 insures any part of a contractor's liability for the cost to
25 repair a construction defect.

26 Subd. 8. [DWELLING.] A "dwelling" means a single-family
27 house, duplex, or multifamily unit designed for residential use
28 in which title to each individual unit is transferred to the
29 owner and shall include common areas and improvements that are
30 owned or maintained by an association or members of the
31 association. A dwelling includes the systems, other components,
32 improvements, other structures, or recreational facilities that
33 are appurtenant to the single-family house, duplex, or
34 multifamily unit at the time of its initial sale, but not
35 necessarily a part of the single-family house, duplex, or
36 multifamily unit.

1 Sec. 2. [337A.02] [NOTICE AND OPPORTUNITY TO REPAIR.]

2 Subdivision 1. [NOTICE.] Not later than 90 business days
3 before filing a cause of action, the claimant must provide
4 written notice to the contractor. The written notice must be
5 served by certified mail or personal service and must describe
6 in sufficient detail the defect that the claimant is claiming
7 has occurred.

8 Subd. 2. [RESPONSE.] Within 30 business days of receipt of
9 the notice in subdivision 1, the contractor must provide a
10 written response to the claimant. The response must be served
11 by certified mail or personal service and must:

12 (1) offer to settle the claim by a monetary payment, the
13 making of repairs, or a combination of both; or

14 (2) propose to inspect the dwelling that is the subject of
15 the claim.

16 Subd. 3. [INSPECTION; RESPONSE; SUPPLEMENTAL OFFER.] (a)
17 If a proposal for inspection is made under subdivision 2, the
18 claimant, within 30 business days of receiving the response,
19 must provide the contractor with timely access to the dwelling
20 in order to inspect and document the claimed defect, and perform
21 any testing reasonably necessary to evaluate the nature, extent,
22 and cause of the claimed defect, and nature and extent of any
23 repairs or replacements that may be required to remedy the
24 claimed defect.

25 (b) Within 14 business days of completing the inspection
26 and testing, the contractor must provide a written response to
27 the claimant. The response must be served by certified mail or
28 personal service and must:

29 (1) offer to settle the claim by a monetary payment, making
30 repairs, or a combination of both; or

31 (2) state that the contractor will not proceed further to
32 remedy the claimed defect.

33 (c) Within 15 business days of receiving a claimant's
34 rejection of a settlement offer made under paragraph (b), the
35 contractor may make a supplemental offer to settle the claim by
36 a monetary payment, making repairs, or a combination of both.

1 Subd. 4. [OFFER TO MAKE REPAIRS.] Any offer under
2 subdivision 2 or 3 to remedy the claimed defect by making
3 repairs shall include a detailed description of additional
4 construction necessary to remedy the defect and an anticipated
5 timetable for the completion of the construction.

6 Subd. 5. [ACCEPTANCE OF SETTLEMENT OFFER.] (a) If the
7 claimant accepts a settlement offer made in subdivision 2 or 3,
8 including a supplemental offer, the claimant must provide
9 written notice of the acceptance. The acceptance must be served
10 by certified mail or personal service within 30 business days of
11 receipt of the offer. The claimant may not file an action
12 without responding to the settlement offer within 30 business
13 days of receipt of the offer.

14 (b) If the claimant accepts an offer to repair, the
15 claimant must provide the contractor with timely access to the
16 dwelling to complete the construction by the timetable agreed
17 upon in the settlement offer.

18 (c) If a claimant accepts, and a contractor performs in
19 accordance with, a settlement offer made under this section:

20 (1) the claimant is thereafter barred from bringing an
21 action involving the defect. If a subsequent defect is alleged,
22 the claimant must provide notice to the contractor as provided
23 by subdivision 1; and

24 (2) the contractor is deemed to have been legally obligated
25 to make the repairs or monetary payment as if the claimant had
26 recovered a judgment against the contractor in the amount of the
27 cost of repairs or monetary payment, or a combination of both.

28 Subd. 6. [REJECTION OF CLAIM; FAILURE TO RESPOND; FAILURE
29 TO PROVIDE NOTICE.] The claimant may, without further notice,
30 file a cause of action if the contractor:

31 (1) rejects the claim and will neither remedy the defect or
32 settle the claim as provided in subdivision 2 or 3;

33 (2) fails to serve a response to the claimant as required
34 by subdivision 2 or 3; or

35 (3) fails to provide the notice required by section 337A.03.

36 Subd. 7. [REJECTION OF SETTLEMENT OFFER.] (a) If the

1 claimant rejects a settlement offer made in subdivision 2 or 3,
2 including a supplemental offer, the claimant must provide
3 written notice of the rejection prior to commencing an action.
4 The rejection must be served by certified mail or personal
5 service within 30 business days of receipt of the offer and must
6 specify the reasons known to the claimant for the rejection. If
7 the claimant believes the settlement offer omitted reference to
8 any portion of the claim, or was unreasonable in its terms, the
9 claimant must set forth those items of the claim the claimant
10 believes were omitted or why the settlement offer was
11 unreasonable.

12 (b) In an action subsequently brought, if the court or
13 arbitrator determines that the contractor has made a good faith
14 and reasonable offer of settlement of the claim under
15 subdivision 2 or 3, and that the claimant has rejected the
16 offer, the claimant may not recover an amount in excess of the
17 written settlement offer.

18 Subd. 8. [FAILURE TO COMPLY.] If a claimant accepts a
19 settlement offer pursuant to this section, and the contractor
20 fails to make the monetary payment or remedy the defect within
21 the agreed timetable, the claimant may, without further notice,
22 file a cause of action. The claimant may also file the
23 settlement offer and acceptance which will create a rebuttable
24 presumption that a binding and valid settlement agreement has
25 been created and should be enforced by the court or arbitrator.

26 Subd. 9. [ADDITIONAL DEFECTS.] A defect that is discovered
27 after the claimant has provided the original claim notice under
28 subdivision 1 may not be alleged in an action until the claimant
29 has provided the required notice and the contractor has been
30 given opportunity to respond, as provided by this section.

31 Sec. 3. [337A.03] [CONTRACT FOR SALE.]

32 A contractor must include, in every contract for the sale
33 of a dwelling to be completed and in every contract for the sale
34 of home improvement work, the notice required by this section.
35 The notice must be in at least 10-point bold type, if printed,
36 or in capital letters, if typewritten, and must state as follows:

1 "Minnesota law contains important procedures and
2 requirements you must follow before you may file a lawsuit for
3 defective construction against the contractor who constructed,
4 or performed construction on, your home. Failure to follow
5 these procedures and requirements may affect your ability to
6 file a lawsuit. You must serve a written notice on the
7 contractor of any construction conditions you believe to be
8 defective 90 business days before you file your lawsuit. A
9 contractor has the opportunity to make an offer to repair or pay
10 for the defects. You are not obligated to accept an offer made
11 by a contractor."

12 Sec. 4. [337A.04] [DISMISSAL; RELATION TO OTHER LAWS.]

13 (a) Except as provided in paragraph (b) or (c), if a
14 claimant has not complied with section 337A.02 before filing a
15 cause of action, the court or arbitrator with whom the action
16 has been filed shall dismiss the cause of action without
17 prejudice. The action may not be refiled until the claimant has
18 complied with section 337A.02.

19 (b) An action that includes a cause of action for damages
20 due to personal injury or death is not subject to dismissal
21 under section 337A.02.

22 (c) A claimant may file an action if delay would preclude
23 the action from being brought by section 541.051. However, the
24 court or arbitrator shall stay the proceedings pending
25 compliance with this section. This subdivision shall not be
26 construed to revive or extend any applicable statute of
27 limitation or repose periods set forth in section 541.051. This
28 section does not negate a claimant's duty to report loss or
29 damage as required by section 327A.03, clause (a).

30 (d) Nothing in this chapter creates a cause of action on
31 behalf of a claimant or contractor. Nothing in this chapter
32 limits a contractor's right to seek contribution, indemnity, or
33 recovery against a subcontractor, material supplier, or design
34 professional for any claim made against a contractor.

35 (e) Nothing in this chapter diminishes or enlarges the
36 rights or responsibilities of a claimant or of an insurer,

1 pursuant to contract or by law under any insurance contract. If
2 a contractor requests that its insurer indemnify the contractor
3 against a claim made in accordance with this chapter, the
4 insurer shall complete its investigation and inform the insured
5 contractor of acceptance or denial of the claim within 30
6 business days after receipt of notification of claim, as
7 required by section 72A.201, subdivision 4. If an insurer fails
8 to accept or deny a claim within 30 business days after receipt
9 of notification of the claim, the insurer waives its rights to
10 claim that the insured contractor's subsequent efforts to
11 resolve the claim violated the insurance contract's conditions
12 or prejudiced the insurer in any way.

13 Sec. 5. [337A.05] [LIMITATION.]

14 In any action relating to a dwelling involving a
15 construction defect, a contractor is not liable for:

- 16 (1) loss or damage described in section 327A.03;
17 (2) damages caused by the contractor's reliance on the
18 written directive of a local or state building official;
19 (3) damages involving a construction defect known by or
20 disclosed to the claimant before the claimant's purchase of the
21 dwelling, or that could have been discovered by the claimant
22 through the exercise of reasonable diligence before the
23 claimant's purchase of the dwelling; or
24 (4) refusal by the claimant or predecessor claimant to
25 permit the contractor to perform warranty service work.

26 Sec. 6. [337A.06] [ACTIONS OF HOMEOWNER ASSOCIATIONS.]

27 Subdivision 1. [PROHIBITION.] (a) No person shall provide
28 or offer to provide anything of value, directly or indirectly,
29 to a property manager, member, or officer of an association, to
30 encourage or discourage the association to file an action for
31 damages arising from a construction defect.

32 (b) No property manager, member, or officer of an
33 association shall accept anything of value, directly or
34 indirectly, in exchange for encouraging or discouraging the
35 association from filing an action for damages arising from a
36 construction defect.

1 (c) Violation of this subdivision is a misdemeanor.

2 Subd. 2. [ACTION.] No association may bring an action for
3 damages arising from a construction defect against a contractor
4 unless:

5 (1) the action involves the common elements or limited
6 common elements of the common interest ownership community;

7 (2) the association obtains the written approval of each
8 unit's owner whose interest in the common elements or limited
9 common elements is the subject of the action;

10 (3) a vote of the units' owners to which at least a
11 majority of the votes of the members of the association are
12 allocated;

13 (4) the full board of directors of the association and the
14 contractor have met and conferred in a good faith attempt to
15 resolve the association's claim, or the contractor has declined
16 or ignored the requests to meet with the board of directors of
17 the association; and

18 (5) the association has complied with this chapter.

19 Subd. 3. [VOTE.] (a) At least three business days in
20 advance of voting to bring an action against a contractor, the
21 attorney representing the association shall provide each unit's
22 owner a written statement that includes, in reasonable detail:

23 (1) the defect and the nature and extent of damages or
24 injuries to the common elements or limited common elements
25 resulting from the defect, if known;

26 (2) the cause and location of the defect, if known;

27 (3) an estimate of the cost of the action, including
28 reasonable attorney's fees, costs, and fees, including expert
29 and testing fees; and

30 (4) all disclosures that the unit owner is required to make
31 upon sale of the unit.

32 (b) At least 21 calendar days in advance of voting to bring
33 an action against a contractor, the association must provide
34 written notice of each unit owner of the meeting at which the
35 vote will be considered.

36 Subd. 4. [TESTING.] An association or an attorney for an

1 association shall not employ a person to perform testing to
2 determine damage or injury to a unit, common element, or limited
3 common element, unless:

4 (1) the person is licensed under chapter 326;

5 (2) the association has obtained the prior written approval
6 of each unit's owner whose interest in the common elements or
7 limited common elements is the subject of the action;

8 (3) the person performing the tests is required to repair
9 all damage resulting from the test in accordance with state and
10 local law and has provided a written schedule for repairs; and

11 (4) prior notice and opportunity to observe the test is
12 given to the contractor against whom an action may be brought as
13 a result of the tests.

14 Subd. 5. [EXCEPTION.] The board of directors of an
15 association may, without giving notice, employ a contractor to
16 make immediate and necessary repairs to a unit or common element
17 within the common interest ownership community in order to
18 protect the health, safety, and welfare of the unit owners.

19 Sec. 7. [EFFECTIVE DATE.]

20 This act is effective the day following final enactment and
21 applies to all actions commenced on or after that date.

1.1 Senator moves to amend S.F. No. 1287 as follows:

2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2004, section 327A.02, is amended by adding a
1.4 subdivision to read:

1.5 Subd. 4. **Response from vendor to notice of claim.** (a) Following notice under
1.6 section 327A.03, the vendee must allow an inspection and opportunity to offer to repair
1.7 the known loss or damage. Upon request of the vendee, a court may order the vendor to
1.8 conduct the inspection. The inspection must be performed and any offer to repair must be
1.9 made in writing to the vendee within 30 days of the vendor's receipt of the written notice
1.10 required under section 327A.03, clause (a), alleging loss or damage. The applicable
1.11 statute of limitations is tolled from the date the written notice provided by the vendee is
1.12 postmarked, or if not sent through the mail, received by the vendor until the earliest of
1.13 the following:

- 1.14 (1) the date the vendee rejects the vendor's offer to repair;
- 1.15 (2) the date the vendor rejects the vendee's claim in writing;
- 1.16 (3) failure by the vendor to make an offer to repair within the 30-day period
1.17 described in this subdivision; or
- 1.18 (4) 180 days.

1.19 For purposes of this subdivision, "vendor" includes a home improvement contractor.

1.20 (b) Upon completion of repairs as described in an offer to repair, the vendor must
1.21 provide the vendee with a list of the repairs made and a notice that the vendee may have a
1.22 right to pursue a warranty claim under chapter 327A. Provision of this statement is not
23 an admission of liability. Compliance with this subdivision does not affect any rights of
1.24 the vendee under this chapter."

1.25 Amend the title accordingly

1.1 Senator moves to amend the delete-everything amendment
1.2 (SCS1287A-1) to S.F. No. 1287 as follows:

1.3 Page 1, after line 2, insert:

1.4 "Section 1. Minnesota Statutes 2004, section 60A.08, subdivision 6, is amended to
1.5 read:

1.6 Subd. 6. **Bankruptcy or, insolvency, or dissolution clause.** Every bond or
1.7 policy of insurance issued in this state insuring against either actual loss suffered by the
1.8 insured, and imposed by law for damages on account of personal injury, death, or injury
1.9 to property caused by accident, or legal liability imposed upon the insured by reason of
1.10 such injuries or death, shall, notwithstanding anything in the policy to the contrary, be
1.11 deemed to contain the following condition:

1.12 The bankruptcy or, insolvency, or dissolution of the insured shall not relieve the
1.13 insurer of any of its obligations under this policy, and in case an execution against the
1.14 insured on a final judgment is returned unsatisfied, then such judgment creditor shall have
1.15 a right of action on this policy against the company to the same extent that the insured
1.16 would have, had the insured paid the final judgment.

1.17 Sec. 2. Minnesota Statutes 2004, section 302A.781, is amended by adding a
1.18 subdivision to read:

1.19 Subd. 4. Statutory homeowner warranty claims preserved. The statutory
1.20 warranties provided under section 327A.02 are not affected by a dissolution under this
1.21 chapter.

1.22 Sec. 3. Minnesota Statutes 2004, section 322B.863, is amended by adding a
1.23 subdivision to read:

1.24 Subd. 4. Statutory homeowner warranty claims preserved. The statutory
1.25 warranties provided under section 327A.02 are not affected by a dissolution under this
1.26 chapter.

1.27 Sec. 4. Minnesota Statutes 2004, section 327A.02, is amended by adding a subdivision
1.28 to read:

1.29 Subd. 2a. Remedies unaffected by corporate dissolution. The statutory
1.30 warranties provided in this section are not affected by the dissolution of a vendor or home
1.31 improvement contractor that is a corporation or limited liability company."

1.32 Page 1, after line 23, insert:

1.33 "Section 6. **EFFECTIVE DATE.**

2.1 Sections 1 to 4 are effective the day following final enactment and apply to actions
2.2 pending on or commenced on or after that date, provided that the action is brought within
2.3 the time limitation in Minnesota Statutes, section 541.051, subdivision 4."

2.4 Renumber the sections in sequence and correct the internal references

2.5 Amend the title accordingly

Senators Scheid, Metzen, Sams, Sparks and Reiter introduced—

S.F. No. 2787: Referred to the Committee on Commerce.

A bill for an act

1.2 relating to insurance; modernizing insurance regulation; amending mutual
1.3 holding company laws; enacting the interstate insurance product regulation
1.4 compact; making miscellaneous insurance law changes; amending Minnesota
1.5 Statutes 2004, sections 60A.075, subdivision 1; 60A.077, subdivisions 1, 3, by
1.6 adding a subdivision; 60A.207; 60D.19, subdivision 1; 60K.56, subdivisions 5,
1.7 6; 64B.13; Minnesota Statutes 2005 Supplement, sections 66A.02, subdivisions
1.8 2, 3; 66A.07, subdivision 2; proposing coding for new law in Minnesota Statutes,
1.9 chapter 60A.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 ARTICLE 1

1.12 MUTUAL HOLDING COMPANY CHANGES

1.14 Section 1. Minnesota Statutes 2004, section 60A.075, subdivision 1, is amended to
1.15 read:

1.16 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this
1.17 subdivision have the meanings given them.

1.18 (b) "Converting mutual insurer" means a Minnesota domestic mutual insurance
1.19 company seeking to reorganize according to this section.

1.20 (c) "Converting mutual holding company" means a Minnesota domestic mutual
1.21 insurance holding company seeking to reorganize according to this section.

1.22 (d) "Converting mutual company" means a converting mutual insurer or a converting
1.23 mutual holding company seeking to convert according to this section.

1.24 (e) "Reorganized company" means a converting mutual insurer or a converting
1.25 mutual holding company, as the case may be, that has reorganized according to this section.

(f) "Eligible member" means:

2.1 (1) for converting mutual insurers, a policyholder whose policy is in force as of the
 2.2 record date. Unless otherwise provided in the plan, a person ~~insured~~ covered under a
 2.3 group policy is not an eligible member, ~~unless~~ except that a person insured under a group
 2.4 life insurance policy is an eligible member if, on the record date:

2.5 (i) the person is insured ~~or covered~~ under a group life policy ~~or group annuity~~
 2.6 ~~contract~~ under which ~~funds are~~ cash value has accumulated and been allocated to the
 2.7 ~~respective covered~~ insured persons; and

2.8 ~~(ii) the person has the right to direct the application of the funds so allocated;~~

2.9 ~~(iii)~~ (ii) the group policyholder makes no contribution to the premiums ~~or deposits~~
 2.10 for the group policy ~~or contract~~; and

2.11 ~~(iv) the converting mutual company has the names and addresses of the persons~~
 2.12 ~~covered under the group life policy or group annuity contract;~~

2.13 (2) for converting mutual holding companies, a person who is a member of the
 2.14 converting mutual holding company, as defined by the converting mutual holding
 2.15 company's articles of incorporation and bylaws, determined as of the record date.

2.16 (g) "Plan of conversion" or "plan" means a plan adopted by a converting mutual
 2.17 company's board of directors under this section.

2.18 (h) "Policy" means a policy or contract of insurance, including an annuity contract,
 2.19 issued by a converting mutual insurer or issued by a stock reorganized insurance company
 2.20 subsidiary of a mutual holding company, but excluding individual noncontributory
 2.21 insurance policies for which the premiums are paid by a financial institution, association,
 2.22 employer, or other institutional entity.

2.23 (i) "Active participating policy" means an individual policy of a converting mutual
 2.24 company or its subsidiary that: (1) is a participating policy; (2) is among a class of similar
 2.25 policies that have been credited with policy dividends at any time within the 12 months
 2.26 preceding the effective date of the conversion or that will, under the then current dividend
 2.27 scale, be credited with policy dividends if in force on a future policy anniversary; (3) gives
 2.28 rise to membership interests in the converting mutual company; and (4) is in force on the
 2.29 effective date or some other reasonable date identified in the plan.

2.30 (j) "Commissioner" means the commissioner of commerce.

2.31 (k) "Effective date of a conversion" means the date determined according to
 2.32 subdivision 6.

2.33 (l) "Record date" means the date that the converting mutual company's board
 2.34 of directors adopts a plan of conversion, unless another date is specified in the plan of
 2.35 conversion and approved by the commissioner.

3.1 (m) "Membership interests" means all rights as members of the converting
3.2 mutual company, including, but not limited to, the rights to vote and to participate in
3.3 any distributions of distributable net worth, whether or not incident to the company's
3.4 liquidation.

3.5 (n) "Distributable net worth" means the value of the converting mutual company
3.6 as of the record date of the conversion, or other date approved by the commissioner,
3.7 determined as set forth in the plan and approved by the commissioner. The commissioner
3.8 may approve a valuation method based on any of the following: (1) the surplus as regards
3.9 policyholders of a converting mutual insurer determined according to statutory accounting
3.10 principles, which may be adjusted to reflect the current market values of assets and
3.11 liabilities, together with any other adjustments that are appropriate in the circumstances;
3.12 (2) the net equity of a converting mutual holding company or a converting mutual insurer
3.13 determined according to generally accepted accounting principles, which may be adjusted
3.14 to reflect the current market values of assets and liabilities, together with any other
3.15 adjustments that are appropriate in the circumstances; (3) the fair market value of the
3.16 converting mutual company determined by an independent, qualified person; or (4) any
3.17 other reasonable valuation method.

3.18 (o) "Permitted issuer" means: (1) a corporation organized and owned by the
3.19 converting mutual company or by any other insurance company or insurance holding
3.20 company for the purpose of purchasing and holding securities representing a majority of
3.21 voting control of the reorganized company; (2) a stock insurance company owned by the
3.22 converting mutual company or by any other insurance company or insurance holding
3.23 company into which the converting mutual company will be merged; or (3) any other
3.24 corporation approved by the commissioner.

3.25 Sec. 2. Minnesota Statutes 2004, section 60A.077, subdivision 1, is amended to read:

3.26 Subdivision 1. **Formation.** (a) A domestic mutual insurance company, upon
3.27 approval of the commissioner, may reorganize by forming an insurance holding company
3.28 based upon a mutual plan and continuing the corporate existence of the reorganizing
3.29 insurance company as a stock insurance company. The commissioner, if satisfied that the
3.30 interests of the policyholders are properly protected and that the plan of reorganization is
3.31 fair and equitable to the policyholders, may approve the proposed plan of reorganization
3.32 and may require as a condition of approval the modifications of the proposed plan of
3.33 reorganization as the commissioner finds necessary for the protection of the policyholders'
3.34 interests. The commissioner shall retain jurisdiction over the mutual insurance holding

4.1 company according to this section and chapter 60D to assure that policyholder and
4.2 member interests are protected.

4.3 (b) All of the initial voting shares of the capital stock of the reorganized insurance
4.4 company must be issued to the mutual insurance holding company or to an intermediate
4.5 stock holding company. The membership interests of the policyholders of the reorganized
4.6 insurance company become membership interests in the mutual insurance holding
4.7 company. "Membership interests" means those interests described in section 60A.075,
4.8 subdivision 1, paragraph ~~(h)~~ (m). Policyholders of the reorganized insurance company
4.9 shall be members of the mutual insurance holding company and their voting rights must
4.10 be determined in accordance with the articles of incorporation and bylaws of the mutual
4.11 insurance holding company. Policyholders of any other insurance company subsidiary
4.12 of a mutual insurance holding company shall not be members of the mutual insurance
4.13 holding company unless otherwise specified in the articles of incorporation or bylaws of
4.14 the mutual insurance holding company. For purposes of this paragraph, "other insurance
4.15 company subsidiary" means an insurance company subsidiary of a mutual insurance
4.16 holding company that has not reorganized under this chapter or a comparable statute in
4.17 another jurisdiction. The mutual insurance holding company shall, at all times, directly
4.18 or through one or more intermediate stock holding companies, control a majority of the
4.19 voting shares of the capital stock of the reorganized insurance company, taking into
4.20 account any potential dilution resulting from convertible securities.

4.21 (c) A majority of the board of directors of a mutual insurance holding company
4.22 must be disinterested directors. For purposes of this section, a director is disinterested if
4.23 (i) the director is not or has not within the past two years been an officer or employee of
4.24 the mutual insurance holding company or any subsidiary or predecessor corporation, and
4.25 (ii) the director does not hold, directly or indirectly, a material ownership interest in any
4.26 subsidiary of the mutual insurance holding company. An ownership interest is material
4.27 if it represents more than one-half of one percent of the voting securities of the issuer,
4.28 or a larger percentage as the commissioner may approve.

4.29 Sec. 3. Minnesota Statutes 2004, section 60A.077, subdivision 3, is amended to read:

4.30 Subd. 3. **Plan of reorganization; approval by commissioner.** (a) A reorganizing or
4.31 merging insurer or a merging mutual insurance holding company shall, by the affirmative
4.32 vote of a majority of its board of directors, adopt a plan of reorganization or merger
4.33 consistent with the requirements of this section and file the plan with the commissioner.
4.34 At any time before the approval of a plan by the commissioner, the company, by the

5.1 affirmative vote of a majority of its directors, may amend or withdraw the plan. The plan
5.2 must provide for the following:

5.3 (1) in the case of a reorganization under subdivision 1, establishing a mutual
5.4 insurance holding company with at least one stock insurance company subsidiary, or in
5.5 the case of a reorganization under subdivision 2, a description of the terms and conditions
5.6 of the proposed merger;

5.7 (2) analyzing the benefits and risks attendant to the proposed reorganization,
5.8 including the rationale for the reorganization and analysis of the comparative benefits and
5.9 risks of a demutualization under section 60A.075;

5.10 (3) protecting the immediate and long-term interests of existing policyholders;

5.11 (4) ensuring immediate membership in the mutual insurance holding company of all
5.12 existing policyholders of the reorganizing domestic insurance company;

(5) describing a plan providing for membership interests of future policyholders;

5.14 (6) describing the number of members of the board of directors of the mutual
5.15 insurance holding company required to be policyholders;

5.16 (7) describing the mutual insurance holding company's plan for distributions to
5.17 members or other uses of accumulated mutual holding company earnings;

5.18 (8) describing the nature and content of the annual report and financial statement
5.19 to be sent or otherwise made available to each member;

5.20 (9) describing a plan to send or otherwise make available to members the annual
5.21 report and financial statement;

5.22 (10) a copy of the proposed mutual insurance holding company's articles of
5.23 incorporation and bylaws specifying all membership rights;

5.24 ~~(10)~~ (11) the names, addresses, and occupational information of all corporate officers
5.25 and members of the proposed mutual insurance holding company board of directors;

5.26 ~~(11)~~ (12) information sufficient to demonstrate that the financial condition of the
5.27 reorganizing or merging company will not be materially diminished upon reorganization,
5.28 including information concerning any subsidiaries of the reorganizing or merging insurers
5.29 that will become subsidiaries of the mutual insurance holding company or an intermediate
5.30 holding company as part of the reorganization;

5.31 ~~(12)~~ (13) a copy of the articles of incorporation and bylaws for any proposed
5.32 insurance company subsidiary or intermediate holding company subsidiary;

5.33 ~~(13)~~ (14) describing any plans for an initial sale or subscription of stock or other
5.34 securities of the reorganized insurance company or any intermediate holding company; and

5.35 ~~(14)~~ (15) any other information requested by the commissioner or required by rule.

6.1 (b) The commissioner may approve the plan upon finding that the requirements of
 6.2 this section have been fully met and the plan will protect the immediate and long-term
 6.3 interests of policyholders.

6.4 (c) The commissioner may retain, at the reorganizing or merging mutual company's
 6.5 expense, any qualified experts not otherwise a part of the commissioner's staff to assist in
 6.6 reviewing the plan.

6.7 (d) The commissioner may, but need not, conduct a public hearing regarding the
 6.8 proposed plan. The hearing must be held within 30 days after submission of a completed
 6.9 plan of reorganization to the commissioner. The commissioner shall give the reorganizing
 6.10 mutual company at least 20 days' notice of the hearing. At the hearing, the reorganizing
 6.11 mutual company, its policyholders, and any other person whose interest may be affected
 6.12 by the proposed reorganization, may present evidence, examine and cross-examine
 6.13 witnesses, and offer oral and written arguments or comments according to the procedure
 6.14 for contested cases under chapter 14. The persons participating may conduct discovery
 6.15 proceedings in the same manner as prescribed for the district courts of this state. All
 6.16 discovery proceedings must be concluded no later than three days before the scheduled
 6.17 commencement of the public hearing.

6.18 Sec. 4. Minnesota Statutes 2004, section 60A.077, is amended by adding a subdivision
 6.19 to read:

6.20 Subd. 13. Conversion. (a) With the approval of the commissioner, a domestic
 6.21 insurance company that previously reorganized under this section into a stock subsidiary
 6.22 of a mutual insurance holding company may convert back into a mutual insurance
 6.23 company. It shall effect the conversion by merging with its parent mutual insurance
 6.24 holding company (a "parent mutual"), but only if the parent mutual owns or controls,
 6.25 directly or indirectly, all of the voting shares of capital stock of the reorganized insurance
 6.26 company. The reorganized subsidiary, as the surviving company, shall continue its
 6.27 corporate existence as a domestic mutual insurance company (a "remutualized company").
 6.28 A conversion under this subdivision may, but need not, occur in connection with the
 6.29 simultaneous or subsequent merger of the remutualized company with a domestic or
 6.30 foreign mutual insurance company. Section 61A.37 is not applicable to a conversion
 6.31 under this subdivision.

6.32 (b) The conversion can be effected by the parent mutual pursuant to a plan of
 6.33 conversion adopted as follows:

6.34 (1) The parent mutual shall, by the affirmative vote of a majority of its board of
 6.35 directors, adopt a plan of conversion consistent with the requirements of this subdivision.

7.1 (2) The parent mutual, by the affirmative vote of a majority of its board of directors,
7.2 may amend the plan at any time before approval of the plan by the commissioner and may
7.3 withdraw the plan at any time before the effective date of the plan.

7.4 (3) The duties of the board of directors of the parent mutual, in considering or acting
7.5 upon a proposed plan of conversion or related transaction, shall be as set forth in section
7.6 302A.251 and, to the extent not inconsistent with that section, the parent mutual's articles
7.7 of incorporation and bylaws.

7.8 (c) The parent mutual shall file with the commissioner an application for approval
7.9 of, and permission to carry out the reorganization according to, the plan of conversion.

7.10 The application must include the following:

7.11 (1) the plan of conversion;

7.12 (2) the form of notice of meeting for eligible members to vote on the plan;

7.13 (3) the form of any proxies to be solicited from eligible members;

7.14 (4) the proposed articles of incorporation and bylaws of the remutualized company;

7.15 (5) information required under chapter 60D if the plan results in a change of control
7.16 of the remutualizing company;

7.17 (6) if required by the commissioner, an independent actuarial opinion on matters
7.18 affecting the structure or fairness of the plan; and

7.19 (7) other information or documentation required by the commissioner or required by
7.20 rule.

7.21 (d) The commissioner shall determine, within 30 days of submission of the
7.22 application, whether the application is complete.

7.23 (e) If the plan of conversion proposes a simultaneous merger of the remutualized
7.24 company with a foreign or domestic mutual insurance company, the commissioner may
7.25 conduct concurrent proceedings under this subdivision and section 60A.16.

7.26 (f) The commissioner may retain, at the parent mutual's expense, qualified experts
7.27 not otherwise a part of the commissioner's staff, including without limitation, actuaries,
7.28 accountants, investment bankers, and attorneys, to assist in reviewing the plan and
7.29 supplemental materials and valuations.

7.30 (g) The commissioner may, but need not, conduct a public hearing regarding the
7.31 proposed plan of conversion. If a hearing is to be held, the commissioner shall designate a
7.32 date for the public hearing promptly upon determining that the application is complete
7.33 and that the forms of notice are adequate. The public hearing must be held on one or
7.34 more days, the first beginning within 90 days after the date on which the commissioner
7.35 determines the application is complete, unless the parent mutual requests, and the
7.36 commissioner agrees to, a longer period for the purpose of preparing and distributing the

8.1 notices required by this paragraph and by paragraph (i), clause (1). The hearing shall be in
8.2 the nature of a legislative hearing and shall not constitute or be considered a contested
8.3 case under chapter 14. The hearing may be conducted by the commissioner or by a
8.4 person designated by the commissioner, which designee may be an administrative law
8.5 judge. The parent mutual shall provide its eligible members with at least 45 days' notice
8.6 of the hearing, the notice to be in the form, and provided in a manner, approved by the
8.7 commissioner. The purpose of the hearing is to receive comments and information for
8.8 the purpose of aiding the commissioner in making a decision on the plan of conversion.
8.9 Persons wishing to make comments and submit information may submit written
8.10 statements before the public hearing and may appear and be heard at the hearing. The
8.11 commissioner's order or determination must be issued within 45 days after the closing of
8.12 the record of the hearing by the commissioner or the hearing officer, as applicable, which
8.13 record must not be closed until the record includes certification of the vote on the plan
8.14 of conversion by the eligible members of the parent mutual. The commissioner shall
8.15 issue a written decision detailing the reasons why the parent mutual company's plan
8.16 of conversion is approved or disapproved.

8.17 (h) The commissioner shall approve the application and permit the conversion
8.18 according to the plan if the commissioner finds that:

8.19 (1) the provisions of this subdivision have been fully met; and

8.20 (2) the plan is not unfair or inequitable to the members of the parent mutual.

8.21 The commissioner's order approving or disapproving a plan of conversion is a final agency
8.22 decision subject to appeal according to sections 14.63 to 14.68.

8.23 (i)(1) No later than 90 days following the date of the public hearing, if any, or the
8.24 date the commissioner determines the application is complete if no hearing is held, the
8.25 parent mutual shall give all eligible members notice of a regular or special meeting of the
8.26 members called for the purpose of considering the plan and any corporate actions that
8.27 are a part of, or are reasonably attendant to, the accomplishment of the plan, including
8.28 without limitation, any proposed merger of the remutualizing company with a domestic or
8.29 foreign mutual insurance company.

8.30 (2) A copy of the plan or a summary of the plan must accompany the notice. The
8.31 notice must be mailed to each eligible member's last known address, as shown on the
8.32 parent mutual's records, not less than 45 days before the date of the meeting, unless the
8.33 commissioner directs a later date for mailing. If the meeting to vote upon the plan is held
8.34 coincident with the parent mutual's annual meeting of members, only one combined notice
8.35 of meeting is required. The notice of the meeting of eligible members may be combined
8.36 with the notice of hearing described in paragraph (g).

9.1 (3) If the parent mutual complies substantially and in good faith with the notice
9.2 requirements of this section, the parent mutual's failure to give any member or members
9.3 required notice does not impair the validity of an action taken under this section.

9.4 (j)(1) The plan must be adopted upon receiving the affirmative vote of a majority of
9.5 the votes cast by eligible members.

9.6 (2) Eligible members may vote in person or by proxy. The form of any proxy must
9.7 be filed with and approved by the commissioner.

9.8 (k)(1) Following approval by the eligible members, the parent mutual shall file a
9.9 copy of the converting subsidiary's amended or restated articles of incorporation with the
9.10 commissioner, together with a certified copy of the minutes of the meeting of the members
9.11 of the parent mutual at which the plan was adopted and a certified copy of the plan. The
9.12 commissioner shall review and, if appropriate, approve the amended or restated articles.

9.13 After approval by the commissioner, the parent mutual shall file the articles with the
9.14 secretary of state as provided by section 60A.07, subdivision 1d, and chapter 302A.

9.15 (2) The conversion is effective on the date of filing an amendment or restatement of
9.16 the articles of incorporation with the secretary of state, or on a later date if the plan so
9.17 specifies.

9.18 (1) Upon the effective date of the conversion in accordance with this subdivision:

9.19 (1) The corporate existence of the parent mutual is continued in the converted
9.20 subsidiary. All the rights, privileges, powers, franchises, and interests of the parent
9.21 mutual in and to all property and things in action belonging to the parent company are
9.22 considered transferred to and vested in the converted subsidiary without any deed or
9.23 transfer. Simultaneously, the converted subsidiary is considered to have assumed all the
9.24 obligations and liabilities of the parent mutual.

9.25 (2) The directors and officers of the parent mutual, unless otherwise specified in the
9.26 plan of conversion, shall serve as directors and officers of the converted subsidiary until
9.27 new directors and officers of the converted subsidiary are duly elected according to the
9.28 articles of incorporation and bylaws of the converted subsidiary.

9.29 (3) All policies issued by the converted subsidiary in force on the effective date
9.30 of the conversion remain in force subject to the terms of those policies, except that the
9.31 membership interests in the parent mutual shall become membership interests in the
9.32 converted subsidiary, and member voting rights in the converted subsidiary shall be
9.33 exclusively governed by the converted subsidiary's articles and bylaws.

9.34 (4) Except as otherwise provided in the plan of conversion, the converted subsidiary
9.35 is no longer subject to the requirements of subdivisions 1 to 12 of this section or to the
9.36 terms of the original plan of reorganization.

10.1 (5) At the effective time of the merger, all of the voting shares of capital stock of the
10.2 converted subsidiary shall be deemed to be redeemed and canceled.

10.3 (6) Any provisions of the original plan of reorganization pertaining to the protection
10.4 of reasonable policyholder dividend expectations may be continued, modified, or
10.5 extinguished as provided under the plan of conversion and approved by the commissioner.

10.6 (m) No director, officer, agent, employee of the parent mutual or the converting
10.7 subsidiary, or any other person shall receive a fee, commission, or other valuable
10.8 consideration, other than the person's usual regular salary and compensation, for in any
10.9 manner aiding, promoting, or assisting in the conversion except as set forth in the plan
10.10 approved by the commissioner. This provision does not prohibit the payment of reasonable
10.11 fees and compensation to attorneys, accountants, investment bankers, and actuaries for
10.12 services performed in the independent practice of their professions.

10.13 (n) All the costs and expenses connected with a plan of conversion must be paid
10.14 for or reimbursed by the parent mutual or converted subsidiary except where the plan
10.15 provides otherwise.

10.16 (o)(1) An action challenging the validity of or arising out of acts taken or proposed
10.17 to be taken according to this section must be commenced within 180 days after the
10.18 effective date of the conversion.

10.19 (2) The parent mutual, the converted subsidiary, or any defendant in an action
10.20 described in clause (1) may petition the court in the action to order a party to give security
10.21 for the reasonable attorney fees that may be incurred by a party to the action. The amount
10.22 of security may be increased or decreased in the discretion of the court having jurisdiction
10.23 if a showing is made that the security provided is or may become inadequate or excessive.

10.24 (p) For purposes of this subdivision, the following terms have the meanings given.

10.25 (1) "Eligible member" means a person who is a member of the parent mutual, as
10.26 defined by the parent mutual's articles of incorporation and bylaws, determined as of
10.27 the record date.

10.28 (2) "Membership interests" means all rights as members of the parent mutual,
10.29 including, but not limited to, the rights to vote.

10.30 (3) "Plan of conversion" or "plan" means a plan adopted by a parent mutual's board
10.31 of directors under this section.

10.32 (4) "Record date" means the date that the parent mutual's board of directors adopts a
10.33 plan of conversion, unless another date is specified in the plan of conversion and approved
10.34 by the commissioner.

10.35 (5) "Converted subsidiary" means a converting subsidiary that has converted into a
10.36 mutual insurance company under this subdivision.

11.1 (6) "Converting subsidiary" means a Minnesota domestic insurance company that
 11.2 previously reorganized under this section that is seeking to convert back into a mutual
 11.3 insurance company in accordance with this subdivision.

11.4 Sec. 5. Minnesota Statutes 2005 Supplement, section 66A.02, subdivision 2, is
 11.5 amended to read:

11.6 Subd. 2. **Mutual holding companies.** For purposes of sections 66A.01 to 66A.07
 11.7 and 66A.21, ~~the term~~ unless the context clearly suggests otherwise, "domestic mutual
 11.8 insurance company" is deemed to include domestic mutual insurance holding companies
 11.9 organized under section 60A.077 and ~~the term~~ "member" is deemed to include members of
 11.10 a domestic mutual insurance holding company as specified in section 60A.077, subdivision
 11.11 1, paragraph (b). For purposes of section 60A.07, subdivisions 1, 1a, ~~1b~~, 1c, 1d, and 1e, a
 11.12 domestic mutual insurance holding company is deemed to be an insurance corporation.

11.13 Sec. 6. Minnesota Statutes 2005 Supplement, section 66A.02, subdivision 3, is
 11.14 amended to read:

11.15 Subd. 3. **Terms.** For purposes of applying chapter 302A to domestic mutual
 11.16 insurance companies, members of a domestic mutual insurance company must be treated
 11.17 in the same manner as shareholders of a stock corporation, except as otherwise provided
 11.18 in this chapter. Every member of the mutual insurance company shall be deemed to hold
 11.19 one share of the company for purposes of applying provisions of chapter 302A relating
 11.20 to voting. Mutual insurance companies are not included in the definitions of "closely
 11.21 held corporation," "publicly held corporation," or "issuing public corporation." The term
 11.22 "distribution" does not include dividends paid on participating policies issued by the
 11.23 mutual insurance company or any reorganized insurance company subsidiary in the case
 11.24 of a mutual insurance holding company.

11.25 Sec. 7. Minnesota Statutes 2005 Supplement, section 66A.07, subdivision 2, is
 11.26 amended to read:

11.27 Subd. 2. **Life insurance companies.** (a) Unless otherwise approved by the
 11.28 commissioner of commerce, a domestic mutual life insurance company member is any
 11.29 person who is listed on the records of the company as the owner of an in-force policy, and
 11.30 each member is entitled to one vote regardless of the number of policies owned by the
 11.31 member or the amounts of coverage provided to the member. For purposes of this section,
 11.32 "policy" means a policy or contract of insurance, including an annuity contract issued by
 11.33 the company, but excluding individual noncontributory insurance policies for which the

12.1 premiums are paid by a financial institution, association, employer, or other institutional
 12.2 entity. Except as otherwise provided in the company's certificate or bylaws, a person
 12.3 ~~insured~~ covered under a group policy is not a member by virtue of such coverage, ~~unless~~
 12.4 except that a person insured under a group life insurance policy is a member if: (1) the
 12.5 person is insured ~~or covered~~ under a group life policy ~~or group annuity contract~~ under
 12.6 ~~which funds are~~ cash value has accumulated and been allocated to the ~~respective covered~~
 12.7 insured persons; and (2) the person has the right to direct the application of the funds so
 12.8 ~~allocated;~~ ~~(3) the group policyholder makes no contribution to the premiums or deposits~~
 12.9 ~~for the policy or contract; and (4) the company has the names and addresses of the persons~~
 12.10 ~~covered under the group life policy or group annuity contract.~~

12.11 (b) Every member of a mutual life insurance company must be notified of its annual
 12.12 meetings by a written notice mailed to the member's address, or by an imprint on the front
 12.13 or back of the policy, premium notice, receipt, or certificate of renewal, substantially
 12.14 as follows:

12.15 "The policyowner is hereby notified that by virtue of his or her ownership of this
 12.16 policy, the policyowner is a member of the Insurance Company, and that the annual
 12.17 meetings of said company are held at its home office on the ... day of ... in each year,
 12.18 at o'clock."

12.19 For mutual life insurance holding companies, the notice of the annual meeting
 12.20 may be modified to reflect that the policyowner, by virtue of his or her ownership of a
 12.21 policy issued by a subsidiary insurance company reorganized under section 60A.077, is a
 12.22 member of the mutual insurance holding company. Notice given in this manner is deemed
 12.23 to comply with the requirements of section 302A.435.

12.24 **Sec. 8. EFFECTIVE DATE.**

12.25 Sections 1 to 7 are effective the day following final enactment.

12.26 **ARTICLE 2**
 12.27 **INTERSTATE INSURANCE PRODUCT REGULATION COMPACT**

12.28 **Section 1. [60A.99] INTERSTATE INSURANCE PRODUCT REGULATION**
 12.29 **COMPACT.**

12.30 Subdivision 1. **Enactment and form.** The Interstate Insurance Product Regulation
 12.31 Compact is enacted into law and entered into with all other states legally joining in it is
 12.32 substantially the following form:

12.33 Article I. Purposes

13.1 The purposes of this Compact are, through means of joint and cooperative action
 13.2 among the Compacting States:

13.3 1. To promote and protect the interest of consumers of individual and group annuity,
 13.4 life insurance, disability income and long-term care insurance products;

13.5 2. To develop uniform standards for insurance products covered under the Compact;

13.6 3. To establish a central clearinghouse to receive and provide prompt review of
 13.7 insurance products covered under the Compact and, in certain cases, advertisements related
 13.8 thereto, submitted by insurers authorized to do business in one or more Compacting States;

13.9 4. To give appropriate regulatory approval to those product filings and
 13.10 advertisements satisfying the applicable uniform standard;

13.11 5. To improve coordination of regulatory resources and expertise between state
 13.12 insurance departments regarding the setting of uniform standards and review of insurance
 13 products covered under the Compact;

13.14 6. To create the Interstate Insurance Product Regulation Commission; and

13.15 7. To perform these and such other related functions as may be consistent with the
 13.16 state regulation of the business of insurance.

13.17 Article II. Definitions

13.18 For purposes of this Compact:

13.19 1. "Advertisement" means any material designed to create public interest in
 13.20 a Product, or induce the public to purchase, increase, modify, reinstate, borrow on,
 13.21 surrender, replace or retain a policy, as more specifically defined in the Rules and
 13.22 Operating Procedures of the Commission.

13.23 2. "Bylaws" mean those bylaws established by the Commission for its governance,
 13.24 or for directing or controlling the Commission's actions or conduct.

13.25 3. "Compacting State" means any State which has enacted this Compact legislation
 13.26 and which has not withdrawn pursuant to Article XIV, Section 1, or been terminated
 13.27 pursuant to Article XIV, Section 2.

13.28 4. "Commission" means the "Interstate Insurance Product Regulation Commission"
 13.29 established by this Compact.

13.30 5. "Commissioner" means the chief insurance regulatory official of a State including,
 13.31 but not limited to commissioner, superintendent, director or administrator.

13.32 6. "Domiciliary State" means the state in which an Insurer is incorporated or
 13.33 organized; or, in the case of an alien Insurer, its state of entry.

13.34 7. "Insurer" means any entity licensed by a State to issue contracts of insurance for
 13.35 any of the lines of insurance covered by this Act.

14.1 8. "Member" means the person chosen by a Compacting State as its representative
14.2 to the Commission, or his or her designee.

14.3 9. "Noncompacting State" means any State which is not at the time a Compacting
14.4 State.

14.5 10. "Operating Procedures" mean procedures promulgated by the Commission
14.6 implementing a Rule, Uniform Standard, or a provision of this Compact.

14.7 11. "Product" means the form of a policy or contract, including any application,
14.8 endorsement, or related form which is attached to and made a part of the policy or
14.9 contract, and any evidence of coverage or certificate, for an individual or group annuity,
14.10 life insurance, disability income or long-term care insurance product that an Insurer is
14.11 authorized to issue.

14.12 12. "Rule" means a statement of general or particular applicability and future effect
14.13 promulgated by the Commission, including a Uniform Standard developed pursuant to
14.14 Article VII of this Compact, designed to implement, interpret, or prescribe law or policy
14.15 or describing the organization, procedure, or practice requirements of the Commission,
14.16 which shall have the force and effect of law in the Compacting States.

14.17 13. "State" means any state, district, or territory of the United States of America.

14.18 14. "Third Party Filer" means an entity that submits a Product filing to the
14.19 Commission on behalf of an Insurer.

14.20 15. "Uniform Standard" means a standard adopted by the Commission for a
14.21 Product line, pursuant to Article VII of this Compact, and shall include all of the Product
14.22 requirements in aggregate; provided, that each Uniform Standard shall be construed,
14.23 whether express or implied, to prohibit the use of any inconsistent, misleading or
14.24 ambiguous provisions in a Product and the form of the Product made available to the public
14.25 shall not be unfair, inequitable or against public policy as determined by the Commission.

14.26 Article III. Establishment of the Commission and Venue

14.27 1. The Compacting States hereby create and establish a joint public agency known
14.28 as the "Interstate Insurance Product Regulation Commission." Pursuant to Article IV,
14.29 the Commission will have the power to develop Uniform Standards for Product lines,
14.30 receive and provide prompt review of Products filed therewith, and give approval to those
14.31 Product filings satisfying applicable Uniform Standards; provided, it is not intended for
14.32 the Commission to be the exclusive entity for receipt and review of insurance product
14.33 filings. Nothing herein shall prohibit any Insurer from filing its product in any State
14.34 wherein the Insurer is licensed to conduct the business of insurance; and any such filing
14.35 shall be subject to the laws of the State where filed.

15.1 2. The Commission is a body corporate and politic, and an instrumentality of the
15.2 Compacting States.

15.3 3. The Commission is solely responsible for its liabilities except as otherwise
15.4 specifically provided in this Compact.

15.5 4. Venue is proper and judicial proceedings by or against the Commission shall be
15.6 brought solely and exclusively in a Court of competent jurisdiction where the principal
15.7 office of the Commission is located.

15.8 Article IV. Powers of the Commission

15.9 The Commission shall have the following powers:

15.10 1. To promulgate Rules, pursuant to Article VII of this Compact, which shall have
15.11 the force and effect of law and shall be binding in the Compacting States to the extent and
15.12 in the manner provided in this Compact;

15.13 2. To exercise its rule-making authority and establish reasonable Uniform Standards
15.14 for Products covered under the Compact, and Advertisement related thereto, which
15.15 shall have the force and effect of law and shall be binding in the Compacting States,
15.16 but only for those Products filed with the Commission, provided, that a Compacting
15.17 State shall have the right to opt out of such Uniform Standard pursuant to Article VII, to
15.18 the extent and in the manner provided in this Compact, and, provided further, that any
15.19 Uniform Standard established by the Commission for long-term care insurance products
15.20 may provide the same or greater protections for consumers as, but shall not provide less
15.21 than, those protections set forth in the National Association of Insurance Commissioners'
15.22 Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation,
15.23 respectively, adopted as of 2001. The Commission shall consider whether any subsequent
15.24 amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term Care
15.25 Insurance Model Regulation adopted by the NAIC require amending of the Uniform
15.26 Standards established by the Commission for long-term care insurance products;

15.27 3. To receive and review in an expeditious manner Products filed with the
15.28 Commission, and rate filings for disability income and long-term care insurance Products,
15.29 and give approval of those Products and rate filings that satisfy the applicable Uniform
15.30 Standard, where such approval shall have the force and effect of law and be binding on the
15.31 Compacting States to the extent and in the manner provided in the Compact;

15.32 4. To receive and review in an expeditious manner Advertisement relating to
15.33 long-term care insurance products for which Uniform Standards have been adopted by
15.34 the Commission, and give approval to all Advertisement that satisfies the applicable
15.35 Uniform Standard. For any product covered under this Compact, other than long-term
15.36 care insurance products, the Commission shall have the authority to require an insurer

16.1 to submit all or any part of its Advertisement with respect to that product for review or
16.2 approval prior to use, if the Commission determines that the nature of the product is such
16.3 that an Advertisement of the product could have the capacity or tendency to mislead the
16.4 public. The actions of the Commission as provided in this section shall have the force
16.5 and effect of law and shall be binding in the Compacting States to the extent and in the
16.6 manner provided in the Compact;

16.7 5. To exercise its rule-making authority and designate Products and Advertisement
16.8 that may be subject to a self-certification process without the need for prior approval
16.9 by the Commission;

16.10 6. To promulgate Operating Procedures, pursuant to Article VII of this Compact,
16.11 which shall be binding in the Compacting States to the extent and in the manner provided
16.12 in this compact;

16.13 7. To bring and prosecute legal proceedings or actions in its name as the
16.14 Commission; provided, that the standing of any state insurance department to sue or be
16.15 sued under applicable law shall not be affected;

16.16 8. To issue subpoenas requiring the attendance and testimony of witnesses and the
16.17 production of evidence;

16.18 9. To establish and maintain offices;

16.19 10. To purchase and maintain insurance and bonds;

16.20 11. To borrow, accept or contract for services of personnel, including, but not limited
16.21 to, employees of a Compacting State;

16.22 12. To hire employees, professionals or specialists, and elect or appoint officers, and
16.23 to fix their compensation, define their duties and give them appropriate authority to carry
16.24 out the purposes of the Compact, and determine their qualifications; and to establish the
16.25 Commission's personnel policies and programs relating to, among other things, conflicts
16.26 of interest, rates of compensation and qualifications of personnel;

16.27 13. To accept any and all appropriate donations and grants of money, equipment,
16.28 supplies, materials and services, and to receive, utilize and dispose of the same; provided
16.29 that at all times the Commission shall strive to avoid any appearance of impropriety;

16.30 14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own,
16.31 hold, improve or use, any property, real, personal or mixed; provided that at all times the
16.32 Commission shall strive to avoid any appearance of impropriety;

16.33 15. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise
16.34 dispose of any property, real, personal or mixed;

16.35 16. To remit filing fees to Compacting States as may be set forth in the Bylaws,
16.36 Rules or Operating Procedures;

- 17.1 17. To enforce compliance by Compacting States with Rules, Uniform Standards,
 17.2 Operating Procedures and Bylaws;
- 17.3 18. To provide for dispute resolution among Compacting States;
- 17.4 19. To advise Compacting States on issues relating to Insurers domiciled or doing
 17.5 business in Noncompacting jurisdictions, consistent with the purposes of this Compact;
- 17.6 20. To provide advice and training to those personnel in state insurance departments
 17.7 responsible for product review, and to be a resource for state insurance departments;
- 17.8 21. To establish a budget and make expenditures;
- 17.9 22. To borrow money;
- 17.10 23. To appoint committees, including advisory committees comprising Members,
 17.11 state insurance regulators, state legislators or their representatives, insurance industry
 17.12 and consumer representatives, and such other interested persons as may be designated
 17.13 in the Bylaws;
- 17.14 24. To provide and receive information from, and to cooperate with law enforcement
 17.15 agencies;
- 17.16 25. To adopt and use a corporate seal; and
- 17.17 26. To perform such other functions as may be necessary or appropriate to achieve
 17.18 the purposes of this Compact consistent with the state regulation of the business of
 17.19 insurance.

Article V. Organization of the Commission

- 17.20
- 17.21 1. Membership, Voting and Bylaws
- 17.22 a. Each Compacting State shall have and be limited to one Member. Each Member
 17.23 shall be qualified to serve in that capacity pursuant to applicable law of the Compacting
 17.24 State. Any Member may be removed or suspended from office as provided by the law
 17.25 of the State from which he or she shall be appointed. Any vacancy occurring in the
 17.26 Commission shall be filled in accordance with the laws of the Compacting State wherein
 17.27 the vacancy exists. Nothing herein shall be construed to affect the manner in which a
 17.28 Compacting State determines the election or appointment and qualification of its own
 17.29 Commissioner.
- 17.30 b. Each Member shall be entitled to one vote and shall have an opportunity
 17.31 to participate in the governance of the Commission in accordance with the Bylaws.
 17.32 Notwithstanding any provision herein to the contrary, no action of the Commission with
 17.33 respect to the promulgation of a Uniform Standard shall be effective unless two-thirds of
 17.34 the Members vote in favor thereof.

18.1 c. The Commission shall, by a majority of the Members, prescribe Bylaws to govern
18.2 its conduct as may be necessary or appropriate to carry out the purposes, and exercise the
18.3 powers, of the Compact, including, but not limited to:
18.4 i. Establishing the fiscal year of the Commission;
18.5 ii. Providing reasonable procedures for appointing and electing members, as well as
18.6 holding meetings, of the Management Committee;
18.7 iii. Providing reasonable standards and procedures: (i) for the establishment and
18.8 meetings of other committees, and (ii) governing any general or specific delegation of any
18.9 authority or function of the Commission;
18.10 iv. Providing reasonable procedures for calling and conducting meetings of the
18.11 Commission that consist of a majority of Commission members, ensuring reasonable
18.12 advance notice of each such meeting and providing for the right of citizens to attend each
18.13 such meeting with enumerated exceptions designed to protect the public's interest, the
18.14 privacy of individuals, and insurers' proprietary information, including trade secrets. The
18.15 Commission may meet in camera only after a majority of the entire membership votes to
18.16 close a meeting en toto or in part. As soon as practicable, the Commission must make
18.17 public (i) a copy of the vote to close the meeting revealing the vote of each Member with
18.18 no proxy votes allowed, and (ii) votes taken during such meeting;
18.19 v. Establishing the titles, duties and authority and reasonable procedures for the
18.20 election of the officers of the Commission;
18.21 vi. Providing reasonable standards and procedures for the establishment of the
18.22 personnel policies and programs of the Commission. Notwithstanding any civil service
18.23 or other similar laws of any Compacting State, the Bylaws shall exclusively govern the
18.24 personnel policies and programs of the Commission;
18.25 vii. Promulgating a code of ethics to address permissible and prohibited activities of
18.26 commission members and employees; and
18.27 viii. Providing a mechanism for winding up the operations of the Commission and
18.28 the equitable disposition of any surplus funds that may exist after the termination of the
18.29 Compact after the payment and/or reserving of all of its debts and obligations.
18.30 d. The Commission shall publish its bylaws in a convenient form and file a copy
18.31 thereof and a copy of any amendment thereto, with the appropriate agency or officer in
18.32 each of the Compacting States.

18.33 2. Management Committee, Officers and Personnel

18.34 a. A Management Committee comprising no more than 14 members shall be
18.35 established as follows:

19.1 i. One member from each of the six Compacting States with the largest premium
19.2 volume for individual and group annuities, life, disability income and long-term care
19.3 insurance products, determined from the records of the NAIC for the prior year;

19.4 ii. Four members from those Compacting States with at least two percent of the
19.5 market based on the premium volume described above, other than the six Compacting
19.6 States with the largest premium volume, selected on a rotating basis as provided in the
19.7 Bylaws; and

19.8 iii. Four members from those Compacting States with less than two percent of the
19.9 market, based on the premium volume described above, with one selected from each of
19.10 the four zone regions of the NAIC as provided in the Bylaws.

19.11 b. The Management Committee shall have such authority and duties as may be set
19.12 forth in the Bylaws, including but not limited to:

19.13 i. Managing the affairs of the Commission in a manner consistent with the Bylaws
19.14 and purposes of the Commission;

19.15 ii. Establishing and overseeing an organizational structure within, and appropriate
19.16 procedures for, the Commission to provide for the creation of Uniform Standards and
19.17 other Rules, receipt and review of product filings, administrative and technical support
19.18 functions, review of decisions regarding the disapproval of a product filing, and the review
19.19 of elections made by a Compacting State to opt out of a Uniform Standard; provided that a
19.20 Uniform Standard shall not be submitted to the Compacting States for adoption unless
19.21 approved by two-thirds of the members of the Management Committee;

19.22 iii. Overseeing the offices of the Commission; and

19.23 iv. Planning, implementing, and coordinating communications and activities with
19.24 other state, federal and local government organizations in order to advance the goals
19.25 of the Commission.

19.26 c. The Commission shall elect annually officers from the Management Committee,
19.27 with each having such authority and duties, as may be specified in the Bylaws.

19.28 d. The Management Committee may, subject to the approval of the Commission,
19.29 appoint or retain an executive director for such period, upon such terms and conditions
19.30 and for such compensation as the Commission may deem appropriate. The executive
19.31 director shall serve as secretary to the Commission, but shall not be a Member of the
19.32 Commission. The executive director shall hire and supervise such other staff as may be
19.33 authorized by the Commission.

19.34 3. Legislative and Advisory Committees

19.35 a. A legislative committee comprising state legislators or their designees shall be
19.36 established to monitor the operations of, and make recommendations to, the Commission,

20.1 including the Management Committee; provided that the manner of selection and term of
20.2 any legislative committee member shall be as set forth in the Bylaws. Prior to the adoption
20.3 by the Commission of any Uniform Standard, revision to the Bylaws, annual budget or
20.4 other significant matter as may be provided in the Bylaws, the Management Committee
20.5 shall consult with and report to the legislative committee.

20.6 b. The Commission shall establish two advisory committees, one of which shall
20.7 comprise consumer representatives independent of the insurance industry, and the other
20.8 comprising insurance industry representatives.

20.9 c. The Commission may establish additional advisory committees as its Bylaws may
20.10 provide for the carrying out of its functions.

20.11 4. Corporate Records of the Commission

20.12 The Commission shall maintain its corporate books and records in accordance
20.13 with the Bylaws.

20.14 5. Qualified Immunity, Defense, and Indemnification

20.15 a. The Members, officers, executive director, employees, and representatives of
20.16 the Commission shall be immune from suit and liability, either personally or in their
20.17 official capacity, for any claim for damage to or loss of property or personal injury or
20.18 other civil liability caused by or arising out of any actual or alleged act, error or omission
20.19 that occurred, or that the person against whom the claim is made had a reasonable
20.20 basis for believing occurred within the scope of Commission employment, duties or
20.21 responsibilities; provided, that nothing in this paragraph shall be construed to protect any
20.22 such person from suit and/or liability for any damage, loss, injury or liability caused by
20.23 the intentional or willful and wanton misconduct of that person.

20.24 b. The Commission shall defend any Member, officer, executive director, employee,
20.25 or representative of the Commission in any civil action seeking to impose liability arising
20.26 out of any actual or alleged act, error, or omission that occurred within the scope of
20.27 Commission employment, duties, or responsibilities, or that the person against whom
20.28 the claim is made had a reasonable basis for believing occurred within the scope of
20.29 Commission employment, duties, or responsibilities; provided, that nothing herein shall
20.30 be construed to prohibit that person from retaining his or her own counsel; and provided
20.31 further, that the actual or alleged act, error, or omission did not result from that person's
20.32 intentional or willful and wanton misconduct.

20.33 c. The Commission shall indemnify and hold harmless any Member, officer,
20.34 executive director, employee, or representative of the Commission for the amount of any
20.35 settlement or judgment obtained against that person arising out of any actual or alleged
20.36 act, error, or omission that occurred within the scope of Commission employment, duties,

21.1 or responsibilities, or that such person had a reasonable basis for believing occurred
 21.2 within the scope of Commission employment, duties, or responsibilities, provided, that the
 21.3 actual or alleged act, error, or omission did not result from the intentional or willful and
 21.4 wanton misconduct of that person.

21.5 Article VI. Meetings and Acts of the Commission

21.6 1. The Commission shall meet and take such actions as are consistent with the
 21.7 provisions of this Compact and the Bylaws.

21.8 2. Each Member of the Commission shall have the right and power to cast a vote to
 21.9 which that Compacting State is entitled and to participate in the business and affairs of the
 21.10 Commission. A Member shall vote in person or by such other means as provided in the
 21.11 Bylaws. The Bylaws may provide for Members' participation in meetings by telephone or
 21.12 other means of communication.

21.13 3. The Commission shall meet at least once during each calendar year. Additional
 21.14 meeting shall be held as set forth in the Bylaws.

21.15 Article VII. Rules and Operating Procedures: Rulemaking Functions
 21.16 of the Commission and Opting Out of Uniform Standards

21.17 1. Rulemaking Authority. The Commission shall promulgate reasonable Rules,
 21.18 including Uniform Standards, and Operating Procedures in order to effectively and
 21.19 efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the
 21.20 event the Commission exercises its rulemaking authority in a manner that is beyond the
 21.21 scope of the purposes of this Act, or the powers granted hereunder, then such an action by
 21.22 the Commission shall be invalid and have no force and effect.

21.23 2. Rulemaking Procedure. Rules and Operating Procedures shall be made pursuant
 21.24 to a rulemaking process that conforms to the Model State Administrative Procedure Act of
 21.25 1981 as amended, as may be appropriate to the operations of the Commission. Before
 21.26 the Commission adopts a Uniform Standard, the Commission shall give written notice
 21.27 to the relevant state legislative committee(s) in each Compacting State responsible for
 21.28 insurance issues of its intention to adopt the Uniform Standard. The Commission in
 21.29 adopting a Uniform Standard shall consider fully all submitted materials and issue a
 21.30 concise explanation of its decision.

21.31 3. Effective Date and Opt Out of a Uniform Standard. A Uniform Standard shall
 21.32 become effective 90 days after its promulgation by the Commission or such later date
 21.33 as the Commission may determine; provided, however, that a Compacting State may
 21.34 opt out of a Uniform Standard as provided in this Article. "Opt out" shall be defined as
 21.35 any action by a Compacting State to decline to adopt or participate in a promulgated
 21.36 Uniform Standard. All other Rules and Operating Procedures, and amendments thereto,

22.1 shall become effective as of the date specified in each Rule, Operating Procedure, or
22.2 amendment.

22.3 4. Opt Out Procedure. A Compacting State may opt out of a Uniform Standard,
22.4 either by legislation or regulation duly promulgated by the Insurance Department under
22.5 the Compacting State's Administrative Procedure Act. If a Compacting State elects to opt
22.6 out of a Uniform Standard by regulation, it must (a) give written notice to the Commission
22.7 no later than ten business days after the Uniform Standard is promulgated, or at the time
22.8 the State becomes a Compacting State and (b) find that the Uniform Standard does not
22.9 provide reasonable protections to the citizens of the State, given the conditions in the State.
22.10 The Commissioner shall make specific findings of fact and conclusions of law, based on a
22.11 preponderance of the evidence, detailing the conditions in the State which warrant a
22.12 departure from the Uniform Standard and determining that the Uniform Standard would
22.13 not reasonably protect the citizens of the State. The Commissioner must consider and
22.14 balance the following factors and find that the conditions in the State and needs of the
22.15 citizens of the State outweigh: (i) the intent of the legislature to participate in, and the
22.16 benefits of, an interstate agreement to establish national uniform consumer protections for
22.17 the Products subject to this Act; and (ii) the presumption that a Uniform Standard adopted
22.18 by the Commission provides reasonable protections to consumers of the relevant Product.

22.19 Notwithstanding the foregoing, a Compacting State may, at the time of its enactment
22.20 of this Compact, prospectively opt out of all Uniform Standards involving long-term care
22.21 insurance products by expressly providing for such opt out in the enacted Compact, and
22.22 such an opt out shall not be treated as a material variance in the offer or acceptance of
22.23 any State to participate in this Compact. Such an opt out shall be effective at the time
22.24 of enactment of this Compact by the Compacting State and shall apply to all existing
22.25 Uniform Standards involving long-term care insurance products and those subsequently
22.26 promulgated.

22.27 5. Effect of Opt Out. If a Compacting State elects to opt out of a Uniform Standard,
22.28 the Uniform Standard shall remain applicable in the Compacting State electing to opt out
22.29 until such time the opt out legislation is enacted into law or the regulation opting out
22.30 becomes effective.

22.31 Once the opt out of a Uniform Standard by a Compacting State becomes effective
22.32 as provided under the laws of that State, the Uniform Standard shall have no further
22.33 force and effect in that State unless and until the legislation or regulation implementing
22.34 the opt out is repealed or otherwise becomes ineffective under the laws of the State. If a
22.35 Compacting State opts out of a Uniform Standard after the Uniform Standard has been

23.1 made effective in that State, the opt out shall have the same prospective effect as provided
 23.2 under Article XIV for withdrawals.

23.3 6. Stay of Uniform Standard. If a Compacting State has formally initiated the
 23.4 process of opting out of a Uniform Standard by regulation, and while the regulatory
 23.5 opt out is pending, the Compacting State may petition the Commission, at least 15 days
 23.6 before the effective date of the Uniform Standard, to stay the effectiveness of the Uniform
 23.7 Standard in that State. The Commission may grant a stay if it determines the regulatory
 23.8 opt out is being pursued in a reasonable manner and there is a likelihood of success. If a
 23.9 stay is granted or extended by the Commission, the stay or extension thereof may postpone
 23.10 the effective date by up to 90 days, unless affirmatively extended by the Commission;
 23.11 provided, a stay may not be permitted to remain in effect for more than one year unless the
 23.12 Compacting State can show extraordinary circumstances which warrant a continuance of
 23.13 the stay, including, but not limited to, the existence of a legal challenge which prevents the
 23.14 Compacting State from opting out. A stay may be terminated by the Commission upon
 23.15 notice that the rulemaking process has been terminated.

23.16 7. Not later than 30 days after a Rule or Operating Procedure is promulgated,
 23.17 any person may file a petition for judicial review of the Rule or Operating Procedure;
 23.18 provided, that the filing of such a petition shall not stay or otherwise prevent the Rule or
 23.19 Operating Procedure from becoming effective unless the court finds that the petitioner
 23.20 has a substantial likelihood of success. The court shall give deference to the actions of
 23.21 the Commission consistent with applicable law and shall not find the Rule or Operating
 23.22 Procedure to be unlawful if the Rule or Operating Procedure represents a reasonable
 23.23 exercise of the Commission's authority.

23.24 Article VIII. Commission Records and Enforcement

23.25 1. The Commission shall promulgate Rules establishing conditions and procedures
 23.26 for public inspection and copying of its information and official records, except such
 23.27 information and records involving the privacy of individuals and insurers' trade secrets.
 23.28 The Commission may promulgate additional Rules under which it may make available to
 23.29 federal and state agencies, including law enforcement agencies, records and information
 23.30 otherwise exempt from disclosure, and may enter into agreements with such agencies to
 23.31 receive or exchange information or records subject to nondisclosure and confidentiality
 23.32 provisions.

23.33 2. Except as to privileged records, data and information, the laws of any Compacting
 23.34 State pertaining to confidentiality or nondisclosure shall not relieve any Compacting
 23.35 State Commissioner of the duty to disclose any relevant records, data or information to
 23.36 the Commission; provided, that disclosure to the Commission shall not be deemed to

24.1 waive or otherwise affect any confidentiality requirement; and further provided, that,
24.2 except as otherwise expressly provided in this Act, the Commission shall not be subject
24.3 to the Compacting State's laws pertaining to confidentiality and nondisclosure with
24.4 respect to records, data and information in its possession. Confidential information
24.5 of the Commission shall remain confidential after such information is provided to any
24.6 Commissioner.

24.7 3. The Commission shall monitor Compacting States for compliance with duly
24.8 adopted Bylaws, Rules, including Uniform Standards, and Operating Procedures.
24.9 The Commission shall notify any noncomplying Compacting State in writing of
24.10 its noncompliance with Commission Bylaws, Rules or Operating Procedures. If a
24.11 noncomplying Compacting State fails to remedy its noncompliance within the time
24.12 specified in the notice of noncompliance, the Compacting State shall be deemed to be in
24.13 default as set forth in Article XIV.

24.14 4. The Commissioner of any State in which an Insurer is authorized to do business,
24.15 or is conducting the business of insurance, shall continue to exercise his or her authority
24.16 to oversee the market regulation of the activities of the Insurer in accordance with the
24.17 provisions of the State's law. The Commissioner's enforcement of compliance with the
24.18 Compact is governed by the following provisions:

24.19 a. With respect to the Commissioner's market regulation of a Product or
24.20 Advertisement that is approved or certified to the Commission, the content of the
24.21 Product or Advertisement shall not constitute a violation of the provisions, standards or
24.22 requirements of the Compact except upon a final order of the Commission, issued at the
24.23 request of a Commissioner after prior notice to the Insurer and an opportunity for hearing
24.24 before the Commission.

24.25 b. Before a Commissioner may bring an action for violation of any provision,
24.26 standard or requirement of the Compact relating to the content of an Advertisement not
24.27 approved or certified to the Commission, the Commission, or an authorized Commission
24.28 officer or employee, must authorize the action. However, authorization pursuant to this
24.29 paragraph does not require notice to the Insurer, opportunity for hearing or disclosure of
24.30 requests for authorization or records of the Commission's action on such requests.

24.31 Article IX. Dispute Resolution

24.32 The Commission shall attempt, upon the request of a Member, to resolve any
24.33 disputes or other issues that are subject to this Compact and which may arise between two
24.34 or more Compacting States, or between Compacting States and Noncompacting States,
24.35 and the Commission shall promulgate an Operating Procedure providing for resolution of
24.36 such disputes.

25.1 Article X. Product Filing and Approval

25.2 1. Insurers and Third Party Filers seeking to have a Product approved by the
 25.3 Commission shall file the Product with, and pay applicable filing fees to, the Commission.
 25.4 Nothing in this Act shall be construed to restrict or otherwise prevent an insurer from
 25.5 filing its Product with the insurance department in any State wherein the insurer is licensed
 25.6 to conduct the business of insurance, and such filing shall be subject to the laws of the
 25.7 States where filed.

25.8 2. The Commission shall establish appropriate filing and review processes and
 25.9 procedures pursuant to Commission Rules and Operating Procedures. Notwithstanding
 25.10 any provision herein to the contrary, the Commission shall promulgate Rules to establish
 25.11 conditions and procedures under which the Commission will provide public access to
 25.12 Product filing information. In establishing such Rules, the Commission shall consider
 25.13 the interests of the public in having access to such information, as well as protection of
 25.14 personal medical and financial information and trade secrets, that may be contained in a
 25.15 Product filing or supporting information.

25.16 3. Any Product approved by the Commission may be sold or otherwise issued in
 25.17 those Compacting States for which the Insurer is legally authorized to do business.

25.18 Article XI. Review of Commission Decisions Regarding Filings

25.19 1. Not later than 30 days after the Commission has given notice of a disapproved
 25.20 Product or Advertisement filed with the Commission, the Insurer or Third Party Filer
 25.21 whose filing was disapproved may appeal the determination to a review panel appointed
 25.22 by the Commission. The Commission shall promulgate Rules to establish procedures for
 25.23 appointing such review panels and provide for notice and hearing. An allegation that the
 25.24 Commission, in disapproving a Product or Advertisement filed with the Commission,
 25.25 acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise
 25.26 not in accordance with the law, is subject to judicial review in accordance with Article
 25.27 III, Section 4.

25.28 2. The Commission shall have authority to monitor, review and reconsider Products
 25.29 and Advertisement subsequent to their filing or approval upon a finding that the product
 25.30 does not meet the relevant Uniform Standard. Where appropriate, the Commission may
 25.31 withdraw or modify its approval after proper notice and hearing, subject to the appeal
 25.32 process in Section 1 above.

25.33 Article XII. Finance

25.34 1. The Commission shall pay or provide for the payment of the reasonable expenses
 25.35 of its establishment and organization. To fund the cost of its initial operations, the
 25.36 Commission may accept contributions and other forms of funding from the National

26.1 Association of Insurance Commissioners, Compacting States, and other sources.

26.2 Contributions and other forms of funding from other sources shall be of such a nature
26.3 that the independence of the Commission concerning the performance of its duties shall
26.4 not be compromised.

26.5 2. The Commission shall collect a filing fee from each Insurer and Third Party Filer
26.6 filing a product with the Commission to cover the cost of the operations and activities
26.7 of the Commission and its staff in a total amount sufficient to cover the Commission's
26.8 annual budget.

26.9 3. The Commission's budget for a fiscal year shall not be approved until it has been
26.10 subject to notice and comment as set forth in Article VII of this Compact.

26.11 4. The Commission shall be exempt from all taxation in and by the Compacting
26.12 states.

26.13 5. The Commission shall not pledge the credit of any Compacting State, except by
26.14 and with the appropriate legal authority of that Compacting State.

26.15 6. The Commission shall keep complete and accurate accounts of all its internal
26.16 receipts, including grants and donations, and disbursements of all funds under its control.
26.17 The internal financial accounts of the Commission shall be subject to the accounting
26.18 procedures established under its Bylaws. The financial accounts and reports including the
26.19 system of internal controls and procedures of the Commission shall be audited annually by
26.20 an independent certified public accountant. Upon the determination of the Commission,
26.21 but no less frequently than every three years, the review of the independent auditor shall
26.22 include a management and performance audit of the Commission. The Commission shall
26.23 make an Annual Report to the Governor and legislature of the Compacting States, which
26.24 shall include a report of the independent audit. The Commission's internal accounts shall
26.25 not be confidential and such materials may be shared with the Commissioner of any
26.26 Compacting State upon request provided, however, that any work papers related to any
26.27 internal or independent audit and any information regarding the privacy of individuals and
26.28 insurers' proprietary information, including trade secrets, shall remain confidential.

26.29 7. No Compacting State shall have any claim to or ownership of any property
26.30 held by or vested in the Commission or to any Commission funds held pursuant to the
26.31 provisions of this Compact.

26.32 Article XIII. Compacting States, Effective Date and Amendment

26.33 1. Any State is eligible to become a Compacting State.

26.34 2. The Compact shall become effective and binding upon legislative enactment
26.35 of the Compact into law by two Compacting States; provided, the Commission shall
26.36 become effective for purposes of adopting Uniform Standards for, reviewing, and giving

27.1 approval or disapproval of, Products filed with the Commission that satisfy applicable
27.2 Uniform Standards only after 26 States are Compacting States or, alternatively, by States
27.3 representing greater than 40 percent of the premium volume for life insurance, annuity,
27.4 disability income and long-term care insurance products, based on records of the NAIC
27.5 for the prior year. Thereafter, it shall become effective and binding as to any other
27.6 Compacting State upon enactment of the Compact into law by that State.

27.7 3. Amendments to the Compact may be proposed by the Commission for enactment
27.8 by the Compacting States. No amendment shall become effective and binding upon the
27.9 Commission and the Compacting States unless and until all Compacting States enact
27.10 the amendment into law.

27.11 Article XIV. Withdrawal, Default and Termination

27.12 1. Withdrawal

27.13 a. Once effective, the Compact shall continue in force and remain binding upon each
27.14 and every Compacting State; provided, that a Compacting State may withdraw from the
27.15 Compact ("Withdrawing State") by enacting a statute specifically repealing the statute
27.16 which enacted the Compact into law.

27.17 b. The effective date of withdrawal is the effective date of the repealing statute.
27.18 However, the withdrawal shall not apply to any product filings approved or self-certified,
27.19 or any Advertisement of such products, on the date the repealing statute becomes effective,
27.20 except by mutual agreement of the Commission and the Withdrawing State unless the
27.21 approval is rescinded by the Withdrawing State as provided in Paragraph e of this section.

27.22 c. The Commissioner of the Withdrawing State shall immediately notify the
27.23 Management Committee in writing upon the introduction of legislation repealing this
27.24 Compact in the Withdrawing State.

27.25 d. The Commission shall notify the other Compacting States of the introduction of
27.26 such legislation within ten days after its receipt of notice thereof.

27.27 e. The Withdrawing State is responsible for all obligations, duties and liabilities
27.28 incurred through the effective date of withdrawal, including any obligations, the
27.29 performance of which extend beyond the effective date of withdrawal, except to the extent
27.30 those obligations may have been released or relinquished by mutual agreement of the
27.31 Commission and the Withdrawing State. The Commission's approval of Products and
27.32 Advertisement prior to the effective date of withdrawal shall continue to be effective and
27.33 be given full force and effect in the Withdrawing State, unless formally rescinded by
27.34 the Withdrawing State in the same manner as provided by the laws of the Withdrawing
27.35 State for the prospective disapproval of products or advertisement previously approved
27.36 under state law.

28.1 f. Reinstatement following withdrawal of any Compacting State shall occur upon
28.2 the effective date of the Withdrawing State reenacting the Compact.

28.3 2. Default

28.4 a. If the Commission determines that any Compacting State has at any time defaulted
28.5 ("Defaulting State") in the performance of any of its obligations or responsibilities under
28.6 this Compact, the Bylaws or duly promulgated Rules or Operating Procedures, then, after
28.7 notice and hearing as set forth in the Bylaws, all rights, privileges and benefits conferred
28.8 by this Compact on the Defaulting State shall be suspended from the effective date of
28.9 default as fixed by the Commission. The grounds for default include, but are not limited
28.10 to, failure of a Compacting State to perform its obligations or responsibilities, and any
28.11 other grounds designated in Commission Rules. The Commission shall immediately
28.12 notify the Defaulting State in writing of the Defaulting State's suspension pending a cure
28.13 of the default. The Commission shall stipulate the conditions and the time period within
28.14 which the Defaulting State must cure its default. If the Defaulting State fails to cure the
28.15 default within the time period specified by the Commission, the Defaulting State shall
28.16 be terminated from the Compact and all rights, privileges and benefits conferred by this
28.17 Compact shall be terminated from the effective date of termination.

28.18 b. Product approvals by the Commission or product self-certifications, or any
28.19 Advertisement in connection with such product, that are in force on the effective date of
28.20 termination shall remain in force in the Defaulting State in the same manner as if the
28.21 Defaulting State had withdrawn voluntarily pursuant to Section 1 of this article.

28.22 c. Reinstatement following termination of any Compacting State requires a
28.23 reenactment of the Compact.

28.24 3. Dissolution of Compact

28.25 a. The Compact dissolves effective upon the date of the withdrawal or default of the
28.26 Compacting State which reduces membership in the Compact to one Compacting State.

28.27 b. Upon the dissolution of this Compact, the Compact becomes null and void and
28.28 shall be of no further force or effect, and the business and affairs of the Commission shall
28.29 be wound up and any surplus funds shall be distributed in accordance with the Bylaws.

28.30 Article XV. Severability and Construction

28.31 1. The provisions of this Compact shall be severable; and if any phrase, clause,
28.32 sentence, or provision is deemed unenforceable, the remaining provisions of the Compact
28.33 shall be enforceable.

28.34 2. The provisions of this Compact shall be liberally construed to effectuate its
28.35 purposes.

28.36 Article XVI. Binding Effect of Compact and Other Laws

29.1 1. Other Laws

29.2 a. Nothing herein prevents the enforcement of any other law of a Compacting State,
29.3 except as provided in Paragraph b of this section.

29.4 b. For any Product approved or certified to the Commission, the Rules, Uniform
29.5 Standards, and any other requirements of the Commission shall constitute the exclusive
29.6 provisions applicable to the content, approval, and certification of such Products. For
29.7 Advertisement that is subject to the Commission's authority, any Rule, Uniform Standard,
29.8 or other requirement of the Commission which governs the content of the Advertisement
29.9 shall constitute the exclusive provision that a Commissioner may apply to the content of
29.10 the Advertisement. Notwithstanding the foregoing, no action taken by the Commission
29.11 shall abrogate or restrict: (i) the access of any person to state courts; (ii) remedies available
29.12 under state law related to breach of contract, tort, or other laws not specifically directed
29.13 to the content of the Product; (iii) state law relating to the construction of insurance
29.14 contracts; or (iv) the authority of the attorney general of the state, including but not limited
29.15 to maintaining any actions or proceedings, as authorized by law.

29.16 c. All insurance products filed with individual States shall be subject to the laws
29.17 of those States.

29.18 2. Binding Effect of this Compact

29.19 a. All lawful actions of the Commission, including all Rules and Operating
29.20 Procedures promulgated by the Commission, are binding upon the Compacting States.

29.21 b. All agreements between the Commission and the Compacting States are binding
29.22 in accordance with their terms.

29.23 c. Upon the request of a party to a conflict over the meaning or interpretation of
29.24 Commission actions, and upon a majority vote of the Compacting States, the Commission
29.25 may issue advisory opinions regarding the meaning or interpretation in dispute.

29.26 d. In the event any provision of this Compact exceeds the constitutional limits
29.27 imposed on the legislature of any Compacting State, the obligations, duties, powers
29.28 or jurisdiction sought to be conferred by that provision upon the Commission shall
29.29 be ineffective as to that Compacting State, and those obligations, duties, powers, or
29.30 jurisdiction shall remain in the Compacting State and shall be exercised by the agency
29.31 thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in
29.32 effect at the time this Compact becomes effective.

29.33 Subd. 2. Commission representative. The commissioner of commerce is the
29.34 representative of this state to the commission.

30.1 **ARTICLE 3**

30.2 **MISCELLANEOUS INSURANCE REGULATORY CHANGES**

30.3 Section 1. Minnesota Statutes 2004, section 60A.207, is amended to read:

30.4 **60A.207 POLICIES TO INCLUDE NOTICE.**

30.5 Each policy, cover note, or instrument evidencing surplus lines insurance from an
 30.6 eligible surplus lines insurer which is delivered to an insured or a representative of an
 30.7 insured shall have printed, typed, or stamped ~~in red ink~~ upon its face in not less than 10
 30.8 point type, the following notice: "THIS INSURANCE IS ISSUED PURSUANT TO THE
 30.9 MINNESOTA SURPLUS LINES INSURANCE ACT. THE INSURER IS AN ELIGIBLE
 30.10 SURPLUS LINES INSURER BUT IS NOT OTHERWISE LICENSED BY THE STATE
 30.11 OF MINNESOTA. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT
 30.12 GUARANTEED." This notice shall not be covered or concealed in any manner.

30.13 Sec. 2. Minnesota Statutes 2004, section 60D.19, subdivision 1, is amended to read:

30.14 Subdivision 1. **Registration.** Every insurer that is authorized to do business in this
 30.15 state and that is a member of an insurance holding company system shall register with the
 30.16 commissioner, except a foreign insurer subject to registration requirements and standards
 30.17 adopted by statute or regulation in the jurisdiction of its domicile that are substantially
 30.18 similar to those contained in:

30.19 (1) this section;

30.20 (2) section 60D.20, subdivisions 1, paragraph (a); 2; and 4; and

30.21 (3) either section 60D.20, subdivision 1, paragraph (b), or a provision such as the
 30.22 following: Each registered insurer shall keep current the information required to be
 30.23 disclosed in its registration statement by reporting all material changes or additions within
 30.24 15 days after the end of the month in which it learns of each such change or addition.

30.25 Any insurer that is subject to registration under this section shall register within 15
 30.26 days after it becomes subject to registration, and annually thereafter by ~~March~~ June 1 of
 30.27 each year for the previous calendar year, unless the commissioner for good cause shown
 30.28 extends the time for registration, and then within such extended time. The commissioner
 30.29 may require any insurer authorized to do business in the state that is a member of a
 30.30 holding company system, and that is not subject to registration under this section, to
 30.31 furnish a copy of the registration statement, the summary specified in subdivision 3 or
 30.32 other information filed by the insurance company with the insurance regulatory authority
 30.33 of domiciliary jurisdiction.

31.1 Sec. 3. Minnesota Statutes 2004, section 60K.56, subdivision 5, is amended to read:

31.2 Subd. 5. **Criteria for course accreditation.** (a) The commissioner may accredit a
31.3 course only to the extent it is designed to impart substantive and procedural knowledge of
31.4 the insurance field. The burden of demonstrating that the course satisfies this requirement
31.5 is on the individual or organization seeking accreditation. The commissioner shall approve
31.6 any educational program approved by Minnesota Continuing Legal Education relating to
31.7 the insurance field. The commissioner is authorized to establish a procedure for renewal
31.8 of course accreditation.

31.9 (b) The commissioner shall approve or disapprove professional designation
31.10 examinations that are recommended for approval by the advisory task force. In order
31.11 for an insurance producer to receive full continuing education credit for a professional
31.12 designation examination, the producer must pass the examination. A producer may
31.13 not receive credit for classroom instruction preparing for the professional designation
31.14 examination and also receive continuing education credit for passing the professional
31.15 designation examination.

31.16 (c) The commissioner may not accredit a course:

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

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

31.20 ~~(3) (2) in sales promotion, including meetings held in conjunction with the general~~
31.21 ~~business of the licensed agent; or~~

31.22 ~~(4) (3) in motivation, the art of selling, or psychology, or time management.~~

31.23 Sec. 4. Minnesota Statutes 2004, section 60K.56, subdivision 6, is amended to read:

31.24 Subd. 6. **Minimum education requirement.** Each person subject to this section
31.25 shall complete a minimum of 30 credit hours of courses accredited by the commissioner
31.26 during each 24-month licensing period. Any person whose initial licensing period extends
31.27 more than six months shall complete 15 hours of courses accredited by the commissioner
31.28 during the initial license period. Any person teaching or lecturing at an accredited
31.29 course qualifies for three times the number of credit hours that would be granted to a
31.30 person completing the accredited course. No more than one-half of the credit hours per
31.31 licensing period required under this section may be credited to a person for attending any
31.32 combination of courses either sponsored by, offered by, or affiliated with an insurance
31.33 company or its agents; or offered using new delivery technology, including computer,
31.34 interactive technology, and the Internet. A licensee may obtain up to five hours of the
31.35 credit hours per licensing period from classes in the area of professional development

32.1 including, but not limited to, best practices, ethics, privacy protection, customer/client
32.2 software applications, agency management, claims settlement, business perpetuation,
32.3 and disaster planning. Courses sponsored by, offered by, or affiliated with an insurance
32.4 company or agent may restrict its students to agents of the company or agency.

32.5 Sec. 5. Minnesota Statutes 2004, section 64B.13, is amended to read:

32.6 **64B.13 REINSURANCE.**

32.7 (a) A domestic society may, by a reinsurance agreement, cede any individual risk
32.8 or risks in whole or in part to an insurer, other than another fraternal benefit society,
32.9 having the power to make such reinsurance and authorized to do business in this state,
32.10 or if not so authorized, one which is approved by the commissioner, but no such society
32.11 may reinsure substantially all of its insurance in force without the written permission of
32.12 the commissioner. It may take credit for the reserves on the ceded risks to the extent
32.13 reinsured, but no credit shall be allowed as an admitted asset or as a deduction from
32.14 liability to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming
32.15 effective after August 1, 1985, unless the reinsurance is payable by the assuming insurer
32.16 on the basis of the liability of the ceding society under the contract or contracts reinsured
32.17 without diminution because of the insolvency of the ceding society.

32.18 (b) Notwithstanding the limitation in paragraph (a), a society may reinsure the risks
32.19 of another society in a consolidation or merger approved by the commissioner under
32.20 section 64B.14, or under such other circumstances as approved by the commissioner
32.21 including reinsurance of an affiliated insurance company.

ARTICLE 1 MUTUAL HOLDING COMPANY CHANGES Page.Ln 1.11

ARTICLE 2 INTERSTATE INSURANCE PRODUCT REGULATION COMPACT..... Page.Ln
12.26

ARTICLE 3 MISCELLANEOUS INSURANCE REGULATORY CHANGES Page.Ln 30.1

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S.F. No. 2787 - Insurance Regulation - Judiciary Issues

Author: Senator Linda Scheid

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

Date: April 3, 2006

Article 1, Section 4, contains operative provisions for conversion of an insurance company that was previously reorganized into a stock subsidiary of a mutual insurance holding company back into a mutual insurance company.

Under **Subdivision 13, paragraph (b), clause (3)**, the duties of the board of directors of the parent mutual, in considering or acting upon a proposed plan of conversion or related transaction, are the same as the duties applicable to directors of a business corporation and, to the extent not inconsistent with those provisions, the parent mutual's articles of incorporation and bylaws.

Article 2 enacts the Interstate Insurance Product Regulation Compact. Following are provisions of the compact of particular interest to the Judiciary Committee.

On page 15, line 5, venue in judicial proceedings by or against the commission created under the compact would be exclusively in the jurisdiction where the principal office of the commission is located.

On page 18, line 12, the right of citizens to attend commission meetings would be subject to enumerated exceptions designed to protect the public's interest, the privacy of individuals, and the insurers' proprietary information, including trade secrets.

On page 20, line 15, members and other individuals associated with the commission would be immune from suit and liability for a claim for damage to or loss of property or personal injury, or other liability caused by or arising out of acts within the scope of commission activities, unless caused by intentional or willful or wanton misconduct. Provisions are also included under which the commission must defend, indemnify, and hold harmless members and other persons.

On page 23, line 16, provisions are included for a petition for judicial review of a rule or operating procedure of the commission.

On page 23, line 25, the commission must promulgate rules establishing conditions and procedures for public inspection and copying of its information records, except those involving privacy of individuals and insurers' trade secrets. Other records access and privacy provisions are included.

On page 25, line 12, in establishing rules, the commission must consider the interests of the public in having access to information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a product filing or support information.

On page 25, line 23, an allegation that the commission acted arbitrarily, capriciously, or in a manner that is an abuse of discretion in disapproving a product or advertisement would be subject to judicial review.

On page 26, line 24, the commission's internal accounts are not confidential and materials must be shared with the commissioner of any compacting state upon request, except that work papers related to an internal or independent audit and information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, would remain confidential. In addition, no compacting state would have a claim to or ownership of any property by the commission or commission funds.

On page 29, line 10, no action of the commission would restrict access of a person to state courts; remedies under state law for breach of contract, tort, or other laws not specifically directed to the content of a product; state law relating to construction of an insurance contract; or the authority of the attorney general, as authorized by law.

KP:cs

Senator Skoglund introduced—

S.F. No. 3414: Referred to the Committee on Judiciary.

1.2 A bill for an act
1.3 relating to government data practices; providing for parole and probation
1.4 authorities to have access to certain records; amending Minnesota Statutes 2004,
section 624.714, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2004, section 624.714, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 14a. Parole and probation authority access to records. Parole and
1.9 probation authorities must be given access to records or data collected, made, or held
1.10 under this section concerning any applicant or permit holder who is a defendant, parolee,
1.11 or probationer of a district court.

1.1 To: Senator Betzold, Chair

1.2 Committee on Judiciary

1.3 Senator Skoglund,

1.4 Chair of the Subcommittee on Data Practices, to which was referred

1.5 **S.F. No. 3414:** A bill for an act relating to government data practices; providing for
1.6 parole and probation authorities to have access to certain records; amending Minnesota
1.7 Statutes 2004, section 624.714, by adding a subdivision.

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

1.9 Delete everything after the enacting clause and insert:

1.10 "Section 1. Minnesota Statutes 2005 Supplement, section 13.6905, subdivision 3,
1.11 is amended to read:

1.12 Subd. 3. **Motor vehicle registration.** ~~Various data on~~ Access to motor vehicle
1.13 ~~registrations are classified under~~ registration data is governed by sections 168.327,
1.14 subdivision 3, and 168.346.

1.15 Sec. 2. Minnesota Statutes 2004, section 13.6905, subdivision 10, is amended to read:

1.16 Subd. 10. **Driver's license address or Minnesota identification card.** ~~The~~
1.17 ~~residence address of certain individuals provided to the commissioner of public safety~~
1.18 Access to data in drivers' driver's license or Minnesota identification card applications is
1.19 ~~classified under section~~ governed by section 171.12, subdivision 7.

1.20 Sec. 3. Minnesota Statutes 2004, section 136A.162, is amended to read:

1.21 **136A.162 CLASSIFICATION OF DATA.**

1.22 ~~All~~ (a) Except as provided in paragraphs (b) and (c), data on applicants for financial
23 assistance collected and used by the Higher Education Services Office for student
1.24 financial aid programs administered by that office ~~shall be classified as~~ are private data
1.25 on individuals ~~under~~ as defined in section 13.02, subdivision 12. ~~Exceptions to this~~
1.26 ~~classification are that:~~

1.27 ~~(a) the names and addresses of program recipients or participants are public data;~~

1.28 (b) Data on applicants may be disclosed to the commissioner of human services
1.29 to the extent necessary to determine eligibility under section 136A.121, subdivision 2,
1.30 clause (5); ~~and.~~

1.31 (c) The following data collected in the Minnesota supplemental loan program under
1.32 section 136A.1701 may be disclosed to a consumer credit reporting agency only if the
33 borrower and the cosigner give informed consent, according to section 13.05, subdivision
1.34 4, at the time of application for a loan:

1.35 (1) the lender-assigned borrower identification number;

1.36 (2) the name and address of borrower;

- 2.1 (3) the name and address of cosigner;
2.2 (4) the date the account is opened;
2.3 (5) the outstanding account balance;
2.4 (6) the dollar amount past due;
2.5 (7) the number of payments past due;
2.6 (8) the number of late payments in previous 12 months;
2.7 (9) the type of account;
2.8 (10) the responsibility for the account; and
2.9 (11) the status or remarks code.

2.10 Sec. 4. Minnesota Statutes 2005 Supplement, section 168.346, subdivision 1, is
2.11 amended to read:

2.12 Subdivision 1. **Vehicle registration data; federal compliance.** (a) Except as
2.13 otherwise provided in this section, data on an individual provided to register a vehicle is
2.14 private data on individuals, as defined in section 13.02, and shall be treated as provided
2.15 by United States Code, title 18, section 2721, as in effect on May 23, 2005, and. The
2.16 data shall be disclosed as required by section 2721, paragraph (b), or as permitted by
2.17 that section paragraph (b), clauses (1), (2) to (7), (9), and (14). The data must also be
2.18 provided to a federally certified or designated nonprofit organ procurement organization in
2.19 connection with its authorized activities.

2.20 (b) The registered owner of a vehicle who is an individual may expressly consent in
2.21 writing to the commissioner to disclose the individual's personal information exempted
2.22 by United States Code, title 18, section 2721, to any person who makes a written request
2.23 for the personal information. If the registered owner is an individual and so authorizes
2.24 disclosure, the commissioner shall implement the request. The consent must be on a
2.25 document separate from the application for registration. The commissioner must not
2.26 condition the issuance of the registration upon the consent or give any preference to an
2.27 individual who grants consent.

2.28 (c) ~~If authorized by the registered owner as indicated in paragraph (b), the registered~~
2.29 ~~owner's personal information may be used, rented, or sold solely for bulk distribution by~~
2.30 ~~organizations for business purposes including surveys, marketing, or solicitation. The~~
2.31 commissioner may disclose data on individuals provided to register a vehicle only on an
2.32 individual record basis in response to a permissible user's identification of the individual
2.33 subject of the data to whom the permissible use relates. The commissioner must not
2.34 disclose a register owner's personal information on a bulk record basis. This paragraph
2.35 does not apply to the permissible use in United States Code, title 18, section 2721(b)(1).

2.36 (d) A recipient of data under this subdivision must not resell or redisclose the data.

3.1 (e) A person who requests disclosure of data under paragraph (a) must identify the
 3.2 data elements requested and the reason each element is needed and may receive only those
 3.3 data elements needed to accomplish the purpose of the request. A person requesting data
 3.4 on 500 or more individuals must document compliance with data security measures as
 3.5 required by the commissioner. The commissioner shall implement a system for tracking
 3.6 the sale or disclosure of personal information described in paragraph (a) by those who
 3.7 receive personal information from the commissioner. The commissioner shall audit
 3.8 activities of recipients of personal information under paragraph (a) with regard to that
 3.9 information. Persons who receive personal information from the commissioner must
 3.10 cooperate with all compliance activities.

3.11 (f) The remedies and penalties in section 8.31 apply to a user of personal information
 3.12 who violates this section or the terms of a user agreement.

3.13 (g) The commissioner shall charge the following fees for access to data under
 3.14 this section by a permissible user, other than an organ procurement organization or
 3.15 government agency:

3.16 (1) \$..... application fee; and

3.17 (2) \$..... fee for each inquiry regarding an individual.

3.18 Of the fees collected under this paragraph, percent is for the commissioner of
 3.19 public safety for operation of the permissible user system and percent is to be deposited
 3.20 in the financial crimes account under section 299A.683.

3.21 **Sec. 5. [171.072] TRIBAL IDENTIFICATION CARD.**

3.22 (a) Notwithstanding any law to the contrary, when a Minnesota identification card is
 3.23 deemed an acceptable form of identification under statute or rule, a tribal identification
 3.24 card is an equivalent form of identification.

3.25 (b) For purposes of this subdivision, "tribal identification card" means an unexpired
 3.26 identification card issued by the tribal government of a tribe recognized by the Bureau of
 3.27 Indian Affairs, United States Department of the Interior, that contains the name, signature,
 3.28 and picture of the individual.

3.29 **Sec. 6. Minnesota Statutes 2005 Supplement, section 171.12, subdivision 7, is**
 3.30 **amended to read:**

3.31 **Subd. 7. Privacy of data.** (a) Except as otherwise provided in this section, data on
 3.32 individuals provided to obtain a driver's license or Minnesota identification card is private
 3.33 data on individuals, as defined in section 13.02, and shall be treated as provided by United
 3.34 States Code, title 18, section 2721, ~~as in effect on May 23, 2005, and.~~ The data shall
 3.35 be disclosed as required by section 2721, paragraph (b), or as permitted by that section

4.1 paragraph (b), clauses (1), (2) to (7), (9), and (14). The data must also be provided to a
4.2 federally certified or designated nonprofit organ procurement organization in connection
4.3 with its authorized activities.

4.4 (b) An applicant for a driver's license or a Minnesota identification card may
4.5 expressly consent, in writing, to the commissioner to disclose the applicant's personal
4.6 information exempted by United States Code, title 18, section 2721, to any person who
4.7 makes a request for the personal information. If the applicant so authorizes disclosures,
4.8 the commissioner shall implement the request and the information may be used. The
4.9 consent must be on a document separate from the application for registration. The
4.10 commissioner must not condition the issuance of the registration upon the consent or give
4.11 any preference to an individual who grants consent.

4.12 (c) ~~If authorized by an applicant for a driver's license or a Minnesota identification~~
4.13 ~~card, as indicated in paragraph (b), the applicant's personal information may be used,~~
4.14 ~~rented, or sold solely for bulk distribution by organizations for business purposes,~~
4.15 ~~including surveys, marketing, or solicitation. The commissioner may disclose data on~~
4.16 individuals provided to obtain a driver's license or Minnesota identification card only
4.17 on an individual record basis in response to a permissible user's identification of the
4.18 individual subject of the data to whom the permissible use relates. The commissioner must
4.19 not disclose a register owner's personal information on a bulk record basis. This paragraph
4.20 does not apply to the permissible use in United States Code, title 18, section 2721(b)(1).

4.21 (d) A recipient of data under this subdivision shall not resell or redisclose the data.

4.22 (e) A person who requests disclosure of data under paragraph (a) must identify the
4.23 data elements requested and the reason each element is needed and may receive only those
4.24 data elements needed to accomplish the purpose of the request. A person requesting data
4.25 on 500 or more individuals must document compliance with data security measures as
4.26 required by the commissioner. The commissioner shall implement a system for tracking
4.27 the sale or disclosure of personal information described in paragraph (a) by those who
4.28 receive personal information from the commissioner. The commissioner shall audit
4.29 activities of recipients of personal information under paragraph (a) with regard to that
4.30 information. Persons who receive personal information from the commissioner must
4.31 cooperate with all compliance activities.

4.32 (f) The remedies and penalties in section 8.31 apply to a user of personal information
4.33 who violates this section or the terms of a user agreement.

4.34 (g) The commissioner shall charge the following fees for access to data under
4.35 this section by a permissible user, other than an organ procurement organization or
4.36 government agency:

5.1 (1) \$..... application fee; and

5.2 (2) \$..... fee for each inquiry regarding an individual.

5.3 Of the fees collected under this paragraph, percent is for the commissioner of
 5.4 public safety for operation of the permissible user system and percent is to be deposited
 5.5 in the financial crimes account under section 299A.683.

5.6 ~~(d)~~ (h) An applicant for a driver's license, instruction permit, or Minnesota
 5.7 identification card may request that the applicant's residence address be classified
 5.8 as "private data on individuals," as defined in section 13.02, subdivision 12. The
 5.9 commissioner shall grant the classification on receipt of a signed statement by the
 5.10 individual that the classification is required for the safety of the applicant or the applicant's
 5.11 family, if the statement also provides a valid, existing address where the applicant
 5.12 consents to receive service of process. The commissioner shall use the service for
 5.13 process mailing address in place of the residence address in all documents and notices
 5.14 pertaining to the driver's license, instruction permit, or Minnesota identification card. The
 5.15 residence address and any information provided in the classification request, other than the
 5.16 mailing address, are private data on individuals and may be provided to requesting law
 5.17 enforcement agencies, probation and parole agencies, and public authorities, as defined
 5.18 in section 518.54, subdivision 9.

5.19 **Sec. 7. [299A.683] PUBLIC SAFETY AND FINANCIAL CRIMES ACCOUNT.**

5.20 A public safety and financial crimes account is created in the special revenue fund
 5.21 consisting of the fees collected under sections 168.346 and 171.12 that are designated for
 5.22 this purpose. Money in the account is annually appropriated to the commissioner of
 5.23 public safety for purposes of the operations of the Minnesota Financial Crimes Task
 5.24 Force established under section 299A.681, subdivision 3. The commissioner shall make
 5.25 specialized financial crimes prosecutors' grants as recommended by the Minnesota
 5.26 Financial Crimes Oversight Council in consultation with representatives of county
 5.27 attorneys and the attorney general.

5.28 **Sec. 8. Minnesota Statutes 2005 Supplement, section 325E.59, subdivision 1, is**
 5.29 **amended to read:**

5.30 **Subdivision 1. Generally. (a)** A person or entity, not including a government entity,
 5.31 may not do any of the following:

5.32 (1) publicly post or publicly display in any manner an individual's Social Security
 5.33 number. "Publicly post" or "publicly display" means to intentionally communicate or
 5.34 otherwise make available to the general public;

6.1 (2) print an individual's Social Security number on any card required for the
6.2 individual to access products or services provided by the person or entity;

6.3 (3) require an individual to transmit the individual's Social Security number over the
6.4 Internet, unless the connection is secure or the Social Security number is encrypted;

6.5 (4) require an individual to use the individual's Social Security number to access an
6.6 Internet Web site, unless a password or unique personal identification number or other
6.7 authentication device is also required to access the Internet Web site; ~~or~~

6.8 (5) print a number that the person or entity knows to be an individual's Social
6.9 Security number on any materials that are mailed to the individual, unless state or federal
6.10 law requires the Social Security number to be on the document to be mailed. If, in
6.11 connection with a transaction involving or otherwise relating to an individual, a person
6.12 or entity receives a number from a third party, that person or entity is under no duty to
6.13 inquire or otherwise determine whether the number is or includes that individual's Social
6.14 Security number and may print that number on materials mailed to the individual, unless
6.15 the person or entity receiving the number has actual knowledge that the number is or
6.16 includes the individual's Social Security number;

6.17 (6) assign or use a number as an account identifier that is identical to or incorporates
6.18 an individual's complete Social Security number; or

6.19 (7) sell Social Security numbers obtained from individuals in the course of business.

6.20 ~~Notwithstanding clauses (1) to (5), Social Security numbers may be included in~~
6.21 ~~applications and forms sent by mail, including documents sent as part of an application or~~
6.22 ~~enrollment process, or to establish, amend, or terminate an account, contract, or policy,~~
6.23 ~~or to confirm the accuracy of the Social Security number. Nothing in this paragraph~~
6.24 ~~authorizes inclusion of a Social Security number on the outside of a mailing.~~

6.25 (b) A person or entity, not including a government entity, must restrict access to
6.26 individual Social Security numbers it holds so that only employees who require the
6.27 numbers in order to perform their job duties have access to the numbers.

6.28 ~~Except as provided in subdivision 2, (c) This section applies only to the use of Social~~
6.29 ~~Security numbers on or after July 1, 2007.~~

6.30 Sec. 9. Minnesota Statutes 2005 Supplement, section 325E.59, subdivision 3, is
6.31 amended to read:

6.32 Subd. 3. **Coordination with other law.** This section does not prevent:

6.33 (1) the collection, use, or release of a Social Security number as required by state or
6.34 federal law ~~or~~;

6.35 (2) the use of a Social Security number for internal verification or administrative
6.36 purposes;

7.1 (3) the use of a Social Security number to access a credit report for purposes allowed
 7.2 by the federal Fair Credit Reporting Act, United States Code, title 15, section 1681a, if a
 7.3 Social Security number is required in order to access the credit report; or

7.4 (4) the use of a Social Security number to access or report information to a person
 7.5 who maintains a database of information used in connection with the prevention or
 7.6 detection of fraud.

7.7 Sec. 10. Minnesota Statutes 2004, section 624.714, is amended by adding a subdivision
 7.8 to read:

7.9 Subd. 14a. Parole and probation authority access to records. Parole and
 7.10 probation authorities must be given access to records or data collected, made, or held
 7.11 under this section concerning any applicant or permit holder who is a defendant, parolee,
 7.12 or probationer of a district court.

7.13 Sec. 11. **REPEALER.**

7.14 Minnesota Statutes 2005 Supplement, section 325E.59, subdivision 2, is repealed."

7.15 Amend the title accordingly

7.16 And when so amended that the bill be recommended to pass and be referred to
 7.17 the full committee.

7.18
 7.19



 (Subcommittee Chair)

7.20
 21

March 28, 2006
 (Date of Subcommittee recommendation)

1.1 Senator moves to amend the SCS3414A-3 amendment to S.F. No.
1.2 3414 as follows:

1.3 Page 1, line 16, after the period, insert "The requirements of this paragraph do not
1.4 apply to tribal identification cards used to prove an individual's residence for purposes of
1.5 section 201.061, subdivision 3."

1.1 Senator moves to amend the amendment (SCS3414A-3) to S.F. No.
3414 as follows:

1.3 Page 1, line 5, after "(a)" insert "Notwithstanding any law to the contrary, if a
1.4 Minnesota identification card is deemed an acceptable form of identification in Minnesota
1.5 Statutes or Rules, a tribal identification card is also an acceptable form of identification."

1.1 Senator moves to amend the Report of the Subcommittee on Data
1.2 Practices (SS3414SUB) to S.F. No. 3414 as follows:

1.3 Page 3, after line 20, insert:

1.4 "Sec. 5. Minnesota Statutes 2005 Supplement, section 171.02, subdivision 1,
1.5 is amended to read:

1.6 Subdivision 1. **License required.** Except when expressly exempted, a person
1.7 shall not drive a motor vehicle upon a street or highway in this state unless the person
1.8 has a license valid under this chapter for the type or class of vehicle being driven. The
1.9 department shall not issue a driver's license to a person unless and until the person's license
1.10 from any jurisdiction has been invalidated. The department shall provide to the issuing
1.11 department of any jurisdiction, information that the licensee is now licensed in Minnesota.
1.12 A person is not permitted to have more than one valid driver's license at any time. The
1.13 department shall not issue to a person to whom a current Minnesota identification card has
1.14 been issued a driver's license, other than a limited license, unless the person's Minnesota
1.15 identification card has been invalidated. This subdivision does not require invalidation of
1.16 a tribal identification card as a condition of receiving a driver's license."

1.17 Renumber the sections in sequence and correct the internal references

1.18 Amend the title accordingly

1.1 Senator moves to amend the Report of the Subcommittee on Data
1.2 Practices (SS3414SUB) to S.F. No. 3414 as follows:

1.3 Page 6, lines 20 to 23, reinstate the stricken language

1.4 Page 6, line 24, reinstate the stricken language and before the period, insert "or in
1.5 the bulk mailing of a credit card solicitation offer"

1.6 Page 7, line 3, after "report" insert ", or the use of a Social Security number in
1.7 reporting information to a consumer reporting agency"

1.1 Senator moves to amend the Report of the Subcommittee on Data
1.2 Practices (SS3414SUB) to S.F. No. 3414 as follows:

1.3 Page 1, delete sections 1 and 2, and insert:

1.4 " **ARTICLE 1**

1.5 **GENERAL DATA PRACTICES PROVISIONS** "

1.6 Page 2, delete section 4

1.7 Page 3, delete section 6

1.8 Page 5, delete section 7

1.9 Page 7, after line 14, insert:

1.10 " **ARTICLE 2**

1.11 **MOTOR VEHICLE AND DRIVER'S LICENSE RECORDS**

1.12 Section 1. Minnesota Statutes 2005 Supplement, section 13.6905, subdivision 3,
1.13 is amended to read:

1.14 Subd. 3. **Motor vehicle registration and driver's license data.** ~~Various data on~~
1.15 Disclosure and use of motor vehicle registrations are classified under sections 168.327,
1.16 subdivision 3, and 168.346 registration and driver's license data is governed by chapter
1.17 170A.

1.18 Sec. 2. **[170A.01] PERSONAL INFORMATION IN MOTOR VEHICLE AND**
1.19 **DRIVER'S LICENSE RECORDS.**

1.20 Subdivision 1. Definitions. The definitions in United States Code, title 18, section
1.21 2725, and chapters 168 and 171, apply to this chapter.

1.22 Subd. 2. Application. This chapter applies to:

1.23 (1) personal information on an owner provided to register a motor vehicle under
1.24 chapter 168; and

1.25 (2) personal information provided to obtain a driver's license or Minnesota
1.26 identification card under chapter 171.

1.27 Subd. 3. Federal compliance; permissible disclosures under state law. Except
1.28 as otherwise provided in this section, personal information must be treated as provided
1.29 in United States Code, title 18, section 2721. The commissioner shall disclose personal
1.30 information as required by section 2721, paragraph (b), and for the uses permitted by
1.31 paragraph (b), clauses (1) to (3), (5) to (7), (9), and (14), subject to the restrictions on
1.32 the disclosure of highly restricted personal information. The commissioner must not
1.33 disclose personal information for other uses except as required by law or with the consent
1.34 of the subject.

2.1 Subd. 4. **Consent.** The subject of personal information may expressly consent
2.2 in writing to the disclosure of the individual's personal information not authorized by
2.3 United States Code, title 18, section 2721, or this chapter, to a person who makes a written
2.4 request for the personal information. If the subject of the information is an individual and
2.5 so authorizes disclosure, the commissioner shall implement the request. The consent
2.6 must be on a document separate from the application for a motor vehicle registration,
2.7 driver's license, or Minnesota identification card. The commissioner must not condition
2.8 the issuance of a registration, license, or card upon a consent or give any preference to an
2.9 individual who grants consent.

2.10 **Sec. 3. [170A.02] PUBLIC SAFETY DISCLOSURES.**

2.11 The commissioner shall disclose personal information when the use is related to the
2.12 operation or use of a motor vehicle or public safety, as authorized under United States
2.13 Code, section 2721(b)(14). The use of personal information is related to public safety if it
2.14 concerns the physical safety or security of drivers, vehicles, pedestrians, or property.

2.15 **Sec. 4. [170A.03] TYPE OF RECORD ACCESS AUTHORIZED.**

2.16 Subdivision 1. **Access limited to individual records.** Except as provided in
2.17 subdivision 2, the commissioner may disclose personal information only on an individual
2.18 record basis in response to a permissible user's identification of the name of the individual
2.19 subject of the data to whom the permissible use relates or, in the case of a disclosure for
2.20 purposes of notifying an owner of a towed or impounded vehicle, the vehicle identification
2.21 number or license plate number.

2.22 Subd. 2. **Exception to individual record requirement for certain uses.** The
2.23 commissioner may disclose personal information in a manner other than an individual
2.24 record basis only for a permissible use under United States Code, title 18, section
2.25 2721(b)(1), (2), (5), (6), or (14).

2.26 **Sec. 5. [170A.04] REQUEST AND DISCLOSURE REQUIREMENTS AND**
2.27 **CONDITIONS.**

2.28 Subdivision 1. **Requirements for request; cooperation.** A person who requests
2.29 disclosure of personal information under section 170A.01 must identify the data elements
2.30 requested and the reason each element is needed. The commissioner shall disclose only
2.31 those data elements needed to accomplish the use for which the request is made. A person
2.32 who receives personal information from the commissioner or from a permissible user
2.33 under subdivision 3 must cooperate in good faith with all compliance activities.

3.1 Subd. 2. Disclosure conditions. (a) Personal information may be disclosed
3.2 only under the following conditions, which must be reflected in a contract between the
3.3 permissible user and the commissioner:

3.4 (1) the commissioner may periodically conduct an audit to assess compliance by the
3.5 permissible user with this section;

3.6 (2) the commissioner shall encrypt data that are released electronically and uniquely
3.7 identify all data provided to each permissible user in order to prevent unauthorized access
3.8 and track the source of unauthorized releases of the data; this encryption and unique
3.9 identifier must not be removed, altered, or otherwise compromised by the permissible user
3.10 or any subsequent user;

3.11 (3) the permissible user shall submit a signed, dated certification to the commissioner
3.12 as provided in paragraph (b);

3.13 (4) the commissioner shall disclose only the data elements that are necessary to
3.14 accomplish the application certified by the permissible user;

3.15 (5) the permissible user may use the data only for the use and applications for which
3.16 the data are obtained and certified;

3.17 (6) the permissible user shall permit access to the data only by persons for whom
3.18 access is necessary to perform or support the application certified by the permissible user;

3.19 (7) the permissible user shall establish comprehensive administrative, technical, and
3.20 administrative safeguards to insure the security and confidentiality of the data, to protect
3.21 against any anticipated threats or hazards to the security and integrity of the data, and to
3.22 protect against unauthorized access to or use of the data; and

3.23 (8) the permissible user must not resell or redisclose any data obtained under this
3.24 section to any subsequent user, except as provided in subdivision 3.

3.25 (b) The certification required under paragraph (a) must state:

3.26 (1) each statutory use under which the user requests the data;

3.27 (2) each specific application of the data by the user consistent with the statutory use;

3.28 (3) each data element necessary to accomplish that application; and

3.29 (4) the reason the data element is necessary to accomplish the application;

3.30 The certification must be made by the permissible user under penalty of perjury and
3.31 upon direct knowledge of the truth of the matters certified. If any part of the certification is
3.32 no longer accurate or has changed, the permissible user must file an amended certification
3.33 before obtaining further access to data under the contract. A permissible user who obtains
3.34 access to data under the terms of an existing contract is deemed to have affirmed the
3.35 existing certification.

4.1 Subd. 3. Conditions for resale or redisclosure. A permissible user or subsequent
4.2 permissible user who receives personal information under this section may resell or
4.3 redisclose the information only under the following conditions, which must be reflected in
4.4 a contract between the permissible user and the subsequent permissible user:

4.5 (1) the permissible user shall obtain from the subsequent user a certification meeting
4.6 the requirements of subdivision 2, paragraph (a), clause (3), and paragraph (b);

4.7 (2) the permissible user shall independently determine and verify the business
4.8 identity of any subsequent user that is not an individual and that each user has, and is
4.9 legitimately engaged in, the uses and applications it certified, including, as appropriate,
4.10 through a site visit;

4.11 (3) the permissible user may redisclose or resell only the data elements that are
4.12 necessary to accomplish the application certified by the subsequent user;

4.13 (4) the subsequent user may use the data only for the use and applications for which
4.14 the data are obtained and certified;

4.15 (5) the permissible user shall require that the subsequent user use the data for
4.16 the same statutory use under which the permissible user received the data from the
4.17 commissioner, and for no other permissible use or application inconsistent with this use;

4.18 (6) the commissioner or the permissible user may only resell or redisclose data
4.19 with an encryption and unique identifier in the data placed by the commissioner under
4.20 subdivision 2, paragraph (a), clause (2), and shall prohibit the subsequent user from
4.21 removing, altering, or otherwise compromising an encryption and identifier;

4.22 (7) the permissible user shall verify that the subsequent user has established
4.23 administrative, technical, and administrative safeguards at least as secure as the
4.24 permissible user's comprehensive security safeguards;

4.25 (8) the commissioner or the permissible user may periodically audit the subsequent
4.26 user's compliance with its certification and this section; and

4.27 (9) the permissible user shall inform the subsequent user that section 170A.05
4.28 imposes private and public penalties and remedies for a violation of this chapter or a
4.29 user contract.

4.30 **EFFECTIVE DATE.** Subdivision 2, paragraph (a), clause (2), is effective January
4.31 1, 2007.

4.32 Sec. 6. [170A.05] REMEDIES AND PENALTIES.

4.33 The remedies and penalties in section 8.31 apply to a user of personal information
4.34 or a subsequent user who violates this chapter or the terms of a user contract. Sections

5.1 13.08 and 13.09 apply to a violation of this chapter by a government entity or employee
5.2 of a government entity.

5.3 **Sec. 7. [170A.06] ORGAN PROCUREMENT ORGANIZATIONS.**

5.4 This chapter does not affect the use of organ donation information on an individual's
5.5 driver's license or Minnesota identification card or affect access to personal information
5.6 by a federally certified or designated nonprofit organ procurement organization in
5.7 connection with its authorized activities.

5.8 **Sec. 8. [170A.07] PRIVACY CLASSIFICATION FOR PERSONAL SAFETY.**

5.9 An individual who is the subject of personal information may request, in writing,
5.10 that the individual's residence address or name and residence address be classified as
5.11 private data on individuals, as defined in section 13.02, subdivision 12. The commissioner
5.12 shall grant the classification on receipt of a signed statement by the individual that the
5.13 classification is required for the safety of the individual or the individual's family, if the
5.14 statement also provides a valid, existing address where the individual consents to receive
5.15 service of process. The commissioner shall use the service of process mailing address
5.16 in place of the individual's residence address in all documents and notices pertaining
5.17 to the motor vehicle or driver's license or Minnesota identification card, as applicable.
5.18 The residence address or name and residence address and any information provided in
5.19 the classification request, other than the individual's service for process mailing address,
5.20 are private data on individuals but may be provided to requesting law enforcement
5.21 agencies, probation and parole agencies, and public authorities, as defined in section
5.22 518.54, subdivision 9.

5.23 **Sec. 9. [170A.08] REFUSAL TO DISCLOSE INFORMATION UNDER**
5.24 **CERTAIN CIRCUMSTANCES.**

5.25 The commissioner may refuse to disclose personal information under this chapter if
5.26 the commissioner has reason to believe that the person requesting the personal information
5.27 is likely to use the information for an illegal or improper purpose or is otherwise not
5.28 going to comply with this chapter.

5.29 **Sec. 10. [170A.09] RELATIONSHIP TO DATA PRACTICES ACT.**

5.30 Chapter 13 applies to this chapter except to the extent provisions of this chapter are
5.31 inconsistent with chapter 13. The disclosures authorized under this chapter are subject to
5.32 restrictions on access to data under section 13.69 and other applicable law.

5.33 **Sec. 11. REPEALER.**

5.34 Minnesota Statutes 2004, section 13.6905, subdivision 10, and Minnesota Statutes
5.35 2005 Supplement, sections 168.346; and 171.12, subdivisions 7 and 7a, are repealed."

1.1 Senator moves to amend the amendment (SCS3414A15) to the
1.2 Subcommittee Report on Data Practices (SS3414SUB) to S.F. No. 3414 as follows:

1.3 Page 2, delete section 4

1.4 Page 2, line 26, delete "170A.04" and insert "170A.03"

1.5 Page 3, line 3, delete the colon and insert a period

1.6 Page 3, delete lines 4 to 35 and insert:"

1.7 (b) The permissible user shall implement and maintain a comprehensive information
1.8 security program that is written in one or more readily accessible parts and contains
1.9 administrative, technical, and physical safeguards that are appropriate to the user's size
1.10 and complexity, the nature and scope of its activities, and the sensitivity of the personal
1.11 information obtained.

1.12 (c) In order to implement and maintain a security program, the permissible user shall
1.13 identify reasonably foreseeable internal and external risks to the security, confidentiality,
1.14 and integrity of personal information that could result in the unauthorized disclosure,
1.15 misuse, or other compromise of the information and assess the sufficiency of any
1.16 safeguards in place to control the risks.

1.17 (d) At a minimum, a risk assessment must include consideration of risks in each
1.18 relevant area of the permissible user's operations, including:

1.19 (1) employee training;

1.20 (2) information systems;

1.21 (3) detecting, preventing, and responding to attacks, intrusions, or other system
1.22 failures;

1.23 (4) the design and implementation of information safeguards to control the risks
1.24 identified through risk assessment; and

1.25 (5) testing or otherwise monitoring the effectiveness of the safeguards' key controls,
1.26 systems, and procedures on a regular basis."

1.27 Page 4, line 3, delete everything after "only"

1.28 Page 4, delete lines 4 to 31, and insert "as authorized under United States Code,
1.29 title 18, section 2721(c)."

1.30 Page 4, line 32, delete "170A.05" and insert "170A.04"

1.31 Page 5, line 3, delete "170A.06" and insert "170A.05"

1.32 Page 5, line 8, delete "170A.07" and insert "170A.06"

1.33 Page 5, line 23, delete "170A.08" and insert "170A.07"

- 2.1 Page 5, line 29, delete "170A.09" and insert "170A.08"
- 2.2 Renumber the sections in sequence and correct the internal references
- 2.3 Amend the title accordingly

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S.F. No. 3414 - Data Practices (subcommittee report)

Author: Senator Wes Skoglund

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) 

Date: March 30, 2006

Sections 1 and 2 update cross-reference sections in the Data Practices Act to conform to the law governing motor vehicle and driver's license records.

Section 3 amends the statute governing data on applicants for student financial aid programs administered by the Office of Higher Education to make names and addresses of program recipients or participants private data.

Sections 4 and 6 make parallel amendments in the statutes governing motor vehicle records and driver's license and Minnesota identification card records. The types of permissible users is narrowed to exclude private investigators and security services and requesters with express written consent (other provisions in the bill govern releases with consent). Language authorizing the bulk distribution of personal information for business purposes with the consent of the subject is stricken and replaced by a prohibition on bulk distribution. Personal information may be released only on an individual record basis, although an exception is included for the release of information to a government agency (such as law enforcement), which is one of the permissible uses under federal law. An explicit prohibition on resale or redisclosure of data by a recipient is included.

A person who requests disclosure of data must identify the data elements requested and the reason each element is needed and may receive only those elements needed to accomplish the purpose of the request. A person requesting data on 500 or more individuals must document compliance with data security measures as required by the Commissioner. The Commissioner must implement a system for tracking the sale or disclosure of personal information by persons who receive it from the Commissioner and audit activities of recipients with regard to the information. Persons who receive information must cooperate with compliance activities.

The remedies and penalties in **section 8.31** (the general consumer protection enforcement law that includes public remedies by the Attorney General and private remedies) would apply to a user of personal information who violates this section or the terms of a user agreement. Fees applicable to users, other than an organ procurement organization or government agency, are included. Fees would be distributed to the Commissioner for operation of the permissible user system as well as to the financial crimes account created under section 7.

Section 5 provides that a Minnesota tribal identification card is an equivalent form of identification in any case where a Minnesota identification card is acceptable.

Section 7 creates a public safety and financial crimes account under which the money would be used for the financial crimes oversight council and task force.

Sections 8 and 9 amend the law enacted last session restricting the use of Social Security numbers.

Section 10 provides that parole and probation authorities must be given access to records or data concerning an applicant or permit holder for a permit to carry a pistol.

Section 11 repeals a provision in the Social Security number law that authorized a continuation of prior use of Social Security numbers under specified circumstances.

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was referred**

1.2 **S.F. No. 3132:** A bill for an act relating to data practices; proposing classifications
of data as private and nonpublic; amending Minnesota Statutes 2004, section 13.3805,
by adding a subdivision.

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

1.6 Delete everything after the enacting clause and insert:

1.7 **"ARTICLE 1**

1.8 **GENERAL DATA PRACTICES PROVISIONS**

1.9 Section 1. Minnesota Statutes 2004, section 13.072, subdivision 1, is amended to read:

1.10 Subdivision 1. **Opinion; when required.** (a) Upon request of a government entity,
1.11 the commissioner may give a written opinion on any question relating to public access
1.12 to government data, rights of subjects of data, or classification of data under this chapter
1.13 or other Minnesota statutes governing government data practices. Upon request of any
1.14 person who disagrees with a determination regarding data practices made by a government
1.15 entity, the commissioner may give a written opinion regarding the person's rights as a
1.16 subject of government data or right to have access to government data.

1.17 (b) Upon request of a body subject to chapter 13D, the commissioner may give a
1.18 written opinion on any question relating to the body's duties under chapter 13D. Upon
1.19 request of a person who disagrees with the manner in which members of a governing body
1.20 perform their duties under chapter 13D, the commissioner may give a written opinion
1.21 on compliance with chapter 13D. A governing body or person requesting an opinion
1.22 under this paragraph must pay the commissioner a fee of \$200. Money received by the
1.23 commissioner under this paragraph is appropriated to the commissioner for the purposes
of this section.

1.25 (c) If the commissioner determines that no opinion will be issued, the commissioner
1.26 shall give the government entity or body subject to chapter 13D or person requesting
1.27 the opinion notice of the decision not to issue the opinion within five business days of
1.28 receipt of the request. If this notice is not given, the commissioner shall issue an opinion
1.29 within 20 days of receipt of the request.

1.30 (d) For good cause and upon written notice to the person requesting the opinion,
1.31 the commissioner may extend this deadline for one additional 30-day period. The notice
1.32 must state the reason for extending the deadline. The government entity or the members
1.33 of a body subject to chapter 13D must be provided a reasonable opportunity to explain the
1.34 reasons for its decision regarding the data or how they perform their duties under chapter
1.35 13D. The commissioner or the government entity or body subject to chapter 13D may
1.36 choose to give notice to the subject of the data concerning the dispute regarding the data
1.37 or compliance with chapter 13D.

2.1 (e) This section does not apply to a determination made by the commissioner of
2.2 health under section 13.3805, subdivision 1, paragraph (b), or 144.6581.

2.3 (f) A written opinion issued by the attorney general shall take precedence over an
2.4 opinion issued by the commissioner under this section.

2.5 Sec. 2. Minnesota Statutes 2004, section 13.32, is amended by adding a subdivision to
2.6 read:

2.7 Subd. 8a. Access by juvenile justice system; bullying behavior. (a) For purposes
2.8 of this subdivision, "bullying behavior" means any written or verbal expression or physical
2.9 act or gesture by a student that is intended to cause or is perceived as causing distress to
2.10 one or more students and that substantially interferes with another student's educational
2.11 benefits, opportunities, or performance. Bullying includes, but is not limited to, conduct
2.12 by a student against another student that a reasonable person under the circumstances
2.13 knows or should know has the effect of harming a student, damaging a student's property,
2.14 placing a student in reasonable fear of harm to the student's person or property, or creating
2.15 a hostile educational environment for a student.

2.16 (b) Education data relating to bullying behavior by a student may be disclosed
2.17 under subdivision 3, clause (i).

2.18 Sec. 3. Minnesota Statutes 2004, section 13.3805, is amended by adding a subdivision
2.19 to read:

2.20 Subd. 4. Drinking water testing data. Data maintained by the Department
2.21 of Health or community public water systems that identify the address of the testing
2.22 site and the name, address, and telephone number of residential homeowners of each
2.23 specific site that is tested for lead and copper as required by the federal Safe Drinking
2.24 Water Act, the United States Environmental Protection Agency's lead and copper rule,
2.25 and the department's drinking water protection program are private data on individuals
2.26 or nonpublic data.

2.27 Sec. 4. Minnesota Statutes 2004, section 13.87, is amended by adding a subdivision to
2.28 read:

2.29 Subd. 4. Name and index service data. (a) For purposes of this section, "name
2.30 and event index service data" means data of the Bureau of Criminal Apprehension that
2.31 link data on an individual that are stored in one or more databases maintained by criminal
2.32 justice agencies, as defined in section 299C.46, subdivision 2, or the judiciary.

2.33 (b) Name and event index service data are private data on individuals, provided
2.34 that if the data link private or public data on an individual to confidential data on that
2.35 individual, the data are confidential data on that individual. The data become private data
2.36 if the data no longer link private or public data to confidential data. The classification of

3.1 data in the name and event index service does not change the classification of the data in
3.2 the databases linked by the service.

3.3 Sec. 5. Minnesota Statutes 2004, section 136A.162, is amended to read:

3.4 **136A.162 CLASSIFICATION OF DATA.**

3.5 ~~At~~ (a) Except as provided in paragraphs (b) and (c), data on applicants for financial
3.6 assistance collected and used by the Higher Education Services Office for student
3.7 financial aid programs administered by that office shall be classified as are private data
3.8 on individuals under as defined in section 13.02, subdivision 12. Exceptions to this
3.9 classification are that:

3.10 ~~(a) the names and addresses of program recipients or participants are public data;~~

3.11 (b) Data on applicants may be disclosed to the commissioner of human services
3.12 to the extent necessary to determine eligibility under section 136A.121, subdivision 2,
3.13 clause (5); and.

3.14 (c) The following data collected in the Minnesota supplemental loan program under
3.15 section 136A.1701 may be disclosed to a consumer credit reporting agency only if the
3.16 borrower and the cosigner give informed consent, according to section 13.05, subdivision
3.17 4, at the time of application for a loan:

3.18 (1) the lender-assigned borrower identification number;

3.19 (2) the name and address of borrower;

3.20 (3) the name and address of cosigner;

3.21 (4) the date the account is opened;

3.22 (5) the outstanding account balance;

3.23 (6) the dollar amount past due;

3.24 (7) the number of payments past due;

3.25 (8) the number of late payments in previous 12 months;

3.26 (9) the type of account;

3.27 (10) the responsibility for the account; and

3.28 (11) the status or remarks code.

3.29 Sec. 6. Minnesota Statutes 2004, section 138.17, subdivision 7, is amended to read:

3.30 Subd. 7. **Records management program.** ~~A records management program for the~~
3.31 ~~application of efficient and economical management methods to the creation, utilization,~~
3.32 ~~maintenance, retention, preservation, and disposal of official records shall be administered~~
3.33 ~~by the commissioner of administration with assistance from the director of the historical~~
3.34 ~~society. The State Records Center which stores and services state records not in state~~
3.35 ~~archives shall be administered by the commissioner of administration. The commissioner~~
3.36 ~~of administration is empowered to (1) establish standards, procedures, and techniques for~~

4.1 ~~effective management of government records, (2) make continuing surveys of paper work~~
4.2 ~~operations, and (3) recommend improvements in current records management practices~~
4.3 ~~including the use of space, equipment, and supplies employed in creating, maintaining,~~
4.4 ~~preserving and disposing of government records. It shall be the duty of the head of each~~
4.5 ~~state agency and the governing body of each county, municipality, and other subdivision~~
4.6 ~~of government to cooperate with the commissioner in conducting surveys and to establish~~
4.7 ~~and maintain an active, continuing program for the economical and efficient management~~
4.8 ~~of the records of each agency, county, municipality, or other subdivision of government.~~
4.9 ~~When requested by the commissioner, Public officials shall assist in the preparation of~~
4.10 prepare ~~an inclusive inventory of records in their custody, to which shall be attached~~
4.11 ~~a schedule, approved by the head of the governmental unit or agency having custody~~
4.12 ~~of the records and the commissioner, establishing a time period for the retention or~~
4.13 ~~disposal of each series of records. When the schedule is unanimously approved by the~~
4.14 ~~records disposition panel, the head of the governmental unit or agency having custody~~
4.15 ~~of the records may dispose of the type of records listed in the schedule at a time and in~~
4.16 ~~a manner prescribed in the schedule for particular records which were created after the~~
4.17 ~~approval. A list of records disposed of pursuant to this subdivision shall be maintained by~~
4.18 ~~the governmental unit or agency.~~

4.19 Sec. 7. Minnesota Statutes 2004, section 138.17, subdivision 8, is amended to read:

4.20 Subd. 8. **Emergency records preservation.** ~~In light of the danger of nuclear or~~
4.21 ~~natural disaster, the commissioner of administration, with the assistance of the director~~
4.22 ~~of the historical society, shall establish and maintain a program for the selection and~~
4.23 ~~preservation of public records considered essential to the operation of government and to~~
4.24 ~~the protection of the rights and interests of persons, and shall make or cause to be made~~
4.25 ~~preservation duplicates or designate as preservation duplicates existing copies of such~~
4.26 ~~essential public records. Preservation duplicates shall be durable, accurate, complete, and~~
4.27 ~~clear, and such duplicates reproduced by photographic or other process which accurately~~
4.28 ~~reproduces and forms a durable medium for so reproducing the original shall have the~~
4.29 ~~same force and effect for all purposes as the original record whether the original record is~~
4.30 ~~in existence or not. A transcript, exemplification, or certified copy of such preservation~~
4.31 ~~duplicate shall be deemed for all purposes to be a transcript, exemplification, or certified~~
4.32 ~~copy of the original record. Such preservation duplicates shall be preserved in the place~~
4.33 ~~and manner of safekeeping prescribed by the commissioner.~~

4.34 Every county, municipality, or other subdivision of government may institute
4.35 a program for the preservation of necessary documents essential to the continuity of
4.36 government in the event of a disaster or emergency. ~~Such a program shall first be~~

5.1 ~~submitted to the commissioner for approval or disapproval and no such program shall be~~
5.2 ~~instituted until such approval is obtained.~~

5.3 Sec. 8. Minnesota Statutes 2004, section 144.335, is amended by adding a subdivision
5.4 to read:

5.5 Subd. 3d. Release of records for family and caretaker involvement in mental
5.6 health care. (a) Notwithstanding subdivision 3a, a provider providing mental health care
5.7 and treatment may disclose health record information described in paragraph (b) about a
5.8 patient to a family member of the patient or other person who requests the information if:

5.9 (1) the request for information is in writing;

5.10 (2) the family member or other person lives with, provides care for, or is directly
5.11 involved in monitoring the treatment of the patient;

5.12 (3) the involvement under clause (2) is verified by the patient's mental health care
5.13 provider, the patient's attending physician, or a person other than the person requesting
5.14 the information;

5.15 (4) before the disclosure, the patient is informed in writing of the request, the name
5.16 of the person requesting the information, the reason for the request, and the specific
5.17 information being requested;

5.18 (5) the patient agrees to the disclosure, does not object to the disclosure, or is unable
5.19 to consent or object; and

5.20 (6) the disclosure is necessary to assist in the provision of care or monitoring of the
5.21 patient's treatment.

5.22 (b) The information disclosed under this subdivision is limited to diagnosis,
5.23 admission to or discharge from treatment, the name and dosage of the medications
5.24 prescribed, side effects of the medication, consequences of failure of the patient to take the
5.25 prescribed medication, and a summary of the discharge plan.

5.26 (c) If a provider reasonably determines that providing information under this
5.27 subdivision would be detrimental to the physical or mental health of the patient or is
5.28 likely to cause the patient to inflict self harm or to harm another, the provider must not
5.29 disclose the information.

5.30 (d) This subdivision does not apply to disclosures for a medical emergency or to
5.31 family members as authorized or required under subdivision 3a, paragraph (b), clause
5.32 (1), or paragraph (f).

5.33 Sec. 9. Minnesota Statutes 2005 Supplement, section 171.02, subdivision 1, is
amended to read:

5.35 Subdivision 1. **License required.** Except when expressly exempted, a person
5.36 shall not drive a motor vehicle upon a street or highway in this state unless the person

6.1 has a license valid under this chapter for the type or class of vehicle being driven. The
6.2 department shall not issue a driver's license to a person unless and until the person's license
6.3 from any jurisdiction has been invalidated. The department shall provide to the issuing
6.4 department of any jurisdiction, information that the licensee is now licensed in Minnesota.
6.5 A person is not permitted to have more than one valid driver's license at any time. The
6.6 department shall not issue to a person to whom a current Minnesota identification card has
6.7 been issued a driver's license, other than a limited license, unless the person's Minnesota
6.8 identification card has been invalidated. This subdivision does not require invalidation of
6.9 a tribal identification card as a condition of receiving a driver's license.

6.10 Sec. 10. [171.072] TRIBAL IDENTIFICATION CARD.

6.11 (a) If a Minnesota identification card is deemed an acceptable form of identification
6.12 in Minnesota Statutes or Rules, a tribal identification card is also an acceptable form
6.13 of identification. A tribal identification card is a primary document for purposes of
6.14 Minnesota Rules, part 7410.0400, and successor rules.

6.15 (b) For purposes of this subdivision, "tribal identification card" means an unexpired
6.16 identification card issued by a Minnesota tribal government of a tribe recognized by the
6.17 Bureau of Indian Affairs, United States Department of the Interior, that contains the legal
6.18 name, date of birth, signature, and picture of the enrolled tribal member.

6.19 (c) The tribal identification card must contain security features that make it as
6.20 impervious to alteration as is reasonably practicable in its design and quality of material
6.21 and technology. The security features must use materials that are not readily available to
6.22 the general public. The tribal identification card must not be susceptible to reproduction
6.23 by photocopying or simulation and must be highly resistant to data or photograph
6.24 substitution and other tampering. The requirements of this section do not apply to tribal
6.25 identification cards used to prove an individual's residence for purposes of section
6.26 201.061, subdivision 3.

6.27 Sec. 11. Minnesota Statutes 2005 Supplement, section 270C.03, subdivision 1, is
6.28 amended to read:

6.29 Subdivision 1. **Powers and duties.** The commissioner shall have and exercise
6.30 the following powers and duties:

- 6.31 (1) administer and enforce the assessment and collection of taxes;
- 6.32 (2) make determinations, corrections, and assessments with respect to taxes,
6.33 including interest, additions to taxes, and assessable penalties;
- 6.34 (3) use statistical or other sampling techniques consistent with generally accepted
6.35 auditing standards in examining returns or records and making assessments;

7.1 (4) investigate the tax laws of other states and countries, and formulate and submit
7.2 to the legislature such legislation as the commissioner may deem expedient to prevent
7.3 evasions of state revenue laws and to secure just and equal taxation and improvement in
7.4 the system of state revenue laws;

7.5 (5) consult and confer with the governor upon the subject of taxation, the
7.6 administration of the laws in regard thereto, and the progress of the work of the
7.7 department, and furnish the governor, from time to time, such assistance and information
7.8 as the governor may require relating to tax matters;

7.9 (6) execute and administer any agreement with the secretary of the treasury or the
7.10 Bureau of Alcohol, Tobacco, Firearms, and Explosives in the Department of Justice of the
7.11 United States or a representative of another state regarding the exchange of information
7.12 and administration of the state revenue laws;

7.13 (7) require town, city, county, and other public officers to report information as to the
7.14 collection of taxes received from licenses and other sources, and such other information
7.15 as may be needful in the work of the commissioner, in such form as the commissioner
7.16 may prescribe;

7.17 (8) authorize the use of unmarked motor vehicles to conduct seizures or criminal
7.18 investigations pursuant to the commissioner's authority; and

7.19 (9) exercise other powers and authority and perform other duties required of or
7.20 imposed upon the commissioner by law.

7.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.22 Sec. 12. Minnesota Statutes 2005 Supplement, section 299C.40, subdivision 1, is
7.23 amended to read:

7.24 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this
7.25 section.

7.26 (b) "CIBRS" means the Comprehensive Incident-Based Reporting System, located
7.27 in the Department of Public Safety and managed by the Bureau of Criminal Apprehension,
7.28 Criminal Justice Information Systems Section. A reference in this section to "CIBRS"
7.29 includes the Bureau of Criminal Apprehension.

7.30 (c) "Law enforcement agency" means a Minnesota municipal police department,
7.31 the Metropolitan Transit Police, the Metropolitan Airports Police, the University of
7.32 Minnesota Police Department, the Department of Corrections' Fugitive Apprehension
7.33 Unit, a Minnesota county sheriff's department, the Bureau of Criminal Apprehension, or
7.34 the Minnesota State Patrol.

7.35 Sec. 13. Minnesota Statutes 2005 Supplement, section 325E.59, subdivision 1, is
7.36 amended to read:

8.1 Subdivision 1. **Generally.** (a) A person or entity, not including a government entity,
8.2 may not do any of the following:

8.3 (1) publicly post or publicly display in any manner an individual's Social Security
8.4 number. "Publicly post" or "publicly display" means to intentionally communicate or
8.5 otherwise make available to the general public;

8.6 (2) print an individual's Social Security number on any card required for the
8.7 individual to access products or services provided by the person or entity;

8.8 (3) require an individual to transmit the individual's Social Security number over the
8.9 Internet, unless the connection is secure or the Social Security number is encrypted;

8.10 (4) require an individual to use the individual's Social Security number to access an
8.11 Internet Web site, unless a password or unique personal identification number or other
8.12 authentication device is also required to access the Internet Web site; ~~or~~

8.13 (5) print a number that the person or entity knows to be an individual's Social
8.14 Security number on any materials that are mailed to the individual, unless state or federal
8.15 law requires the Social Security number to be on the document to be mailed. If, in
8.16 connection with a transaction involving or otherwise relating to an individual, a person
8.17 or entity receives a number from a third party, that person or entity is under no duty to
8.18 inquire or otherwise determine whether the number is or includes that individual's Social
8.19 Security number and may print that number on materials mailed to the individual, unless
8.20 the person or entity receiving the number has actual knowledge that the number is or
8.21 includes the individual's Social Security number;

8.22 (6) assign or use a number as an account identifier that is identical to or incorporates
8.23 an individual's complete Social Security number; or

8.24 (7) sell Social Security numbers obtained from individuals in the course of business.

8.25 Notwithstanding clauses (1) to (5), Social Security numbers may be included in
8.26 applications and forms sent by mail, including documents sent as part of an application or
8.27 enrollment process, or to establish, amend, or terminate an account, contract, or policy,
8.28 or to confirm the accuracy of the Social Security number. Nothing in this paragraph
8.29 authorizes inclusion of a Social Security number on the outside of a mailing or in the bulk
8.30 mailing of a credit card solicitation offer.

8.31 (b) A person or entity, not including a government entity, must restrict access to
8.32 individual Social Security numbers it holds so that only employees who require the
8.33 numbers in order to perform their job duties have access to the numbers.

8.34 ~~Except as provided in subdivision 2,~~ (c) This section applies only to the use of Social
8.35 Security numbers on or after July 1, 2007.

9.1 Sec. 14. Minnesota Statutes 2005 Supplement, section 325E.59, subdivision 3, is
9.2 amended to read:

Subd. 3. **Coordination with other law.** This section does not prevent:

9.4 (1) the collection, use, or release of a Social Security number as required by state or
9.5 federal law or;

9.6 (2) the use of a Social Security number for internal verification or administrative
9.7 purposes;

9.8 (3) the use of a Social Security number to access a credit report for purposes allowed
9.9 by the federal Fair Credit Reporting Act, United States Code, title 15, section 1681a, if
9.10 a Social Security number is required in order to access the credit report or the use of a
9.11 Social Security number in reporting information to a consumer reporting agency; or

9.12 (4) the use of a Social Security number to access or report information to a person
9.13 who maintains a database of information used in connection with the prevention or
9.14 detection of fraud.

9.15 Sec. 15. **[609A.04] BUSINESS SCREENING SERVICES; REMOVAL OF DATA**
9.16 **ON EXPUNGED RECORDS; CORRECTIONS.**

9.17 Subdivision 1. **Definition.** For purposes of this section, "business screening service"
9.18 means a person engaged in the business of gathering, storing, or disseminating background
9.19 information on individuals that includes records of arrests, citations, criminal proceedings,
9.20 or convictions involving the individual. Business screening service does not include a
9.21 residential screening service under sections 504B.235 to 504B.245.

9.22 Subd. 2. **Deletion of expunged records.** If a business screening service knows that
9.23 records of an arrest, citation, criminal proceeding, or conviction involving an individual
9.24 have been expunged under this chapter or other law, the screening service shall delete any
9.25 reference to those records in information maintained or disseminated by the screening
9.26 service.

9.27 Subd. 3. **Corrections.** If the completeness or accuracy of a record involving an
9.28 arrest, citation, criminal proceeding, or conviction maintained by a business screening
9.29 service is disputed by the individual who is the subject of the record, the screening
9.30 service must reinvestigate and document the current status of the record. If the record is
9.31 found to be inaccurate or can no longer be verified, the screening service must correct
9.32 the inaccuracy or delete any reference to that record in information maintained or
9.33 disseminated by the screening service. At the request of the individual, the screening
9.34 service must give notification of the correction or deletion to persons who have received
9.35 the record within the past six months.

9.36 Subd. 4. **Remedy.** A business screening service that violates this section is liable
9.37 to the individual who is the subject of the record for a penalty of \$10,000 or actual

10.1 damages caused by the violation, whichever is greater, plus costs and disbursements and
10.2 reasonable attorney fees.

10.3 **EFFECTIVE DATE.** This section is effective August 1, 2006.

10.4 Sec. 16. Minnesota Statutes 2004, section 624.714, is amended by adding a subdivision
10.5 to read:

10.6 **Subd. 14a. Parole and probation authority access to records.** Parole and
10.7 probation authorities must be given access to records or data collected, made, or held
10.8 under this section concerning any applicant or permit holder who is a defendant, parolee,
10.9 or probationer of a district court.

10.10 Sec. 17. Minnesota Statutes 2004, section 626.557, subdivision 9a, is amended to read:

10.11 **Subd. 9a. Evaluation and referral of reports made to a common entry**
10.12 **point unit.** The common entry point must screen the reports of alleged or suspected
10.13 maltreatment for immediate risk and make all necessary referrals as follows:

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

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

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

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

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

10.30 Sec. 18. **REPEALER.**

10.31 Minnesota Statutes 2005 Supplement, section 325E.59, subdivision 2, is repealed.

10.32 **ARTICLE 2**

10.33 **MOTOR VEHICLE AND DRIVER'S LICENSE RECORDS**

11.1 Section 1. Minnesota Statutes 2005 Supplement, section 13.6905, subdivision 3,
11.2 is amended to read:

3 Subd. 3. **Motor vehicle registration and driver's license data.** ~~Various data on~~
11.4 Disclosure and use of motor vehicle registrations are classified under sections 168.327,
11.5 subdivision 3, and 168.346 registration and driver's license data is governed by chapter
11.6 170A.

11.7 Sec. 2. **[170A.01] PERSONAL INFORMATION IN MOTOR VEHICLE AND**
11.8 **DRIVER'S LICENSE RECORDS.**

11.9 Subdivision 1. **Definitions.** The definitions in United States Code, title 18, section
11.10 2725, and chapters 168 and 171, apply to this chapter.

11.11 Subd. 2. **Application.** This chapter applies to:

11.12 (1) personal information on an owner provided to register a motor vehicle under
11.13 chapter 168; and

11.14 (2) personal information provided to obtain a driver's license or Minnesota
11.15 identification card under chapter 171.

11.16 Subd. 3. **Federal compliance; permissible disclosures under state law.** Except
11.17 as otherwise provided in this section, personal information must be treated as provided
11.18 in United States Code, title 18, section 2721. The commissioner shall disclose personal
11.19 information as required by section 2721, paragraph (b), and for the uses permitted by
11.20 paragraph (b), clauses (1) to (3), (5) to (7), (9), and (14), subject to the restrictions on
11.21 the disclosure of highly restricted personal information. The commissioner must not
11.22 disclose personal information for other uses except as required by law or with the consent
11.23 of the subject.

4 Subd. 4. **Consent.** The subject of personal information may expressly consent
11.25 in writing to the disclosure of the individual's personal information not authorized by
11.26 United States Code, title 18, section 2721, or this chapter, to a person who makes a written
11.27 request for the personal information. If the subject of the information is an individual and
11.28 so authorizes disclosure, the commissioner shall implement the request. The consent
11.29 must be on a document separate from the application for a motor vehicle registration,
11.30 driver's license, or Minnesota identification card. The commissioner must not condition
11.31 the issuance of a registration, license, or card upon a consent or give any preference to an
11.32 individual who grants consent.

11.33 Sec. 3. **[170A.02] PUBLIC SAFETY DISCLOSURES.**

4 The commissioner shall disclose personal information when the use is related to the
11.35 operation or use of a motor vehicle or public safety, as authorized under United States

12.1 Code, section 2721(b)(14). The use of personal information is related to public safety if it
12.2 concerns the physical safety or security of drivers, vehicles, pedestrians, or property.

12.3 **Sec. 4. [170A.03] TYPE OF RECORD ACCESS AUTHORIZED.**

12.4 Subdivision 1. Access limited to individual records. Except as provided in
12.5 subdivision 2, the commissioner may disclose personal information only on an individual
12.6 record basis in response to a permissible user's identification of the name of the individual
12.7 subject of the data to whom the permissible use relates or, in the case of a disclosure for
12.8 purposes of notifying an owner of a towed or impounded vehicle, the vehicle identification
12.9 number or license plate number.

12.10 Subd. 2. Exception to individual record requirement for certain uses. The
12.11 commissioner may disclose personal information in a manner other than an individual
12.12 record basis only for a permissible use under United States Code, title 18, section
12.13 2721(b)(1), (2), (5), (6), or (14).

12.14 **Sec. 5. [170A.04] REQUEST AND DISCLOSURE REQUIREMENTS AND**
12.15 **CONDITIONS.**

12.16 Subdivision 1. Requirements for request; cooperation. A person who requests
12.17 disclosure of personal information under section 170A.01 must identify the data elements
12.18 requested and the reason each element is needed. The commissioner shall disclose only
12.19 those data elements needed to accomplish the use for which the request is made. A person
12.20 who receives personal information from the commissioner or from a permissible user
12.21 under subdivision 3 must cooperate in good faith with all compliance activities.

12.22 Subd. 2. Disclosure conditions. (a) Personal information may be disclosed
12.23 only under the following conditions, which must be reflected in a contract between the
12.24 permissible user and the commissioner:

12.25 (1) the commissioner may periodically conduct an audit to assess compliance by the
12.26 permissible user with this section;

12.27 (2) the commissioner shall encrypt data that are released electronically and uniquely
12.28 identify all data provided to each permissible user in order to prevent unauthorized access
12.29 and track the source of unauthorized releases of the data; this encryption and unique
12.30 identifier must not be removed, altered, or otherwise compromised by the permissible user
12.31 or any subsequent user;

12.32 (3) the permissible user shall submit a signed, dated certification to the commissioner
12.33 as provided in paragraph (b);

12.34 (4) the commissioner shall disclose only the data elements that are necessary to
12.35 accomplish the application certified by the permissible user;

13.1 (5) the permissible user may use the data only for the use and applications for which
13.2 the data are obtained and certified;

13.3 (6) the permissible user shall permit access to the data only by persons for whom
13.4 access is necessary to perform or support the application certified by the permissible user;

13.5 (7) the permissible user shall establish comprehensive administrative, technical, and
13.6 administrative safeguards to insure the security and confidentiality of the data, to protect
13.7 against any anticipated threats or hazards to the security and integrity of the data, and to
13.8 protect against unauthorized access to or use of the data; and

13.9 (8) the permissible user must not resell or redisclose any data obtained under this
13.10 section to any subsequent user, except as provided in subdivision 3.

13.11 (b) The certification required under paragraph (a) must state:

13.12 (1) each statutory use under which the user requests the data;

13.13 (2) each specific application of the data by the user consistent with the statutory use;

13.14 (3) each data element necessary to accomplish that application; and

13.15 (4) the reason the data element is necessary to accomplish the application;

13.16 The certification must be made by the permissible user under penalty of perjury and
13.17 upon direct knowledge of the truth of the matters certified. If any part of the certification is
13.18 no longer accurate or has changed, the permissible user must file an amended certification
13.19 before obtaining further access to data under the contract. A permissible user who obtains
13.20 access to data under the terms of an existing contract is deemed to have affirmed the
13.21 existing certification.

13.22 Subd. 3. **Conditions for resale or redisclosure.** A permissible user or subsequent
13.23 permissible user who receives personal information under this section may resell or
13.24 redisclose the information only under the following conditions, which must be reflected in
13.25 a contract between the permissible user and the subsequent permissible user:

13.26 (1) the permissible user shall obtain from the subsequent user a certification meeting
13.27 the requirements of subdivision 2, paragraph (a), clause (3), and paragraph (b);

13.28 (2) the permissible user shall independently determine and verify the business
13.29 identity of any subsequent user that is not an individual and that each user has, and is
13.30 legitimately engaged in, the uses and applications it certified, including, as appropriate,
13.31 through a site visit;

13.32 (3) the permissible user may redisclose or resell only the data elements that are
13.33 necessary to accomplish the application certified by the subsequent user;

13.34 (4) the subsequent user may use the data only for the use and applications for which
13.35 the data are obtained and certified;

14.1 (5) the permissible user shall require that the subsequent user use the data for
14.2 the same statutory use under which the permissible user received the data from the
14.3 commissioner, and for no other permissible use or application inconsistent with this use;

14.4 (6) the commissioner or the permissible user may only resell or redisclose data
14.5 with an encryption and unique identifier in the data placed by the commissioner under
14.6 subdivision 2, paragraph (a), clause (2), and shall prohibit the subsequent user from
14.7 removing, altering, or otherwise compromising an encryption and identifier;

14.8 (7) the permissible user shall verify that the subsequent user has established
14.9 administrative, technical, and administrative safeguards at least as secure as the
14.10 permissible user's comprehensive security safeguards;

14.11 (8) the commissioner or the permissible user may periodically audit the subsequent
14.12 user's compliance with its certification and this section; and

14.13 (9) the permissible user shall inform the subsequent user that section 170A.05
14.14 imposes private and public penalties and remedies for a violation of this chapter or a
14.15 user contract.

14.16 **EFFECTIVE DATE.** Subdivision 2, paragraph (a), clause (2), is effective January
14.17 1, 2007.

14.18 **Sec. 6. [170A.05] REMEDIES AND PENALTIES.**

14.19 The remedies and penalties in section 8.31 apply to a user of personal information
14.20 or a subsequent user who violates this chapter or the terms of a user contract. Sections
14.21 13.08 and 13.09 apply to a violation of this chapter by a government entity or employee
14.22 of a government entity.

14.23 **Sec. 7. [170A.06] ORGAN PROCUREMENT ORGANIZATIONS.**

14.24 This chapter does not affect the use of organ donation information on an individual's
14.25 driver's license or Minnesota identification card or affect access to personal information
14.26 by a federally certified or designated nonprofit organ procurement organization in
14.27 connection with its authorized activities.

14.28 **Sec. 8. [170A.07] PRIVACY CLASSIFICATION FOR PERSONAL SAFETY.**

14.29 An individual who is the subject of personal information may request, in writing,
14.30 that the individual's residence address or name and residence address be classified as
14.31 private data on individuals, as defined in section 13.02, subdivision 12. The commissioner
14.32 shall grant the classification on receipt of a signed statement by the individual that the
14.33 classification is required for the safety of the individual or the individual's family, if the
14.34 statement also provides a valid, existing address where the individual consents to receive
14.35 service of process. The commissioner shall use the service of process mailing address

15.1 in place of the individual's residence address in all documents and notices pertaining
 15.2 to the motor vehicle or driver's license or Minnesota identification card, as applicable.
 3 The residence address or name and residence address and any information provided in
 15.4 the classification request, other than the individual's service for process mailing address,
 15.5 are private data on individuals but may be provided to requesting law enforcement
 15.6 agencies, probation and parole agencies, and public authorities, as defined in section
 15.7 518.54, subdivision 9.

15.8 **Sec. 9. [170A.08] REFUSAL TO DISCLOSE INFORMATION UNDER**
 15.9 **CERTAIN CIRCUMSTANCES.**

15.10 The commissioner may refuse to disclose personal information under this chapter if
 15.11 the commissioner has reason to believe that the person requesting the personal information
 15.12 is likely to use the information for an illegal or improper purpose or is otherwise not
 15.13 going to comply with this chapter.

15.14 **Sec. 10. [170A.09] RELATIONSHIP TO DATA PRACTICES ACT.**

15.15 Chapter 13 applies to this chapter except to the extent provisions of this chapter are
 15.16 inconsistent with chapter 13. The disclosures authorized under this chapter are subject to
 15.17 restrictions on access to data under section 13.69 and other applicable law.

15.18 **Sec. 11. REPEALER.**

15.19 Minnesota Statutes 2004, section 13.6905, subdivision 10, and Minnesota Statutes
 15.20 2005 Supplement, sections 168.346; and 171.12, subdivisions 7 and 7a, are repealed."

15.21 Amend the title accordingly

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

15.24 
 15.25
 (Committee Chair)

15.26 April 4, 2006
 15.27 (Date of Committee recommendation)

Senator Skoglund introduced-

S.F. No. 3132: Referred to the Committee on Judiciary.

A bill for an act

1.2 relating to data practices; proposing classifications of data as private and
1.3 nonpublic; amending Minnesota Statutes 2004, section 13.3805, by adding a
1.4 subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2004, section 13.3805, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 4. Drinking water testing data. All data maintained by the Department
1.9 of Health or community public water systems that identify the address of the testing
1.10 site and the name, address, and telephone number of residential homeowners of each
1.11 specific site that is tested for lead and copper as required by the federal Safe Drinking
1.12 Water Act, the United States Environmental Protection Agency's lead and copper rule,
1.13 and the department's drinking water protection program are classified as private data on
1.14 individuals and nonpublic data.

1.1 To: Senator Betzold, Chair
1.2 Committee on Judiciary
1.3 Senator Skoglund,
1.4 Chair of the Subcommittee on Data Practices, to which was referred

1.5 **S.F. No. 3132: A bill for an act relating to data practices; proposing classifications**
1.6 **of data as private and nonpublic; amending Minnesota Statutes 2004, section 13.3805,**
1.7 **by adding a subdivision.**

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

1.9 Delete everything after the enacting clause and insert:

1.10 "Section 1. Minnesota Statutes 2004, section 13.072, subdivision 1, is amended to
1.11 read:

1.12 **Subdivision 1. Opinion; when required. (a) Upon request of a government entity,**
1.13 **the commissioner may give a written opinion on any question relating to public access**
1.14 **to government data, rights of subjects of data, or classification of data under this chapter**
1.15 **or other Minnesota statutes governing government data practices. Upon request of any**
1.16 **person who disagrees with a determination regarding data practices made by a government**
1.17 **entity, the commissioner may give a written opinion regarding the person's rights as a**
1.18 **subject of government data or right to have access to government data.**

1.19 **(b) Upon request of a body subject to chapter 13D, the commissioner may give a**
1.20 **written opinion on any question relating to the body's duties under chapter 13D. Upon**
1.21 **request of a person who disagrees with the manner in which members of a governing body**
1.22 **perform their duties under chapter 13D, the commissioner may give a written opinion**
1.23 **on compliance with chapter 13D. A governing body or person requesting an opinion**
1.24 **under this paragraph must pay the commissioner a fee of \$200. Money received by the**
1.25 **commissioner under this paragraph is appropriated to the commissioner for the purposes**
1.26 **of this section.**

1.27 **(c) If the commissioner determines that no opinion will be issued, the commissioner**
1.28 **shall give the government entity or body subject to chapter 13D or person requesting**
1.29 **the opinion notice of the decision not to issue the opinion within five business days of**
1.30 **receipt of the request. If this notice is not given, the commissioner shall issue an opinion**
1.31 **within 20 days of receipt of the request.**

1.32 **(d) For good cause and upon written notice to the person requesting the opinion,**
1.33 **the commissioner may extend this deadline for one additional 30-day period. The notice**
1.34 **must state the reason for extending the deadline. The government entity or the members**
1.35 **of a body subject to chapter 13D must be provided a reasonable opportunity to explain the**
1.36 **reasons for its decision regarding the data or how they perform their duties under chapter**
1.37 **13D. The commissioner or the government entity or body subject to chapter 13D may**

2.1 choose to give notice to the subject of the data concerning the dispute regarding the data
2.2 or compliance with chapter 13D.

2.3 (e) This section does not apply to a determination made by the commissioner of
2.4 health under section 13.3805, subdivision 1, paragraph (b), or 144.6581.

2.5 (f) A written opinion issued by the attorney general shall take precedence over an
2.6 opinion issued by the commissioner under this section.

2.7 Sec. 2. Minnesota Statutes 2004, section 13.32, is amended by adding a subdivision to
2.8 read:

2.9 **Subd. 8a. Access by juvenile justice system; bullying behavior.** (a) For purposes
2.10 of this subdivision, "bullying behavior" means any written or verbal expression or physical
2.11 act or gesture by a student that is intended to cause or is perceived as causing distress to
2.12 one or more students and that substantially interferes with another student's educational
2.13 benefits, opportunities, or performance. Bullying includes, but is not limited to, conduct
2.14 by a student against another student that a reasonable person under the circumstances
2.15 knows or should know has the effect of harming a student, damaging a student's property,
2.16 placing a student in reasonable fear of harm to the student's person or property, or creating
2.17 a hostile educational environment for a student.

2.18 (b) Education data relating to bullying behavior by a student may be disclosed
2.19 under subdivision 3, clause (i).

2.20 Sec. 3. Minnesota Statutes 2004, section 13.3805, is amended by adding a subdivision
2.21 to read:

2.22 **Subd. 4. Drinking water testing data.** Data maintained by the Department
2.23 of Health or community public water systems that identify the address of the testing
2.24 site and the name, address, and telephone number of residential homeowners of each
2.25 specific site that is tested for lead and copper as required by the federal Safe Drinking
2.26 Water Act, the United States Environmental Protection Agency's lead and copper rule,
2.27 and the department's drinking water protection program are private data on individuals
2.28 or nonpublic data.

2.29 Sec. 4. Minnesota Statutes 2004, section 13.87, is amended by adding a subdivision to
2.30 read:

2.31 **Subd. 4. Name and index service data.** (a) For purposes of this section, "name
2.32 and event index service data" means data of the Bureau of Criminal Apprehension that
2.33 link data on an individual that are stored in one or more databases maintained by criminal
2.34 justice agencies, as defined in section 299C.46, subdivision 2, or the judiciary.

3.1 (b) Name and event index service data are private data on individuals, provided
3.2 that if the data link private or public data on an individual to confidential data on that
3.3 individual, the data are confidential data on that individual. The data become private data
3.4 if the data no longer link private or public data to confidential data. The classification of
3.5 data in the name and event index service does not change the classification of the data in
3.6 the databases linked by the service.

3.7 Sec. 5. Minnesota Statutes 2004, section 138.17, subdivision 7, is amended to read:

3.8 Subd. 7. **Records management program.** ~~A records management program for the~~
3.9 ~~application of efficient and economical management methods to the creation, utilization,~~
3.10 ~~maintenance, retention, preservation, and disposal of official records shall be administered~~
3.11 ~~by the commissioner of administration with assistance from the director of the historical~~
3.12 ~~society. The State Records Center which stores and services state records not in state~~
3.13 ~~archives shall be administered by the commissioner of administration. The commissioner~~
3.14 ~~of administration is empowered to (1) establish standards, procedures, and techniques for~~
3.15 ~~effective management of government records, (2) make continuing surveys of paper work~~
3.16 ~~operations, and (3) recommend improvements in current records management practices~~
3.17 ~~including the use of space, equipment, and supplies employed in creating, maintaining,~~
3.18 ~~preserving and disposing of government records. It shall be the duty of the head of each~~
3.19 ~~state agency and the governing body of each county, municipality, and other subdivision~~
3.20 ~~of government to cooperate with the commissioner in conducting surveys and to establish~~
3.21 ~~and maintain an active, continuing program for the economical and efficient management~~
3.22 ~~of the records of each agency, county, municipality, or other subdivision of government.~~
3.23 ~~When requested by the commissioner, Public officials shall assist in the preparation of~~
3.24 prepare an inclusive inventory of records in their custody, to which shall be attached
3.25 a schedule, approved by the head of the governmental unit or agency having custody
3.26 of the records and the commissioner, establishing a time period for the retention or
3.27 disposal of each series of records. When the schedule is unanimously approved by the
3.28 records disposition panel, the head of the governmental unit or agency having custody
3.29 of the records may dispose of the type of records listed in the schedule at a time and in
3.30 a manner prescribed in the schedule for particular records which were created after the
3.31 approval. A list of records disposed of pursuant to this subdivision shall be maintained by
3.32 the governmental unit or agency.

3.33 Sec. 6. Minnesota Statutes 2004, section 138.17, subdivision 8, is amended to read:

3.34 Subd. 8. **Emergency records preservation.** ~~In light of the danger of nuclear or~~
3.35 ~~natural disaster, the commissioner of administration, with the assistance of the director~~

4.1 ~~of the historical society, shall establish and maintain a program for the selection and~~
4.2 ~~preservation of public records considered essential to the operation of government and to~~
4.3 ~~the protection of the rights and interests of persons, and shall make or cause to be made~~
4.4 ~~preservation duplicates or designate as preservation duplicates existing copies of such~~
4.5 ~~essential public records. Preservation duplicates shall be durable, accurate, complete, and~~
4.6 ~~clear, and such duplicates reproduced by photographic or other process which accurately~~
4.7 ~~reproduces and forms a durable medium for so reproducing the original shall have the~~
4.8 ~~same force and effect for all purposes as the original record whether the original record is~~
4.9 ~~in existence or not. A transcript, exemplification, or certified copy of such preservation~~
4.10 ~~duplicate shall be deemed for all purposes to be a transcript, exemplification, or certified~~
4.11 ~~copy of the original record. Such preservation duplicates shall be preserved in the place~~
4.12 ~~and manner of safekeeping prescribed by the commissioner.~~

4.13 Every county, municipality, or other subdivision of government may institute
4.14 a program for the preservation of necessary documents essential to the continuity of
4.15 government in the event of a disaster or emergency. ~~Such a program shall first be~~
4.16 ~~submitted to the commissioner for approval or disapproval and no such program shall be~~
4.17 ~~instituted until such approval is obtained.~~

4.18 Sec. 7. Minnesota Statutes 2004, section 144.335, is amended by adding a subdivision
4.19 to read:

4.20 Subd. 3d. Release of records for family and caretaker involvement in mental
4.21 health care. (a) Notwithstanding subdivision 3a, a provider providing mental health care
4.22 and treatment may disclose health record information described in paragraph (b) about a
4.23 patient to a family member of the patient or other person who requests the information if:

4.24 (1) the request for information is in writing;

4.25 (2) the family member or other person lives with, provides care for, or is directly
4.26 involved in monitoring the treatment of the patient;

4.27 (3) the involvement under clause (2) is verified by the patient's mental health care
4.28 provider, the patient's attending physician, or a person other than the person requesting
4.29 the information;

4.30 (4) before the disclosure, the patient is informed in writing of the request, the name
4.31 of the person requesting the information, the reason for the request, and the specific
4.32 information being requested;

4.33 (5) the patient agrees to the disclosure, does not object to the disclosure, or is unable
4.34 to consent or object; and

4.35 (6) the disclosure is necessary to assist in the provision of care or monitoring of the
4.36 patient's treatment.

5.1 (b) The information disclosed under this subdivision is limited to diagnosis,
5.2 admission to or discharge from treatment, the name and dosage of the medications
5.3 prescribed, side effects of the medication, consequences of failure of the patient to take the
5.4 prescribed medication, and a summary of the discharge plan.

5.5 (c) If a provider reasonably determines that providing information under this
5.6 subdivision would be detrimental to the physical or mental health of the patient or is
5.7 likely to cause the patient to inflict self harm or to harm another, the provider must not
5.8 disclose the information.

5.9 (d) This subdivision does not apply to disclosures for a medical emergency or to
5.10 family members as authorized or required under subdivision 3a, paragraph (b), clause
5.11 (1), or paragraph (f).

5.12 Sec. 8. Minnesota Statutes 2005 Supplement, section 270C.03, subdivision 1, is
5.13 amended to read:

5.14 Subdivision 1. **Powers and duties.** The commissioner shall have and exercise
5.15 the following powers and duties:

5.16 (1) administer and enforce the assessment and collection of taxes;

5.17 (2) make determinations, corrections, and assessments with respect to taxes,
5.18 including interest, additions to taxes, and assessable penalties;

5.19 (3) use statistical or other sampling techniques consistent with generally accepted
5.20 auditing standards in examining returns or records and making assessments;

5.21 (4) investigate the tax laws of other states and countries, and formulate and submit
5.22 to the legislature such legislation as the commissioner may deem expedient to prevent
5.23 evasions of state revenue laws and to secure just and equal taxation and improvement in
5.24 the system of state revenue laws;

5.25 (5) consult and confer with the governor upon the subject of taxation, the
5.26 administration of the laws in regard thereto, and the progress of the work of the
5.27 department, and furnish the governor, from time to time, such assistance and information
5.28 as the governor may require relating to tax matters;

5.29 (6) execute and administer any agreement with the secretary of the treasury or the
5.30 Bureau of Alcohol, Tobacco, Firearms, and Explosives in the Department of Justice of the
5.31 United States or a representative of another state regarding the exchange of information
5.32 and administration of the state revenue laws;

5.33 (7) require town, city, county, and other public officers to report information as to the
5.34 collection of taxes received from licenses and other sources, and such other information
5.35 as may be needful in the work of the commissioner, in such form as the commissioner
5.36 may prescribe;

6.1 (8) authorize the use of unmarked motor vehicles to conduct seizures or criminal
6.2 investigations pursuant to the commissioner's authority; and

6.3 (9) exercise other powers and authority and perform other duties required of or
6.4 imposed upon the commissioner by law.

6.5 **EFFECTIVE DATE. This section is effective the day following final enactment.**

6.6 Sec. 9. Minnesota Statutes 2004, section 626.557, subdivision 9a, is amended to read:

6.7 Subd. 9a. **Evaluation and referral of reports made to a common entry**
6.8 **point unit.** The common entry point must screen the reports of alleged or suspected
6.9 maltreatment for immediate risk and make all necessary referrals as follows:

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

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

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

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

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

6.26 Amend the title accordingly

6.27 And when so amended that the bill be recommended to pass and be referred to
6.28 the full committee.

6.29 
6.30 (Subcommittee Chair)

6.31 March 23, 2006
6.32 (Date of Subcommittee action)

1.1 Senator moves to amend the Report of the Subcommittee on Data
1.2 Practices (SS3132SUB) to S.F. No. 3132 as follows:

1.3 Page 5, after line 11, insert:

1.4 "Sec. 8. Minnesota Statutes 2004, section 260B.171, subdivision 5, is amended to
1.5 read:

1.6 Subd. 5. **Peace officer records of children.** (a) Except for records relating to
1.7 an offense where proceedings are public under section 260B.163, subdivision 1, peace
1.8 officers' records of children who are or may be delinquent or who may be engaged in
1.9 criminal acts shall be kept separate from records of persons 18 years of age or older
1.10 and are private data but shall be disseminated: (1) by order of the juvenile court, (2) as
1.11 required by section 121A.28, (3) as authorized under section 13.82, subdivision 2, (4) to
1.12 the child or the child's parent or guardian unless disclosure of a record would interfere
1.13 with an ongoing investigation, (5) to the Minnesota crime victims reparations board as
1.14 required by section 611A.56, subdivision 2, clause (f), for the purpose of processing
1.15 claims for crime victims reparations, or (6) as otherwise provided in this subdivision.
1.16 Except as provided in paragraph (c), no photographs of a child taken into custody may be
1.17 taken without the consent of the juvenile court unless the child is alleged to have violated
1.18 section 169A.20. Peace officers' records containing data about children who are victims
1.19 of crimes or witnesses to crimes must be administered consistent with section 13.82,
1.20 subdivisions 2, 3, 6, and 17. Any person violating any of the provisions of this subdivision
1.21 shall be guilty of a misdemeanor.

1.22 In the case of computerized records maintained about juveniles by peace officers,
1.23 the requirement of this subdivision that records about juveniles must be kept separate
1.24 from adult records does not mean that a law enforcement agency must keep its records
1.25 concerning juveniles on a separate computer system. Law enforcement agencies may keep
1.26 juvenile records on the same computer as adult records and may use a common index to
1.27 access both juvenile and adult records so long as the agency has in place procedures that
1.28 keep juvenile records in a separate place in computer storage and that comply with the
1.29 special data retention and other requirements associated with protecting data on juveniles.

1.30 (b) Nothing in this subdivision prohibits the exchange of information by law
1.31 enforcement agencies if the exchanged information is pertinent and necessary for law
1.32 enforcement purposes.

1.33 (c) A photograph may be taken of a child taken into custody pursuant to section
1.34 260B.175, subdivision 1, clause (b), ~~provided that the photograph must be destroyed when~~
1.35 ~~the child reaches the age of 19 years.~~ The commissioner of corrections may photograph
1.36 juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles

2.1 authorized by this paragraph may be used only for institution management purposes,
2.2 case supervision by parole agents, and to assist law enforcement agencies to apprehend
2.3 juvenile offenders. The commissioner shall maintain photographs of juveniles in the same
2.4 manner as juvenile court records and names under this section.

2.5 (d) Traffic investigation reports are open to inspection by a person who has sustained
2.6 physical harm or economic loss as a result of the traffic accident. Identifying information
2.7 on juveniles who are parties to traffic accidents may be disclosed as authorized under
2.8 section 13.82, subdivision 4, and accident reports required under section 169.09 may be
2.9 released under section 169.09, subdivision 13, unless the information would identify a
2.10 juvenile who was taken into custody or who is suspected of committing an offense that
2.11 would be a crime if committed by an adult, or would associate a juvenile with the offense,
2.12 and the offense is not an adult court traffic offense under section 260B.225.

2.13 (e) The head of a law enforcement agency or a person specifically given the duty
2.14 by the head of the law enforcement agency shall notify the superintendent or chief
2.15 administrative officer of a juvenile's school of an incident occurring within the agency's
2.16 jurisdiction if:

2.17 (1) the agency has probable cause to believe that the juvenile has committed an
2.18 offense that would be a crime if committed as an adult, that the victim of the offense is a
2.19 student or staff member of the school, and that notice to the school is reasonably necessary
2.20 for the protection of the victim; or

2.21 (2) the agency has probable cause to believe that the juvenile has committed an
2.22 offense described in subdivision 3, paragraph (a), clauses (1) to (3), that would be a crime
2.23 if committed by an adult, regardless of whether the victim is a student or staff member
2.24 of the school.

2.25 A law enforcement agency is not required to notify the school under this paragraph
2.26 if the agency determines that notice would jeopardize an ongoing investigation. For
2.27 purposes of this paragraph, "school" means a public or private elementary, middle,
2.28 secondary, or charter school.

2.29 (f) In any county in which the county attorney operates or authorizes the operation of
2.30 a juvenile prepetition or pretrial diversion program, a law enforcement agency or county
2.31 attorney's office may provide the juvenile diversion program with data concerning a
2.32 juvenile who is a participant in or is being considered for participation in the program.

2.33 (g) Upon request of a local social services agency, peace officer records of
2.34 children who are or may be delinquent or who may be engaged in criminal acts may be
2.35 disseminated to the agency to promote the best interests of the subject of the data.

3.1 (h) Upon written request, the prosecuting authority shall release investigative data
 3.2 collected by a law enforcement agency to the victim of a criminal act or alleged criminal
 3.3 act or to the victim's legal representative, except as otherwise provided by this paragraph.
 3.4 Data shall not be released if:

3.5 (1) the release to the individual subject of the data would be prohibited under
 3.6 section 13.821; or

3.7 (2) the prosecuting authority reasonably believes:

3.8 (i) that the release of that data will interfere with the investigation; or

3.9 (ii) that the request is prompted by a desire on the part of the requester to engage in
 3.10 unlawful activities."

3.11 Page 6, after line 5, insert:

3.12 "Sec. 10. Minnesota Statutes 2004, section 299C.095, subdivision 2, is amended to
 13 read:

3.14 Subd. 2. **Retention.** (a) Notwithstanding section 138.17, the bureau shall retain
 3.15 juvenile history records for the time periods provided in this subdivision. Notwithstanding
 3.16 contrary provisions of paragraphs (b) to (e), all data in a juvenile history record must
 3.17 be retained for the longest time period applicable to any item in the individual juvenile
 3.18 history record. If, before data are destroyed under this subdivision, the subject of the
 3.19 data is convicted of a felony as an adult, the individual's juvenile history record must be
 3.20 retained for the same time period as an adult criminal history record.

3.21 (b) Juvenile history data on a child who was arrested must be destroyed six months
 3.22 after the arrest if the child has not been referred to a diversion program and no petition
 3.23 has been filed against the child by that time. This paragraph does not apply to fingerprint
 3.24 records unless destruction is requested by the jurisdiction where the child was arrested.

3.25 (c) Juvenile history data on a child against whom a delinquency petition was filed
 3.26 and subsequently dismissed must be destroyed upon receiving notice from the court that
 3.27 the petition was dismissed.

3.28 (d) Juvenile history data on a child who was referred to a diversion program or
 3.29 against whom a delinquency petition has been filed and continued for dismissal must be
 3.30 destroyed when the child reaches age 21.

3.31 (e) Juvenile history data on a child against whom a delinquency petition was filed
 3.32 and continued without adjudication, or a child who was found to have committed a felony
 3.33 or gross misdemeanor-level offense, must be destroyed when the child reaches age 28. If
 3.34 the offender commits a felony violation as an adult, the bureau shall retain the data for as
 3.35 long as the data would have been retained if the offender had been an adult at the time
 3.36 of the juvenile offense.

4.1 (f) The bureau shall retain extended jurisdiction juvenile data on an individual
4.2 received under section 260B.171, subdivision 2, paragraph (c), for as long as the data
4.3 would have been retained if the offender had been an adult at the time of the offense.

4.4 (g) Data retained on individuals under this subdivision are private data under section
4.5 13.02, except that extended jurisdiction juvenile data become public data under section
4.6 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult
4.7 sentence has been executed under section 260B.130, subdivision 5.

4.8 (h) A person who receives data on a juvenile under paragraphs (b) to (e) from the
4.9 bureau shall destroy the data according to the schedule in this subdivision, unless the
4.10 person has access to the data under other law. The bureau shall include a notice of the
4.11 destruction schedule with all data it disseminates on juveniles."

4.12 Renumber the sections in sequence and correct the internal references

4.13 Amend the title accordingly

**Senate Counsel, Research,
and Fiscal Analysis**

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Senate

State of Minnesota

S.F. No. 3132 - Omnibus Data Practices Bill (subcommittee report)

Author: Senator Wes Skoglund

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) 

Date: March 29, 2006

Section 1 clarifies the statute dealing with the issuance of data practices opinions by the Commissioner of Administration to provide that if the Commissioner determines that an opinion will not be issued, notice must be given to the requestor of this decision within five business days of the receipt of the request.

Section 2 amends the educational data statute to authorize schools to disclose bullying behavior by a student to the juvenile justice system, subject to general requirements under current law regarding these disclosures.

Section 3 provides that data maintained by the Department of Health or community public water systems that identify the address of a site that is tested for lead and copper and the name, address, and telephone number of residential homeowners in the site, are private data or nonpublic data.

Section 4 classifies name and index service data maintained by the Bureau of Criminal Apprehension as private data, except that if the data link private or public data to confidential data, the data become confidential data.

Section 5 strikes a requirement that the Commissioner of Administration administer a records management program but retains the requirements that state agencies and local governments have programs in place.

Section 6 eliminates a requirement that the Commissioner of Administration, with the assistance the director of the Minnesota Historical Society, establish and maintain a program for the selection and preservation of public records considered essential to the operation of government and to the protection of the rights and interests of persons. Local government requirements with respect to

preserving necessary documents essential to the continuity of government in the event of a disaster or emergency would continue.

Section 7 amends the medical records statute to authorize the release of records necessary for family and caretaker involvement in mental health care under certain circumstances. A provider would be authorized to disclose information about a patient to a family member or other person who requests the information if:

- (1) the request is in writing;
- (2) the person lives with, provides care for, or is directly involved in monitoring the patient's treatment;
- (3) the involvement is verified by the provider, the attending physician, or someone other than the person requesting the information;
- (4) before the disclosure, the patient is informed in writing of the request, the name of the requestor, the reason, and the information being requested;
- (5) the patient agrees to disclosure, does not object, or is unable to consent or object; and
- (6) the disclosure is necessary to assist in the provision of care or monitoring of the patient.

The information that may be disclosed is limited to diagnosis, admission to or discharge from treatment, name and dosage of medication, side effects, consequences of failure to take medication, and a summary of the discharge plan. If the provider reasonably determines that providing information would be detrimental to the health of the patient or is likely to cause the patient to inflict self harm or harm to another, the provider must not disclose the information. This subdivision would not apply to disclosures for a medical emergency or to family members as authorized or required under other provisions of the medical records statute.

Section 8 amends a provision that authorizes the Commissioner of Revenue to share certain tax data with other government entities to add the Bureau of Alcohol, Tobacco, Firearms, and Explosives in the Department of Justice. This reflects a change in the jurisdiction of these investigations under federal law.

Section 9 amends the data sharing provisions in the Vulnerable Adult Maltreatment Reporting Act to provide for the reporting of suspicious deaths to the local medical examiner, in addition to law enforcement and the ombudsman established under **section 245.92**.

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 2648:** A bill for an act relating to local government; limiting liability
on claims brought against a municipality participating in a joint venture or enterprise;
amending Minnesota Statutes 2004, section 471.59, by adding a subdivision.

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

1.6 Delete everything after the enacting clause and insert:

1.7 "Section 1. Minnesota Statutes 2004, section 471.59, is amended by adding a
1.8 subdivision to read:

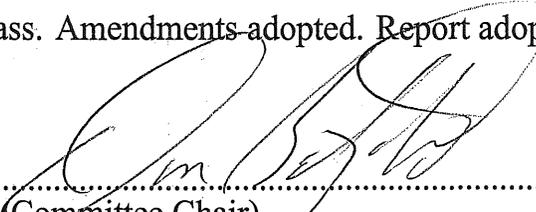
1.9 Subd. 1a. Single entity for liability purposes. (a) Except as provided in paragraph
1.10 (b), governmental units participating in a joint venture or joint enterprise, including
1.11 participation in a cooperative activity undertaken pursuant to this section or other law, are
1.12 not liable for the acts or omissions of another governmental unit participating in the joint
1.13 venture or joint enterprise. For purposes of determining total liability for damages, the
1.14 participating governmental units and the joint board, if one is established, are considered a
1.15 single governmental unit and the total liability for the participating governmental units and
1.16 the joint board, if established, may not exceed the liability limits for a single governmental
1.17 unit in section 3.736 or 466.04, subdivision 1.

1.18 (b) Paragraph (a) does not protect a governmental unit from liability:

- 1.19 (1) for its own independent acts or omissions not directly related to the joint activity;
- 1.20 (2) to the extent the participating governmental unit has agreed in writing to be
- 1.21 responsible for the acts or omissions of another governmental unit; or
- 1.22 (3) to the extent the liability limits are waived pursuant to section 466.06 or 471.981."

1.23 Amend the title accordingly

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

1.25 
1.26 (Committee Chair)

1.27 April 4, 2006
1.28 (Date of Committee recommendation)

Senators Rest, Betzold, Neuville, Hann and Higgins introduced—

S.F. No. 2648: Referred to the Committee on State and Local Government Operations.

1.1 A bill for an act
 2 relating to local government; limiting liability on claims brought against a
 1.3 municipality participating in a joint venture or enterprise; amending Minnesota
 1.4 Statutes 2004, section 466.04, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2004, section 466.04, is amended by adding a
 1.7 subdivision to read:

1.8 Subd. 1c. Claims arising out of cooperative activities. The total liability of one
 1.9 or more municipalities on a claim brought against the municipality or municipalities or
 1.10 their officers or employees arising out of a joint venture or joint enterprise, including
 1.11 participation in a cooperative activity undertaken under section 471.59 or other law, shall
 2 not exceed the limits for a single municipality set forth in subdivision 1 regardless of
 1.13 whether a separate entity or organization is created.

- 1.1 Senator moves to amend the amendment (SCS2648A-3) to S.F. No.
- 1.2 2648 as follows:
- 1.3 Page 1, line 16, delete "or"
- 1.4 Page 1, line 18, after "unit" insert "; or
- 1.5 (3) to the extent the liability limits are waived pursuant to section 466.06 or 471.981"

1.1 Senator moves to amend S.F. No. 2648 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2004, section 471.59, is amended by adding a
1.4 subdivision to read:

1.5 Subd. 1a. **Single entity for liability purposes.** (a) Except as provided in paragraph
1.6 (b), governmental units participating in a joint venture or joint enterprise, including
1.7 participation in a cooperative activity undertaken pursuant to this section or other law, are
1.8 not liable for the acts or omissions of another governmental unit participating in the joint
1.9 venture or joint enterprise. For purposes of determining total liability for damages, the
1.10 participating governmental units and the joint board, if one is established, are considered a
1.11 single governmental unit and the total liability for the participating governmental units and
1.12 the joint board, if established, may not exceed the liability limits for a single governmental
1.13 unit in section 3.736 or 466.04, subdivision 1.

1.14 (b) Paragraph (a) does not protect a governmental unit from liability:

1.15 (1) for its own independent acts or omissions not directly related to the joint activity;

1.16 or

1.17 (2) to the extent the participating governmental unit has agreed in writing to be
1.18 responsible for the acts or omissions of another governmental unit."

1.19 Amend the title accordingly