

STATE OF MINNESOTA

# Journal of the Senate

SEVENTY-NINTH LEGISLATURE

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SEVENTY-SEVENTH DAY

St. Paul, Minnesota, Monday, February 12, 1996

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

## CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Eugene A. Pauliot.

The members of the Senate gave the pledge of allegiance to the flag of the United States of America.

## OATH OF OFFICE

The newly elected Senator, Mrs. Michelle Fischbach from the Fourteenth District, presented her certificate of election and subscribed to the oath of office as administered by the Honorable Mary Jeanne Coyne, Justice of the Supreme Court.

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

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

The President declared a quorum present.

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

## REPORTS FILED WITH THE SECRETARY OF THE SENATE

The following reports were received and filed by the Secretary of the Senate: Gambling Control Board, Advisory Council on Gambling, Final Report, 1996; Council on Asian-Pacific Minnesotans, Membership and Operations, 1996; Joint Report of the Department of Corrections, Department of Public Safety and the Minnesota Supreme Court, Consolidation of Victim Services,

1996; Department of Corrections, Alternatives for Housing Geriatric Inmates in the Custody of the Department of Corrections, 1996; Department of Finance, Matching Money, 1996; Metropolitan Council, Metropolitan Livable Communities Act, 1996; Council on Black Minnesotans, 1996; Metropolitan Council, Annual Report, 1995; Department of Trade and Economic Development, Competitiveness Task Force Report, 1995; Office of the Attorney General, Medical Malpractice Reform and Health Care Costs, 1996; Board on Aging, Resident and Family Advisory Council, Education Program, 1996; Department of Economic Security, Youth Intervention Programs, 1996; Office of the Attorney General, School Safety Surveys of Secondary and Post-Secondary Students and a Preliminary Evaluation of Truancy Prevention Grants, 1996; Department of Human Services, Role of Difficulty of Care Payments in Reimbursing Foster Care Services, 1996; Department of Human Services, Interim Report Regarding Tefra, 1996; Department of Human Services, Medical Care Surcharge Fund, Quarterly Report, 1996; Department of Human Services, Nursing Facility Geographic Groups, 1996; Department of Human Services, Feasibility of Joint Planning Projects for County Health, Social Services, and Corrections Agencies, 1995; Spanish-Speaking Affairs Council, Legislative Report; Indian Affairs Council, Membership and Operations, 1996; Iron Range Resources and Rehabilitation Board, Taconite Production Tax Committee, Recommendations, 1996; Office of Todd County Attorney, Todd County Diversion Program, 1996; Department of Human Services, Need for Respite Care in Southwestern Minnesota for Families with Disabled Children, 1996; Department of Health, Coverage for Out-of-Area Primary Care, 1996; Department of Human Services, Study on Alternative Dispute Resolution in Child Maltreatment Determinations, 1996; Metropolitan Council, 1996-2000, Capital Improvement Program and 1996 Capital Budget, 1995; Department of Human Services, Protocols for Persons Lacking Proficiency in English, Pilot Project, 1996; Department of Human Services, Parental Fee Report, 1996; Department of Commerce, Insurance Disclosures and notices, 1996; Department of Public Safety, Annual Report on Firearms, 1996; Department of Health, Rural Health Advisory Committee, Regulatory Barriers to Rural Health Care, 1995; Departments of Health and Human Services, Risk Adjustment in Public Programs, 1996; Department of Human Services, Linkages Between SSIS and MAXIS and MMIS Computer Systems, 1996; State Board of Investment, External Money Manager Report, 1996; Department of Administration, Information Policy Office, Information Resource Funding Request Recommendations, FY 1997.

### EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

February 12, 1996

The Honorable Allan H. Spear  
President of the Senate

Dear Senator Spear:

Pursuant to Senate Rule 56, I am adding Senator Michelle Fischbach to the following committees:

1. Agriculture and Rural Development
2. Family Services
3. Governmental Operations and Veterans
4. Health Care and Family Services Finance Division

Therefore, the committee complements for the 79th Session shown in Senate Resolution No. 3, Senate Permanent Journal pages 10-12, as amended by Senate Resolution No. 15, pages 35-36, Senate Resolution No. 26, pages 214-215, Senate Resolution No. 86, Daily Journal pages 5289-5290 and Senate Resolution No. 91, pages 5301-5302, are adjusted to read:

Agriculture and Rural Development - 12

Family Services - 15

Governmental Operations and Veterans - 14

Thank you for your attention to this matter.

Sincerely,  
Roger D. Moe, Chair  
Committee on Rules and Administration

### REPORTS OF COMMITTEES

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

#### **Mr. Berg from the Committee on Gaming Regulation, to which was referred**

**S.F. No. 1788:** A bill for an act relating to the lottery; requiring certain information to be included in lottery publications, prize announcement signs, electronic messages, and on-line lottery tickets; amending Minnesota Statutes 1994, section 349A.09, subdivision 1.

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

Page 2, after line 24, insert:

"Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on August 1, 1996, and only applies to new materials published by the state lottery."

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

#### **Mr. Price from the Committee on Commerce and Consumer Protection, to which was re-referred**

**S.F. No. 410:** A bill for an act relating to health; giving the commissioner of administration authority to negotiate contract prices for prescription drugs on a state drug formulary; establishing a statewide drug formulary; requiring a pharmacy to post a sign on generic substitution; amending Minnesota Statutes 1994, sections 151.21, subdivisions 2, 3, and by adding a subdivision; and 256B.0625, subdivision 13; proposing coding for new law in Minnesota Statutes, chapters 16B; 62J; and 256.

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

Page 2, line 34, delete "1995" and insert "1996"

Page 2, line 35, delete "1996" and insert "1997"

Page 5, line 10, delete "1996" and insert "1997"

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

#### **Mr. Kelly from the Committee on Judiciary, to which was referred**

**S.F. No. 2454:** A bill for an act relating to consumer privacy; regulating the use and dissemination of personally identifiable information on consumers of computer information services; proposing coding for new law as Minnesota Statutes, chapter 13D.

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

Page 1, line 15, before "request" insert "the transfer of information among entities having common ownership or control,"

Page 2, line 23, before "personally" insert "other than the consumer,"

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

**Mr. Kelly from the Committee on Judiciary, to which was referred**

**S.F. No. 2668:** A bill for an act relating to civil actions; creating a state court action for relief for damages caused by a federal court action that affects public participation by the plaintiff; proposing coding for new law in Minnesota Statutes, chapter 554.

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

**Mr. Kelly from the Committee on Judiciary, to which was referred**

**S.F. No. 1803:** A bill for an act relating to civil actions; extending the municipal tort claims protections to nonprofit firefighting corporations; amending Minnesota Statutes 1994, section 466.01, subdivisions 1 and 6.

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

Page 1, line 13, after "corporation" insert "that qualifies as a relief association under section 424A.001, subdivision 4"

Page 2, line 3, after "corporation" insert "that qualifies as a relief association under section 424A.001, subdivision 4"

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

**Mr. Kelly from the Committee on Judiciary, to which was referred**

**S.F. No. 1948:** A bill for an act relating to family law; regulating reductions in monthly payments for overpayment of support or maintenance; amending Minnesota Statutes 1995 Supplement, section 518.611, subdivision 2.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1995 Supplement, section 518.611, subdivision 2, is amended to read:

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

- (1) the obligor requests it in writing to the public authority;
- (2) the custodial parent requests it by making a motion to the court and the court finds that previous support has not been paid on a timely or consistent basis or that the obligor has threatened expressly or otherwise to stop or reduce payments; or
- (3) the obligor fails to make the maintenance or support payments, and the following conditions are met:
  - (i) the obligor is at least 30 days in arrears;
  - (ii) the obligee or the public authority serves written notice of income withholding, showing arrearage, on the obligor at least 15 days before service of the notice of income withholding and a copy of the court's order on the payor of funds;
  - (iii) within the 15-day period, the obligor fails to move the court to deny withholding on the

grounds that an arrearage of at least 30 days does not exist as of the date of the notice of income withholding, or on other grounds limited to mistakes of fact, and, ex parte, to stay service on the payor of funds until the motion to deny withholding is heard;

(iv) the obligee or the public authority sends the payor of funds a notice of the withholding requirements and the provisions of this section; and

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

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

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

(c) In cases where child support or maintenance is not assigned under section 256.74, if an obligor has overpaid a child support or maintenance obligation because of a modification of or error in the amount owed, the public authority shall:

(1) apply the amount of the overpayment to reduce the amount of any child support or maintenance related arrearages or debts owed to the obligee; and

(2) if an overpayment amount remains after the reduction of any arrearage or debt, reduce the amount of the child support remitted to the obligee by an amount equal to no more than 20 percent of the current monthly support or maintenance obligation and remit this amount to the obligor until the overpayment is reduced to zero.

(d) The obligor may move the court, under section 518.64, to modify the order respecting the amount of maintenance or support.

~~(d)~~ (e) Every order for support or maintenance shall provide for a conspicuous notice of the provisions of this subdivision that complies with section 518.68, subdivision 2. An order without this notice remains subject to this subdivision.

~~(e)~~ (f) Absent a court order to the contrary, if an arrearage exists at the time an order for ongoing support or maintenance would otherwise terminate, income withholding shall continue in effect in an amount equal to the former support or maintenance obligation plus an additional amount equal to 20 percent of the monthly child support obligation, until all arrears have been paid in full."

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

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

**S.F. No. 1920:** A bill for an act relating to employment; modifying definitions and procedures; changing requirements relating to fines; modifying safety program requirements; providing the penalty of gross misdemeanor for the assault of an occupational safety and health investigator; amending Minnesota Statutes 1994, sections 182.651, subdivision 9; 182.653, subdivision 8; 182.66, subdivision 1; 182.666, subdivision 7; and 609.2231, subdivision 6; Minnesota Statutes 1995 Supplement, section 182.676.

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

Pages 5 and 6, delete section 6

Amend the title as follows:

Page 1, line 4, delete from "providing" through page 1, line 6, to "investigator;"

Page 1, line 8, after the third semicolon, insert "and"

Page 1, line 9, delete "and 609.2231, subdivision 6;"

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

**Mr. Kelly from the Committee on Judiciary, to which was referred**

**S.F. No. 2410:** A bill for an act relating to data practices; allowing disclosure of certain personnel data to governmental entities for protection purposes; authorizing disclosure of certain welfare data to the department of children, families, and learning; clarifying status of data relating to state and local economic development; modifying the requirements for health care provider identification numbers; establishing procedures for disclosing certain nonpublic data related to group purchasers; requiring the office of mental health practice to establish procedures for the exchange of information; permitting the commissioner of health to obtain certain arrest and investigative information; allowing disclosure of certain department of economic security data to contractors; providing penalties; amending Minnesota Statutes 1994, sections 13.43, by adding a subdivision; 144.225, by adding a subdivision; 148B.66, by adding a subdivision; 148B.69, subdivision 2; and 148B.70, subdivision 3; Minnesota Statutes 1995 Supplement, sections 13.43, subdivision 2; 13.46, subdivision 2; 62J.54, subdivisions 1 and 2; 144.225, subdivision 2a; and 268.12, subdivision 12; proposing coding for new law in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 1994, sections 13.76, subdivisions 1 and 3; and 13.77.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 13.03, subdivision 4, is amended to read:

Subd. 4. [CHANGE IN CLASSIFICATION OF DATA; EFFECT OF DISSEMINATION AMONG AGENCIES.] (a) The classification of data in the possession of an agency shall change if it is required to do so to comply with either judicial or administrative rules pertaining to the conduct of legal actions or with a specific statute applicable to the data in the possession of the disseminating or receiving agency.

(b) If data on individuals is classified as both private and confidential by this chapter, or any other statute or federal law, the data is private.

(c) To the extent that government data is disseminated to state agencies, political subdivisions, or statewide systems by another state agency, political subdivision, or statewide system, the data disseminated shall have the same classification in the hands of the agency receiving it as it had in the hands of the entity providing it.

(d) If a state agency, statewide system, or political subdivision disseminates data to another state agency, statewide system, or political subdivision, a classification provided for by law in the hands of the entity receiving the data does not affect the classification of the data in the hands of the entity that disseminates the data.

Sec. 2. Minnesota Statutes 1994, section 13.37, is amended by adding a subdivision to read:

Subd. 2a. [TENTATIVE COLLECTIVE BARGAINING AGREEMENTS.] Government data on the terms of a proposed agreement under chapter 179A covering terms and conditions of employment are nonpublic data until ten days after a tentative agreement is reached by the employer and the exclusive representative or the agreement is approved by the affected employees, whichever is earlier. The employer and the exclusive representative may agree to an earlier release date.

Sec. 3. Minnesota Statutes 1995 Supplement, section 13.43, subdivision 2, is amended to read:

Subd. 2. [PUBLIC DATA.] (a) Except for employees described in subdivision 5, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members of advisory boards or commissions is public:

(1) name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;

(2) job title; job description; education and training background; and previous work experience;

(3) date of first and last employment;

(4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;

(5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body;

(6) the terms of any agreement settling any dispute arising out of an employment relationship ~~or of, including a buyout agreement, as defined in section 123.34, subdivision 9a, paragraph (a), and, if an agreement involves the payment of public money, data documenting the reasons for the agreement, excluding data that would identify confidential sources; this clause does not apply to grievance settlements under chapter 179A;~~

(7) work location; a work telephone number; badge number; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; and city and county of residence.

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

(c) The state agency, statewide system, or political subdivision may display a photograph of a current or former employee to a prospective witness as part of the state agency's, statewide system's, or political subdivision's investigation of any complaint or charge against the employee.

(d) A complainant has access to a statement provided by the complainant to a state agency, statewide system, or political subdivision in connection with a complaint or charge against an employee.

(e) Notwithstanding paragraph (a), clause (5), upon completion of an investigation of a complaint or charge against a public official, or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources. For purposes of this paragraph, "public official" means the head of a state agency and deputy and assistant state agency heads.

Sec. 4. Minnesota Statutes 1994, section 13.43, is amended by adding a subdivision to read:

Subd. 10. [PROHIBITION ON AGREEMENTS LIMITING DISCLOSURE OR DISCUSSION OF PERSONNEL DATA.] (a) A state agency, statewide system, or political subdivision may not enter into an agreement settling a dispute arising out of the employment relationship with the purpose or effect of limiting access to or disclosure of personnel data or limiting the discussion of information or opinions related to personnel data. An agreement or portion of an agreement that violates this paragraph is void and unenforceable.

(b) Paragraph (a) applies to the following, but only to the extent that the data or information could otherwise be made accessible to the public:

- (1) an agreement not to discuss, publicize, or comment on personnel data or information;
- (2) an agreement that limits the ability of the subject of personnel data to release or consent to the release of data; or
- (3) any other provision of an agreement that has the effect of limiting the disclosure or discussion of information that could otherwise be made accessible to the public.

(c) Paragraph (a) also applies to a court order that contains terms or conditions prohibited by paragraph (a).

Sec. 5. Minnesota Statutes 1994, section 13.43, is amended by adding a subdivision to read:

Subd. 11. [PROTECTION OF EMPLOYEE OR OTHERS.] (a) If the responsible authority or designee of a state agency, statewide system, or political subdivision reasonably determines that the release of personnel data is necessary to protect an employee from physical harm to self or to protect another person who may be physically harmed by the employee, data that are relevant to the concerns for physical safety may be released as provided in this subdivision.

(b) The data may be released to: (1) the person who may be harmed, and to an attorney representing the person when the data are relevant to obtaining a restraining order; (2) to a prepetition screening team conducting an investigation of the employee under section 253B.07, subdivision 1; or (3) to a court, law enforcement agency, or prosecuting authority.

(c) Section 13.03, subdivision 4, paragraph (c), applies to data released under this subdivision, except to the extent that the data have a more restrictive classification in the possession of the agency or authority that receives the data. If the person who may be harmed or the person's attorney receives data under this subdivision, the data may be used or released further only to the extent necessary to protect the person from physical harm.

Sec. 6. Minnesota Statutes 1995 Supplement, section 13.46, subdivision 2, is amended to read:

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

- (1) pursuant to section 13.05;
- (2) pursuant to court order;
- (3) pursuant to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;
- (5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;
- (6) to administer federal funds or programs;
- (7) between personnel of the welfare system working in the same program;

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names, social security numbers, income, addresses, and other data as required, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code;

(9) to the Minnesota department of economic security for the purpose of monitoring the eligibility of the data subject for reemployment insurance, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education services office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

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

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

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

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

(19) data on child support payments made by a child support obligor may be disclosed to the obligee; or

(20) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(21) to the department of children, families, and learning for the purpose of matching

department of children, families, and learning student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk pursuant to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to produce accurate numbers of students receiving aid to families with dependent children as required by section 124.175; and to allocate federal and state funds that are distributed based on income of the student's family; or

(22) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person.

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

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

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

Sec. 7. [13.621] [TWO HARBORS DEVELOPMENT COMMISSION DATA.]

Subdivision 1. [NONPUBLIC DATA.] The following data that are submitted to the Two Harbors development commission by businesses that are requesting financial assistance are nonpublic data: financial statements, business plans, income and expense projections, customer lists, balance sheets, net worth calculations, and market data, including feasibility studies not paid for with public funds.

Subd. 2. [PUBLIC DATA.] Data submitted to the commission under subdivision 1 become public data if the commission provides financial assistance to the business except that the following data remain nonpublic: business plans, income and expense projections, customer lists, and market data, including feasibility studies not paid for with public funds.

Sec. 8. [13.622] [MOORHEAD ECONOMIC DEVELOPMENT AUTHORITY DATA.]

Subdivision 1. [NONPUBLIC DATA.] The following data submitted to the city of Moorhead and to the Moorhead economic development authority by businesses that are requesting financial assistance are nonpublic data: financial statements, business plans, income and expense projections, customer lists, balance sheets, and market and feasibility studies not paid for with public funds.

Subd. 2. [PUBLIC DATA.] Data submitted to the city and the city's economic development authority under subdivision 1 become public data if the city provides financial assistance to the business except that the following data remain nonpublic: business plans, income and expense projections, customer lists, and market and feasibility studies not paid for with public funds.

Sec. 9. Minnesota Statutes 1994, section 13.82, subdivision 13, is amended to read:

Subd. 13. [PROPERTY DATA.] Data that uniquely describe stolen, lost, confiscated, or recovered property ~~or property described in pawn shop transaction records~~ are classified as either private data on individuals or nonpublic data depending on the content of the not public data.

Sec. 10. Minnesota Statutes 1994, section 13.82, is amended by adding a subdivision to read:

Subd. 18. [PAWNSHOP DATA.] Data that would reveal the identity of persons who are customers of a licensed pawnbroker or secondhand goods dealer are private data on individuals. Data describing the property in a regulated transaction with a licensed pawnbroker or secondhand goods dealer are public.

Sec. 11. Minnesota Statutes 1994, section 43A.04, is amended by adding a subdivision to read:

Subd. 12. [SETTLEMENT OF EMPLOYMENT DISPUTES.] (a) The commissioner shall review and approve or disapprove all agreements settling disputes involving employees of the executive branch. The head of a state agency shall submit a proposed settlement to the commissioner, along with other data necessary and relevant for the commissioner's review and approval of the agreement. The commissioner has access to personnel data under section 13.43 to the extent necessary to comply with this subdivision.

(b) A political subdivision that enters into an agreement settling a dispute involving an employee of the political subdivision shall file a copy of the agreement with the commissioner, if the agreement involves a payment of \$5,000 or more by the political subdivision.

(c) Paragraphs (a) and (b) do not apply to settlements under chapter 179A.

(d) By January 15 of each odd-numbered year, the commissioner shall report to the legislature on the commissioner's activities under this subdivision. The commissioner shall maintain data on employment disputes that are public data in a manner that is readily accessible to the public.

Sec. 12. Minnesota Statutes 1995 Supplement, section 62J.451, subdivision 7, is amended to read:

Subd. 7. [DISSEMINATION OF REPORTS; OTHER INFORMATION.] (a) The health data institute shall establish a mechanism for the dissemination of reports and other information to consumers, group purchasers, health plan companies, providers, and the state. When applicable, the health data institute shall coordinate its dissemination of information responsibilities with those of the commissioner, to the extent administratively efficient and effective.

(b) The health data institute may require those requesting data from its databases to contribute toward the cost of data collection through the payments of fees.

(c) ~~The health data institute shall not allow a group purchaser or health care provider to use or have access to the electronic data interchange system or to access data under section 62J.452, subdivision 6 or 7, unless the group purchaser or health care provider cooperates with the data collection efforts of the health data institute by submitting or making available through the EDI system or other means all data requested by the health data institute. The health data institute shall prohibit group purchasers and health care providers from transferring, providing, or sharing data obtained from the health data institute under section 62J.452, subdivision 6 or 7, with a group purchaser or health care provider that does not cooperate with the data collection efforts of the health data institute.~~

Sec. 13. Minnesota Statutes 1995 Supplement, section 62J.451, subdivision 9, is amended to read:

Subd. 9. [BOARD OF DIRECTORS.] The health data institute is governed by a 20-member board of directors consisting of the following members:

(1) ~~two representatives of hospitals, one appointed by the Minnesota Hospital Association and one appointed by the Metropolitan HealthCare Council and Health Care Partnership, to reflect a mix of urban and rural institutions;~~

(2) four representatives of health carriers, two appointed by the Minnesota council of health maintenance organizations, one appointed by Blue Cross and Blue Shield of Minnesota, and one appointed by the Insurance Federation of Minnesota;

(3) two consumer members, one appointed by the commissioner, and one appointed by the AFL-CIO as a labor union representative;

(4) five group purchaser representatives appointed by the Minnesota consortium of health care purchasers to reflect a mix of urban and rural, large and small, and self-insured purchasers;

(5) two physicians appointed by the Minnesota Medical Association, to reflect a mix of urban and rural practitioners;

(6) one representative of teaching and research institutions, appointed jointly by the Mayo Foundation and the Minnesota Association of Public Teaching Hospitals;

(7) one nursing representative appointed by the Minnesota Nurses Association; and

(8) three representatives of state agencies, one member representing the department of employee relations, one member representing the department of human services, and one member representing the department of health.

Sec. 14. Minnesota Statutes 1995 Supplement, section 62J.451, subdivision 12, is amended to read:

Subd. 12. [STAFF.] The board may hire an executive director. The executive director and other health data institute staff are not state employees but are covered by section 3.736. ~~The executive director and other health data institute staff may participate in the following plans for employees in the unclassified service until January 1, 1996: the state retirement plan, the state deferred compensation plan, and the health, dental, and life insurance plans.~~ The attorney general shall provide legal services to the board.

Sec. 15. Minnesota Statutes 1994, section 62J.51, is amended by adding a subdivision to read:

Subd. 3a. [CARD ISSUER.] "Card issuer" means the group purchaser who is responsible for printing and distributing identification cards to members or insureds.

Sec. 16. Minnesota Statutes 1994, section 62J.51, is amended by adding a subdivision to read:

Subd. 6a. [CLAIM STATUS TRANSACTION SET (ANSI ASC X12 276/277).] "Claim status transaction set (ANSI ASC X12 276/277)" means the transaction format developed and approved for implementation in December 1993 and used by providers to request and receive information on the status of a health care claim or encounter that has been submitted to a group purchaser.

Sec. 17. Minnesota Statutes 1994, section 62J.51, is amended by adding a subdivision to read:

Subd. 6b. [CLAIM SUBMISSION ADDRESS.] "Claim submission address" means the address to which the group purchaser requires health care providers, members, or insureds to send health care claims for processing.

Sec. 18. Minnesota Statutes 1994, section 62J.51, is amended by adding a subdivision to read:

Subd. 6c. [CLAIM SUBMISSION NUMBER.] "Claim submission number" means the unique identification number to identify group purchasers as described in section 62J.54, with its suffix identifying the claim submission address.

Sec. 19. Minnesota Statutes 1995 Supplement, section 62J.54, subdivision 1, is amended to read:

Subdivision 1. [UNIQUE IDENTIFICATION NUMBER FOR HEALTH CARE PROVIDER ORGANIZATIONS.] (a) On and after January 1, 1998, all group purchasers and health care providers in Minnesota shall use a unique identification number to identify health care provider organizations, except as provided in paragraph ~~(d)~~ (e).

(b) ~~Following the recommendation of the workgroup for electronic data interchange, the federal tax identification number assigned to each health care provider organization by the Internal Revenue Service of the Department of the Treasury~~ The first eight digits of the national provider identifier maintained by the federal Health Care Financing Administration shall be used as the unique identification number for health care provider organizations.

(c) Provider organizations required to have a national provider identifier are:

(1) hospitals licensed under chapter 144;

(2) nursing homes and hospices licensed under chapter 144A;

- (3) subacute care facilities;
- (4) individual providers organized as a clinic or group practice;
- (5) independent laboratory, pharmacy, surgery, radiology, or outpatient facilities;
- (6) ambulance services licensed under chapter 144; and
- (7) special transportation services certified under chapter 174.

Provider organizations shall obtain a national provider identifier from the federal Health Care Financing Administration using the federal Health Care Financing Administration's prescribed process.

(d) Only the unique health care provider organization identifier shall be used for purposes of submitting and receiving claims, and in conjunction with other data collection and reporting functions.

~~(d)~~ (e) The state and federal health care programs administered by the department of human services shall use the unique identification number assigned to health care providers for implementation of the Medicaid Management Information System or the uniform provider identification number (UPIN) assigned by the Health Care Financing Administration the national provider identifier maintained by the federal Health Care Financing Administration.

(f) The commissioner of health may become a subscriber to the federal Health Care Financing Administration's national provider system to implement this subdivision.

Sec. 20. Minnesota Statutes 1995 Supplement, section 62J.54, subdivision 2, is amended to read:

Subd. 2. [UNIQUE IDENTIFICATION NUMBER FOR INDIVIDUAL HEALTH CARE PROVIDERS.] (a) On and after January 1, 1998, all group purchasers and health care providers in Minnesota shall use a unique identification number to identify an individual health care provider, except as provided in paragraph ~~(d)~~ (e).

~~(b) The uniform provider identification number (UPIN) assigned by the Health Care Financing Administration The first eight digits of the national provider identifier maintained by the federal Health Care Financing Administration's national provider system shall be used as the unique identification number for individual health care providers. Providers who do not currently have a UPIN number shall request one from the health care financing administration.~~

(c) Individual providers required to have a national provider identifier are:

- (1) physicians licensed under chapter 147;
- (2) dentists licensed under chapter 150A;
- (3) chiropractors licensed under chapter 148;
- (4) podiatrists licensed under chapter 153;
- (5) physician assistants as defined under section 147A.01;
- (6) advanced practice nurses as defined under section 62A.15;
- (7) doctors of optometry licensed under section 148.57;
- (8) individual providers who may bill Medicare for medical and other health services as defined in United States Code, title 42, section 1395x(s); and
- (9) individual providers who are providers for state and federal health care programs administered by the commissioner of human services.

Providers shall obtain a national provider identifier from the federal Health Care Financing Administration using the Health Care Financing Administration's prescribed process.

(d) Only the unique individual health care provider identifier shall be used for purposes of submitting and receiving claims, and in conjunction with other data collection and reporting functions.

~~(d)~~ (e) The state and federal health care programs administered by the department of human services shall use the unique identification number assigned to health care providers for implementation of the Medicaid Management Information System or the uniform provider identification number (UPIN) assigned by the health care financing administration national provider identifier maintained by the federal Health Care Financing Administration.

(f) The commissioner of health may become a subscriber to the federal Health Care Financing Administration's national provider system to implement this subdivision.

Sec. 21. Minnesota Statutes 1995 Supplement, section 62J.54, subdivision 3, is amended to read:

Subd. 3. [UNIQUE IDENTIFICATION NUMBER FOR GROUP PURCHASERS.] (a) On and after January 1, 1998, all group purchasers and health care providers in Minnesota shall use a unique identification number to identify group purchasers.

~~(b) The federal tax identification number assigned to each group purchaser by the Internal Revenue Service of the Department of the Treasury payer identification number assigned for the federal Health Care Financing Administration's PAYERID system shall be used as the unique identification number for group purchasers. This paragraph applies until the codes described in paragraph (c) are available and feasible to use, as determined by the commissioner.~~

~~(c) A two-part code, consisting of 11 characters and modeled after the National Association of Insurance Commissioners company code shall be assigned to each group purchaser and used as the unique identification number for group purchasers. The first six characters, or prefix, shall contain the numeric code, or company code, assigned by the National Association of Insurance Commissioners. The last five characters, or suffix, which is optional, shall contain further codes that will enable group purchasers to further route electronic transaction in their internal systems. Group purchasers shall obtain a payer identifier number from the federal Health Care Financing Administration using the Health Care Financing Administration's prescribed process.~~

(d) The unique group purchaser identifier, as described in this section, shall be used for purposes of submitting and receiving claims, and in conjunction with other data collection and reporting functions.

(e) The commissioner of health may become a registry user to the federal Health Care Financing Administration's PAYERID system to implement this subdivision.

Sec. 22. Minnesota Statutes 1994, section 62J.56, subdivision 2, is amended to read:

Subd. 2. [IDENTIFICATION OF CORE TRANSACTION SETS.] (a) All category I and II industry participants in Minnesota shall comply with the standards developed by the ANSI ASC X12 for the following core transaction sets, according to the implementation plan outlined for each transaction set.

- (1) ANSI ASC X12 835 health care claim payment/advice transaction set.
- (2) ANSI ASC X12 837 health care claim transaction set.
- (3) ANSI ASC X12 834 health care enrollment transaction set.
- (4) ANSI ASC X12 270/271 health care eligibility transaction set.
- (5) ANSI ASC X12 276/277 health care claims status request/notification transaction set.

(b) The commissioner, with the advice of the Minnesota health data institute and the Minnesota administrative uniformity committee, and in coordination with federal efforts, may approve the use of new ASC X12 standards, or new versions of existing standards, as they become available,

or other nationally recognized standards, where appropriate ASC X12 standards are not available for use. These alternative standards may be used during a transition period while ASC X12 standards are developed.

Sec. 23. Minnesota Statutes 1995 Supplement, section 62J.58, is amended to read:

62J.58 [IMPLEMENTATION OF STANDARD TRANSACTION SETS.]

Subdivision 1. [CLAIMS PAYMENT.] Six months from the date the commissioner formally recommends the use of guides to implement core transaction sets pursuant to section 62J.56, subdivision 3, all category I industry participants and all category II industry participants, except pharmacists, shall be able to submit or accept, as appropriate, the ANSI ASC X12 835 health care claim payment/advice transaction set (draft standard for trial use version 3030/release 3051) for electronic submission of payment information to health care providers.

Subd. 2. [CLAIMS SUBMISSION.] Six months from the date the commissioner formally recommends the use of guides to implement core transaction sets pursuant to section 62J.56, subdivision 3, all category I and category II industry participants, except pharmacists, shall be able to accept or submit, as appropriate, the ANSI ASC X12 837 health care claim transaction set (draft standard for trial use version 3030/release 3051) for the electronic transfer of health care claim information.

Subd. 2a. [CLAIM STATUS INFORMATION.] Six months from the date the commissioner formally recommends the use of guides to implement core transaction sets under section 62J.56, subdivision 3, all category I and II industry participants, excluding pharmacists, may accept or submit the ANSI ASC X12 276/277 health care claim status transaction set (draft standard for trial use version/release 3051) for the electronic transfer of health care claim status information.

Subd. 3. [ENROLLMENT INFORMATION.] Six months from the date the commissioner formally recommends the use of guides to implement core transaction sets pursuant to section 62J.56, subdivision 3, all category I and category II industry participants, excluding pharmacists, shall be able to accept or submit, as appropriate, the ANSI ASC X12 834 health care enrollment transaction set (draft standard for trial use version 3030/release 3051) for the electronic transfer of enrollment and health benefit information.

Subd. 4. [ELIGIBILITY INFORMATION.] Six months from the date the commissioner formally recommends the use of guides to implement core transaction sets pursuant to section 62J.56, subdivision 3, all category I and category II industry participants, except pharmacists, shall be able to accept or submit, as appropriate, the ANSI ASC X12 270/271 health care eligibility transaction set (draft standard for trial use version 3030/release 3051) for the electronic transfer of health benefit eligibility information.

Subd. 5. [APPLICABILITY.] This section does not require a group purchaser, health care provider, or employer to use electronic data interchange or to have the capability to do so. This section applies only to the extent that a group purchaser, health care provider, or employer chooses to use electronic data interchange.

Sec. 24. Minnesota Statutes 1994, section 62J.60, subdivision 2, is amended to read:

Subd. 2. [GENERAL CHARACTERISTICS.] (a) The Minnesota health care identification card must be a preprinted card constructed of plastic, paper, or any other medium that conforms with ANSI and ISO 7810 physical characteristics standards. The card dimensions must also conform to ANSI and ISO 7810 physical characteristics standard. The use of a signature panel is optional.

(b) The Minnesota health care identification card must have an essential information window in the front side with the following data elements left justified in the following top to bottom sequence: card issuer name, issuer claim submission number, identification number, identification name. No optional data may be interspersed between these data elements. The window must be left justified.

(c) Standardized labels are required next to human readable data elements. The card issuer may decide the location of the standardized label relative to the data element.

Sec. 25. Minnesota Statutes 1994, section 62J.60, subdivision 3, is amended to read:

Subd. 3. [HUMAN READABLE DATA ELEMENTS.] (a) The following are the minimum human readable data elements that must be present on the front side of the Minnesota health care identification card:

(1) card issuer name or logo, which is the name or logo that identifies the card issuer. The card issuer name or logo may be the card's front background. No standard label is required for this data element;

(2) ~~issuer claim submission number, which is the unique card issuer number consisting of a base number assigned by a registry process followed by a suffix number assigned by the card issuer. The use of this element is mandatory within one year of the establishment of a process for this identifier.~~ The standardized label for this element is "Issuer Clm Subm #";

(3) identification number, which is the unique identification number of the individual card holder established and defined under this section. The standardized label for the data element is "ID";

(4) identification name, which is the name of the individual card holder. The identification name must be formatted as follows: first name, space, optional middle initial, space, last name, optional space and name suffix. The standardized label for this data element is "Name";

(5) account number(s), which is any other number, such as a group number, if required for part of the identification or claims process. The standardized label for this data element is "Account";

(6) care type, which is the description of the group purchaser's plan product under which the beneficiary is covered. The description shall include the health plan company name and the plan or product name. The standardized label for this data element is "Care Type";

(7) service type, which is the description of coverage provided such as hospital, dental, vision, prescription, or mental health. The standard label for this data element is "Svc Type"; and

(8) provider/clinic name, which is the name of the primary care clinic the cardholder is assigned to by the health plan company. The standard label for this field is "PCP." This information is mandatory only if the health plan company assigns a specific primary care provider to the cardholder.

(b) The following human readable data elements shall be present on the back side of the Minnesota health identification card. These elements must be left justified, and no optional data elements may be interspersed between them:

(1) claims submission name(s) and address(es), which are the name(s) and address(es) of the entity or entities to which claims should be submitted. If different destinations are required for different types of claims, this must be labeled;

(2) telephone number(s) and name(s); which are the telephone number(s) and name(s) of the following contact(s) with a standardized label describing the service function as applicable:

- (i) eligibility and benefit information;
- (ii) utilization review;
- (iii) precertification; or
- (iv) customer services.

(c) The following human readable data elements are mandatory on the back side of the card for health maintenance organizations and integrated service networks:

(1) emergency care authorization telephone number or instruction on how to receive authorization for emergency care. There is no standard label required for this information; and

(2) telephone number to call to appeal to the commissioner of health. There is no standard label required for this information.

(d) All human readable data elements not required under paragraphs (a) to (c) are optional and may be used at the issuer's discretion.

Sec. 26. Minnesota Statutes 1995 Supplement, section 62Q.03, subdivision 9, is amended to read:

Subd. 9. [DATA COLLECTION AND DATA PRIVACY.] The association members shall not have access to unaggregated data on individuals or health plan companies. The association shall develop, as a part of the plan of operation, procedures for ensuring that data is collected by an appropriate entity. The commissioners of health and commerce shall have the authority to audit and examine data collected by the association for the purposes of the development and implementation of the risk adjustment system. Data on individuals obtained for the purposes of risk adjustment development, testing, and operation are designated as private data. Data not on individuals which is obtained for the purposes of development, testing, and operation of risk adjustment are designated as nonpublic data, except for that the proposed and approved plan of operation, the risk adjustment methodologies examined, the plan for testing, the plan of the risk adjustment system, minutes of meetings, and other general operating information are classified as public data. Nothing in this section is intended to prohibit the preparation of summary data under section 13.05, subdivision 7. The association, state agencies, and any contractors having access to this data shall maintain it in accordance with this classification. The commissioners of health and human services have the authority to collect data from health plan companies as needed for the purpose of developing a risk adjustment mechanism for public programs.

Sec. 27. Minnesota Statutes 1994, section 144.225, subdivision 2, is amended to read:

Subd. 2. [DATA ABOUT BIRTHS.] (a) Except as otherwise provided in this subdivision, data pertaining to the birth of a child, to a woman who was not married to the child's father when the child was conceived nor when the child was born, including the original certificate of birth and the certified copy, are confidential data. At the time of the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born, the mother may designate on the birth registration form whether data pertaining to the birth will be public data. Notwithstanding the designation of the data as confidential, it may be disclosed to a parent or guardian of the child, to the child when the child is 18 years of age or older, pursuant to a court order, or under paragraph (b).

(b) Unless the child is adopted, data pertaining to the birth of a child that are not accessible to the public become public data if 100 years have elapsed since the birth of the child who is the subject of the data, or as provided under section 13.10, whichever occurs first.

(c) If a child is adopted, data pertaining to the child's birth are governed by the provisions relating to adoption records, including sections 13.10, subdivision 5; 144.1761; 144.218, subdivision 1; and 259.89. The birth and death records of the commissioner of health shall be open to inspection by the commissioner of human services and it shall not be necessary for the commissioner of human services to obtain an order of the court in order to inspect records or to secure certified copies of them.

(d) The name and address of a mother under paragraph (a) and the child's date of birth may be disclosed to a family services collaborative for purposes of providing services under section 121.8355.

Sec. 28. Minnesota Statutes 1994, section 144.225, is amended by adding a subdivision to read:

Subd. 6. [GROUP PURCHASER IDENTITY; NONPUBLIC DATA; DISCLOSURE.] (a) Except as otherwise provided in this subdivision, the named identity of a group purchaser as defined in section 62J.03, subdivision 6, collected in association with birth registration is nonpublic data as defined in section 13.02.

(b) The commissioner may publish, or by other means release to the public, the named identity

of a group purchaser as part of an analysis of information collected from the birth registration process. Analysis means the identification of trends in prenatal care and birth outcomes associated with group purchasers. The commissioner may not reveal the named identity of the group purchaser until the group purchaser has had 21 days after receipt of the analysis to review the analysis and comment on it. In releasing data under this subdivision, the commissioner shall include comments received from the group purchaser related to the scientific soundness and statistical validity of the methods used in the analysis. This subdivision does not authorize the commissioner to make public any individual identifying data except as permitted by law.

(c) A group purchaser may contest whether an analysis made public under paragraph (b) is based on scientifically sound and statistically valid methods in a contested case proceeding under sections 14.57 to 14.62, subject to appeal under sections 14.63 to 14.68. To obtain a contested case hearing, the group purchaser must present a written request to the commissioner before the end of the time period for review and comment. Within ten days of the assignment of an administrative law judge, the group purchaser must demonstrate by clear and convincing evidence the group purchaser's likelihood of succeeding on the merits. If the judge determines that the group purchaser has made this demonstration, the data may not be released during the contested case proceeding and through appeal. If the judge finds that the group purchaser has not made this demonstration, the commissioner may immediately publish, or otherwise make public, the nonpublic group purchaser data, with comments received as set forth in paragraph (b).

(d) The contested case proceeding and subsequent appeal is not an exclusive remedy and any person may seek a remedy pursuant to section 13.08, subdivisions 1 to 4, or as otherwise authorized by law.

Sec. 29. Minnesota Statutes 1994, section 145.64, is amended by adding a subdivision to read:

Subd. 3. [HENNEPIN COUNTY EMERGENCY MEDICAL SERVICES DATA.] Data collected, created, or maintained by the quality committee of the Hennepin county emergency medical services advisory council when conducting a health care review activity of the emergency medical services function or services are private data on individuals or nonpublic data not on individuals, as defined in section 13.02.

Sec. 30. Minnesota Statutes 1994, section 148B.66, is amended by adding a subdivision to read:

Subd. 3. [EXCHANGING INFORMATION.] (a) The office of mental health practice shall establish internal operating procedures for:

(1) exchanging information with state boards; agencies, including the office of ombudsman for mental health and mental retardation; health related and law enforcement facilities; departments responsible for licensing health related occupations, facilities, and programs; and law enforcement personnel in this and other states; and

(2) coordinating investigations involving matters within the jurisdiction of more than one regulatory agency.

Establishment of the operating procedures is not subject to rulemaking under chapter 14.

(b) The procedures for exchanging information must provide for the forwarding to the entities described in paragraph (a), clause (1), of information and evidence, including the results of investigations, that are relevant to matters within the regulatory jurisdiction of the organizations in paragraph (a). The data have the same classification in the hands of the agency receiving the data as they have in the hands of the agency providing the data.

(c) The office of mental health practice shall establish procedures for exchanging information with other states regarding disciplinary action against licensed and unlicensed mental health practitioners.

(d) The office of mental health practice shall forward to another governmental agency any complaints received by the office that do not relate to the office's jurisdiction but that relate to matters within the jurisdiction of the other governmental agency. The agency to which a complaint

is forwarded shall advise the office of mental health practice of the disposition of the complaint. A complaint or other information received by another governmental agency relating to a statute or rule that the office of mental health practice is empowered to enforce must be forwarded to the office to be processed in accordance with this section.

(e) The office of mental health practice shall furnish to a person who made a complaint a description of the actions of the office relating to the complaint.

Sec. 31. Minnesota Statutes 1994, section 168.346, is amended to read:

168.346 [PRIVACY OF NAME OR RESIDENCE ADDRESS.]

(a) The registered owner of a motor vehicle may request in writing that the owner's residence address or name and residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the owner that the classification is required for the safety of the owner or the owner's family, if the statement also provides a valid, existing address where the owner consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the motor vehicle. The residence address or name and residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9.

(b) An individual registered owner of a motor vehicle must be informed in a clear and conspicuous manner on the forms for issuance or renewal of titles and registrations, that the owner's personal information may be disclosed to any person who makes a request for the personal information, and that, except for uses permitted by United States Code, title 18, section 2721, clause (b), the registered owner may prohibit disclosure of the personal information by so indicating on the form.

(c) At the time of registration or renewal, the individual registered owner of a motor vehicle must also be informed in a clear and conspicuous manner on the forms that the owner's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes including surveys, marketing, and solicitation. The commissioner shall implement methods and procedures that enable the registered owner to request that bulk surveys, marketing, or solicitation not be directed to the owner. If the registered owner so requests, the commissioner shall implement the request in a timely manner and the personal information may not be so used.

(d) To the extent permitted by United States Code, title 18, section 2721, data on individuals provided to register a motor vehicle is public data on individuals and shall be disclosed as permitted by United States Code, title 18, section 2721, clause (b).

Sec. 32. Minnesota Statutes 1994, section 171.12, subdivision 7, is amended to read:

Subd. 7. [PRIVACY OF RESIDENCE ADDRESS.] (a) An applicant for a driver's license or a Minnesota identification card may request that the applicant's residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the individual that the classification is required for the safety of the applicant or the applicant's family, if the statement also provides a valid, existing address where the applicant consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the driver's license or identification card. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9.

(b) An applicant for a driver's license or a Minnesota identification card must be informed in a clear and conspicuous manner on the forms for the issuance or renewal that the applicant's personal information may be disclosed to any person who makes a request for the personal information, and that except for uses permitted by United States Code, title 18, section 2721,

clause (b), the applicant may prohibit disclosure of the personal information by so indicating on the form.

(c) An applicant for a driver's license or a Minnesota identification card must be also informed in a clear and conspicuous manner on the forms that the applicant's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes, including surveys, marketing, or solicitation. The commissioner shall implement methods and procedures that enable the applicant to request that bulk surveys, marketing, or solicitation not be directed to the applicant. If the applicant so requests, the commissioner shall implement the request in a timely manner and the personal information may not be so used.

(d) To the extent permitted by United States Code, title 18, section 2721, data on individuals provided to obtain a Minnesota identification card or a driver's license is public data on individuals and shall be disclosed as permitted by United States Code, title 18, section 2721, clause (b).

Sec. 33. Minnesota Statutes 1994, section 171.12, is amended by adding a subdivision to read:

Subd. 7a. [DISCLOSURE OF PERSONAL INFORMATION.] The commissioner shall disclose personal information where the use is related to the operation of a motor vehicle or to public safety, including public dissemination. The use of personal information is related to public safety if it concerns the physical safety or security of drivers, vehicles, pedestrians, or property.

Sec. 34. Minnesota Statutes 1995 Supplement, section 268.12, subdivision 12, is amended to read:

Subd. 12. [INFORMATION.] Except as hereinafter otherwise provided, data gathered from any employing unit or individual pursuant to the administration of sections 268.03 to 268.231, and from any determination as to the benefit rights of any individual are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except pursuant to ~~this subdivision or a court order~~ section 13.05. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

- (a) state and federal agencies specifically authorized access to the data by state or federal law;
- (b) any agency of this or any other state; or any federal agency charged with the administration of an employment security law or the maintenance of a system of public employment offices;
- (c) local human rights groups within the state which have enforcement powers;
- (d) the department of revenue shall have access to department of economic security private data on individuals and nonpublic data not on individuals only to the extent necessary for enforcement of Minnesota tax laws;
- (e) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;
- (f) the department of labor and industry on an interchangeable basis with the department of economic security subject to the following limitations and notwithstanding any law to the contrary:
  - (1) the department of economic security shall have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under sections 268.03 to 268.231; and
  - (2) the department of labor and industry shall have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under state law;
- (g) the department of trade and economic development may have access to private data on individual employing units and nonpublic data not on individual employing units for its internal use only; when received by the department of trade and economic development, the data remain private data on individuals or nonpublic data;

(h) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department of economic security;

(i) local, state, and federal law enforcement agencies for the sole purpose of ascertaining the last known address and employment location of the data subject, provided the data subject is the subject of a criminal investigation; and

(j) the department of health may have access to private data on individuals and nonpublic data not on individuals solely for the purposes of epidemiologic investigations.

Data on individuals and employing units which are collected, maintained, or used by the department in an investigation pursuant to section 268.18, subdivision 3, are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and shall not be disclosed except pursuant to statute or court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

Tape recordings and transcripts of recordings of proceedings conducted in accordance with section 268.105 and exhibits received into evidence at those proceedings are private data on individuals and nonpublic data not on individuals and shall be disclosed only pursuant to the administration of section 268.105, or pursuant to a court order.

Aggregate data about employers compiled from individual job orders placed with the department of economic security are private data on individuals and nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, if the commissioner determines that divulging the data would result in disclosure of the identity of the employer. The general aptitude test battery and the nonverbal aptitude test battery as administered by the department are also classified as private data on individuals or nonpublic data.

Data on individuals collected, maintained, or created because an individual applies for benefits or services provided by the energy assistance and weatherization programs administered by the department of economic security is private data on individuals and shall not be disseminated except pursuant to section 13.05, subdivisions 3 and 4.

Data gathered by the department pursuant to the administration of sections 268.03 to 268.231 shall not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department."

Delete the title and insert:

"A bill for an act relating to data practices; providing for the classification of and access to government data; clarifying data provisions; prohibiting agreements limiting the disclosure and discussion of personnel data; requiring notice and approval of employment settlements by the commissioner of employee relations; modifying the requirements for health care provider identification numbers; establishing procedures for disclosing certain nonpublic data to related group purchasers; requiring the office of mental health practice to establish procedures for the exchange of information; authorizing the release of certain birth information on unwed mothers to family service collaboratives; regulating the disclosure of personal information contained in motor vehicle records; amending Minnesota Statutes 1994, sections 13.03, subdivision 4; 13.37, by adding a subdivision; 13.43, by adding subdivisions; 13.82, subdivision 13, and by adding a subdivision; 43A.04, by adding a subdivision; 62J.51, by adding subdivisions; 62J.56, subdivision 2; 62J.60, subdivisions 2 and 3; 144.225, subdivision 2, and by adding a subdivision; 145.64, by adding a subdivision; 148B.66, by adding a subdivision; 168.346; and 171.12, subdivision 7, and by adding a subdivision; Minnesota Statutes 1995 Supplement, sections 13.43, subdivision 2; 13.46, subdivision 2; 62J.451, subdivisions 7, 9, and 12; 62J.54, subdivisions 1, 2, and 3; 62J.58; 62Q.03, subdivision 9; and 268.12, subdivision 12; proposing coding for new law in Minnesota Statutes, chapter 13."

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

**Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred**

**S.F. No. 2073:** A bill for an act relating to local improvements; requiring local governing bodies to show the need for and cost-effectiveness of local improvements upon petition of 90 percent of certain property owners; prohibiting fees for preparing certain reports from being based primarily on the estimated cost of improvement; amending Minnesota Statutes 1994, section 429.031, subdivision 1, and by adding a subdivision.

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

Page 3, delete section 2

Amend the title as follows:

Page 1, lines 2 and 3, delete "local governing bodies" and insert "a report"

Page 1, lines 4 and 5, delete "upon petition of 90 percent of certain property owners"

Page 1, line 9, delete ", and by adding a subdivision"

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

**Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred**

**S.F. No. 2258:** A bill for an act relating to the city of Duluth; authorizing the city to establish a program to prevent the inflow and infiltration of storm water into the city's sanitary sewer system; authorizing the city to make loans and grants to property owners in connection with the program; providing for financing of the program.

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

Page 1, delete line 11 and insert "cities of Duluth, Proctor, Cloquet, Hermantown, Scanlon, Carlton, and Thompson."

Page 1, line 22, delete "The" and insert "A" and after "city" insert "named in subdivision 1"

Page 2, line 12, after "effective" insert "in each city named in section 1, subdivision 1,"

Page 2, line 13, after "the" insert "respective" and delete "of Duluth"

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

**Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred**

**S.F. No. 2261:** A bill for an act relating to local government; modifying the powers of sanitary districts; amending Minnesota Statutes 1994, section 115.26, by adding a subdivision.

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

Page 1, delete lines 21 to 24

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

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

**S.F. No. 1903:** A bill for an act relating to motor vehicles; establishing automobile theft prevention program and creating board; appropriating money; amending Minnesota Statutes 1994, section 609.52, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 168A.

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

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

**S.F. No. 2564:** A bill for an act relating to Camp Ripley; providing for use of the National Guard Education Center as the state education and training center; proposing coding for new law in Minnesota Statutes, chapter 15.

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

Page 1, line 11, delete "shall" and insert "may"

Page 1, line 14, delete "The"

Page 1, delete lines 15 to 25

Page 2, delete lines 1 to 4

Page 2, line 5, delete "shall" and insert "are encouraged to"

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

**Mr. Kelly from the Committee on Judiciary, to which was re-referred**

**S.F. No. 2472:** A bill for an act relating to consumer protection; providing for the licensing and regulation of pawnbrokers; providing penalties; amending Minnesota Statutes 1994, sections 471.924, subdivision 1; 471.925; and 471.927; proposing coding for new law as Minnesota Statutes, chapter 325J; repealing Minnesota Statutes 1994, section 609.81.

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

Delete everything after the enacting clause and insert:

**"PAWNBROKER REGULATION ACT**

Section 1. [325J.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] As used in this chapter, the following terms have the meanings given them unless the context clearly indicates otherwise.

Subd. 2. [APPROPRIATE LAW ENFORCEMENT AGENCY.] "Appropriate law enforcement agency" means the attorney general of the state of Minnesota, the sheriff of each county in which a pawnbroker maintains an office, or the police chief of the municipality or law enforcement officers of the municipality in which a pawnbroker maintains an office.

Subd. 3. [MUNICIPALITY.] "Municipality" means any town, home rule charter or statutory city, or county that elects to regulate and license pawnbrokers within its jurisdiction pursuant to local ordinance.

Subd. 4. [PAWNBROKER.] (a) Except as provided in paragraph (b), "pawnbroker" means a person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

(b) The following are exempt from the definition of "pawnbroker:" any bank regulated by the state of Minnesota, the comptroller of the currency of the United States, the Federal Deposit Insurance Corporation, the board of governors of the Federal Reserve System or any other federal or state authority and their affiliates; any bank or savings association whose deposits or accounts

are eligible for insurance by the Federal Deposit Insurance Corporation or any successor to it and all affiliates of those banks and savings associations; any state or federally chartered credit union; and any industrial loan and thrift company or regulated lender subject to licensing and regulation by the department of commerce.

Subd. 5. [PAWNSHOP.] "Pawnshop" means the location at which or premises in which a pawnbroker regularly conducts business.

Subd. 6. [PAWN TRANSACTION.] "Pawn transaction" means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

Subd. 7. [PERSON.] "Person" means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.

Subd. 8. [PLEDGED GOODS.] "Pledged goods" means tangible personal property other than choses in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

## Sec. 2. [325J.02] [MUNICIPAL LICENSING AND REGULATION.]

(a) For the purpose of promoting the public health, safety, morals, and welfare, a municipality may adopt an ordinance, issue licenses to qualified applicants, and regulate pawn transactions. Ordinances must contain the minimum provisions of this chapter.

(b) A person may not engage in business as a pawnbroker or otherwise portray the person as a pawnbroker unless the person has a valid license authorizing engagement in the business. Any pawn transaction made without benefit of a license is void.

(c) A separate license is required for each place of business. A municipality may issue more than one license to a person if that person complies with this chapter for each license.

(d) Each license shall remain in full force and effect until surrendered, suspended, revoked, or expired. A license may be suspended or revoked for failure to comply with the municipality's ordinance.

(e) No expiration, revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any pledgor.

(f) The appropriate local law enforcement agency shall be notified by the municipality of any licensee whose license has expired or been surrendered, suspended, or revoked as provided by this chapter.

## Sec. 3. [325J.03] [LICENSEE ELIGIBILITY.]

(a) To be eligible for or to maintain a pawnbroker license, a person must operate lawfully and fairly within the purposes of this chapter and the applicable local ordinance and:

(1) may not be a minor at the time that the application for a pawnbroker's license is filed;

(2) may not have been convicted of any crime directly related to the occupation licensed as prescribed by section 364.03, subdivision 2, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this chapter as prescribed by section 364.03, subdivision 3; and

(3) must be of good moral character or repute.

(b) Any change, directly or beneficially, in the ownership of any licensed pawnshop shall require the application for a new license and the new owner must satisfy all current eligibility requirements.

## Sec. 4. [325J.04] [PAWN TICKETS.]

Subdivision 1. [ENTRIES OF PAWN TICKETS.] At the time of making the pawn or purchase transaction, the pawnbroker shall immediately and legibly record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the municipality:

(1) a complete and accurate description of the property, including model and serial number if indicated on the property;

(2) the full name, residence address, residence telephone number, and date of birth of the pledgor or seller;

(3) date and time of pawn or purchase transaction;

(4) the identification number and state of issue from one of the following forms of identification of the seller or pledgor: current valid Minnesota driver's license; current valid Minnesota identification card; or current valid photo identification card issued by another state or a province of Canada;

(5) description of the pledgor including approximate height, sex, and race;

(6) amount advanced or paid;

(7) the maturity date of the pawn transaction and the amount due; and

(8) the monthly and annual interest rates, including all pawn fees and charges.

Subd. 2. [PRINTED PAWN TICKET.] The following shall be printed on all pawn tickets:

(1) the statement that "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than 60 days past the date of the pawn transaction; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods.";

(2) the statement that "The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item.";

(3) the statement that "This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record.";  
and

(4) a blank line for the pledgor's signature.

## Sec. 5. [325J.05] [RECORDS; RETENTION.]

(a) The pledgor or seller shall sign a pawn ticket and receive an exact copy of the pawn ticket.

(b) The pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three years. These records shall be a correct copy of the entries made of the pawn transactions. A pawnbroker shall upon request provide to the appropriate law enforcement agency a complete record of pawn items.

## Sec. 6. [325J.06] [EFFECT OF NONREDEMPTION.]

(a) A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least 60 days of the date of the pawn transaction, renewal, or extension shall automatically be forfeited to the pawnbroker, and qualified right, title, and interest in and to the goods shall automatically vest in the pawnbroker.

(b) The pawnbroker's right, title, and interest in the pledged goods under paragraph (a) is qualified only by the pledgor's right, while the pledged goods remain in possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan fees and/or interest accrued up to the date of redemption.

(c) A pawn transaction that involves holding only the title to property is subject to chapter 168A or 336.

Sec. 7. [325J.07] [PERMITTED CHARGES.]

(a) Notwithstanding any other statute, ordinance, rule, regulation, or section 325G.15, a pawnbroker may contract for and receive a pawnshop charge not to exceed three percent per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not be charged if the property is not in the possession of the pawnbroker.

(b) The pawnshop charge allowed under paragraph (a) shall be deemed earned, due, and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due, and owing on the same day of the succeeding month. However, if full payment is made more than two weeks before the next succeeding date the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledgor.

(c) Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this section.

(d) Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this section, shall be uncollectible and the pawn transaction shall be void.

(e) A schedule of charges permitted by this section shall be posted on the pawnshop premises in a place clearly visible to the general public.

Sec. 8. [325J.08] [RECORDS; PROHIBITIONS.]

A pawnbroker and any clerk, agent, or employee of a pawnbroker shall not:

- (1) make any false entry in the records of pawn transactions;
- (2) falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee's pawn transactions;
- (3) refuse to allow the appropriate law enforcement agency, the attorney general, or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person's possession during the ordinary hours of business or other times acceptable to both parties;
- (4) fail to maintain a record of each pawn transaction for three years;
- (5) accept a pledge or purchase property from a person under the age of 18 years;
- (6) make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this section, or providing for a maturity date less than one month after the date of the pawn transaction;
- (7) fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in section 325J.09, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal, or extension and the pawnbroker has sold the pledged goods pursuant to section 325J.06, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency;
- (8) sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or a related, transaction;

(9) sell or otherwise charge for insurance in connection with a pawn transaction; or

(10) remove pledged goods from the pawnshop premises or other storage place approved by a municipality at any time before unredeemed, pledged goods are sold pursuant to section 325J.06.

Sec. 9. [325J.09] [REDEMPTION; RISK OF LOSS.]

Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor shall be entitled to redeem or repurchase the pledged goods described on the ticket. In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledgor, in cash or replacement goods acceptable to the pledgor, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution.

Sec. 10. [325J.10] [PAWNSHOP LOCATION.]

No pawnshop shall be located within ten driving miles of any gambling casino. No pawnshop, lawfully operating as of the date of the enactment of this section, shall be required to relocate or close as a result of this section.

Sec. 11. [325J.11] [VIOLATION.]

A violation of this chapter by a pawnbroker or pledgor is a misdemeanor.

Sec. 12. [325J.12] [TRANSITION.]

(a) Pawnbrokers that are in business when a municipality adopts an ordinance under this chapter must apply for a license and pay the required fee within six months of adoption of the ordinance.

(b) A county that has adopted an ordinance under Minnesota Statutes 1994, sections 471.924 to 471.927, must conform the ordinance to this chapter by August 1, 1997. Pawnbrokers that are in business when a municipality adopts a new ordinance under this chapter must apply for a license and pay the required fee within six months of the adoption of the new ordinance.

Sec. 13. [325J.13] [ORDINANCES; CONSISTENCY.]

Nothing in this chapter preempts or supersedes any ordinance adopted by a municipality that provides for more restrictive regulation of pawnbrokers or pawn transactions.

Sec. 14. Minnesota Statutes 1994, section 471.924, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] For the purpose of promoting the health, safety, morals, and general welfare of its residents, any county in the state may regulate the activities of pawnbrokers, secondhand and junk dealers.

Sec. 15. Minnesota Statutes 1994, section 471.925, is amended to read:

471.925 [DEFINITIONS.]

For purposes of sections 471.924 to 471.929, the following terms have the meanings given them:

(1) "pawnbroker" means a person who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage or personal property, taking possession of the property or any part thereof so mortgaged; and

(2) "secondhand goods" or "junk dealer" means a person engaged in the business of buying secondhand goods of any kind, including but not limited to coins, gold, silver, jewelry, metals,

guns, and wrecked or dismantled motor vehicles or motor vehicles intended to be wrecked or dismantled, but not including used goods and merchandise taken as part or full payment for new goods and merchandise.

Sec. 16. Minnesota Statutes 1994, section 471.927, is amended to read:

471.927 [COOPERATION WITH MUNICIPALITIES.]

The governing body of any municipality may continue to exercise the authority to regulate pawnbrokers and secondhand or junk dealers as provided by law, but may contract with the county board of commissioners for administration and enforcement of countywide regulations or ordinance provisions within the borders of the municipality.

Sec. 17. [REPEALER.]

Minnesota Statutes 1994, section 609.81, is repealed."

Delete the title and insert:

"A bill for an act relating to consumer protection; providing for the licensing and regulation of pawnbrokers; providing penalties; amending Minnesota Statutes 1994, sections 471.924, subdivision 1; 471.925; and 471.927; proposing coding for new law as Minnesota Statutes, chapter 325J; repealing Minnesota Statutes 1994, section 609.81."

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

**Mr. Kelly from the Committee on Judiciary, to which was referred**

**S.F. No. 2478:** A bill for an act relating to civil actions; modifying and expanding provisions for sanctions in civil actions; amending Minnesota Statutes 1994, sections 336.2A-108; 566.25; 570.041, subdivision 1; 571.932, subdivision 6; and 609.5314, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 549; repealing Minnesota Statutes 1994, section 549.21.

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

Page 8, after line 23, insert:

"Sec. 7. [EFFECTIVE DATE.]

This act is effective June 1, 1996, for pleadings, motions, or papers served or presented on or after the effective date."

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

**Mr. Kelly from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1893:** A bill for an act relating to human services; adding provisions for child support enforcement; amending Minnesota Statutes 1994, sections 518.5511, subdivision 8; and 518.611, by adding a subdivision; Minnesota Statutes 1995 Supplement, sections 256.998, subdivisions 1 and 9; 257.62, subdivision 1; and 518.5511, subdivision 4.

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

Page 4, line 6, delete "by first class mail"

Page 7, after line 31, insert:

"Sec. 7. Minnesota Statutes 1994, section 548.091, is amended by adding a subdivision to read:

Subd. 5. [LIEN PRIORITY.] (a) The public authority and the obligee in a child support order may agree in writing to subordinate the lien of a child support judgment to a mortgage if the real property that is the subject of the mortgage is, as of the date of the subordination document, the home of one or more of the children who are the subjects of the child support order.

(b) The subordination document must contain a legal description of the property, refer to the mortgage by document or filing number, refer to the judgment, be signed by the county and the obligee, and be dated. The signatures must be acknowledged before a notary public. The document must comply with section 507.091, and be in every other respect recordable.

(c) The subordination is effective when recorded in the office of the county recorder, or filed in the office of the registrar of titles, of the county in which the real property is located. The effectiveness of the subordination, with respect to parties other than the county, the obligee, and the obligor, is not affected by any determination that the conditions of paragraph (a) were not in fact met.

Sec. 8. [EFFECTIVE DATE.]

Section 7 is effective the day following final enactment."

Amend the title as follows:

Page 1, line 4, delete "and"

Page 1, line 5, after the semicolon, insert "and 548.091, by adding a subdivision;"

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

**Mr. Kelly from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1966:** A bill for an act relating to health; modifying access to health records; amending Minnesota Statutes 1995 Supplement, section 144.335, subdivision 3a.

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

Page 3, after line 1, insert:

"A provider who releases health records to an external researcher under this paragraph shall:

(1) for health records generated after January 1, 1997, notify patients that health records may be released for research purposes and that the patient may object to the release;

(2) document the release in the patient's health record in a manner that enables the patient to learn the name and affiliation of the person to whom the record is released, date of the release, and to the extent practicable, a description of the records that were released; and

(3) at the request of the patient, provide information on how the patient may contact the researcher to whom the health record was released and the date it was released."

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

**Mr. Price from the Committee on Commerce and Consumer Protection, to which was re-referred**

**S.F. No. 588:** A bill for an act relating to consumer protection; regulating deceptive trade practices related to environmental marketing claims; amending Minnesota Statutes 1994, section 8.31, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 325E.

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

Delete everything after the enacting clause and insert:

"Section 1. [325E.41] [DECEPTIVE TRADE PRACTICES; ENVIRONMENTAL MARKETING CLAIMS.]

Subdivision 1. [ADOPTION OF FEDERAL GUIDES.] (a) Environmental marketing claims made by a manufacturer, packager, wholesaler, or retailer for a product sold or offered for sale or

distribution in this state, including those related to the product's packaging, must conform to the standards or be consistent with the examples contained in Code of Federal Regulations, title 16, part 260, "Guides for the Use of Environmental Marketing Claims" regarding general environmental benefits claims, claims that a product or package is degradable, compostable, recyclable, or contains recycled content, and claims relating to source reduction, refillability, or ozone safety.

(b) Paragraph (a) does not apply to an environmental claim unless the claim is made in an attempt to influence purchasing decisions by end users of the product.

Subd. 2. [INVESTIGATION; ENFORCEMENT.] A person who violates this section is subject to the penalties and remedies in section 8.31.

Sec. 2. [REPEALER.]

Minnesota Statutes 1994, section 115A.56, is repealed."

Delete the title and insert:

"A bill for an act relating to commerce; regulating deceptive trade practices; adopting federal standards for environmental marketing claims; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 325E; repealing Minnesota Statutes 1994, section 115A.56."

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

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

**S.F. No. 2116:** A bill for an act relating to liquor; modifying eligibility for liquor manufacturer and wholesaler licenses; allowing persons holding either the proper license or permit to charge for possession; exempting certain types of wine tastings from authorized tastings; amending Minnesota Statutes 1994, sections 340A.301, subdivision 2; and 340A.418, subdivision 2; Minnesota Statutes 1995 Supplement, section 340A.401.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 340A.301, subdivision 2, is amended to read:

Subd. 2. [PERSONS ELIGIBLE.] Licenses under this section may be issued only to a person who:

(1) ~~is a citizen of the United States or a resident alien;~~

(2) is of good moral character and repute;

(3) (2) is 21 years of age or older;

(4) (3) has not had a license issued under this chapter revoked within five years of the date of license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; and

(5) (4) has not been convicted within five years of the date of license application of a felony, or of a willful violation of a federal or state law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages.

Sec. 2. Minnesota Statutes 1995 Supplement, section 340A.401, is amended to read:

340A.401 [LICENSE REQUIRED.]

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

Sec. 3. Minnesota Statutes 1995 Supplement, section 340A.404, subdivision 10, is amended to read:

Subd. 10. [TEMPORARY ON-SALE LICENSES.] The governing body of a municipality may issue to a club or charitable, religious, or other nonprofit organization in existence for at least three years, or to a political committee registered under section 10A.14, a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the licensee. The license may authorize the on-sale of intoxicating liquor for not more than four consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by any municipality. The licenses are subject to the terms, including a license fee, imposed by the issuing municipality. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor ~~except section~~ sections 340A.409 and 340A.504, subdivision 3, paragraph (d), and those laws and ordinances which by their nature are not applicable. Licenses under this subdivision are not valid unless first approved by the commissioner of public safety.

A county under this section may issue a temporary license only to a premises located in the unincorporated or unorganized territory of the county.

Sec. 4. Minnesota Statutes 1994, section 340A.418, subdivision 2, is amended to read:

Subd. 2. [TASTINGS AUTHORIZED.] (a) A charitable, religious, or other nonprofit organization may conduct a wine tasting on premises the organization owns or leases or has use donated to it, or on the licensed premises of a holder of an on-sale intoxicating liquor license that is not a temporary license, if the organization holds a temporary on-sale intoxicating liquor license under section 340A.404, subdivision 10, and complies with this section. An organization holding a temporary license may be assisted in conducting the wine tasting by another nonprofit organization.

(b) An organization that conducts a wine tasting under this section may use the net proceeds from the wine tasting only for:

(1) the organization's primary nonprofit purpose; or

(2) donation to another nonprofit organization assisting in the wine tasting, if the other nonprofit organization uses the donation only for that organization's primary nonprofit purpose.

(c) No wine at a wine tasting under this section may be sold, or orders taken, for ~~off-premise~~ off-premises consumption.

(d) Notwithstanding any other law, an organization may purchase or otherwise obtain wine for a wine tasting conducted under this section from a wholesaler licensed to sell wine, and the wholesaler may sell or give wine to an organization for a wine tasting conducted under this section and may provide personnel to assist in the wine tasting. A wholesaler who sells or gives wine to an organization for a wine tasting under this section must deliver the wine directly to the location where the wine tasting is conducted.

(e) This section does not apply to a wine tasting that is:

(1) located on on-sale premises where no charitable organization is participating; or

(2) located on on-sale premises where the proceeds are for a designated charity but where the tasting is primarily for educational purposes.

Sec. 5. Minnesota Statutes 1994, section 340A.510, is amended to read:

## 340A.510 [SAMPLES.]

Subdivision 1. [SAMPLES AUTHORIZED.] Off-sale licenses and municipal liquor stores may provide samples of malt liquor, wine, liqueurs, and cordials which the licensee or municipal liquor store currently has in stock and is offering for sale to the general public without obtaining an additional license, provided the wine, liqueur, and cordial samples are dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale in a quantity less than 100 milliliters of malt liquor per variety per customer, 50 milliliters of wine per variety per customer and 25 milliliters of liqueur or cordial or distilled spirits per variety per customer.

Subd. 2. [MALT LIQUOR FURNISHED FOR SAMPLING.] (a) Notwithstanding section 340A.308, with respect only to sampling authorized under subdivision 1, a brewer may furnish at no cost to an off-sale retailer malt liquor the brewer manufactures if:

- (1) the malt liquor is dispensed by the retailer only for tastings authorized under subdivision 1;
- (2) the retailer makes available for return to the brewer any unused malt liquor and empty containers;
- (3) the samples are dispensed by an employee of the retailer, or by a sampling service retained by the retailer and not affiliated directly or indirectly with a brewer or malt liquor wholesaler;
- (4) the brewer furnishes not more than three cases of malt liquor to the retailer for each sampling;
- (5) each sampling continues for not more than eight hours;
- (6) the brewer has furnished malt liquor for not more than five samplings for any retailer in any calendar year;
- (7) the brewer delivers the malt liquor for the sampling to its exclusive wholesaler for that malt liquor;
- (8) the brewer has at least seven days before the sampling filed with the commissioner, on a form the commissioner prescribes, written notice of intent to furnish malt liquor for the sampling, which contains (i) the name and address of the retailer conducting the sampling, (ii) the amount of malt liquor being furnished by the brewer, (iii) the number of times the brewer has furnished malt liquor to the retailer in the calendar year in which the notice is filed, (iv) the date and time of the sampling, (v) the exclusive wholesaler to whom the brewer will deliver the malt liquor, and (vi) a statement by the brewer to the effect that to the brewer's knowledge all requirements of this section have been or will be complied with; and
- (9) the commissioner has not notified the brewer filing the notice under clause (8) that the commissioner disapproves the notice.

(b) For purposes of this subdivision "retailer" means a licensed off-sale retailer of alcoholic beverages and a municipal liquor store that sells at off-sale.

Sec. 6. Laws 1994, chapter 611, section 32, is amended to read:

## Sec. 32. [EAGAN; LICENSES AUTHORIZED.]

The city of Eagan may issue not more than ~~three~~ eight on-sale intoxicating liquor licenses in addition to the number authorized by Minnesota Statutes, section 340A.413. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the licenses authorized by this section.

## Sec. 7. [WADENA; SEASONAL ON-SALE LICENSE.]

Notwithstanding any other law, the city of Wadena may issue one seasonal on-sale intoxicating liquor license in addition to the number of on-sale intoxicating liquor licenses authorized by law. The license authorized by this section is valid for a period to be determined by the city, not to exceed nine months. Not more than one license may be issued under this section for any one

premises during any consecutive 12-month period. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section apply to the license.

Sec. 8. [WEST ST. PAUL; ON-SALE LICENSE.]

Notwithstanding any other law, the city of West St. Paul may issue not more than 18 on-sale intoxicating liquor licenses. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the licenses authorized by this section.

Sec. 9. [REPEALER.]

Laws 1974, chapter 452, is repealed.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 6 and 9 are effective the day following final enactment. Section 7 is effective on approval by the Wadena city council and compliance with Minnesota Statutes, section 645.021. Section 8 is effective on approval by the West St. Paul city council and compliance with Minnesota Statutes, section 645.021."

Delete the title and insert:

"A bill for an act relating to liquor; modifying eligibility for liquor manufacturer and wholesaler licenses; allowing persons holding either the proper license or permit to charge for possession; exempting certain types of wine tastings from authorized tastings; regulating malt liquor furnished for sampling; providing for authority of the cities of Wadena, Eagan, and West St. Paul to issue on-sale licenses; amending Minnesota Statutes 1994, sections 340A.301, subdivision 2; 340A.418, subdivision 2; and 340A.510; Minnesota Statutes 1995 Supplement, sections 340A.401; and 340A.404, subdivision 10; Laws 1994, chapter 611, section 32; repealing Laws 1974, chapter 452."

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

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

**H.F. No. 374:** A bill for an act relating to utilities; exempting large electric power generating plant from certificate of need proceeding when selected by the public utilities commission from a bidding process to select resources to meet the utility's projected energy demand; amending Minnesota Statutes 1994, section 216B.2422, subdivision 5.

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

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

**S.F. No. 2488:** A bill for an act relating to public safety; creating an amateur radio volunteer system; authorizing the purchase of mobile telephones; creating a communications committee; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 12.

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

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

**S.F. No. 2643:** A bill for an act relating to health; authorizing the dispensing of a prescription written by a physician, osteopath, podiatrist, dentist, or veterinarian licensed in any state or jurisdiction of the United States; amending Minnesota Statutes 1994, section 152.11, as amended.

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

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

**S.F. No. 2335:** A bill for an act relating to professions; modifying provisions governing the practice of nursing; amending Minnesota Statutes 1994, section 148.231, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 148.

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

Page 1, line 25, delete "medical care consumer" and insert " patient" and delete "issuing" and insert "issued"

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

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

**S.F. No. 2188:** A bill for an act relating to economic development; modifying local economic development authority powers; clarifying local conflict of interest provisions; amending Minnesota Statutes 1994, sections 13.99, subdivision 97a; 469.102, subdivision 2; 469.106; 469.107, by adding a subdivision; 469.174, subdivision 2; 469.191; and 471.88, subdivision 14; Minnesota Statutes 1995 Supplement, section 216B.161, subdivision 1; repealing Minnesota Statutes 1994, sections 13.99, subdivision 97; and 469.150.

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

Pages 2 to 4, delete sections 3 to 5

Page 4, delete section 7

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, line 3, delete everything before "clarifying"

Page 1, line 6, delete "469.102, subdivision 2; 469.106; 469.107, by"

Page 1, line 7, delete "adding a subdivision;" and delete "469.191;"

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

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

**S.F. No. 2701:** A resolution memorializing the President and Congress to increase the federal minimum wage.

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

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

**S.F. No. 2149:** A bill for an act relating to employment; modifying provisions relating to payment of wages; amending Minnesota Statutes 1994, sections 181.032; 181.13; and 181.14.

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

Page 5, after line 26, insert:

"Sec. 4. Minnesota Statutes 1994, section 181A.07, subdivision 3, is amended to read:

Subd. 3. Newspaper carriers shall be exempt from the minimum age provision of section 181A.04, subdivisions 1 and 3. Such carriers shall be at least ~~4~~ ten years of age."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "reducing the age requirement for newspaper carriers under the children labor law;"

Page 1, line 4, delete "and" and after "181.14" insert "; and 181A.07, subdivision 3"

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

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

**S.F. No. 2552:** A bill for an act relating to workers' compensation; modifying provisions governing calculation of premiums; modifying provisions relating to independent contractors; exempting certain rules from expiration; changing terms of a pilot program; making technical changes; amending Minnesota Statutes 1995 Supplement, sections 79.53, subdivision 1; 79.55, subdivision 5; 176.136, subdivision 1a; 176.1812, subdivisions 1 and 6; and 176.261; proposing coding for new law in Minnesota Statutes, chapter 176.

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

Page 4, line 10, after the period, insert "The commissioner shall follow the requirements of section 14.386, paragraph (a)."

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

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

**H.F. No. 2188** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2188	2147				

and that the above Senate File be indefinitely postponed.

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

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

**H.F. No. 2652** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
		2652	2223		

and that the above Senate File be indefinitely postponed.

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

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

**H.F. No. 2385** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2385	2084				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2385 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2385 and insert the language after the enacting clause of S.F. No. 2084, the first engrossment; further, delete the title of H.F. No. 2385 and insert the title of S.F. No. 2084, the first engrossment.

And when so amended H.F. No. 2385 will be identical to S.F. No. 2084, and further recommends that H.F. No. 2385 be given its second reading and substituted for S.F. No. 2084, and that the Senate File be indefinitely postponed.

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

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

**H.F. No. 2114** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
		2114	2320		

and that the above Senate File be indefinitely postponed.

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

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

**H.F. No. 2634** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
		2634	2324		

and that the above Senate File be indefinitely postponed.

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

**SECOND READING OF SENATE BILLS**

S.F. Nos. 1788, 2454, 2668, 1803, 1948, 1920, 2410, 2073, 2258, 2564, 2472, 2478, 1893, 1966, 588, 2116, 2643, 2335, 2188, 2701, 2149 and 2552 were read the second time.

## SECOND READING OF HOUSE BILLS

H.F. Nos. 374, 2188, 2652, 2385, 2114 and 2634 were read the second time.

### MOTIONS AND RESOLUTIONS

Mr. Marty moved that the name of Mr. Knutson be added as a co-author to S.F. No. 2727. The motion prevailed.

Mr. Pogemiller moved that the name of Ms. Reichgott Junge be added as a co-author to S.F. No. 2744. The motion prevailed.

Mr. Betzold moved that S.F. No. 2406, No. 6 on the Consent Calendar, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Mr. Betzold moved that S.F. No. 1862 be taken from the table. The motion prevailed.

**S.F. No. 1862:** A bill for an act relating to state government; authorizing use of unmarked vehicles by the division of disease prevention and control of the department of health; providing that passenger vehicle classification license plates be issued for those vehicles; amending Minnesota Statutes 1994, section 16B.54, subdivision 2; Minnesota Statutes 1995 Supplement, section 168.012, subdivision 1.

### CONCURRENCE AND REPASSAGE

Mr. Betzold moved that the Senate concur in the amendments by the House to S.F. No. 1862 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1862 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the Calendar and Consent Calendar. The motion prevailed.

### CALENDAR

**S.F. No. 1872:** A bill for an act relating to peace officer training; requiring peace officers to undergo training in community policing techniques; proposing coding for new law in Minnesota Statutes, chapter 626.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

**S.F. No. 1879:** A bill for an act relating to medical assistance; combining the alternative care program and the home- and community-based services waiver for the elderly program.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

**H.F. No. 2150:** A bill for an act relating to liquor; authorizing the city of Stillwater to issue one additional on-sale license.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

### CONSENT CALENDAR

**H.F. No. 2239:** A bill for an act relating to local government; allowing the city of Morristown to maintain and pay for certain electrical power outside the city.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

**S.F. No. 2067:** A bill for an act relating to marriage dissolution; eliminating a requirement that certain documents be acknowledged; amending Minnesota Statutes 1994, section 518.13, subdivision 5.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

Solon  
Spear

Stevens

Stumpf

Vickerman

Wiener

So the bill passed and its title was agreed to.

**S.F. No. 2435:** A bill for an act relating to courts; authorizing a judge who has resigned in good standing to be appointed to serve as a judge of any court; providing that the fee for the examination to be admitted to practice law be set by the supreme court; amending Minnesota Statutes 1994, section 2.724, by adding a subdivision; Minnesota Statutes 1995 Supplement, section 481.01.

Mr. Knutson moved that S.F. No. 2435, No. 4 on the Consent Calendar, be stricken and placed on General Orders. The motion prevailed.

**S.F. No. 2514:** A bill for an act relating to civil commitment; clarifying the financial responsibility for hearings on the use of neuroleptic medications; amending Minnesota Statutes 1994, section 256G.08, subdivision 1.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

**S.F. No. 2584:** A bill for an act relating to veterans; eliminating certain duties of the board of directors of the Minnesota veterans homes; amending Minnesota Statutes 1994, section 198.003, subdivision 1.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

### MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the General Orders Calendar. The motion prevailed.

### GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Mrs. Pariseau in the chair.

After some time spent therein, the committee arose, and Mrs. Pariseau reported that the committee had considered the following:

S.F. Nos. 1856, 1699, 1622, 2267, 2340, 2013 and H.F. Nos. 1926 and 2355, which the committee recommends to pass.

S.F. No. 1919, which the committee recommends to pass with the following amendment offered by Ms. Runbeck:

Page 1, delete section 1

Page 41, after line 1, insert:

"Sec. 23. Minnesota Statutes 1994, section 268.12, is amended by adding a subdivision to read:

Subd. 9a. [TESTIMONIAL POWERS.] (1) In the discharge of the duties imposed by sections 268.03 to 268.23, the commissioner, appeal referee, or any duly authorized representative of the commissioner, shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of these sections;

(2) Witnesses, other than interested parties or officers and employees of an employing unit which is an interested party, subpoenaed pursuant to this subdivision or sections 268.03 to 268.23, shall be allowed fees the same as witness fees in civil actions in district court, which fees need not be paid in advance of the time of giving of testimony, and such fees of witnesses so subpoenaed shall be deemed part of the expense of administering these sections;

(3) In case of contumacy by, or refusal to obey, a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commissioner, or referee, or any duly authorized representative of the commissioner, shall have jurisdiction to issue to such person an order requiring such person to appear before the commissioner, the chair of an appeal tribunal, referee, or any duly authorized representative of the commissioner, there to produce evidence if so ordered or there to give testimony relative to the matter under investigation or in question; and any failure to obey such order of the court may be punished by the court as a contempt thereof."

Re-number the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

On motion of Ms. Reichgott Junge, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

**MOTIONS AND RESOLUTIONS - CONTINUED**

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills.

**REPORTS OF COMMITTEES**

Ms. Reichgott Junge moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 2597, 2466 and 2270. The motion prevailed.

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

**S.F. No. 2118:** A bill for an act relating to public safety; providing for other safe house programs similar to the McGruff program; amending Minnesota Statutes 1994, section 299A.28, subdivision 5, and by adding a subdivision.

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

Page 1, line 17, delete "operating" and insert "operated"

Page 1, line 18, after "providers" insert "or foster care providers"

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

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

**S.F. No. 1796:** A bill for an act relating to crime; increasing the penalty for intentionally discharging a firearm under dangerous circumstances; expanding the scope of the transit vehicle crime; amending Minnesota Statutes 1994, sections 609.66, subdivision 1a; and 609.855, subdivision 5.

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

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

**S.F. No. 2328:** A bill for an act relating to crime prevention; requiring guns to be stored unloaded and locked where children are present; amending Minnesota Statutes 1994, section 609.666, subdivisions 1 and 2.

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

Page 2, line 4, delete "present or resides, and is"

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

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

**S.F. No. 2676:** A bill for an act relating to state government; providing for benefits and insurance for employees of entities established by the amateur sports commission; amending Minnesota Statutes 1994, section 240A.03, subdivision 13.

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

**Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred**

**S.F. No. 2387:** A bill for an act relating to taxation; providing for taxation of certain property managed or owned by certain public entities or partnerships which include such entities; authorizing creation of joint powers boards for purposes of housing ownership and management; amending Minnesota Statutes 1994, sections 469.040, by adding a subdivision; and section 471.59, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 469.040, is amended by adding a subdivision to read:

Subd. 4. [FACILITIES FUNDED FROM MULTIPLE SOURCES.] In the metropolitan area, as defined in section 473.121, subdivision 2, the tax treatment provided in subdivision 3 applies to that portion of any multifamily rental housing facility represented by the ratio of (1) the number of units in the facilities that are subject to the requirements of Section 5 of the United States Housing Act of 1937, as the result of the implementation of a federal court order or consent decree to (2) the total number of units within the facility.

The housing and redevelopment authority for the city in which the facility is located, any public entity exercising the powers of such housing and redevelopment authority, or the county housing and redevelopment authority for the county in which the facility is located, shall annually certify to the assessor responsible for assessing the facility, at the time and in the manner required by the assessor, the number of units in the facility that are subject to the requirements of Section 5 of the United States Housing Act of 1937.

Nothing in this subdivision shall prevent that portion of the facility not subject to this subdivision from meeting the requirements of section 273.1317, and for that purpose the total number of units in the facility must be taken into account.

Sec. 2. Minnesota Statutes 1994, section 471.59, is amended by adding a subdivision to read:

Subd. 13. [JOINT POWERS BOARD FOR HOUSING.] (a) For purposes of implementing a federal court order or decree, two or more housing and redevelopment authorities, or public entities exercising the public housing powers of housing and redevelopment authorities, may by adoption of a joint powers agreement that complies with the provisions of subdivisions 1 to 5, establish a joint board for the purpose of acquiring an interest in, rehabilitating, constructing, owning, or managing low-rent public housing located in the metropolitan area, as defined in section 473.121, subdivision 2, and financed, in whole or in part, with federal financial assistance under Section 5 of the United States Housing Act of 1937. The joint board established pursuant to this subdivision shall:

(1) be composed of members designated by the governing bodies of the governmental units which established such joint board, and possess such representative and voting power provided by the joint powers agreement;

(2) constitute a public body, corporate, and politic; and

(3) notwithstanding the provisions of subdivision 1, requiring commonality of powers between parties to a joint powers agreement, and solely for the purpose of acquiring an interest in, rehabilitating, constructing, owning, or managing federally financed low-rent public housing, shall possess all of the powers and duties contained in sections 469.001 to 469.047 and, if at least one participant is an economic development authority, sections 469.090 to 469.1081, except (i) as may be otherwise limited by the terms of the joint powers agreement; and (ii) a joint board shall not have the power to tax pursuant to section 469.033, subdivision 6, nor shall it exercise the power of eminent domain. Every joint powers agreement establishing a joint board shall specifically provide which and under what circumstances the powers granted herein may be exercised by that joint board.

(b) If a housing and redevelopment authority exists in a city which intends to participate in the

creation of a joint board pursuant to paragraph (a), such housing and redevelopment authority shall be the governmental unit which enters into the joint powers agreement unless it determines not to do so, in which event the governmental entity which enters into the joint powers agreement may be any public entity of that city which exercises the low-rent public housing powers of a housing and redevelopment authority.

(c) A joint board shall not make any contract with the federal government for low-rent public housing, unless the governing body or bodies creating the participating authority in whose jurisdiction the housing is located has, by resolution, approved the provision of that low-rent public housing.

(d) This section shall not apply to any housing and redevelopment authority, or public entity exercising the powers of a housing and redevelopment authority, within the jurisdiction of a county housing and redevelopment authority which is actively carrying out a public housing program under Section 5 of the United States Housing Act of 1937. For purposes of this paragraph, a county, housing, and redevelopment authority shall be considered to be actively carrying out a public housing program under Section 5 of the United States Housing Act of 1937, if it (1) owns 200 or more public housing units constructed under Section 5 of the United States Housing Act of 1937, and (2) has applied for public housing development funds under Section 5 of the United States Housing Act of 1937, during the three years immediately preceding January 1, 1996.

(e) For purposes of sections 469.001 to 469.047, "city" means the city in which the housing units with respect to which the joint board was created are located and "governing body" or "governing body creating the authority" means the council of such city.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to taxation; providing for taxation of certain housing subject to Section 5 of the United States Housing Act of 1937; authorizing creation of joint powers boards for purposes of housing construction, rehabilitation, ownership, and management; amending Minnesota Statutes 1994, sections 469.040, by adding a subdivision; and 471.59, by adding a subdivision."

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

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

**S.F. No. 2714:** A bill for an act relating to crime; changing the definition of great bodily harm; amending Minnesota Statutes 1994, section 609.02, subdivision 8.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1995 Supplement, section 609.20, is amended to read:

609.20 [MANSLAUGHTER IN THE FIRST DEGREE.]

Whoever does any of the following is guilty of manslaughter in the first degree and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both:

(1) intentionally causes the death of another person in the heat of passion provoked by such words or acts of another as would provoke a person of ordinary self-control under like circumstances, provided that the crying of a child does not constitute provocation;

(2) violates section 609.224 and causes the death of another or causes the death of another in committing or attempting to commit a misdemeanor or gross misdemeanor offense with such force and violence that death of or great bodily harm to any person was reasonably foreseeable, and murder in the first or second degree was not committed thereby;

(3) intentionally causes the death of another person because the actor is coerced by threats made by someone other than the actor's coconspirator and which cause the actor reasonably to believe that the act performed by the actor is the only means of preventing imminent death to the actor or another;

(4) proximately causes the death of another, without intent to cause death by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in schedule III, IV, or V; or

(5) causes the death of another in committing or attempting to commit a violation of section 609.377 (malicious punishment of a child), and murder in the first, second, or third degree is not committed thereby.

As used in this section, a "person of ordinary self-control" does not include a person under the influence of intoxicants or a controlled substance.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective August 1, 1996, for crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crime prevention; clarifying the misdemeanor-manslaughter statute; amending Minnesota Statutes 1995 Supplement, section 609.20."

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

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

**S.F. No. 2275:** A bill for an act relating to crime; requiring victim's account of domestic assault or harassment to be considered in determining arrested person's release; requiring notice to certain law enforcement agencies, battered women's programs, and sexual assault programs of release of arrested persons; requiring notice of bail hearings to victims of domestic assault and harassment; amending Minnesota Statutes 1994, section 629.72, by adding a subdivision; Minnesota Statutes 1995 Supplement, section 629.72, subdivisions 2 and 6.

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

Page 3, lines 7 and 9 delete "any"

Page 3, line 11, after "programs" insert "as requested by the victim"

Page 3, line 32, delete "If the victim is incapacitated or deceased, notice must"

Page 3, line 33, delete "be given to the victim's family."

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

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

**S.F. No. 2363:** A bill for an act relating to juvenile justice; expanding the scope of the juvenile court's delinquency jurisdiction to include juveniles accused of certain misdemeanor-level offenses; amending Minnesota Statutes 1995 Supplement, section 260.015, subdivision 21.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1995 Supplement, section 260.015, subdivision 21, is amended to read:

Subd. 21. [JUVENILE PETTY OFFENDER; JUVENILE PETTY OFFENSE.] (a) "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

(b) Except as otherwise provided in paragraph (c), "juvenile petty offense" also includes an offense, ~~other than a violation of section 609.224, 609.324, 609.563, 609.576, or 617.23,~~ that would be a misdemeanor if committed by an adult if:

~~(1) the child has not been found to be a juvenile petty offender on more than two prior occasions for a misdemeanor-level offense;~~

~~(2) the child has not previously been found to be delinquent for a misdemeanor, gross misdemeanor, or felony offense; or~~

~~(3) the county attorney designates the child on the petition as a juvenile petty offender, notwithstanding the child's prior record of misdemeanor-level juvenile petty offenses.~~

(c) "Juvenile petty offense" does not include any of the following:

~~(1) a misdemeanor-level violation of section 588.20, 609.224, 609.324, 609.563, 609.576, or 617.23;~~

~~(2) a major traffic offense or an adult court traffic offense, as described in section 260.193;~~

~~(3) a misdemeanor-level offense committed by a child whom the juvenile court previously has found to be delinquent for a misdemeanor, gross misdemeanor, or felony offense; or~~

~~(4) a misdemeanor-level offense committed by a child whom the juvenile court has found to have committed a misdemeanor-level juvenile petty offense on two or more prior occasions, unless the county attorney designates the child on the petition as a juvenile petty offender notwithstanding this prior record. As used in this clause, "misdemeanor-level juvenile petty offense" includes a misdemeanor-level offense that would have been a juvenile petty offense if it had been committed on or after July 1, 1995.~~

~~(d) A child who commits a juvenile petty offense is a "juvenile petty offender."~~

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective August 1, 1996, and applies to acts committed on or after that date."

Delete the title and insert:

"A bill for an act relating to juveniles; clarifying the definition of juvenile petty offense; amending Minnesota Statutes 1995 Supplement, section 260.015, subdivision 21."

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

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

**S.F. No. 2596:** A bill for an act relating to game and fish; providing an appropriation for emergency deer feeding; appropriating money.

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

Page 1, after line 4, insert:

"Section 1. Minnesota Statutes 1994, section 97A.075, subdivision 1, is amended to read:

Subdivision 1. [DEER AND BEAR LICENSES.] (a) For purposes of this subdivision, "deer license" means a license issued under section 97A.475, subdivisions 2, clauses (4) and (5), and 3, clauses (2) and (3).

(b) At least \$2 from each deer license shall be used for deer habitat improvement or deer management programs.

(c) At least \$1 from each resident deer license and each resident bear license shall be used for deer and bear management programs, including a computerized licensing system. Fifty cents from each resident deer license is appropriated for emergency deer feeding. Money appropriated for emergency deer feeding is available until expended. When the unencumbered balance in the appropriation for emergency deer feeding at the end of a fiscal year exceeds \$500,000, \$500,000 is canceled to the unappropriated balance of the game and fish fund and the amount appropriated for emergency deer feeding is reduced to 25 cents from each resident deer license."

Page 1, line 6, delete "\$1,250,000" and insert "\$500,000"

Page 1, after line 10, insert:

"\$500,000 is appropriated from the game and fish fund for emergency deer feeding in areas of the state affected by severe weather. This appropriation is added to the appropriation in Laws 1995, chapter 220, section 5, subdivision 7.

Sec. 3. [DEER FEEDING STUDY.]

The commissioner shall study the costs associated with emergency deer feeding and shall include the effect that the feeding project has on the deer population."

Page 1, line 12, delete "This act" and insert "Section 1 is effective July 1, 1997. Section 2"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, before the period, insert "; amending Minnesota Statutes 1994, section 97A.075, subdivision 1"

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

**Mr. Marty from the Committee on Ethics and Campaign Reform, to which was referred**

**S.F. No. 1908:** A bill for an act relating to the ethical practices board; authorizing the board to issue advisory opinions on the fair campaign practices act and to local officials; requiring lobbyists to report gifts given to employees of the legislature; prohibiting lobbyists, political committees, and political funds from making contributions while the legislature is in session; prohibiting principal campaign committees from making independent expenditures; requiring return of political contribution receipt forms; amending Minnesota Statutes 1994, sections 10A.02, subdivision 12; 10A.04, subdivision 4; 10A.065, subdivisions 1 and 3; 10A.27, subdivision 9; and 10A.322, subdivision 4.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 10A.04, subdivision 4, is amended to read:

Subd. 4. (a) The report shall include such information as the board may require from the registration form and the information required by this subdivision for the reporting period.

(b) Each lobbyist shall report the lobbyist's total disbursements on lobbying, separately listing lobbying to influence legislative action, lobbying to influence administrative action, and lobbying

to influence the official actions of a metropolitan governmental unit, and a breakdown of disbursements for each of those kinds of lobbying into categories specified by the board, including but not limited to the cost of publication and distribution of each publication used in lobbying; other printing; media, including the cost of production; postage; travel; fees, including allowances; entertainment; telephone and telegraph; and other expenses.

(c) Each lobbyist shall report the amount and nature of each honorarium, gift, loan, item or benefit, excluding contributions to a candidate, equal in value to \$5 or more, given or paid to any public or local official or employee of the legislature by the lobbyist or any employer or any employee of the lobbyist. The list shall include the name and address of each public or local official to whom the honorarium, gift, loan, item or benefit was given or paid and the date it was given or paid. A lobbyist need report only the aggregate amount and nature of food or beverages given or made available to all members of the legislature or a house of the legislature or to all members of a local legislative body, along with the name of the legislative body and the date it was given or made available.

(d) Each lobbyist shall report each original source of funds in excess of \$500 in any year used for the purpose of lobbying to influence legislative action, each such source of funds used to influence administrative action, and each such source of funds used to influence the official action of metropolitan governmental units. The list shall include the name, address and employer, or, if self-employed, the occupation and principal place of business, of each payer of funds in excess of \$500.

Sec. 2. Minnesota Statutes 1994, section 10A.04, subdivision 4a, is amended to read:

Subd. 4a. If in any reporting period the lobbyist's reportable disbursements total not over \$100 and no honorarium, gift, loan, item or benefit ~~equal in value to \$50 or more required to be reported under subdivision 4~~ was given or paid to any public official, a statement to that effect in lieu of the report may be filed for that period. The unreported disbursements shall be included in the report for the following period, unless the total for that period, including the carryover, is not over \$100. The January 15 report shall include all previously unreported disbursements, even though the total for the year is not over \$100.

Sec. 3. Minnesota Statutes 1994, section 10A.065, subdivision 1, is amended to read:

Subdivision 1. [REGISTERED LOBBYIST CONTRIBUTIONS; LEGISLATIVE SESSION.] A candidate for the legislature or for constitutional office, a candidate's principal campaign committee, any other political committee with the candidate's name or title, any committee authorized by the candidate, or a political committee established by all or a part of the party organization within a house of the legislature, shall not solicit or accept a contribution on behalf of a candidate's principal campaign committee, any other political committee with the candidate's name or title, any committee authorized by the candidate, or a political committee established by all or a part of the party organization within a house of the legislature, from a registered lobbyist, political committee, or political fund during a regular session of the legislature. The lobbyist, political committee, or political fund shall not make the contribution.

Sec. 4. Minnesota Statutes 1994, section 10A.065, subdivision 3, is amended to read:

Subd. 3. [CIVIL PENALTY.] A candidate or, political committee, political fund, or lobbyist that violates this section is subject to a civil fine of up to \$500. If the board makes a public finding that there is probable cause to believe a violation of this section has occurred, the board shall bring an action, or transmit the finding to a county attorney who shall bring an action, in the district court of Ramsey county, to impose a civil fine as prescribed by the board. Fines paid under this section must be deposited in the general fund in the state treasury.

Sec. 5. Minnesota Statutes 1994, section 10A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] (a) The prohibitions in this section do not apply if the gift is:

(1) a contribution as defined in section 10A.01, subdivision 7;

(2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;

(3) services of insignificant monetary value;

(4) a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;

(5) a trinket or memento of insignificant value;

(6) informational material of unexceptional value; or

(7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) The prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, even if the group has no formal organization or membership requirements, if a majority of whose the group's members are not officials, the group exists for purposes unrelated to the recipient's official duties, and an equivalent gift is given to the other members of the group; or

(2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.

(c) The prohibitions in this section do not apply to a gift given to a governmental unit for an official purpose.

Sec. 6. Minnesota Statutes 1994, section 10A.20, subdivision 2, is amended to read:

Subd. 2. The reports shall be filed with the board on or before January 31 of each year and additional reports shall be filed as required and in accordance with clauses (a) ~~and~~, (b), and (c).

(a) In each year in which the name of the candidate is on the ballot, the report of the principal campaign committee shall be filed ten days before a primary and a general election, seven days before a special primary and a special election, and ten days after a special election cycle. The report due after a special election may be filed on January 31 following the special election if the special election is held not more than 60 days before that date.

(b) In each general election year political committees and political funds other than principal campaign committees shall file reports ten days before a primary and general election.

(c) Each political committee or political fund that makes independent expenditures related to a special election shall file reports on those expenditures seven days before a special primary and special election and ten days after a special election cycle.

If a scheduled filing date falls on a Saturday, Sunday or legal holiday, the filing date shall be the next regular business day.

Sec. 7. Minnesota Statutes 1994, section 10A.27, subdivision 9, is amended to read:

Subd. 9. (a) A candidate or the treasurer of a candidate's principal campaign committee shall not accept a transfer or contribution from another candidate's principal campaign committee or from any other committee bearing the contributing candidate's name or title or otherwise authorized by the contributing candidate, unless the contributing candidate's principal campaign committee is being dissolved. A candidate's principal campaign committee shall not make a transfer or contribution to another candidate's principal campaign committee, except when the contributing committee is being dissolved.

(b) A candidate's principal campaign committee shall not accept a transfer or contribution from, or make a transfer or contribution to, a committee associated with a person who seeks

nomination or election to the office of President, Senator, or Representative in Congress of the United States.

(c) A candidate or the treasurer of a candidate's principal campaign committee shall not accept a contribution from a candidate for political subdivision office, unless the contribution is from the personal funds of the candidate for political subdivision office. A candidate or the treasurer of a candidate's principal campaign committee shall not make a contribution from the principal campaign committee to a candidate for political subdivision office.

Sec. 8. Minnesota Statutes 1994, section 10A.322, subdivision 4, is amended to read:

Subd. 4. [REFUND RECEIPT FORMS; PENALTY.] The board shall make available to a political party on request and to any candidate for whom an agreement under this section is effective, a supply of official refund receipt forms that state in boldface type that (1) a contributor who is given a receipt form is eligible to claim a refund as provided in section 290.06, subdivision 23, and (2) if the contribution is to a candidate, that the candidate has signed an agreement to limit campaign expenditures as provided in this section. The forms must provide duplicate copies of the receipt to be attached to the contributor's claim. A candidate who does not sign an agreement under this section and who willfully issues an official refund receipt form or a facsimile of one to any of the candidate's contributors is guilty of a misdemeanor. A principal campaign committee or party unit shall return to the board with its termination report or destroy any official receipt forms that have not been issued.

Sec. 9. Minnesota Statutes 1994, section 471.895, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] (a) The prohibitions in this section do not apply if the gift is:

- (1) a contribution as defined in section 211A.01, subdivision 5;
- (2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;
- (3) services of insignificant monetary value;
- (4) a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;
- (5) a trinket or memento of insignificant value;
- (6) informational material of unexceptional value; or
- (7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) The prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, even if the group has no formal organization or membership requirements, if a majority of whose the group's members are not local officials, the group exists for purposes unrelated to the recipient's official duties, and an equivalent gift is given to the other members of the group; or

(2) by an interested person who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.

(c) The prohibitions in this section do not apply to a gift given to a governmental unit for an official purpose.

Sec. 10. [EFFECTIVE DATE.]

This act is effective July 1, 1996."

Delete the title and insert:

"A bill for an act relating to the ethical practices board; requiring lobbyists to report gifts given to employees of the legislature; prohibiting lobbyists, political committees, and political funds from making contributions while the legislature is in session; clarifying exception for gifts given because the recipient is a member of a group; requiring certain political committees and political funds to file reports related to special elections; requiring return or destruction of political contribution receipt forms upon termination; amending Minnesota Statutes 1994, sections 10A.04, subdivisions 4 and 4a; 10A.065, subdivisions 1 and 3; 10A.071, subdivision 3; 10A.20, subdivision 2; 10A.27, subdivision 9; 10A.322, subdivision 4; and 471.895, subdivision 3."

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

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

**S.F. No. 1980:** A bill for an act relating to insurance; regulating coverages; modifying agent cancellations or terminations; providing certain filing requirements for domestic insurers; regulating disclosures and policy and contract provisions; providing for the operation and administration of the medical malpractice joint underwriting association and the Minnesota joint underwriting association; regulating policy cancellations or terminations and claims practices; regulating information handling practices; regulating workers' compensation self-insurance; establishing solvency requirements; making technical changes; amending Minnesota Statutes 1994, sections 60A.09, subdivision 4a; 60A.171, subdivision 7, and by adding a subdivision; 60A.36, subdivision 1; 60C.09, subdivision 2; 60C.11, by adding a subdivision; 61A.02, subdivision 2, and by adding a subdivision; 61A.07; 61A.072, subdivision 4; 61A.32; 61B.20, subdivision 15; 61B.28, subdivision 7; 62A.011, subdivision 3; 62A.02, subdivision 1, and by adding a subdivision; 62A.021, subdivision 1; 62A.31, subdivisions 1p, 1r, 1s, and 3; 62A.315; 62A.318; 62A.36, subdivision 1; 62A.39; 62A.44, subdivision 2; 62A.60; 62F.03, subdivision 6; 62F.04, subdivision 1a; 62I.02, subdivisions 2, 5, and by adding a subdivision; 62I.07; 62L.02, subdivision 15; 62L.09, subdivision 3; 65A.01, subdivision 3; 65A.295; 65B.14, by adding a subdivision; 65B.15, subdivision 1; 70A.07; 72A.20, subdivisions 17, 23, 26, 30, and by adding subdivisions; 72A.493; and 79A.03, subdivision 10, and by adding a subdivision; Minnesota Statutes 1995 Supplement, sections 60A.07, subdivision 10; 60A.67, subdivision 2; 61A.09, subdivision 1; 62A.042; 62A.135, subdivision 1; 62A.31, subdivision 1h; 62C.14, subdivision 14; 62E.05, subdivision 1; 62F.02, subdivision 2; 62L.12, subdivision 2; 79.53, subdivision 1; 79A.01, subdivision 10; 79A.02, subdivisions 1 and 4; 79A.21, subdivision 2; 79A.22, by adding a subdivision; 79A.23, subdivision 1; 79A.24, subdivisions 1, 2, and 4; and 79A.26, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 72A; repealing Minnesota Statutes 1994, sections 60A.13, subdivision 8; 60A.40; 60B.27; 62I.20; 65A.25; 72A.205; 79.55, subdivision 5; and 79A.04, subdivision 8.

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

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

Section 1. Minnesota Statutes 1994, section 60A.09, subdivision 4a, is amended to read:

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

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

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

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

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

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

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

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

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

Sec. 2. Minnesota Statutes 1994, section 60A.171, subdivision 7, is amended to read:

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

Sec. 3. Minnesota Statutes 1994, section 60A.171, is amended by adding a subdivision to read:

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

Sec. 4. Minnesota Statutes 1994, section 60A.36, subdivision 1, is amended to read:

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

- (1) nonpayment of premium;
- (2) misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or in pursuing a claim under the policy;
- (3) actions by the insured that have substantially increased or substantially changed the risk insured;
- (4) refusal of the insured to eliminate known conditions that increase the potential for loss after notification by the insurer that the condition must be removed;

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

(6) loss of reinsurance by the insurer which provided coverage to the insurer for a significant amount of the underlying risk insured. A notice of cancellation under this clause shall advise the policyholder that the policyholder has ten days from the date of receipt of the notice to appeal the cancellation to the commissioner of commerce and that the commissioner will render a decision as to whether the cancellation is justified because of the loss of reinsurance within five 30 business days after receipt of the appeal;

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

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

Sec. 5. Minnesota Statutes 1994, section 61A.02, subdivision 2, is amended to read:

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

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

Sec. 6. Minnesota Statutes 1994, section 61A.02, is amended by adding a subdivision to read:

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

Sec. 7. Minnesota Statutes 1994, section 61A.072, subdivision 4, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. Minnesota Statutes 1995 Supplement, section 61A.09, subdivision 1, is amended to read:

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

- (a) Name and location of the insurance company;
- (b) A statement as to the insurance protection to which the certificate holder is entitled, including any changes in such protection depending on the age of the person whose life is insured;
- (c) Any and all provisions regarding the termination or reduction of the certificate holder's insurance protection;
- (d) A statement that the master group policy may be examined at a reasonably accessible place;
- (e) The maximum rate of contribution to be paid by the certificate holder;
- (f) Beneficiary and method required to change such beneficiary;
- (g) A statement that alternative methods for the payment of group life policy proceeds of \$15,000 or more must be offered to beneficiaries in lieu of a lump sum distribution, at their request. Alternative payment methods which must be offered at the request of the beneficiaries must include, but are not limited to, a life income option, an income option for fixed amounts or fixed time periods, and the option to select an interest-bearing account with the company with the right to select another option at a later date;
- (h) In the case of a group term insurance policy if the policy provides that insurance of the certificate holder will terminate, in case of a policy issued to an employer, by reason of termination of the certificate holder's employment, or in case of a policy issued to an organization of which the certificate holder is a member, by reason of termination of membership, a provision to the effect that in case of termination of employment or membership, or in case of termination of the group policy, the certificate holder shall be entitled to have issued by the insurer, without evidence of insurability, upon application made to the insurer within 31 days after the termination,

and upon payment of the premium applicable to the class of risk to which that person belongs and to the form and amount of the policy at that person's then attained age, a policy of life insurance only, in any one of the forms customarily issued by the insurer except term insurance, in an amount equal to the amount of the life insurance protection under such group insurance policy at the time of such termination; and shall contain a further provision to the effect that upon the death of the certificate holder during such 31-day period and before any such individual policy has become effective, the amount of insurance for which the certificate holder was entitled to make application shall be payable as a death benefit by the insurer.

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

Sec. 9. [61A.53] [DEFINITIONS.]

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

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

- (1) lapsed, forfeited, surrendered, or otherwise terminated;
- (2) converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
- (3) amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
- (4) reissued with any reduction in cash value; or
- (5) pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding 25 percent of the loan value set forth in the policy.

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

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

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

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

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

Sec. 10. [61A.54] [EXEMPTIONS.]

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

- (1) credit life insurance;
- (2) group life insurance or group annuities;
- (3) an application to the existing insurer that issued the existing life insurance, where a contractual change or a conversion privilege is being exercised;
- (4) proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company; or
- (5) transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control; provided, however, that agents or brokers proposing replacement shall comply with section 61A.55, subdivision 1.

Sec. 11. [61A.55] [DUTIES OF AGENTS AND BROKERS.]

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

- (1) a statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and
- (2) a signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction.

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

- (1) present to the applicant, not later than at the time of taking the application, a "notice regarding replacement" in the form as described in section 61A.60, subdivision 1, or other substantially similar form approved by the commissioner. The notice shall be fully completed and signed by both the applicant and the agent or broker and left with the applicant. The completed notice must list all existing life insurance and annuity to be replaced, properly identified by name of insurer, the insured, and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed;
- (2) leave with the applicant the original or a copy of any written or printed communications used for presentation to the applicant; and
- (3) submit to the replacing insurer with the application a copy of the fully completed and signed replacement notice provided under this subdivision and any material left pursuant to clause (2).

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

Sec. 12. [61A.56] [DUTIES OF ALL INSURERS.]

Each insurer shall:

- (1) inform its field representatives or other personnel responsible for compliance with sections 61A.53 to 61A.60 of the requirements of those sections; and
- (2) require with or as a part of each completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity.

Sec. 13. [61A.57] [DUTIES OF INSURERS THAT USE AGENTS OR BROKERS.]

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

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

(b) where a replacement is involved:

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

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

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

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

Sec. 14. [61A.58] [DUTIES OF INSURERS WITH RESPECT TO DIRECT RESPONSE SALES.]

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

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

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

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

(3) comply with the requirements of section 61A.55, subdivision 3, if the applicant furnishes the names of the existing insurers, and the requirements of section 61A.57, except that it need not maintain a replacement register.

Sec. 15. [61A.59] [PENALTIES.]

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

(b) Patterns of action by policyholders or contract holders who purchase replacing policies or contracts from the same agent or broker, after indicating on applications that replacement is not involved, are prima facie evidence of the agent's or broker's knowledge that replacement was

intended in connection with the sale of those policies, and the patterns of action are prima facie evidence of the agent's or broker's intent to violate sections 61A.53 to 61A.60.

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

Sec. 16. [61A.60] [REQUIRED REPLACEMENT NOTICE AND FORM.]

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

IMPORTANT NOTICE

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

IF YOU INTEND TO REPLACE COVERAGE In connection with the purchase of this insurance, if you have REPLACED or intend to REPLACE your present life insurance coverage, you should be certain that you understand all the relevant factors involved.

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

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

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

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

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

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

THE INSURANCE I INTEND TO PURCHASE FROM \_\_\_\_\_ INSURANCE CO. MAY REPLACE OR ALTER EXISTING LIFE INSURANCE POLICY(IES).

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

[Insurer as it appears on the policy]

[Insured as it appears on the policy]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Policy Number]

[Insured Birthdate]

\_\_\_\_\_

\_\_\_\_\_

_____	_____
_____	_____
_____	_____

The proposed policy is:

\_\_\_\_\_ \$ \_\_\_\_\_  
type of policy-generic name face amount

\_\_\_\_\_ date  
signature of applicant

\_\_\_\_\_ city \_\_\_\_\_ state  
address of applicant

I certify that this form was given to and completed by

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

\_\_\_\_\_ date  
agent's signature

\_\_\_\_\_ address

\_\_\_\_\_ city \_\_\_\_\_ state

[NOTE IMPORTANT STATEMENT ON REVERSE SIDE]

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

IMPORTANT NOTICE  
REQUIRED BY  
MINNESOTA INSURANCE LAW

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

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

- You should BE AWARE that you may be required to provide [Evidence of insurability] and
- (1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.
  - (2) Your present occupation or activities [may not be covered or could require additional premiums.]
  - (3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could

RESULT in a [CLAIM under the new policy BEING DENIED] that would otherwise have been paid.

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

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

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

CAUTION

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

INSURER'S MAILING DATE:.....

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

DEFINITIONS

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

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

LAPSE: A life insurance policy may lapse when you do not pay the premiums within the grace period. If you had a cash surrender value, the insurer might change your policy to as much extended term insurance or paid-up insurance as the cash surrender value will buy. Sometimes the policy lets the insurer borrow from the cash surrender value to pay the premiums.

SURRENDER: You surrender a life insurance policy when you either let it lapse or tell the company you want to drop it. Whenever a policy has a cash surrender value, you can get it in cash if you return the policy to the company with a written request. Most insurers will also let you exchange the cash value of the policy for paid-up or extended term insurance.

CONVERT TO PAID-UP INSURANCE: This means you use your cash surrender value to change your insurance to a paid-up policy with the same insurer. The death benefit generally will be lower than under the old policy, but you will not have to pay any more premiums.

PLACE ON EXTENDED TERM: This means you use your cash surrender value to change your insurance to term insurance with the same insurer. In this case, the net death benefit will be the same as before. However, you will only be covered for a specified period of time stated in the policy.

BORROW POLICY LOAN VALUES: If your life insurance policy has a cash surrender value, you can almost always borrow all or part of it from the insurer. Interest will be charged according to the terms of the policy, and if the loan with unpaid interest ever exceeds the cash surrender value, your policy will be surrendered. If you die, the amount of the loan and any unpaid interest due will be subtracted from the death benefits.

EVIDENCE OF INSURABILITY: This means proof that you are an acceptable risk. You have to meet the insurer's standards regarding age, health, occupation, etc., to be eligible for coverage.

INCONTESTABLE CLAUSE: This says that after two years, depending on the policy or insurer, the life insurer will not resist a claim because you made a false or incomplete statement when you applied for the policy. For the early years, though, if there are wrong answers on the application and the insurer finds out about them, the insurer can deny a claim as if the policy had never existed.

SUICIDE CLAUSE: This says that if you commit suicide after being insured for less than two years, depending on the policy and insurer, your beneficiaries will receive only a refund of the premiums that were paid.

Subd. 4. [PRINTING OF NOTICES.] The notices in subdivisions 1 and 2 must be reproduced in their entirety on one side of an 8-1/2 by 11 inch sheet of plain paper. The definitions contained in subdivision 3 must be printed on the reverse side. The insurer may print its legal name in the space provided.

Sec. 17. Minnesota Statutes 1994, section 61B.28, subdivision 7, is amended to read:

Subd. 7. [NOTICE CONCERNING LIMITATIONS AND EXCLUSIONS.] (a) No person, including an insurer, agent, or affiliate of an insurer or agent, shall offer for sale in this state a covered life insurance, annuity, or health insurance policy or contract without delivering at the time of application for that policy or contract a notice in the form specified in subdivision 8, or in a form approved by the commissioner under paragraph (b), relating to coverage provided by the Minnesota life and health insurance guaranty association. The notice may be part of the application. A copy of the notice must be given to the applicant. The notice must be delivered to the applicant at the time of application for the policy or contract, except that if the application is not taken from the applicant in person, the notice must be sent to the applicant within 72 hours after the application is taken. The person offering the policy or contract shall document the fact that the notice was given at the time of application or was sent within the specified time. This does not require that the receipt of the notice be acknowledged by the applicant.

(b) The association may prepare, and file with the commissioner for approval, a form of notice as an alternative to the form of notice specified in subdivision 8 describing the general purposes and limitations of this chapter. The form of notice shall:

(1) state the name, address, and telephone number of the Minnesota life and health insurance guaranty association;

(2) prominently warn the policy or contract holder that the Minnesota life and health insurance guaranty association may not cover the policy or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in the state;

(3) state that the insurer and its agents are prohibited by law from using the existence of the Minnesota life and health insurance guaranty association for the purpose of sales, solicitation, or inducement to purchase any form of insurance;

(4) emphasize that the policy or contract holder should not rely on coverage under the Minnesota life and health insurance guaranty association when selecting an insurer;

(5) provide other information as directed by the commissioner. The commissioner may approve any form of notice proposed by the association and, as to the approved form of notice, the association may notify all member insurers by mail that the form of notice is available as an alternative to the notice specified in subdivision 8.

(c) A policy or contract not covered by the Minnesota Life and Health Insurance Guaranty Association or the Minnesota Insurance Guaranty Association must contain the following notice in ten-point type, stamped in red ink or contrasting type on the policy or contract and the application:

"THIS POLICY OR CONTRACT IS NOT PROTECTED BY THE MINNESOTA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OR THE MINNESOTA INSURANCE GUARANTY ASSOCIATION. IN THE CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED. ONLY THE ASSETS OF THIS INSURER WILL BE AVAILABLE TO PAY YOUR CLAIM."

This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 18. Minnesota Statutes 1994, section 62A.011, subdivision 3, is amended to read:

Subd. 3. [HEALTH PLAN.] "Health plan" means a policy or certificate of accident and sickness insurance as defined in section 62A.01 offered by an insurance company licensed under chapter 60A; a subscriber contract or certificate offered by a nonprofit health service plan corporation operating under chapter 62C; a health maintenance contract or certificate offered by a health maintenance organization operating under chapter 62D; a health benefit certificate offered by a fraternal benefit society operating under chapter 64B; or health coverage offered by a joint self-insurance employee health plan operating under chapter 62H. Health plan means individual and group coverage, unless otherwise specified. Health plan does not include coverage that is:

- (1) limited to disability or income protection coverage;
- (2) automobile medical payment coverage;
- (3) supplemental to liability insurance;
- (4) designed solely to provide payments on a per diem, fixed indemnity, or non-expense-incurred basis;
- (5) credit accident and health insurance as defined in section 62B.02;
- (6) designed solely to provide dental or vision care;
- (7) blanket accident and sickness insurance as defined in section 62A.11;
- (8) accident-only coverage;
- (9) a long-term care policy as defined in section 62A.46;
- (10) issued as a supplement to Medicare, as defined in sections 62A.31 to 62A.44, or policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations or those policies, contracts, or certificates governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended;
- (11) workers' compensation insurance; or
- (12) issued solely as a companion to a health maintenance contract as described in section 62D.12, subdivision 1a, so long as the health maintenance contract meets the definition of a health plan.

Sec. 19. Minnesota Statutes 1994, section 62A.02, is amended by adding a subdivision to read:

Subd. 7. [FILING BY DOMESTIC INSURERS FOR PURPOSES OF COMPLYING WITH ANOTHER STATE'S FILING REQUIREMENTS.] A domestic insurer may file with the commissioner for informational purposes only a policy or certificate of insurance that is not intended to be offered or sold within this state. This subdivision only applies to the filing in Minnesota of a policy or certificate of insurance issued to an insured or certificate holder located outside of this state when the filing is for the express purpose of complying with the law of the state in which the insured or certificate holder resides. In no event may a policy or certificate of insurance filed under this subdivision for out-of-state use be issued or delivered in Minnesota unless and until the policy or certificate of insurance is approved under subdivision 2.

Sec. 20. Minnesota Statutes 1995 Supplement, section 62A.042, is amended to read:

62A.042 [FAMILY COVERAGE; COVERAGE OF NEWBORN INFANTS.]

Subdivision 1. [INDIVIDUAL FAMILY POLICIES; RENEWALS.] (a) No policy of individual accident and sickness insurance which provides for insurance for more than one person under section 62A.03, subdivision 1, clause (3), and no individual health maintenance contract which provides for coverage for more than one person under chapter 62D, shall be renewed to insure or cover any person in this state or be delivered or issued for delivery to any person in this state unless the policy or contract includes as insured or covered members of the family dependent grandchildren who reside with a covered grandparent and any newborn infants, including dependent grandchildren who reside with a covered grandparent, immediately from the moment of birth and thereafter which insurance or contract shall provide coverage for illness, injury, congenital malformation, or premature birth. No policy or contract covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy or contract mandates an additional premium for each dependent, the health carrier shall be entitled to all premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may withhold payment of any health benefits for the new dependent until it has been compensated with the applicable premium which would have been owed if the health carrier had been informed of the additional dependent immediately.

(b) The coverage under paragraph (a) includes benefits for inpatient or outpatient expenses arising from medical and dental treatment up to age 18, including orthodontic and oral surgery treatment, involved in the management of birth defects known as cleft lip and cleft palate. If orthodontic services are eligible for coverage under a dental insurance plan and another policy or contract, the dental plan shall be primary and the other policy or contract shall be secondary in regard to the coverage required under paragraph (a). Payment for dental or orthodontic treatment not related to the management of the congenital condition of cleft lip and cleft palate shall not be covered under this provision.

Subd. 2. [GROUP POLICIES; RENEWALS.] (a) No group accident and sickness insurance policy and no group health maintenance contract which provide for coverage of family members or other dependents of an employee or other member of the covered group shall be renewed to cover members of a group located in this state or delivered or issued for delivery to any person in this state unless the policy or contract includes as insured or covered family members or dependents any newborn infants, including dependent grandchildren who reside with a covered grandparent, immediately from the moment of birth and thereafter which insurance or contract shall provide coverage for illness, injury, congenital malformation, or premature birth. No policy or contract covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy or contract mandates an additional premium for each dependent, the health carrier shall be entitled to all premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may reduce the health benefits owed to the insured, certificate holder, member, or subscriber by the amount of past due premiums applicable to the additional dependent.

(b) The coverage under paragraph (a) includes benefits for inpatient or outpatient expenses arising from medical and dental treatment up to age 18, including orthodontic and oral surgery treatment, involved in the management of birth defects known as cleft lip and cleft palate. If orthodontic services are eligible for coverage under a dental insurance plan and another policy or contract, the dental plan shall be primary and the other policy or contract shall be secondary in regard to the coverage required under paragraph (a). Payment for dental or orthodontic treatment not related to the management of the congenital condition of cleft lip and cleft palate shall not be covered under this provision.

Sec. 21. Minnesota Statutes 1995 Supplement, section 62A.135, subdivision 1, is amended to read:

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

(a) "fixed indemnity policy" is a policy form, other than an accidental death and

dismemberment policy, a disability income policy, or a long-term care policy as defined in section 62A.46, subdivision 2, that pays a predetermined, specified, fixed benefit for services provided. Claim costs under these forms are generally not subject to inflation, although they may be subject to changes in the utilization of health care services. For policy forms providing both expense-incurred and fixed benefits, the policy form is a fixed indemnity policy if 50 percent or more of the total claims are for predetermined, specified, fixed benefits;

(b) "guaranteed renewable" means that, during the renewal period (to a specified age) renewal cannot be declined nor coverage changed by the insurer for any reason other than nonpayment of premiums, fraud, or misrepresentation, but the insurer can revise rates on a class basis upon approval by the commissioner;

(c) "noncancelable" means that, during the renewal period (to a specified age) renewal cannot be declined nor coverage changed by the insurer for any reason other than nonpayment of premiums, fraud, or misrepresentation and that rates cannot be revised by the insurer. This includes policies that are guaranteed renewable to a specified age, such as 60 or 65, at guaranteed rates; and

(d) "average annualized premium" means the average of the estimated annualized premium per covered person based on the anticipated distribution of business using all significant criteria having a price difference, such as age, sex, amount, dependent status, mode of payment, and rider frequency. For filing of rate revisions, the amount is the anticipated average assuming the revised rates have fully taken effect.

Sec. 22. [62A.3091] [NONDISCRIMINATE COVERAGE OF TESTS.]

Subdivision 1. [SCOPE OF REQUIREMENT.] This section applies to any of the following if issued or renewed to a Minnesota resident or to cover a Minnesota resident:

- (1) a health plan, as defined in section 62A.011;
- (2) coverage described in section 62A.011, subdivision 3, clauses (2), (3), or (6) to (12); and
- (3) a policy, contract, or certificate issued by a community integrated service network or an integrated service network licensed under chapter 62N.

Subd. 2. [REQUIREMENT.] Coverage described in subdivision 1 that covers laboratory tests, diagnostic tests, and X-rays must provide the same coverage, without requiring additional signatures, for all such tests ordered by an advanced practice nurse operating pursuant to chapter 148. Nothing in this section shall be construed to interfere with any written agreements that may exist between a physician and advanced practice nurse.

Sec. 23. [62A.3092] [EQUAL TREATMENT OF SURGICAL FIRST ASSISTING SERVICES.]

Subdivision 1. [SCOPE OF REQUIREMENT.] This section applies to any of the following if issued or renewed to a Minnesota resident or to cover a Minnesota resident:

- (1) a health plan, as defined in section 62A.011;
- (2) coverage described in section 62A.011, subdivision 3, clauses (2), (3), or (6) to (12); and
- (3) a policy, contract, or certificate issued by a community integrated service network or an integrated service network licensed under chapter 62N.

Subd. 2. [REQUIREMENT.] Coverage described in subdivision 1 that provides for payment for surgical first assisting benefits or services shall be construed as providing for payment for a registered nurse who performs first assistant functions and services that are within the scope of practice of a registered nurse.

Sec. 24. Minnesota Statutes 1995 Supplement, section 62A.31, subdivision 1h, is amended to read:

Subd. 1h. [LIMITATIONS ON DENIALS, CONDITIONS, AND PRICING OF COVERAGE.] No issuer of Medicare supplement policies, including policies that supplement Medicare issued by health maintenance organizations or those policies governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., health carrier issuing Medicare-related coverage in this state may impose preexisting condition limitations or otherwise deny or condition the issuance or effectiveness of any Medicare supplement insurance policy form available for sale in this state, nor may it discriminate in the pricing of such a policy, because of the health status, claims experience, receipt of health care, medical condition, or age of an applicant where an application for such insurance is submitted during the six-month period beginning with the first month in which an individual first enrolled for benefits under Medicare Part B. This paragraph applies regardless of whether the individual has attained the age of 65 years. If an individual who is enrolled in Medicare Part B due to disability status is involuntarily disenrolled due to loss of disability status, the individual is eligible for the six-month enrollment period provided under this subdivision if the individual later becomes eligible for and enrolls again in Medicare Part B.

Sec. 25. Minnesota Statutes 1994, section 62A.31, subdivision 1p, is amended to read:

Subd. 1p. [RENEWAL OR CONTINUATION PROVISIONS.] Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of the provision shall be consistent with the type of contract issued. The provision shall be appropriately captioned and shall appear on the first page of the policy or certificate, and shall include any reservation by the issuer of the right to change premiums. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy or certificate, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy or certificate after the date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy or certificate shall require a signed acceptance by the insured. After the date of policy or certificate issue, a rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy or certificate term shall be agreed to in writing and signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, declaration page, or certificate. If a Medicare supplement policy or certificate contains limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and be labeled as "preexisting condition limitations."

Issuers of accident and sickness policies or certificates that provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to a person eligible for Medicare by reason of age shall provide to such applicants a Medicare Supplement Buyer's "Guide to Health Insurance for People with Medicare" in the form developed by the Health Care Financing Administration and in a type size no smaller than 12-point type. Delivery of the Buyer's Guide must be made whether or not such policies or certificates are advertised, solicited, or issued as Medicare supplement policies or certificates as defined in this section. Except in the case of direct response issuers, delivery of the Buyer's Guide must be made to the applicant at the time of application, and acknowledgment of receipt of the Buyer's Guide must be obtained by the issuer. Direct response issuers shall deliver the Buyer's Guide to the applicant upon request, but no later than the time at which the policy is delivered.

Sec. 26. Minnesota Statutes 1994, section 62A.31, subdivision 1r, is amended to read:

Subd. 1r. [COMMUNITY RATE.] Each health maintenance organization, health service plan corporation, insurer, or fraternal benefit society that sells coverage that supplements Medicare-related coverage shall establish a separate community rate for that coverage. Beginning January 1, 1993, no coverage that supplements Medicare or that is governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., may be offered, issued, sold, or renewed to a Minnesota resident, except at the community rate required by this subdivision. The same community rate must apply to newly issued coverage and to renewal coverage.

For coverage that supplements Medicare and for the Part A rate calculation for plans governed by section 1833 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., the community rate may take into account only the following factors:

- (1) actuarially valid differences in benefit designs or provider networks;
- (2) geographic variations in rates if preapproved by the commissioner of commerce; and
- (3) premium reductions in recognition of healthy lifestyle behaviors, including but not limited to, refraining from the use of tobacco. Premium reductions must be actuarially valid and must relate only to those healthy lifestyle behaviors that have a proven positive impact on health. Factors used by the health carrier making this premium reduction must be filed with and approved by the commissioner of commerce.

For insureds not residing in Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, or Washington county, a health plan may, at the option of the health carrier, phase in compliance under the following timetable:

- (i) a premium adjustment as of March 1, 1993, that consists of one-half of the difference between the community rate that would be applicable to the person as of March 1, 1993, and the premium rate that would be applicable to the person as of March 1, 1993, under the rate schedule permitted on December 31, 1992. A health plan may, at the option of the health carrier, implement the entire premium difference described in this clause for any person as of March 1, 1993, if the premium difference would be 15 percent or less of the premium rate that would be applicable to the person as of March 1, 1993, under the rate schedule permitted on December 31, 1992, if the health plan does so uniformly regardless of whether the premium difference causes premiums to rise or to fall. The premium difference described in this clause is in addition to any premium adjustment attributable to medical cost inflation or any other lawful factor and is intended to describe only the premium difference attributable to the transition to the community rate; and
- (ii) with respect to any person whose premium adjustment was constrained under clause (i), a premium adjustment as of January 1, 1994, that consists of the remaining one-half of the premium difference attributable to the transition to the community rate, as described in clause (i).

A health plan that initially follows the phase-in timetable may at any subsequent time comply on a more rapid timetable. A health plan that is in full compliance as of January 1, 1993, may not use the phase-in timetable and must remain in full compliance. Health plans that follow the phase-in timetable must charge the same premium rate for newly issued coverage that they charge for renewal coverage. A health plan whose premiums are constrained by clause (i) may take the constraint into account in establishing its community rate.

From January 1, 1993 to February 28, 1993, a health plan may, at the health carrier's option, charge the community rate under this paragraph or may instead charge premiums permitted as of December 31, 1992.

Sec. 27. Minnesota Statutes 1994, section 62A.31, subdivision 1s, is amended to read:

Subd. 1s. [PRESCRIPTION DRUG COVERAGE.] Beginning January 1, 1993, a health maintenance organization that issues Medicare-related coverage that supplements Medicare or that issues coverage governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395 et seq., must offer, to each person to whom it offers any contract described in this subdivision, at least one contract that either:

- (1) covers 80 percent of the reasonable and customary charge for prescription drugs or the copayment equivalency; or
- (2) offers the coverage described in clause (1) as an optional rider that may be purchased separately from other optional coverages.

Sec. 28. Minnesota Statutes 1994, section 62A.31, subdivision 3, is amended to read:

Subd. 3. [DEFINITIONS.] (a) "Accident," "accidental injury," or "accidental means" means to

employ "result" language and does not include words that establish an accidental means test or use words such as "external," "violent," "visible wounds," or similar words of description or characterization.

(1) The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(2) The definition may provide that injuries shall not include injuries for which benefits are provided or available under a workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

(b) "Applicant" means:

(1) in the case of an individual Medicare supplement policy or certificate, the person who seeks to contract for insurance benefits; and

(2) in the case of a group Medicare supplement policy or certificate, the proposed certificate holder.

(c) "Benefit period" or "Medicare benefit period" shall not be defined more restrictively than as defined in the Medicare program.

(d) "Certificate" means a certificate delivered or issued for delivery in this state or offered to a resident of this state under a group Medicare supplement policy or certificate.

(e) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the issuer.

(f) "Convalescent nursing home," "extended care facility," or "skilled nursing facility" shall not be defined more restrictively than as defined in the Medicare program.

(g) "Health care expenses" means expenses of health maintenance organizations associated with the delivery of health care services which are analogous to incurred losses of insurers. The expenses shall not include:

- (1) home office and overhead costs;
- (2) advertising costs;
- (3) commissions and other acquisition costs;
- (4) taxes;
- (5) capital costs;
- (6) administrative costs; and
- (7) claims processing costs.

(h) "Hospital" may be defined in relation to its status, facilities, and available services or to reflect its accreditation by the joint commission on accreditation of hospitals, but not more restrictively than as defined in the Medicare program.

(i) "Issuer" includes insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity delivering or issuing for delivery Medicare supplement policies or certificates in this state or offering these policies or certificates to residents of this state.

(j) "Medicare" shall be defined in the policy and certificate. Medicare may be defined as the Health Insurance for the Aged Act, title XVIII of the Social Security Amendments of 1965, as amended, or title I, part I, of Public Law Number 89-97, as enacted by the 89th Congress of the

United States of America and popularly known as the Health Insurance for the Aged Act, as amended.

(k) "Medicare eligible expenses" means health care expenses covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

(l) "Medicare-related coverage" means a policy, contract, or certificate issued as a supplement to Medicare, regulated under sections 62A.31 to 62A.44, including Medicare select coverage; policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations; or policies, contracts, or certificates governed by section 1833 (known as "cost" or "HCPP" contracts) or 1876 (known as "TEFRA" or "risk" contracts) of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended.

(m) "Medicare supplement policy or certificate" means a group or individual policy of accident and sickness insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations, ~~other than a policy or certificate issued under a contract under~~ or those policies or certificates covered by, section 1833 ~~or 1876~~ of the federal Social Security Act, United States Code, title 42, section 1395, et seq., or an issued policy under a demonstration project ~~authorized specified~~ under amendments to the federal Social Security Act, which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare.

~~(n)~~ (n) "Physician" shall not be defined more restrictively than as defined in the Medicare program or section 62A.04, subdivision 1, or 62A.15, subdivision 3a.

~~(o)~~ (o) "Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

~~(p)~~ (p) "Sickness" shall not be defined more restrictively than the following:

"Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force."

The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under a workers' compensation, occupational disease, employer's liability, or similar law.

Sec. 29. Minnesota Statutes 1994, section 62A.315, is amended to read:

62A.315 [EXTENDED BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.]

The extended basic Medicare supplement plan must have a level of coverage so that it will be certified as a qualified plan pursuant to section 62E.07, and will provide:

(1) coverage for all of the Medicare part A inpatient hospital deductible and coinsurance amounts, and 100 percent of all Medicare part A eligible expenses for hospitalization not covered by Medicare;

(2) coverage for the daily copayment amount of Medicare part A eligible expenses for the calendar year incurred for skilled nursing facility care;

(3) coverage for the copayment amount of Medicare eligible expenses under Medicare part B regardless of hospital confinement, and the Medicare part B deductible amount;

(4) 80 percent of the usual and customary hospital and medical expenses and supplies described in section 62E.06, subdivision 1, not to exceed any charge limitation established by the Medicare program or state law, the usual and customary hospital and medical expenses and supplies, described in section 62E.06, subdivision 1, while in a foreign country, and prescription drug expenses, not covered by Medicare's eligible expenses Medicare;

(5) coverage for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare parts A and B, unless replaced in accordance with federal regulations;

(6) 100 percent of the cost of immunizations and routine screening procedures for cancer, including mammograms and pap smears;

(7) preventive medical care benefit: coverage for the following preventive health services:

(i) an annual clinical preventive medical history and physical examination that may include tests and services from clause (ii) and patient education to address preventive health care measures;

(ii) any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(A) fecal occult blood test and/or digital rectal examination;

(B) dipstick urinalysis for hematuria, bacteriuria, and proteinuria;

(C) pure tone (air only) hearing screening test administered or ordered by a physician;

(D) serum cholesterol screening every five years;

(E) thyroid function test;

(F) diabetes screening;

(iii) any other tests or preventive measures determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service as if Medicare were to cover the service as identified in American Medical Association current procedural terminology (AMA CPT) codes to a maximum of \$120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare;

(8) at-home recovery benefit: coverage for services to provide short-term at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery:

(i) for purposes of this benefit, the following definitions shall apply:

(A) "activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings;

(B) "care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry;

(C) "home" means a place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence;

(D) "at-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four hours in a 24-hour period of services provided by a care provider is one visit;

(ii) coverage requirements and limitations:

(A) at-home recovery services provided must be primarily services that assist in activities of daily living;

(B) the insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare;

(C) coverage is limited to:

(I) no more than the number and type of at-home recovery visits certified as medically necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home health care visits under a Medicare-approved home care plan of treatment;

(II) the actual charges for each visit up to a maximum reimbursement of \$40 per visit;

(III) \$1,600 per calendar year;

(IV) seven visits in any one week;

(V) care furnished on a visiting basis in the insured's home;

(VI) services provided by a care provider as defined in this section;

(VII) at-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(VIII) at-home recovery visits received during the period the insured is receiving Medicare-approved home care services or no more than eight weeks after the service date of the last Medicare-approved home health care visit;

(iii) coverage is excluded for:

(A) home care visits paid for by Medicare or other government programs; and

(B) care provided by family members, unpaid volunteers, or providers who are not care providers.

Sec. 30. Minnesota Statutes 1994, section 62A.318, is amended to read:

62A.318 [MEDICARE SELECT POLICIES AND CERTIFICATES.]

(a) This section applies to Medicare select policies and certificates, as defined in this section, including those issued by health maintenance organizations. No policy or certificate may be advertised as a Medicare select policy or certificate unless it meets the requirements of this section.

(b) For the purposes of this section:

(1) "complaint" means any dissatisfaction expressed by an individual concerning a Medicare select issuer or its network providers;

(2) "grievance" means dissatisfaction expressed in writing by an individual insured under a Medicare select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare select issuer or its network providers;

(3) "Medicare select issuer" means an issuer offering, or seeking to offer, a Medicare select policy or certificate;

(4) "Medicare select policy" or "Medicare select certificate" means a Medicare supplement policy or certificate that contains restricted network provisions;

(5) "network provider" means a provider of health care, or a group of providers of health care, that has entered into a written agreement with the issuer to provide benefits insured under a Medicare select policy or certificate;

(6) "restricted network provision" means a provision that conditions the payment of benefits, in whole or in part, on the use of network providers; and

(7) "service area" means the geographic area approved by the commissioner within which an issuer is authorized to offer a Medicare select policy or certificate.

(c) The commissioner may authorize an issuer to offer a Medicare select policy or certificate

pursuant to this section and section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990, Public Law Number 101-508, if the commissioner finds that the issuer has satisfied all of the requirements of Minnesota Statutes.

(d) A Medicare select issuer shall not issue a Medicare select policy or certificate in this state until its plan of operation has been approved by the commissioner.

(e) A Medicare select issuer shall file a proposed plan of operation with the commissioner, in a format prescribed by the commissioner. The plan of operation shall contain at least the following information:

(1) evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:

(i) the services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation, and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community;

(ii) the number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:

(A) to deliver adequately all services that are subject to a restricted network provision; or

(B) to make appropriate referrals;

(iii) there are written agreements with network providers describing specific responsibilities;

(iv) emergency care is available 24 hours per day and seven days per week; and

(v) in the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against an individual insured under a Medicare select policy or certificate. This section does not apply to supplemental charges or coinsurance amounts as stated in the Medicare select policy or certificate;

(2) a statement or map providing a clear description of the service area;

(3) a description of the grievance procedure to be used;

(4) a description of the quality assurance program, including:

(i) the formal organizational structure;

(ii) the written criteria for selection, retention, and removal of network providers; and

(iii) the procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted;

(5) a list and description, by specialty, of the network providers;

(6) copies of the written information proposed to be used by the issuer to comply with paragraph (i); and

(7) any other information requested by the commissioner.

(f) A Medicare select issuer shall file proposed changes to the plan of operation, except for changes to the list of network providers, with the commissioner before implementing the changes. The changes shall be considered approved by the commissioner after 30 days unless specifically disapproved.

An updated list of network providers shall be filed with the commissioner at least quarterly.

(g) A Medicare select policy or certificate shall not restrict payment for covered services provided by nonnetwork providers if:

(1) the services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury, or condition; and

(2) it is not reasonable to obtain the services through a network provider.

(h) A Medicare select policy or certificate shall provide payment for full coverage under the policy or certificate for covered services that are not available through network providers.

(i) A Medicare select issuer shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare select policy or certificate to each applicant. This disclosure must include at least the following:

(1) an outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare select policy or certificate with:

(i) other Medicare supplement policies or certificates offered by the issuer; and

(ii) other Medicare select policies or certificates;

(2) a description, including address, phone number, and hours of operation, of the network providers, including primary care physicians, specialty physicians, hospitals, and other providers;

(3) a description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are used;

(4) a description of coverage for emergency and urgently needed care and other out-of-service area coverage;

(5) a description of limitations on referrals to restricted network providers and to other providers;

(6) a description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer; and

(7) a description of the Medicare select issuer's quality assurance program and grievance procedure.

(j) Before the sale of a Medicare select policy or certificate, a Medicare select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to paragraph (i) and that the applicant understands the restrictions of the Medicare select policy or certificate.

(k) A Medicare select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.

(1) The grievance procedure must be described in the policy and certificates and in the outline of coverage.

(2) At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

(3) Grievances must be considered in a timely manner and must be transmitted to appropriate decision makers who have authority to fully investigate the issue and take corrective action.

(4) If a grievance is found to be valid, corrective action must be taken promptly.

(5) All concerned parties must be notified about the results of a grievance.

(6) The issuer shall report no later than March 31 of each year to the commissioner regarding the grievance procedure. The report shall be in a format prescribed by the commissioner and shall contain the number of grievances filed in the past year and a summary of the subject, nature, and resolution of the grievances.

(l) At the time of initial purchase, a Medicare select issuer shall make available to each applicant for a Medicare select policy or certificate the opportunity to purchase a Medicare supplement policy or certificate otherwise offered by the issuer.

(m)(1) At the request of an individual insured under a Medicare select policy or certificate, a Medicare select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer that has comparable or lesser benefits and that does not contain a restricted network provision. The issuer shall make the policies or certificates available without requiring evidence of insurability after the Medicare supplement policy or certificate has been in force for six months. If the issuer does not have available for sale a policy or certificate without restrictive network provisions, the issuer shall provide enrollment information for the Minnesota comprehensive health association Medicare supplement plans.

(2) For the purposes of this paragraph, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for part B excess charges.

(n) Medicare select policies and certificates shall provide for continuation of coverage if the secretary of health and human services determines that Medicare select policies and certificates issued pursuant to this section should be discontinued due to either the failure of the Medicare select program to be reauthorized under law or its substantial amendment.

(1) Each Medicare select issuer shall make available to each individual insured under a Medicare select policy or certificate the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer that has comparable or lesser benefits and that does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability.

(2) For the purposes of this paragraph, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for part B excess charges.

(o) A Medicare select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare select program.

(p) Medicare select policies and certificates under this section shall be regulated and approved by the department of commerce.

~~(q) Medicare select policies and certificates must be either a basic plan or an extended basic plan. Before a Medicare select policy or certificate is sold or issued in this state, the applicant must be provided with an explanation of coverage for both a Medicare select basic and a Medicare select extended basic policy or certificate and must be provided with the opportunity of purchasing either a Medicare select basic or a Medicare select extended basic policy. The basic plan may also include any of the optional benefit riders authorized by section 62A.316. Preventive care provided by Medicare select policies or certificates must be provided as set forth in section 62A.315 or 62A.316, except that the benefits are as defined in chapter 62D.~~

(r) Medicare select policies and certificates are exempt from the requirements of section 62A.31, subdivision 1, paragraph (d). This paragraph expires January 1, 1994.

Sec. 31. Minnesota Statutes 1994, section 62A.36, subdivision 1, is amended to read:

Subdivision 1. [LOSS RATIO STANDARDS.] (a) For purposes of this section, "Medicare supplement policy or certificate" has the meaning given in section 62A.31, subdivision 3, but also includes a policy, contract, or certificate issued under a contract under section 1833 ~~or 1876~~ of the

federal Social Security Act, United States Code, title 42, section 1395 et seq. A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificate holders in the form of aggregate benefits, not including anticipated refunds or credits, provided under the policy form or certificate form:

(1) at least 75 percent of the aggregate amount of premiums earned in the case of group policies, and

(2) at least 65 percent of the aggregate amount of premiums earned in the case of individual policies, calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and according to accepted actuarial principles and practices. An insurer shall demonstrate that the third year loss ratio is greater than or equal to the applicable percentage.

All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards, and aggregate loss ratio from inception of the policy or certificate shall equal or exceed the appropriate loss ratio standards.

An application form for a Medicare supplement policy or certificate, as defined in this section, must prominently disclose the anticipated loss ratio and explain what it means.

(b) An issuer shall collect and file with the commissioner by May 31 of each year the data contained in the National Association of Insurance Commissioners Medicare Supplement Refund Calculating form, for each type of Medicare supplement benefit plan.

If, on the basis of the experience as reported, the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation must be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the secretary of health and human services, but in no event shall it be less than the average rate of interest for 13-week treasury bills. A refund or credit against premiums due shall be made by September 30 following the experience year on which the refund or credit is based.

(c) An issuer of Medicare supplement policies and certificates in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy or certificate duration for approval by the commissioner according to the filing requirements and procedures prescribed by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three years.

As soon as practicable, but before the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state shall file with the commissioner, in accordance with the applicable filing procedures of this state:

(1) a premium adjustment that is necessary to produce an expected loss ratio under the policy or certificate that will conform with minimum loss ratio standards for Medicare supplement policies

or certificates. No premium adjustment that would modify the loss ratio experience under the policy or certificate other than the adjustments described herein shall be made with respect to a policy or certificate at any time other than on its renewal date or anniversary date;

(2) if an issuer fails to make premium adjustments acceptable to the commissioner, the commissioner may order premium adjustments, refunds, or premium credits considered necessary to achieve the loss ratio required by this section;

(3) any appropriate riders, endorsements, or policy or certificate forms needed to accomplish the Medicare supplement insurance policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements, or policy or certificate forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

(d) The commissioner may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of a refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner considered appropriate by the commissioner.

(e) An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with, and approved by, the commissioner according to the filing requirements and procedures prescribed by the commissioner.

Sec. 32. Minnesota Statutes 1994, section 62A.39, is amended to read:

62A.39 [DISCLOSURE.]

No individual Medicare supplement plan shall be delivered or issued in this state and no certificate shall be delivered under a group Medicare supplement plan delivered or issued in this state unless the plan is shown on the cover page and an outline containing at least the following information in no less than 12-point type is delivered to the applicant at the time the application is made:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the exceptions, reductions, and limitations contained in the policy including the following language, as applicable, in bold print: "THIS POLICY DOES NOT COVER ALL MEDICAL EXPENSES BEYOND THOSE COVERED BY MEDICARE. THIS POLICY DOES NOT COVER ALL SKILLED NURSING HOME CARE EXPENSES AND DOES NOT COVER CUSTODIAL OR RESIDENTIAL NURSING CARE. READ YOUR POLICY CAREFULLY TO DETERMINE WHICH NURSING HOME FACILITIES AND EXPENSES ARE COVERED BY YOUR POLICY.";

(c) A statement of the renewal provisions including any reservations by the insurer of a right to change premiums. The premium and manner of payment shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated;

(d) [READ YOUR POLICY OR CERTIFICATE VERY CAREFULLY.] A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions. Additionally, it does not give all the details of Medicare coverage. Contact your local Social Security office or consult the Medicare handbook for more details;

(e) A statement of the policy's loss ratio as follows: "This policy provides an anticipated loss ratio of (..%). This means that, on the average, policyholders may expect that (\$....) of every \$100.00 in premium will be returned as benefits to policyholders over the life of the contract.";

(f) When the outline of coverage is provided at the time of application and the Medicare

supplement policy or certificate is issued on a basis that would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than 12-point type, immediately above the company name:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application, and the coverage originally applied for has not been issued.";

(g) [RIGHT TO RETURN POLICY OR CERTIFICATE.] "If you find that you are not satisfied with your policy or certificate for any reason, you may return it to (insert issuer's address). If you send the policy or certificate back to us within 30 days after you receive it, we will treat the policy or certificate as if it had never been issued and return all of your payments within ten days.";

(h) [POLICY OR CERTIFICATE REPLACEMENT.] "If you are replacing another health insurance policy or certificate, do NOT cancel it until you have actually received your new policy or certificate and are sure you want to keep it.";

(i) [NOTICE.] "This policy or certificate may not fully cover all of your medical costs."

A. (for agents:)

"Neither (insert company's name) nor its agents are connected with Medicare."

B. (for direct response:)

"(insert company's name) is not connected with Medicare."

(j) Notice regarding policies or certificates which are not Medicare supplement policies.

Any accident and sickness insurance policy or certificate, other than a Medicare supplement policy, or a policy or certificate issued pursuant to a contract under the federal Social Security Act, section 1833 or 1876 (United States Code, title 42, section 1395, et seq.), disability income policy; basic, catastrophic, or major medical expense policy; single premium nonrenewable policy; or other policy, issued for delivery in this state to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy or certificate delivered to insureds. The notice shall be in no less than 12-point type and shall contain the following language:

"THIS (POLICY OR CERTIFICATE) IS NOT A MEDICARE SUPPLEMENT (POLICY OR CONTRACT). If you are eligible for Medicare, review the Medicare supplement buyer's "Guide to Health Insurance for People with Medicare" available from the company."

(k) [COMPLETE ANSWERS ARE VERY IMPORTANT.] "When you fill out the application for the new policy or certificate, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy or certificate and refuse to pay any claims if you leave out or falsify important medical information." If the policy or certificate is guaranteed issue, this paragraph need not appear.

"Review the application carefully before you sign it. Be certain that all information has been properly recorded."

Include for each plan, prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments, and insured payments for each plan, using the same language, in the same order, using uniform layout and format.

The outline of coverage provided to applicants pursuant to this section consists of four parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the insurer.

Sec. 33. Minnesota Statutes 1994, section 62A.44, subdivision 2, is amended to read:

Subd. 2. [QUESTIONS.] (a) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing the questions and statements may be used.

"(1) You do not need more than one Medicare supplement policy or certificate.

(2) If you are 65 or older, purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy or certificate.

~~(3)~~ (4) The benefits and premiums under your Medicare supplement policy or certificate ~~will~~ can be suspended, if requested, during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy or certificate will be reinstated if requested within 90 days of losing Medicaid eligibility.

(5) Counseling services may be available in Minnesota to provide advice concerning medical assistance through state Medicaid, Qualified Medicare Beneficiaries (QMBs), and Specified Low-Income Medicare Beneficiaries (SLMBs).

To the best of your knowledge:

(1) Do you have another Medicare supplement policy or certificate in force, ~~including health care service contract or health maintenance organization contract?~~

(a) If so, with which company?

(b) If so, do you intend to replace your current Medicare supplement policy with this policy or certificate?

(2) Do you have any other health insurance policies that provide benefits that which this Medicare supplement policy or certificate would duplicate?

(a) ~~If you do so, please name the company and the~~

(b) What kind of policy?

(3) ~~If the answer to question 1 or 2 is yes, do you intend to replace these medical or health policies with this policy or certificate?~~

(4) Are you covered by for medical assistance through the state Medicaid program? If so, which of the following programs provides coverage for you?

a. Specified Low-Income Medicare Beneficiary (SLMB),

b. Qualified Medicare Beneficiary (QMB), or

c. full Medicaid Beneficiary?"

(b) Agents shall list any other health insurance policies they have sold to the applicant.

(1) List policies sold that are still in force.

(2) List policies sold in the past five years that are no longer in force.

(c) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer on delivery of the policy or certificate.

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage,

any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, before issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy or certificate the notice regarding replacement of Medicare supplement coverage.

(e) The notice required by paragraph (d) for an issuer shall be provided in substantially the following form in no less than 12-point type:

"NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to (your application) (information you have furnished), you intend to terminate existing Medicare supplement insurance and replace it with a policy or certificate to be issued by (Company Name) Insurance Company. Your new policy or certificate will provide 30 days within which you may decide without cost whether you desire to keep the policy or certificate.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. ~~Terminate your present policy only~~ If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision you should terminate your present Medicare supplement policy. You should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER, AGENT, (BROKER OR OTHER REPRESENTATIVE): I have reviewed your current medical or health insurance coverage. ~~The replacement of insurance involved in this transaction does not duplicate coverage,~~ To the best of my knowledge this Medicare supplement policy will not duplicate your existing Medicare supplement policy because you intend to terminate the existing Medicare supplement policy. The replacement policy or certificate is being purchased for the following reason(s) (check one):

- Additional benefits
- No change in benefits, but lower premiums
- Fewer benefits and lower premiums
- Other (please specify)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy or certificate. This could result in denial or delay of a claim for benefits under the new policy or certificate, whereas a similar claim might have been payable under your present policy or certificate.

(2) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent the time was spent (depleted) under the original policy or certificate.

(3) If you still wish to terminate your present policy or certificate and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund

your premium as though your policy or certificate had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. (If the policy or certificate is guaranteed issue, this paragraph need not appear.)

Do not cancel your present policy or certificate until you have received your new policy or certificate and you are sure that you want to keep it.

---

(Signature of Agent, Broker, or Other Representative)\*

---

(Typed Name and Address of Issuer, Agent, or Broker)

---

(Date)

---

(Applicant's Signature)

---

(Date)

\*Signature not required for direct response sales."

(f) Paragraph (e), clauses (1) and (2), of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation.

Sec. 34. Minnesota Statutes 1994, section 62A.60, is amended to read:

62A.60 [RETROACTIVE DENIAL OF EXPENSES.]

In cases where the subscriber or insured is liable for costs beyond applicable copayments or deductibles, no insurer may retroactively deny payment to a person who is covered when the services are provided for health care services that are otherwise covered, if the insurer or its representative failed to provide prior or concurrent review or authorization for the expenses when required to do so under the policy, plan, or certificate. If prior or concurrent review or authorization was provided by the insurer or its representative, and the preexisting condition limitation provision, the general exclusion provision and any other coinsurance, or other policy requirements have been met, the insurer may not deny payment for the authorized service or time period except in cases where fraud or substantive misrepresentation occurred.

Sec. 35. Minnesota Statutes 1995 Supplement, section 62C.14, subdivision 14, is amended to read:

Subd. 14. No subscriber's individual contract or any group contract which provides for coverage of family members or other dependents of a subscriber or of an employee or other group member of a group subscriber, shall be renewed, delivered, or issued for delivery in this state

unless such contract includes as covered family members or dependents any newborn infants, including dependent grandchildren, immediately from the moment of birth and thereafter which insurance shall provide coverage for illness, injury, congenital malformation or premature birth. No policy, contract, or agreement covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy, contract, or agreement mandates an additional premium for each dependent, the health carrier shall be entitled to all premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may withhold payment of any health benefits for the new dependent until it has been compensated with the applicable premium which would have been owed if the health carrier had been informed of the additional dependent immediately.

Sec. 36. Minnesota Statutes 1995 Supplement, section 62E.05, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATION.] Upon application by an insurer, fraternal, or employer for certification of a plan of health coverage as a qualified plan or a qualified medicare supplement plan for the purposes of sections 62E.01 to 62E.16, the commissioner shall make a determination within 90 days as to whether the plan is qualified. All plans of health coverage, except Medicare supplement policies, shall be labeled as "qualified" or "nonqualified" on the front of the policy or evidence of insurance contract, or on the schedule page. All qualified plans shall indicate whether they are number one, two, or three coverage plans.

Sec. 37. Minnesota Statutes 1995 Supplement, section 62F.02, subdivision 2, is amended to read:

Subd. 2. [DIRECTORS.] The association shall have a board of directors composed of 11 persons chosen for a term of four years as follows: five persons elected by members of the association at a meeting called by the commissioner; three members who are health care providers appointed by the commissioner prior to the election by the association; and three public members, as defined in section 214.02, appointed by the governor prior to the election by the association. If the commissioner determines that it is no longer cost-effective or efficient to operate a separate board of directors to administer the medical malpractice joint underwriting association, the commissioner shall deactivate the board and assign all of the board's authority and responsibilities under this chapter to the Minnesota joint underwriting association board of directors established under section 62I.02.

Sec. 38. Minnesota Statutes 1994, section 62F.03, subdivision 6, is amended to read:

Subd. 6. "Net direct premiums" means gross direct premiums written on personal injury liability insurance, including the liability component of multiple peril package policies as computed by the commissioner, less return premiums for the unused or unabsorbed portions of premium deposits. Net direct premiums do not include policyholder dividends.

Sec. 39. Minnesota Statutes 1994, section 62F.04, subdivision 1a, is amended to read:

Subd. 1a. [REAUTHORIZATION.] The authorization to issue insurance is valid for a period of two years from the date it was made. The commissioner may reauthorize the issuance of insurance for additional two-year periods under the terms of subdivision 1 according to the procedures set forth in sections 62I.21 and 62I.22. This subdivision is not a limitation on the number of times the commissioner may reauthorize the issuance of insurance.

Sec. 40. Minnesota Statutes 1994, section 62I.02, subdivision 2, is amended to read:

Subd. 2. [DIRECTOR BOARD OF DIRECTORS.] The association shall have a board of directors composed of 11 persons chosen as follows: five persons elected by members of the association at a meeting called by the commissioner; three public members, as defined in section 214.02, appointed by the commissioner; and three members, appointed by the commissioner representing groups to whom coverage has been extended by the association. The terms of the members shall be four years. Terms may be staggered so that no more than six members are appointed or elected every two years. Members may serve until their successors are appointed or elected. If at any time no coverage is currently extended by the association, then either additional

public members may be appointed to fill these three positions or, at the option of the commissioner, representatives from groups who had previously been covered by the association may serve as directors. In the event that the commissioner assigns the responsibility for administering chapter 62F to the Minnesota joint underwriting association, the board of directors must be increased by four additional members. The commissioner shall appoint two of the additional members, one of whom must be a licensed health care provider, and one of whom must be a public member. Association members shall elect the other two members, one of whom must be a representative of medical malpractice insurers, and one of whom must be a representative of personal injury liability insurers.

Sec. 41. Minnesota Statutes 1994, section 62I.02, subdivision 5, is amended to read:

Subd. 5. [ACCOUNTS.] (a) For the purposes of administration and assessment, and except as otherwise authorized under paragraph (b), the association shall be divided into two separate accounts:

- (1) the property and casualty insurance account; and
- (2) the personal injury liability insurance ~~account~~ account-liquor.

(b) If the association is authorized by the commissioner to issue medical malpractice insurance, the association shall establish a third account for purposes of administration and assessment. This account must be identified as the personal injury liability insurance account-medical malpractice.

Sec. 42. Minnesota Statutes 1994, section 62I.02, is amended by adding a subdivision to read:

Subd. 6. [MEDICAL MALPRACTICE.] If the association is authorized by the commissioner to issue medical malpractice insurance, it shall administer the medical malpractice insurance program according to chapter 62F.

Sec. 43. Minnesota Statutes 1994, section 62I.07, is amended to read:

62I.07 [MEMBERSHIP ASSESSMENTS.]

Subdivision 1. [GENERAL ASSESSMENT.] Each member of the association that is authorized to write property and casualty insurance in the state shall participate in its losses and expenses in the proportion that the direct written premiums of the member on the kinds of insurance in that account bears to the total aggregate direct written premiums written in this state by all members on the kinds of insurance in that account. The members' participation in the association shall be determined annually on the direct written premiums written during the preceding calendar year as reported on the annual statements and other reports filed by the member with the commissioner. Direct written premiums mean that amount at page 14, column (2), lines 5, 8, 9, 17, 21.2, 22, 23, 24, 25, 26, and 27 of the annual statement filed annually with the department of commerce under section 60A.13.

Subd. 2. [PERSONAL INJURY LIABILITY INSURANCE ASSESSMENT; LIQUOR LIABILITY.] A member of the association shall participate in its writings, expenses, servicing allowance, management fees, and losses in the proportion that the net direct premiums of the member, excluding that portion of premiums attributable to the operation of the association, written during the preceding calendar year on the kinds of insurance in that account bears to the aggregate net direct premiums written in this state by all members on the kinds of insurance in that account. The member's participation in the association shall be determined annually on the basis of net direct premiums written during the preceding calendar year, as reported in the annual statements and other reports filed by the member with the commissioner. Net direct premiums mean gross direct premiums written on personal injury liability insurance, including the liability component of multiple peril package policies as computed by the commissioner, less return premiums for the unused or unabsorbed portions of premium deposits. The net direct premiums are calculated using lines 5.2 CMP, and 17-other liability from page 14, column (2) of the annual statement filed annually with the department of commerce pursuant to section 60A.13.

Subd. 3. [PERSONAL INJURY LIABILITY INSURANCE ASSESSMENT; MEDICAL

MALPRACTICE.] If an assessment is needed for medical malpractice, the assessment is made using the following lines from page 14, column (2) of the annual statement filed annually with the department of commerce pursuant to section 60A.13 using the following lines: 5.2 commercial multiperil liability, 11 medical malpractice, 17-other liability, 19.1 PIP-private passenger, 19.3 PIP-commercial.

Sec. 44. Minnesota Statutes 1994, section 62L.02, subdivision 15, is amended to read:

Subd. 15. [HEALTH BENEFIT PLAN.] "Health benefit plan" means a policy, contract, or certificate offered, sold, issued, or renewed by a health carrier to a small employer for the coverage of medical and hospital benefits. Health benefit plan includes a small employer plan. Health benefit plan does not include coverage that is:

- (1) limited to disability or income protection coverage;
- (2) automobile medical payment coverage;
- (3) supplemental to liability insurance;
- (4) designed solely to provide payments on a per diem, fixed indemnity, or non-expense-incurred basis;
- (5) credit accident and health insurance as defined in section 62B.02;
- (6) designed solely to provide dental or vision care;
- (7) blanket accident and sickness insurance as defined in section 62A.11;
- (8) accident-only coverage;
- (9) a long-term care policy as defined in section 62A.46;
- (10) issued as a supplement to Medicare, as defined in sections 62A.31 to 62A.44, or policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations or those policies, contracts, or certificates governed by section 1833 or ~~1876~~ of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended;
- (11) workers' compensation insurance; or
- (12) issued solely as a companion to a health maintenance contract as described in section 62D.12, subdivision 1a, so long as the health maintenance contract meets the definition of a health benefit plan.

For the purpose of this chapter, a health benefit plan issued to eligible employees of a small employer who meets the participation requirements of section 62L.03, subdivision 3, is considered to have been issued to a small employer. A health benefit plan issued on behalf of a health carrier is considered to be issued by the health carrier.

Sec. 45. Minnesota Statutes 1994, section 62L.09, subdivision 3, is amended to read:

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

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

Sec. 46. Minnesota Statutes 1995 Supplement, section 62L.12, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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

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

Sec. 47. Minnesota Statutes 1994, section 65A.01, subdivision 3, is amended to read:

Subd. 3. [POLICY PROVISIONS.] On said policy following such matter as provided in subdivisions 1 and 2, printed in the English language in type of such size or sizes and arranged in such manner, as is approved by the commissioner of commerce, the following provisions and subject matter shall be stated in the following words and in the following sequence, but with the convenient placing, if desired, of such matter as will act as a cover or back for such policy when folded, with the blanks below indicated being left to be filled in at the time of the issuing of the policy, to wit:

(Space for listing the amounts of insurance, rates and premiums for the basic coverages provided under the standard form of policy and for additional coverages or perils provided under endorsements attached. The description and location of the property covered and the insurable value(s) of any building(s) or structure(s) covered by the policy or its attached endorsements; also in the above space may be stated whether other insurance is limited and if limited the total amount permitted.)

In consideration of the provisions and stipulations herein or added hereto and of the premium above specified this company, for a term of ..... from ..... (At 12:01 a.m. Standard Time) to ..... (At 12:01 a.m. Standard Time) at location of property involved, to an amount not exceeding the amount(s) above specified does insure ..... and legal representatives .....

(In above space may be stated whether other insurance is limited.) (And if limited the total amount permitted.)

Subject to form No.(s) ..... attached hereto.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such provisions, stipulations and agreements as may be added hereto as provided in this policy.

The insurance effected above is granted against all loss or damage by fire originating from any cause, except as hereinafter provided, also any damage by lightning and by removal from premises endangered by the perils insured against in this policy, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere. The amount of said loss or damage, except in case of total loss on buildings, to be estimated according to the actual value of the insured property at the time when such loss or damage happens.

If the insured property shall be exposed to loss or damage from the perils insured against, the insured shall make all reasonable exertions to save and protect same.

This entire policy shall be void if, whether before a loss, the insured has willfully, or after a loss, the insured has willfully and with intent to defraud, concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interests of the insured therein.

This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion, or manuscripts.

This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, providing that such fire did not originate from any of the perils excluded by this policy.

Other insurance may be prohibited or the amount of insurance may be limited by so providing in the policy or an endorsement, rider or form attached thereto.

Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

(a) while the hazard is increased by any means within the control or knowledge of the insured; or

(b) while the described premises, whether intended for occupancy by owner or tenant, are vacant or unoccupied beyond a period of 60 consecutive days; or

(c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

The extent of the application of insurance under this policy and the contributions to be made by this company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirements or proceeding on the part of this company relating to appraisal or to any examination provided for herein.

This policy shall be canceled at any time at the request of the insured, in which case this

company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by this company by giving to the insured a ten 30 days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

If loss hereunder is made payable, in whole or in part, to a designated mortgagee or contract for deed vendor not named herein as insured, such interest in this policy may be canceled by giving to such mortgagee or vendor a ten days' written notice of cancellation.

Notwithstanding any other provisions of this policy, if this policy shall be made payable to a mortgagee or contract for deed vendor of the covered real estate, no act or default of any person other than such mortgagee or vendor or the mortgagee's or vendor's agent or those claiming under the mortgagee or vendor, whether the same occurs before or during the term of this policy, shall render this policy void as to such mortgagee or vendor nor affect such mortgagee's or vendor's right to recover in case of loss on such real estate; provided, that the mortgagee or vendor shall on demand pay according to the established scale of rates for any increase of risks not paid for by the insured; and whenever this company shall be liable to a mortgagee or vendor for any sum for loss under this policy for which no liability exists as to the mortgagor, vendee, or owner, and this company shall elect by itself, or with others, to pay the mortgagee or vendor the full amount secured by such mortgage or contract for deed, then the mortgagee or vendor shall assign and transfer to the company the mortgagee's or vendor's interest, upon such payment, in the said mortgage or contract for deed together with the note and debts thereby secured.

This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved.

In case of any loss under this policy the insured shall give immediate written notice to this company of any loss, protect the property from further damage, and a statement in writing, signed and sworn to by the insured, shall within 60 days be rendered to the company, setting forth the value of the property insured, except in case of total loss on buildings the value of said buildings need not be stated, the interest of the insured therein, all other insurance thereon, in detail, the purposes for which and the persons by whom the building insured, or containing the property insured, was used, and the time at which and manner in which the fire originated, so far as known to the insured.

The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and, after being informed of the right to counsel and that any answers may be used against the insured in later civil or criminal proceedings, the insured shall, within a reasonable period after demand by this company, submit to examinations under oath by any person named by this company, and subscribe the oath. The insured, as often as may be reasonably required, shall produce for examination all records and documents reasonably related to the loss, or certified copies thereof if originals are lost, at a reasonable time and place designated by this company or its representatives, and shall permit extracts and copies thereof to be made.

In case the insured and this company, except in case of total loss on buildings, shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. In case either fails to select an appraiser within the time provided, then a presiding judge of the district court of the county wherein the loss occurs may appoint such appraiser for such party upon application of the other party in writing by giving five days' notice thereof in writing to the party failing to appoint. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then a presiding judge of the above mentioned court may appoint such an umpire upon application of party in writing by giving five days' notice thereof in writing to the other party. The appraisers shall then appraise the loss, stating separately actual value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this company shall determine the amount of actual value and loss. Each appraiser shall be paid by the

selecting party, or the party for whom selected, and the expense of the appraisal and umpire shall be paid by the parties equally.

It shall be optional with this company to take all of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

There can be no abandonment to this company of any property.

The amount of loss for which this company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this company and ascertainment of the loss is made either by agreement between the insured and this company expressed in writing or by the filing with this company of an award as herein provided. It is moreover understood that there can be no abandonment of the property insured to the company, and that the company will not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided.

No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy have been complied with, and unless commenced within two years after inception of the loss.

This company is subrogated to, and may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this company; and the insurer may prosecute therefor in the name of the insured retaining such amount as the insurer has paid.

Assignment of this policy shall not be valid except with the written consent of this company.

IN WITNESS WHEREOF, this company has executed and attested these presents.

.....		.....
(Signature)		(Signature)
.....		.....
(Name of office)		(Name of office)

Sec. 48. Minnesota Statutes 1994, section 65A.295, is amended to read:

65A.295 [HOMEOWNER'S INSURANCE COVERAGE.]

(a) Every insurer writing homeowner's insurance in this state shall make available at least one form of homeowner's policy for each level of peril coverage offered by the insurer in which the insured has the option to specify the dollar amount of coverage provided for structures other than the dwelling and for personal property. The premium must be reduced to reflect the reduced risk of lesser coverage.

~~(b) A written notice must be provided to all applicants for homeowner's insurance at the time of application informing them of the options provided in paragraph (a).~~

(e) Coverage for structures other than the dwelling is the coverage provided under "Coverage B, Other Structures" in the standard homeowner's policy. Coverage for personal property is the coverage provided under "Coverage C, Personal Property" in the standard homeowner's package policy.

~~(d)~~ (c) "Level of peril" refers to basic, broad, and all risk levels of coverage.

Sec. 49. Minnesota Statutes 1994, section 65B.14, is amended by adding a subdivision to read:

Subd. 5. [VIOLATIONS.] "Violations" means all moving traffic violations that are recorded by the department of public safety on a household member's motor vehicle record, and violations reported by a similar authority in another state or moving traffic violations reported by the insured.

Sec. 50. Minnesota Statutes 1994, section 65B.15, subdivision 1, is amended to read:

Subdivision 1. No cancellation or reduction in the limits of liability of coverage during the policy period of any policy shall be effective unless notice thereof is given and unless based on one or more reasons stated in the policy which shall be limited to the following:

1. Nonpayment of premium; or
2. The policy was obtained through a material misrepresentation; or
3. Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim; or
4. The named insured failed to disclose fully motor vehicle accidents and moving traffic violations of the named insured for the preceding 36 months if called for in the written application; or
5. The named insured failed to disclose in the written application any requested information necessary for the acceptance or proper rating of the risk; or
6. The named insured knowingly failed to give any required written notice of loss or notice of lawsuit commenced against the named insured, or, when requested, refused to cooperate in the investigation of a claim or defense of a lawsuit; or
7. The named insured or any other operator who either resides in the same household, or customarily operates an automobile insured under such policy, unless the other operator is identified as a named insured in another policy as an insured:
  - (a) has, within the 36 months prior to the notice of cancellation, had that person's driver's license under suspension or revocation because the person committed a moving traffic violation or because the person refused to be tested under section 169.121, subdivision 1, paragraph (a); or
  - (b) is or becomes subject to epilepsy or heart attacks, and such individual does not produce a written opinion from a physician testifying to that person's medical ability to operate a motor vehicle safely, such opinion to be based upon a reasonable medical probability; or
  - (c) has an accident record, conviction record (criminal or traffic), physical condition or mental condition, any one or all of which are such that the person's operation of an automobile might endanger the public safety; or
  - (d) has been convicted, or forfeited bail, during the 24 months immediately preceding the notice of cancellation for criminal negligence in the use or operation of an automobile, or assault arising out of the operation of a motor vehicle, or operating a motor vehicle while in an intoxicated condition or while under the influence of drugs; or leaving the scene of an accident without stopping to report; or making false statements in an application for a driver's license, or theft or unlawful taking of a motor vehicle; or
  - (e) has been convicted of, or forfeited bail for, one or more violations within the 18 months immediately preceding the notice of cancellation, of any law, ordinance, or rule which justify a revocation of a driver's license.
8. The insured automobile is:
  - (1) so mechanically defective that its operation might endanger public safety; or
  - (2) used in carrying passengers for hire or compensation, provided however that the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation; or
  - (3) used in the business of transportation of flammables or explosives; or
  - (4) an authorized emergency vehicle; or

(5) subject to an inspection law and has not been inspected or, if inspected, has failed to qualify within the period specified under such inspection law; or

(6) substantially changed in type or condition during the policy period, increasing the risk substantially, such as conversion to a commercial type vehicle, a dragster, sports car or so as to give clear evidence of a use other than the original use.

Sec. 51. Minnesota Statutes 1994, section 65B.51, subdivision 3, is amended to read:

Subd. 3. [LIMITATION OF DAMAGES FOR NONECONOMIC DETRIMENT.] In an action described in subdivision 1, no person shall recover damages for noneconomic detriment unless:

(a) The sum of the following exceeds \$4,000:

(1) Reasonable medical expense benefits paid, payable or payable but for any applicable deductible, plus

(2) The value of free medical or surgical care or ordinary and necessary nursing services performed by a relative of the injured person or a member of the injured person's household, plus

(3) The amount by which the value of reimbursable medical services or products exceeds the amount of benefit paid, payable, or payable but for an applicable deductible for those services or products if the injured person was charged less than the average reasonable amount charged in this state for similar services or products, minus

(4) The amount of medical expense benefits paid, payable, or payable but for an applicable deductible for diagnostic imaging, including but not limited to X-rays, magnetic resonance imaging, and CT scans, and for a procedure or treatment for rehabilitation and not for remedial purposes or a course of rehabilitative occupational training; or

(b) the injury results in:

(1) permanent disfigurement;

(2) permanent injury;

(3) death; or

(4) disability for 60 days or more.

(c) For the purposes of clause (a) evidence of the reasonable value of medical services and products shall be admissible in any action brought in this state.

For the purposes of this subdivision disability means the inability to engage in substantially all of the injured person's usual and customary daily activities.

Sec. 52. Minnesota Statutes 1994, section 70A.07, is amended to read:

70A.07 [RATES OPEN TO INSPECTION.]

All rates and supplementary rate information, furnished to the commissioner under this chapter shall, as soon as the rates are effective reviewed by the commissioner, be open to public inspection at any reasonable time.

Sec. 53. Minnesota Statutes 1994, section 72A.20, subdivision 17, is amended to read:

Subd. 17. [RETURN OF PREMIUMS.] (a) Refusing, upon surrender of an individual policy of life insurance in the case of the insured's death, or in the case of a surrender prior to death, of an individual insurance policy not covered by the standard nonforfeiture laws under section 61A.24, to refund to the owner all unearned premiums paid on the policy covering the insured as of the time of the insured's death or surrender if the unearned premium is for a period of more than one month.

(b) Refusing, upon termination or cancellation of a policy of automobile insurance under section 65B.14, subdivision 2, or a policy of homeowner's insurance under section 65A.27, subdivision 4, or a policy of accident and sickness insurance under section 62A.01, or a policy of comprehensive health insurance under chapter 62E, to refund to the insured all unearned premiums paid on the policy covering the insured as of the time of the termination or cancellation if the unearned premium is for a period of more than one month. The return of unearned premium must be delivered to the insured within 30 days following receipt by the insurer of the insured's request for cancellation.

(c) This subdivision does not apply to policies of insurance providing coverage only for motorcycles or other seasonally rated or limited use vehicles where the rate is reduced to reflect seasonal or limited use.

(d) For purposes of this section, a premium is unearned during the period of time the insurer has not been exposed to any risk of loss. Except for premiums for motorcycle coverage or other seasonally rated or limited use vehicles where the rate is reduced to reflect seasonal or limited use, the unearned premium is determined by multiplying the premium by the fraction that results from dividing the period of time from the date of termination to the date the next scheduled premium is due by the period of time for which the premium was paid.

(e) The owner may cancel a policy referred to in this section at any time during the policy period. This provision supersedes any inconsistent provision of law or any inconsistent policy provision.

Sec. 54. Minnesota Statutes 1994, section 72A.20, subdivision 23, is amended to read:

Subd. 23. [DISCRIMINATION IN AUTOMOBILE INSURANCE POLICIES.] (a) No insurer that offers an automobile insurance policy in this state shall:

- (1) use the employment status of the applicant as an underwriting standard or guideline; or
- (2) deny coverage to a policyholder for the same reason.

(b) No insurer that offers an automobile insurance policy in this state shall:

- (1) use the applicant's status as a tenant, as the term is defined in section 566.18, subdivision 2, as an underwriting standard or guideline; or
- (2) deny coverage to a policyholder for the same reason; or
- (3) make any discrimination in offering or establishing rates, premiums, dividends, or benefits of any kind, or by way of rebate, for the same reason.

(c) No insurer that offers an automobile insurance policy in this state shall:

- (1) use the failure of the applicant to have an automobile policy in force during any period of time before the application is made as an underwriting standard or guideline; or
- (2) deny coverage to a policyholder for the same reason.

This provision does not apply if the applicant was required by law to maintain automobile insurance coverage and failed to do so.

An insurer may require reasonable proof that the applicant did not fail to maintain this coverage. The insurer is not required to accept the mere lack of a conviction or citation for failure to maintain this coverage as proof of failure to maintain coverage. The insurer must provide the applicant with information identifying the documentation that is required to establish reasonable proof that the applicant failed to maintain the coverage.

(d) No insurer that offers an automobile insurance policy in this state shall use an applicant's prior claims for benefits paid under section 65B.44 as an underwriting standard or guideline if the applicant was 50 percent or less negligent in the accident or accidents causing the claims.

Sec. 55. Minnesota Statutes 1994, section 72A.20, subdivision 26, is amended to read:

Subd. 26. [LOSS EXPERIENCE.] An insurer shall without cost to the insured provide an insured with the loss or claims experience of that insured for the current policy period and for the two policy periods preceding the current one for which the insurer has provided coverage, within 30 days of a request for the information by the policyholder. Claims experience data must be provided to the insured in accordance with state and federal requirements regarding the confidentiality of medical data. The insurer shall not be responsible for providing information without cost more often than once in a 12-month period. The insurer is not required to provide the information if the policy covers the employee of more than one employer and the information is not maintained separately for each employer and not all employers request the data.

An insurer, health maintenance organization, or a third-party administrator may not request more than three years of loss or claims experience as a condition of submitting an application or providing coverage.

~~This subdivision does not apply to individual life and health insurance policies or personal automobile or homeowner's insurance only applies to group life policies and group health policies.~~

Sec. 56. Minnesota Statutes 1994, section 72A.20, subdivision 30, is amended to read:

Subd. 30. [RECORDS RETENTION.] An insurer shall retain copies of all underwriting documents, policy forms, and applications for three years from the effective date of the policy. An insurer shall retain all claim files and documentation related to a claim for three years from the date the claim was paid or denied. This subdivision does not relieve the insurer of its obligation to produce these documents to the department after the retention period has expired in connection with an enforcement action or administrative proceeding against the insurer from whom the documents are requested, if the insurer has retained the documents. Records required to be retained by this section may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process which accurately reproduces or forms a durable medium for the reproduction of a record.

Sec. 57. Minnesota Statutes 1994, section 72A.20, is amended by adding a subdivision to read:

Subd. 35. [DETERMINATION OF HEALTH PLAN POLICY LIMITS.] No health plan that includes a specific policy limit within its insurance policy, certificate, or subscriber agreement shall calculate the policy limit by using the amount actually paid on behalf of the insured, subscriber, or dependents for services covered under the policy, subscriber agreement, or certificate unless the amount paid is greater than the billed charge.

Sec. 58. [72A.207] [GRADED DEATH BENEFITS.]

For the purpose of this section, a graded death benefit is a provision within a life insurance policy in which the death benefit, in the early years of the policy, is less than the face amount of the policy, but which increases with the passage of time.

No policy of life insurance paying a graded death benefit may be issued in this state unless the graded death benefit is equal to at least four times the first year premium. This section does not prohibit the return of premiums or premiums plus interest in connection with the voluntary or judicially ordered rescission of the policy, or according to the terms of the exclusions from coverage for suicide, aviation, or war risk.

Sec. 59. Minnesota Statutes 1994, section 72A.493, is amended to read:

72A.493 [OBTAINING INFORMATION BY IMPROPER MEANS.]

Subdivision 1. [PROHIBITION.] An insurer, insurance agent, or insurance-support organization must not obtain information or authorize another person to obtain information in connection with an insurance transaction by:

- (1) pretending to be someone else;

- (2) pretending to represent a person;
- (3) misrepresenting the true purpose of the interview; or
- (4) refusing to provide identification upon request.

Subd. 2. [NONAPPLICATION.] Subdivision 1 does not apply to an insurance support organization that obtains or seeks to obtain information in connection with a claim, if the insurance support organization has a reasonable suspicion that the insured has engaged in material misrepresentation, material nondisclosure, fraud, or criminal activity in connection with the claim.

Sec. 60. [MEDICAL MALPRACTICE INSURANCE COVERAGE; REAUTHORIZATION.]

Any authorization to issue insurance according to Minnesota Statutes, section 62F.04, valid on the effective date of this section remains valid for an additional two-year period at the end of the initial two-year authorization. The additional authorization period granted by this section applies only to the types of coverages authorized as of the effective date of this section.

Sec. 61. [REPEALER.]

(a) Minnesota Statutes 1994, sections 60A.40; 60B.27; 62I.20; 65A.25; 72A.205; 79A.04, subdivision 8; and Minnesota Statutes 1995 Supplement, section 79.55, subdivision 5, are repealed.

(b) Laws 1995, chapter 140, section 1, is repealed.

Sec. 62. [EFFECTIVE DATES.]

Sections 1 to 3, 5, 6, 8, 17 to 19, 21 to 28, 31, 36 to 44, 51, 52, 55, 57, and 58 are effective the day following final enactment.

Section 46 is effective retroactive to July 1, 1995.

Sections 9 to 16 are effective January 1, 1996.

## ARTICLE 2

Section 1. Minnesota Statutes 1995 Supplement, section 60A.07, subdivision 10, is amended to read:

Subd. 10. [SPECIAL PROVISIONS AS TO LIFE COMPANIES.] (1) [PREREQUISITES OF LIFE COMPANIES.] No mutual life company shall be qualified to issue any policy until applications for at least \$200,000 of insurance, upon lives of at least 200 separate residents, have been actually and in good faith made, accepted, and entered upon its books and at least one full annual premium thereunder, based upon the authorized table of mortality, received in cash or in absolutely payable and collectible notes. A duplicate receipt for each premium, conditioned for the return thereof unless the policy be issued within one year thereafter, shall be issued, and one copy delivered to the applicant and the other filed with the commissioner, together with the certificate of a solvent authorized bank in the state, of the deposit therein of such cash and notes, aggregating the amount aforesaid, specifying the maker, payee, date, maturity, and amount of each. Such cash and notes shall be held by it not longer than one year, and at or before the expiration thereof to be by it paid or delivered, upon the written order of the commissioner, to such company or applicants, respectively.

(2) ~~[FOREIGN COMPANIES MAY BECOME DOMESTIC.] Any company organized under the laws of any other state or country, which might have been originally incorporated under the laws of this state, and which has been admitted to do business therein for either or both the purpose of life or accident insurance, upon complying with all the requirements of law relative to the execution, filing, recording and publishing of original certificates and payment of incorporation fees by like domestic corporations, therein designating its principal place of business at a place in this state, may become a domestic corporation, and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof.~~

(3) [TEMPORARY CAPITAL STOCK OF MUTUAL LIFE COMPANIES.] A new mutual life insurance company which has complied with the provisions of clause (1) or an existing mutual life insurance company may establish, a temporary capital of, such amount not less than \$100,000, as may be approved by the commissioner. Such temporary capital shall be invested by the company in the same manner as is provided for the investment of its other funds. Out of the net surplus of the company the holders of the temporary capital stock may receive a dividend which may be cumulative. This capital stock shall not be a liability of the company but shall be retired within a reasonable time and according to terms approved by the commissioner. At the time for the retirement of this capital stock, the holders shall be entitled to receive from the company the par value thereof and any dividends thereon due and unpaid, and thereupon the stock shall be surrendered and canceled. In the event of the liquidation of the company, the holders of temporary capital stock shall have the same preference in the assets of the company as shareholders have in a stock insurance company. Dividends on this stock are subject to section 60D.20, subdivision 2.

Temporary capital stock may be issued with or without voting rights. If issued with voting rights, the holders shall, at all meetings, be entitled to one vote for each \$10 of temporary capital stock held.

Sec. 2. [60A.075] [MUTUAL COMPANY CONVERSION TO STOCK COMPANY.]

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

(a) "Eligible member" means a policyholder whose policy is in force as of the record date, which is the date that the mutual company's board of directors adopts a plan of conversion or some other date specified as the record date in the plan of conversion and approved by the commissioner. Unless otherwise provided in the plan, a person insured under a group policy is not an eligible member, unless on the record date:

(1) the person is insured or covered under a group life policy or group annuity contract under which funds are accumulated and allocated to the respective covered persons;

(2) the person has the right to direct the application of the funds so allocated;

(3) the group policyholder makes no contribution to the premiums or deposits for the policy or contract; and

(4) the converting mutual company has the names and addresses of the persons covered under the group life policy or group annuity contract.

(b) "Reorganized company" means a Minnesota domestic stock insurance company that has converted from a Minnesota domestic mutual insurance company according to this section.

(c) "Plan of conversion" or "plan" means a plan adopted by a Minnesota domestic mutual insurance company's board of directors under this section to convert the mutual company into a Minnesota domestic stock insurance company.

(d) "Policy" means a policy or contract of insurance issued by a converting mutual company, including an annuity contract.

(e) "Commissioner" means the commissioner of commerce.

(f) "Converting mutual company" means a Minnesota domestic mutual insurance company seeking to convert to a Minnesota domestic stock insurance company according to this section.

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

(h) "Membership interests" means all policyholders' rights as members of the converting mutual company, including but not limited to, rights to vote and to participate in any distributions of surplus, whether or not incident to the company's liquidation.

(i) "Equitable surplus" means the converting mutual company's surplus as regards

policyholders as of the effective date of the conversion determined in a manner that is not unfair or inequitable to policyholders.

(j) "Permitted issuer" means: (1) a corporation organized and owned by the converting mutual company or by any other insurance company or insurance holding company for the purpose of purchasing and holding all of the stock of the reorganized company; (2) a stock insurance company owned by the converting mutual company or by any other insurance company or insurance holding company into which the converting mutual company will be merged; or (3) any other corporation approved by the commissioner.

Subd. 2. [AUTHORIZATION.] A mutual insurance company may become a stock insurance company according to a plan of conversion established and approved in the manner provided by this section.

Subd. 3. [ADOPTION OF A PLAN OF CONVERSION BY THE BOARD OF DIRECTORS.] (a) A converting mutual company shall, by the affirmative vote of a majority of its board of directors, adopt a plan of conversion consistent with the requirements of this section.

(b) At any time before approval of a plan by the commissioner, the converting mutual company, by the affirmative vote of a majority of its board of directors, may amend or withdraw the plan.

Subd. 4. [APPROVAL OF THE PLAN OF CONVERSION BY THE COMMISSIONER.] (a) [DOCUMENTS TO BE FILED.] After adoption of the plan by the converting mutual company's board of directors, but before the member's approval of the plan, the converting mutual company shall file the following documents with the commissioner for review and approval:

(1) the plan of conversion, including an independent evaluation of the pro forma market value and of the equitable surplus of the company and of the estimated value of any shares to be issued and an independent actuarial opinion, if required;

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

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

(4) the proposed articles of incorporation and bylaws of the converted stock company;

(5) information required under chapter 60D if the plan results in a change of control of the converting mutual company; and

(6) other information or documentation requested by the commissioner or required by rule.

(b) [REQUIRED FINDINGS.] The commissioner shall approve or conditionally approve the plan upon finding that:

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

(2) the plan will not be unfair or inequitable to policyholders.

(c) [TIME.] The plan of conversion shall, by order, be approved, conditionally approved, or disapproved by the commissioner within the later of 30 days from the commissioner's receipt of all required information from the converting mutual company or 30 days after the conclusion of a public hearing held according to paragraph (e). An approval or conditional approval of a plan expires if the reorganization is not completed within 180 days unless this time period is extended by the commissioner for good cause shown.

(d) [CONSULTANTS.] The commissioner may retain, at the converting mutual company's expense, qualified experts not otherwise a part of the commissioner's staff to assist in reviewing the plan and supplemental materials and valuations.

(e) [HEARING.] The commissioner may, but need not, conduct a public hearing regarding the proposed plan of conversion. The hearing must begin no later than 30 days after submission to the commissioner of a plan of conversion and all required information. The commissioner shall give

the converting mutual company at least 20 days' notice of the hearing. At the hearing, the converting mutual company, its policyholders, and any other person whose interest may be affected by the proposed conversion may present evidence, examine and cross-examine witnesses, and offer oral and written arguments or comments according to the procedure for contested cases under chapter 14. The persons participating may conduct discovery proceedings in the same manner as prescribed for the district courts of this state. All discovery proceedings must be concluded no later than three days before the scheduled commencement date of the public hearing.

Subd. 5. [APPROVAL OF THE PLAN BY THE ELIGIBLE MEMBERS.] (a) [NOTICE.] Following approval or conditional approval of the plan by the commissioner, all eligible members shall be given notice of a regular or special meeting of the policyholders called for the purpose of considering the plan and any corporate actions that are a part of, or are reasonably attendant to, the accomplishment of the plan.

(b) [NOTICE REQUIRED.] A copy of the plan or a summary of the plan must accompany the notice. The notice must be mailed to each eligible member's last known address, as shown on the converting mutual company's records, within 45 days of the commissioner's approval of the plan, unless the commissioner directs an earlier date for mailing. The meeting to vote upon the plan must be set for a date no less than 45 days after the date when the notice of the meeting is mailed by the converting mutual company unless the commissioner directs an earlier date for the meeting. If the meeting to vote upon the plan is held coincident with the converting mutual company's annual meeting of policyholders, only one combined notice of meeting is required.

(c) [FAILURE TO GIVE NOTICE.] If the converting mutual company complies substantially and in good faith with the notice requirements of this section, the converting mutual company's failure to give any member or members any required notice does not impair the validity of any action taken under this section.

(d) [VOTING.] (1) The plan must be adopted upon receiving the affirmative vote of a majority of the votes cast by eligible members.

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

(3) The number of votes each eligible member may cast shall be determined by the converting mutual company's bylaws. If the bylaws are silent, or if the commissioner determines that the voting requirements under the bylaws would be unfair or would prejudice the rights of the eligible members, each eligible member may cast one vote.

Subd. 6. [CONVERSION.] (a) [FILING.] Following approval by the members, the converting mutual company shall file a copy of the company's amended or restated articles of incorporation with the commissioner, together with a certified copy of the minutes of the meeting at which the plan was adopted and a certified copy of the plan. The commissioner shall review and, if appropriate, approve the amended or restated articles. After approval by the commissioner the converting mutual company shall file the articles with the secretary of state as provided by chapter 300.

(b) [EFFECTIVE DATE.] Effective on the date of filing an amendment or restatement of the articles of incorporation with the secretary of state as provided by chapter 300, or on a later date if the plan so specifies, the converting mutual corporation shall become a stock corporation and shall no longer be a mutual corporation.

Subd. 7. [PLAN NOT UNFAIR OR INEQUITABLE.] A plan of conversion shall not be unfair or inequitable to policyholders. A plan of conversion is not unfair or inequitable if it satisfies the conditions of subdivision 8, 9, or 10. The commissioner may determine that any other plan proposed by a converting mutual company is not unfair or inequitable to policyholders.

Subd. 8. [SHARE CONVERSION.] A plan of conversion under this subdivision shall provide for exchange of policyholders' membership interests in return for shares in the reorganized company, according to paragraphs (a) to (c).

(a) The policyholders' membership interests shall be exchanged, in a manner that takes into account the estimated proportionate contribution of equitable surplus of each class of participating policies and contracts, for all of the common shares of the reorganized company or its parent company or a permitted issuer, or for a combination of the common shares of the reorganized company or its parent company or a permitted issuer.

(b) Unless the anticipated issuance within a shorter period is disclosed, the issuer of common shares shall not, within two years after the effective date of reorganization, issue either of the following:

(1) any of its common shares or any securities convertible with or without consideration into the common shares or carrying any warrant to subscribe to or purchase common shares; and

(2) any warrant, right, or option to subscribe to or purchase the common shares or other securities described in paragraph (a), except for the issue of common shares to or for the benefit of policyholders according to the plan of conversion and the issue of options for the purchase of common shares being granted to officers, directors, or employees of the reorganized company or its parent company, if any, according to this section.

(c) Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares within two years of the effective date of the conversion or a longer period as disclosed in the plan of conversion. Within one year after any offering of stock other than the initial distribution, but no later than six years after the effective date of the conversion, the reorganized company shall offer to make available to policyholders who received and retained shares of common stock or securities described in paragraph (b), clause (1), a procedure to dispose of those shares of stock at market value without brokerage commissions or similar fees.

Subd. 9. [SURPLUS DISTRIBUTION.] A plan of conversion under this subdivision shall provide for the exchange of the policyholders' membership interests in return for the operation of the converting mutual company's participating policies as a closed block of business and for the distribution of the company's equitable surplus to policyholders, and shall provide for the issuance of new shares of the reorganized company or its parent corporation, each according to paragraphs (a) to (i).

(a) The converting mutual company's participating business, comprised of its participating policies and contracts in force on the effective date of the conversion or other reasonable date as provided in the plan, shall be operated by the reorganized company as a closed block of participating business. However, at the option of the converting mutual company, group policies and group contracts may be omitted from the closed block.

(b) Assets of the converting mutual company must be allocated to the closed block of participating business in an amount equal to the reserves and liabilities for the converting mutual life insurer's participating policies and contracts in force on the effective date of the conversion. The plan must be accompanied by an opinion of an independent qualified actuary who meets the standards set forth in the insurance laws or regulations for the submission of actuarial opinions as to the adequacy of reserves or assets. The opinion must relate to the adequacy of the assets allocated to support the closed block of business. The actuarial opinion must be based on methods of analysis considered appropriate for those purposes by the Actuarial Standards Board.

(c) The reorganized company shall keep a separate accounting for the closed block and shall make and include in the annual statement to be filed with the commissioner each year a separate statement showing the gains, losses, and expenses properly attributable to the closed block.

(d) Notwithstanding the establishment of a closed block, the entire assets of the reorganized company shall be available for the payment of benefits to policyholders. Payment must first be made from the assets supporting the closed block until exhausted, and then from the general assets of the reorganized company.

(e) The converting mutual company's equitable surplus shall be distributed to eligible participating policyholders in a form or forms selected by the converting mutual company. The

form of distribution may consist of cash, securities of the reorganized company, securities of another institution, a certificate of contribution, additional life insurance, annuity benefits, increased dividends, reduced premiums, or other equitable consideration or any combination of forms of consideration. The consideration, if any, given to a class or category of policyholders may differ from the consideration given to another class or category of policyholders. A certificate of contribution must be repayable in ten years, be equal to 100 percent of the value of the policyholders' membership interest, and bear interest at the highest rate charged by the reorganized company for policy loans on the effective date of the conversion.

(f) The consideration must be allocated among the policyholders in a manner that is fair and equitable to the policyholders.

(g) The reorganized company or its parent corporation shall issue and sell shares of one or more classes having a total price equal to the estimated value in the market of the shares on the initial offering date. The estimated value must take into account all of the following:

- (1) the pro forma market value of the reorganized company;
- (2) the consideration to be given to policyholders according to paragraph (e);
- (3) the proceeds of the sale of the shares; and

(4) any additional value attributable to the shares as a result of a purchaser or a group of purchasers who acted in concert to obtain shares in the initial offering, attaining, through such purchase, control of the reorganized company or its parent corporation.

(h) If a purchaser or a group of purchasers acting in concert is to attain control in the initial offering, the mutual company shall not, directly or indirectly, pay for any of the costs or expenses of conversion of the mutual company, whether or not the conversion is effected.

(i) Periodically, with the commissioner's approval, the reorganized company may share in the profits of the closed block of participating business for the benefit of stockholders if the assets allocated to the closed block are in excess of those necessary to support the closed block.

Subd. 10. [SUBSCRIPTION RIGHTS.] A plan of conversion under this subdivision shall provide for exchange of the policyholders' membership interests in return for the operation of the converting mutual company's participating policies as a closed block of business, for the creation of a liquidation account to protect the interests of policyholders, and for the issuance of subscription rights to eligible policyholders, and shall provide for the issuance of shares by the reorganized company, each according to paragraphs (a) to (j).

(a) The converting mutual company's participating business, comprised of its participating policies and contracts in force on the effective date of the conversion, or such other reasonable date specified in the plan, and excluding at the converting mutual company's option any group policies or group contracts, shall be operated by the reorganized company as a closed block of participating business according to subdivision 9, paragraphs (a) to (c).

(b) The reorganized company or its parent corporation or a permitted issuer shall issue and sell shares of one or more classes having a total price equal to the estimated value of the shares in the market on the initial offering date taking into account the proceeds of the sale of shares and the consideration given to policyholders.

(c) The policyholders shall receive nontransferable preemptive subscription rights to purchase all of the common shares of the issuer according to paragraph (b).

(d) The preemptive subscription rights to purchase the common shares must be allocated among the participating policyholders in whole shares in a manner provided in the plan that takes into account the estimated contribution of each class of participating policies and contracts to the total amount of the policyholders' consideration. The plan must provide a fair and equitable means for the allocation of shares in the event of an oversubscription. The plan must further provide that any shares of capital stock not subscribed by eligible members must be sold in a public offering through an underwriter, unless the number of shares unsubscribed is so small in number so as not

to warrant the expense of a public offering, in which case the plan may provide for the purchase of the unsubscribed shares by private placement or through any fair and equitable alternative means approved by the commissioner.

(e) The number of the common shares that a person, together with any affiliates or group of persons acting in concert, may subscribe or purchase in the reorganization, must be limited to not more than five percent of the common shares. For this purpose, neither the members of the board of directors of the reorganized company nor its parent corporation, if any, is considered to be affiliates or a group of persons acting in concert solely by reason of their board membership.

(f) Unless the common shares have a public market when issued, officers and directors of the issuer and their affiliates shall not, for at least three years after the date of conversion, purchase common shares of the issuer, except with the approval of the commissioner.

(g) Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares.

(h) The issuer shall not, for at least three years following the conversion, repurchase any of its common shares except according to a pro rata tender offer to all shareholders, or with the approval of the commissioner.

(i) A liquidation account must be established for the benefit of policyholders in the event of a complete liquidation of the reorganized company. The liquidation account must be equal to the equitable surplus of the converting mutual company as of the effective date of the conversion. The function of the liquidation account is solely to establish a priority on liquidation and its existence does not restrict the use or application of the surplus of the reorganized company except as specified in paragraph (a). The liquidation account must be allocated equitably as of the effective date of conversion among the then participating policyholders. The amount allocated to a policy or contract must not increase and must be reduced to zero when the policy or contract terminates. In the event of a complete liquidation of the reorganized company, the policyholders among which the liquidation account is allocated are entitled to receive a liquidation distribution in the amount of the liquidation account before any liquidation distribution is made with respect to shares.

(j) Until the liquidation account has been reduced to zero, the issuer shall not declare or pay a cash dividend on, or repurchase any of, its common shares in an amount in excess of its cumulative earned surplus generated after the conversion determined according to statutory accounting principles, if the effect would be to cause the amount of the statutory surplus of the reorganized company to be reduced below the then amount of the liquidation account.

Subd. 11. [OPTIONAL PROVISIONS.] A plan under subdivision 8, 9, or 10 may include, with the approval of the commissioner, any of the provisions in paragraphs (a) and (b).

(a) A plan may provide that any shares of the stock of the reorganized company or its parent corporation or a permitted issuer included in the policyholders' consideration must be placed on the effective date of the conversion in a trust or other entity existing for the exclusive benefit of the participating policyholders and established solely for the purposes of effecting the reorganization. Under this option, the shares placed in trust must be sold over a period of not more than ten years and the proceeds of the shares must be distributed using the distribution priorities prescribed in the plan.

(b) A plan may provide that the directors and officers of the converting mutual company shall receive, without payment, nontransferable subscription rights to purchase capital stock of the reorganized company, its parent, or a permitted issuer. Those subscription rights must be allocated among the directors and officers by a fair and equitable formula.

(1) The total number of shares that may be purchased under this clause, may not exceed 35 percent of the total number of shares to be issued in the case of a converting mutual company with total assets of less than \$50,000,000 or 25 percent of the total shares to be issued in the case of a converting mutual company with total assets of more than \$500,000,000. For converting mutual companies with total assets between \$50,000,000 and \$500,000,000, the total number of shares that may be purchased may not exceed an interpolated percentage between 25 and 35 percent.

(2) Stock purchased by a director or officer under clause (1), may not be sold within one year following the effective date of the conversion.

(3) The plan may also provide that a director, or officer or person acting in concert with a director or officer of the converting mutual company, may not acquire any capital stock of the reorganized company for three years after the effective date of the conversion, except through a licensed securities broker or dealer, without the permission of the commissioner. That provision may not apply to prohibit the directors and officers from purchasing stock through subscription rights received in the plan under clause (1).

(c) A plan may allocate to a tax-qualified employee benefit plan nontransferable subscription rights to purchase up to ten percent of the capital stock of the reorganized company, its parent or a permitted issuer. The employee benefit plan must be entitled to exercise its subscription rights regardless of the amount of shares purchased by other persons.

Subd. 12. [ALTERNATIVE PLAN OF CONVERSION.] In lieu of selecting a plan of conversion provided for in this section, the converting mutual company may convert according to a plan approved by the commissioner if the commissioner finds that the plan does not prejudice the interests of the members, is fair and equitable, and is based upon an independent appraisal of the market value of the mutual company by a qualified person, and is a fair and equitable allocation of any consideration to be given eligible members. The commissioner may retain, at the converting mutual company's expense, any qualified expert not otherwise a part of the commissioner's staff to assist in reviewing whether the alternative plan may be approved and the valuation of the company.

Subd. 13. [EFFECT OF CONVERSION.] (a) Upon the conversion of a converting mutual company to a reorganized company according to this section, the corporate existence of the converting mutual company must be continued in the reorganized company. All the rights, franchises, and interests of the converting mutual company in and to all property and things in action belonging to this property, is considered transferred to and vested in the reorganized company without any deed or transfer. Simultaneously, the reorganized company is considered to have assumed all the obligations and liabilities of the converting mutual company.

(b) The directors and officers of the converting mutual company, unless otherwise specified in the plan of conversion, shall serve as directors and officers of the reorganized company until new directors and officers of the reorganized company are duly elected according to the articles of incorporation and bylaws of the reorganized company.

(c) All policies in force on the effective date of the conversion continue to remain in force under the terms of those policies, except that any voting rights of the policyholders provided for under the policies are extinguished on the effective date of the conversion.

Subd. 14. [CONFLICT OF INTEREST.] No director, officer, agent, employee of the converting mutual company, or any other person shall receive a fee, commission, or other valuable consideration, other than the person's usual regular salary and compensation, for in any manner aiding, promoting, or assisting in the conversion except as set forth in the plan approved by the commissioner. This provision does not prohibit the payment of reasonable fees and compensation to attorneys, accountants, investment bankers, and actuaries for services performed in the independent practice of their professions.

Subd. 15. [COSTS AND EXPENSES.] All the costs and expenses connected with a plan of conversion must be paid for or reimbursed by the converting mutual company or the reorganized company except where the plan provides otherwise.

Subd. 16. [LIMITATION OF ACTIONS.] (a) An action challenging the validity of or arising out of acts taken or proposed to be taken according to this section must be commenced within 180 days after the effective date of the conversion.

(b) The converting mutual company, the reorganized company, or any defendant in an action described in paragraph (a) may petition the court in the action to order a party to give security for the reasonable attorney fees that may be incurred by a party to the action. The amount of security

may be increased or decreased in the discretion of the court having jurisdiction if a showing is made that the security provided is or may become inadequate or excessive.

Subd. 17. [SUPERVISORY CONVERSIONS.] The commissioner may waive or alter any of the requirements of this section to protect the interests of policyholders if the converting mutual company is subject to the commissioner's administrative supervision under chapter 60G or rehabilitation under chapter 60B.

Sec. 3. [60A.076] [MUTUAL INSURANCE HOLDING COMPANIES.]

Subdivision 1. [FORMATION.] (a) A domestic mutual insurance company, upon approval of the commissioner, may reorganize by forming an insurance holding company based upon a mutual plan and continuing the corporate existence of the reorganizing insurance company as a stock insurance company. The commissioner, if satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization and may require as a condition of approval the modifications of the proposed plan or reorganization as the commissioner finds necessary for the protection of the policyholders' interests. The commissioner shall retain jurisdiction over the mutual insurance holding company according to this section and chapter 60D to assure that policyholder interests are protected.

(b) All of the initial shares of the capital stock of the reorganized insurance company must be issued to the mutual insurance holding company or to an intermediate stock holding company that is wholly owned the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company become membership interests in the mutual insurance holding company. "Membership interests" mean those interests described in section 60A.075, subdivision 1, paragraph (h). Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times, directly or through an intermediate stock holding company, control a majority of the voting shares of the capital stock of the reorganized insurance company.

Subd. 2. [MERGER.] (a) A domestic mutual insurance company, upon the approval of the commissioner, may reorganize by merging its policyholders' membership interests into a mutual insurance holding company formed according to subdivision 1 and continuing the corporate existence of the reorganizing insurance company as a stock insurance company subsidiary of the mutual insurance holding company. "Membership interests" mean those interests described in section 60A.075, subdivision 1, paragraph (h). The commissioner, if satisfied that the interests of the policyholders are properly protected and that the merger is fair and equitable to the policyholders, may approve the proposed merger and may require as a condition of approval the modifications of the proposed merger as the commissioner finds necessary for the protection of the policyholders' interests. The commissioner shall retain jurisdiction over the mutual insurance holding company organized according to this section to assure that policyholder interests are protected.

(b) All of the initial shares of the capital stock of the reorganized insurance company must be issued to the mutual insurance holding company, or to an intermediate stock holding company that is wholly owned by the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company according to the articles of incorporation and bylaws of the mutual insurance holding company.

Subd. 3. [PLAN OF REORGANIZATION; APPROVAL BY COMMISSIONER.] (a) The reorganizing or merging insurer shall file a plan of reorganization, approved by the affirmative vote of a majority of its board of directors, for review and approval by the commissioner. The plan must provide for the following:

(1) establishing a mutual insurance holding company with at least one stock insurance company subsidiary, the majority of shares of which must be owned either directly or through an intermediate stock holding company, by the mutual insurance holding company;

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

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

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

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

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

(7) ensuring that, in the event of proceedings under chapter 60B involving a stock insurance company subsidiary of the mutual insurance holding company that resulted from the reorganization of a domestic mutual insurance company, the assets of the mutual insurance holding company will be available to satisfy the policyholder obligations of the stock insurance company;

(8) for periodic distribution of accumulated holding company earnings to members;

(9) describing the nature and content of the annual report and financial statement to be sent to each member;

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

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

(12) information sufficient to demonstrate that the financial condition of the reorganizing or merging company will not be diminished upon reorganization;

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

(14) describing any plans for the initial sale of stock for the reorganized insurance company;  
and

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

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

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

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

Subd. 4. [APPROVAL BY COMMISSIONER.] The plan by order shall be approved, conditionally approved, or disapproved within the later of 30 days from the date of the

commissioner's receipt of all required information or 30 days after the conclusion of the public hearing. An approval or conditional approval of a plan of reorganization expires if the reorganization is not completed within 180 days unless the time period is extended by the commissioner upon a showing of good cause.

Subd. 5. [APPROVAL BY MEMBERS.] The plan shall be approved by the members as provided in section 60A.075, subdivision 5.

Subd. 6. [INCORPORATION.] A mutual insurance holding company resulting from the reorganization of a domestic mutual insurance company organized under chapter 300 shall be incorporated pursuant to chapter 300. The articles of incorporation and any amendments to the articles of the mutual insurance holding company is subject to approval of the commissioner in the same manner as those of an insurance company.

Subd. 7. [APPLICABILITY OF CERTAIN PROVISIONS.] (a) A mutual insurance holding company is considered to be an insurer subject to chapter 60B and shall automatically be a party to any proceeding under chapter 60B involving an insurance company that as a result of a reorganization according to subdivision 1 or 2 is a subsidiary of the mutual insurance holding company. In any proceeding under chapter 60B involving the reorganized insurance company, the assets of the mutual insurance holding company are considered to be assets of the estate of the reorganized insurance company for purposes of satisfying the claims of the reorganized insurance company's policyholders. A mutual insurance holding company shall not dissolve or liquidate without the approval of the commissioner or as ordered by the district court according to chapter 60B.

(b) A mutual insurance holding company is subject to chapter 60D to the extent consistent with this section.

(c) As a condition to approval of the plan, the commissioner may require the mutual insurance holding company to comply with any provision of the insurance laws necessary to protect the interests of the policyholders as if the mutual insurance holding company were a domestic mutual insurance company.

Subd. 8. [APPLICABILITY OF DEMUTUALIZATION PROVISIONS.] (a) Except as otherwise provided, section 60A.075 is not applicable to a reorganization or merger according to this section, and except for section 60A.075, subdivisions 14 to 16.

(b) Section 60A.075 is applicable to demutualization of a mutual insurance holding company that resulted from the reorganization of a domestic mutual insurance company organized under chapter 300 as if it were a mutual insurance company.

Subd. 9. [MEMBERSHIP INTERESTS.] A membership interest in a domestic mutual insurance holding company does not constitute a security as defined in section 80A.14, subdivision 18.

Subd. 10. [FINANCIAL STATEMENT REQUIREMENTS.] (a) In addition to any items required under chapter 60D, each mutual insurance holding company shall file with the commissioner, by April 1 of each year, an annual statement consisting of the following:

(1) an income statement, balance sheet, and cashflow statement prepared in accordance with generally accepted accounting principles;

(2) complete information on the status of any closed block formed as part of a plan of reorganization;

(3) an investment plan covering all assets; and

(4) a statement disclosing any intention to pledge, borrow against, alienate, hypothecate, or in any way encumber the assets of the mutual insurance holding company. Action taken according to the statement is subject to the commissioner's prior written approval.

(b) The aggregate pledges and encumbrances of a mutual holding company's assets shall not

effect more than 49 percent of the company's stock in any subsidiary insurance holding company or subsidiary insurance company that resulted from a reorganization or merger.

(c) At least 50 percent of the generally accepted accounting practices (GAAP) net worth of a mutual insurance holding company must be invested in insurance company subsidiaries.

Subd. 11. [SALE OF STOCK AND PAYMENT OF DIVIDENDS.] No solicitation for the sale of the stock of the reorganized insurance company, or an intermediate stock holding company of the mutual insurance holding company, may be made without the commissioner's prior written approval. Dividends and other distributions to the shareholders of the reorganized stock insurance company or an intermediate stock holding company shall not be made except in compliance with section 60D.20.

Sec. 4. Minnesota Statutes 1994, section 60A.11, subdivision 21, is amended to read:

Subd. 21. [FOREIGN INVESTMENTS.] Obligations of and investments in foreign countries, on the following conditions:

(a) a company may acquire and hold any foreign investments which are required as a condition of doing business in the foreign country or necessary for the convenient accommodation of its foreign business. An investment is considered necessary for the convenient accommodation of the insurance company's foreign business only if it is demonstrably and directly related in size and purpose to the company's foreign insurance operations; and

(b) a company may ~~not~~ also invest not more than five percent of its total admitted assets in any combination of:

(1) the obligations of foreign governments, corporations, or business trusts;

(2) obligations of federal, provincial, or other political subdivisions backed by the full faith and credit of the foreign governmental unit;

(3) or in the stocks or stock equivalents or obligations of foreign corporations or business trusts not qualifying for investment under subdivision 12, if the obligations, stocks or stock equivalents are listed or regularly traded on the London, Paris, Zurich, or Tokyo stock exchange or any similar regular securities exchange not disapproved by the commissioner within 30 days following notice from the company of its intention to invest in these securities.

Sec. 5. Minnesota Statutes 1994, section 60A.13, subdivision 8, is amended to read:

Subd. 8. [ANNUAL REPORTS.] Each insurer licensed to write property and casualty insurance in this state, as a supplement to the annual statement required by this section, shall submit a report on a form furnished by the commissioner separately showing its direct writings in Minnesota and in the United States on: liquor liability, medical malpractice, and any other line so designated by the commissioner on January 1 of each year.

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

(1) direct premiums written;

(2) direct premiums earned;

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

~~(4) incurred claims, developed as the sum, and with figures provided for, of the following:~~

~~(a) dollar amount of claims closed with payment, plus~~

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

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

- ~~(d) reserves for incurred but not reported claims at the end of the current year, minus~~
- ~~(e) reserves for incurred but not reported claims at the end of the previous year, plus~~
- ~~(f) reserves for loss adjustment expense at the end of the current year, minus~~
- ~~(g) reserves for loss adjustment expense at the end of the previous year;~~
- ~~(5) actual incurred expenses allocated separately to loss adjustment, commissions, other acquisition costs, general office expenses, taxes, licenses and fees, and all other expenses;~~
- ~~(6) (5) net underwriting gain or loss; and~~
- ~~(7) (6) net operation gain or loss, including net investment income.~~

This report is due by the first of May of each year and the report due May 1, 1987 must cover the last six months of 1986. The commissioner shall annually compile and review all reports submitted by insurers pursuant to this section. These filings must be published and made available to any interested insured or citizen.

Sec. 6. Minnesota Statutes 1995 Supplement, section 60A.67, subdivision 2, is amended to read:

Subd. 2. [PROHIBITION ON ANNOUNCEMENTS.] The comparison of an insurer's total adjusted capital to any of its risk-based capital levels is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer and is not intended as a means to rank insurers generally. Except as otherwise required under sections 60A.60 to 60A.696, the making, publishing, dissemination, circulating, or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the risk-based capital levels of an insurer, or of any component derived in the calculation, by an insurer, agent, broker, or other person engaged in any manner in the insurance business would be misleading and is prohibited. However, if a materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its risk-based capital levels, or any of them, or an inappropriate comparison of any other amount to the insurer's risk-based capital levels is published in a written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity of the statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement. This subdivision does not prohibit an insurance company or its holding company from disclosing information about its risk-based capital levels in the notes to its financial statements if required by pronouncements of the American Institute of Certified Public Accountants or the Financial Accounting Standards Board, or making this disclosure as required by other governmental regulatory agencies.

Sec. 7. Minnesota Statutes 1994, section 60C.09, subdivision 2, is amended to read:

Subd. 2. [FURTHER DEFINITION.] In addition to subdivision 1, a covered claim does not include:

- (1) claims by an affiliate of the insurer; ~~and~~
- (2) claims due a reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise. This clause does not prevent a person from presenting the excluded claim to the insolvent insurer or its liquidator, but the claims shall not be asserted against another person, including the person to whom the benefits were paid or the insured of the insolvent insurer, except to the extent that the claim is outside the coverage of the policy issued by the insolvent insurer; and
- (3) any first party claims, resulting from insolvencies which occur after July 31, 1996, by an insured whose net worth exceeds \$25,000,000 on December 31 of the year prior to the year in

which the insurer becomes an insolvent insurer; provided that an insured's net worth on that date shall be deemed to include the aggregate net worth of the insured and all of its subsidiaries as calculated on a consolidated basis.

Sec. 8. Minnesota Statutes 1994, section 60C.11, is amended by adding a subdivision to read:

Subd. 7. The association may recover the amount of any covered claim paid, resulting from insolvencies which occur after July 31, 1996, on behalf of an insured who has a net worth of \$25,000,000 as provided in section 60C.09, subdivision 2, clause (3), on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under this act.

Sec. 9. Minnesota Statutes 1994, section 61A.32, is amended to read:

61A.32 [DOMESTIC MUTUAL AND STOCK AND MUTUAL COMPANIES; VOTING RIGHTS OF MEMBERS.]

Every person insured by a domestic mutual life insurance company, and every participating policyholder of a domestic stock and mutual life insurance company as defined in sections 61A.33 to 61A.36, shall be a member, entitled to one vote and one vote additional for each \$1,000 of insurance in excess of the first \$1,000; provided, that no member shall be entitled to more than 100 votes; and, provided, further, that in the case of group insurance on employees such group shall be deemed to be a single member and the employer shall be deemed to be such member for the purpose of voting, having not to exceed 100 votes, provided, that in cases where the employees pay all or any part of the premium, either directly or by payroll deductions, the employees shall be allowed to choose their representative, who shall exercise a voting power in proportion to the percentage of premium paid by such employees. Every member shall be notified of its annual meetings by a written notice mailed to the member's address, or by an imprint on the back of the policy, premium notice, receipt or certificate of renewal, as follows:

"The insured is hereby notified that by virtue of this policy the insured is a member of the ..... Insurance Company, and that the annual meetings of said company are held at its home office on the ..... day of ..... in each year, at ..... o'clock."

The blanks shall be duly filled in print. Any such member may vote by proxy by filing written proxy appointment with the secretary of the company at its home office at least five days before the first meeting at which it is to be used. Such proxy appointment may be for a specified period of time ~~or may provide that it will be in effect until revoked~~ not to exceed one year. A proxy may be revoked by a member at any time by written notice to the secretary of the company or by executing a new proxy appointment and filing it as required herein: provided, however, that any member may always appear personally and exercise rights as a member at any meeting of the company.

A domestic mutual life insurance company may by its articles of incorporation or bylaws provide for a representative system of voting in any meeting of members. The articles or bylaws may provide for the selection of representatives from districts as therein specified, such representatives to represent approximately equal numbers of members with power to exercise all the voting powers, rights and privileges of the members they represent with the same force and effect as might be exercised by the members themselves. In such a representative system the votes cast by the representative shall be one vote for each member, notwithstanding the amount of insurance carried, and proxy voting shall not be permitted; provided, however, that any member may always appear personally and exercise rights as a member of the company at any meeting of the membership.

Sec. 10. Minnesota Statutes 1994, section 61B.20, subdivision 15, is amended to read:

Subd. 15. [PREMIUMS.] "Premiums" means amounts received on covered policies or contracts less premiums, considerations, and deposits returned, and less dividends and experience credits on those covered policies or contracts to the extent not guaranteed in advance. The term does not include amounts received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under section 61B.19, subdivision 3, except that assessable

premium shall not be reduced on account of section 61B.19, subdivision 4, relating to limitations with respect to any one life, any one individual, and any one contract holder. Premiums subject to assessment under section 61B.24, include all amounts received on any unallocated annuity contract issued to a contract holder resident in this state if the contract is not otherwise excluded from coverage under section 61B.19, subdivision 3; provided that "premiums" shall not include any premiums in excess of the liability limit on any unallocated annuity contract specified in section 61B.19, subdivision 4.

Sec. 11. [REPEALER.]

Minnesota Statutes 1994, section 60A.07, subdivision 8, is repealed."

Delete the title and insert:

"A bill for an act relating to insurance; regulating coverages; modifying agent cancellations or terminations; providing certain filing requirements for domestic insurers; regulating disclosures and policy and contract provisions; providing for the operation and administration of the medical malpractice joint underwriting association and the Minnesota joint underwriting association; regulating policy cancellations or terminations and claims practices; regulating information handling practices; establishing solvency requirements; making technical changes; amending Minnesota Statutes 1994, sections 60A.09, subdivision 4a; 60A.13, subdivision 8; 60A.171, subdivision 7, and by adding a subdivision; 60A.11, subdivision 21; 60A.36, subdivision 1; 60C.09, subdivision 2; 60C.11, by adding a subdivision; 61A.02, subdivision 2, and by adding a subdivision; 61A.072, subdivision 4; 61A.32; 61B.20, subdivision 15; 61B.28, subdivision 7; 62A.011, subdivision 3; 62A.02, by adding a subdivision; 62A.31, subdivisions 1p, 1r, 1s, and 3; 62A.315; 62A.318; 62A.36, subdivision 1; 62A.39; 62A.44, subdivision 2; 62A.60; 62F.03, subdivision 6; 62F.04, subdivision 1a; 62I.02, subdivisions 2, 5, and by adding a subdivision; 62I.07; 62L.02, subdivision 15; 62L.09, subdivision 3; 65A.01, subdivision 3; 65A.295; 65B.14, by adding a subdivision; 65B.15, subdivision 1; 65B.51, subdivision 3; 70A.07; 72A.20, subdivisions 17, 23, 26, 30, and by adding a subdivision; and 72A.493; Minnesota Statutes 1995 Supplement, sections 60A.07, subdivision 10; 60A.67, subdivision 2; 61A.09, subdivision 1; 62A.042; 62A.135, subdivision 1; 62A.31, subdivision 1h; 62C.14, subdivision 14; 62E.05, subdivision 1; 62F.02, subdivision 2; and 62L.12, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 62A; and 72A; repealing Minnesota Statutes 1994, sections 60A.07, subdivision 8; 60A.40; 60B.27; 62I.20; 65A.25; 72A.205; 79A.04, subdivision 8; Minnesota Statutes 1995 Supplement, section 79.55, subdivision 5; and Laws 1995, chapter 140, section 1."

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

**Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was re-referred**

**S.F. No. 2450:** A bill for an act relating to human services; providing for the selection of representatives of nongovernmental entities to take part in operating a family services collaborative; permitting the inclusion of representatives of nongovernmental entities in a joint board established under the joint powers act to operate a family services collaborative; amending Minnesota Statutes 1994, sections 121.8355, subdivision 1, and by adding a subdivision; 466.01, subdivision 1; and 471.59, subdivision 11.

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

**Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred**

**S.F. No. 2547:** A bill for an act relating to capital improvements; appropriating money for the south metro joint public safety training facility; authorizing the sale of state bonds.

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

**Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred**

**S.F. No. 2602:** A bill for an act relating to the city of Minneapolis; expanding the areas for which special service districts may be established; amending Laws 1985, chapter 302, section 2, subdivision 1, as amended.

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

Page 2, line 27, delete "west" and insert "east"

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

**Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred**

**S.F. No. 2581:** A bill for an act relating to local government; the cities of Norwood and Young America in Carver county and their consolidation into the city of Norwood-Young America; repealing Extra Session Laws 1857, chapter 18, section 50; Special Laws 1874, chapter 78; Special Laws 1879, chapters 4 and 152; Special Laws 1881, chapters 31 and 101; Special Laws 1889, chapter 24; and Special Laws 1891, chapters 211 and 272.

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

**Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred**

**S.F. No. 2698:** A bill for an act relating to agencies; providing for the right to extend a deadline with certain conditions; amending Minnesota Statutes 1995 Supplement, section 15.99, subdivision 3.

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

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

**S.F. No. 2597:** A bill for an act relating to local government; providing for creation of an advisory council on intergovernmental relations; proposing coding for new law in Minnesota Statutes, chapter 15.

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

Page 2, after line 16, insert:

"(e) The council's expiration date is governed by section 15.059."

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

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

**S.F. No. 2297:** A bill for an act relating to capital improvements; appropriating money to make grants for ice centers; authorizing the sale of state bonds.

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

Page 1, line 7, before "\$9,000,000" insert "Subdivision 1. [ICE CENTERS.]"

Page 1, after line 9, insert:

"Subd. 2. [MARIUCCI ICE AND TENNIS FACILITY.] \$10,000,000 is appropriated to the board of regents of the University of Minnesota to predesign, design, construct, and equip a new facility adjacent to Mariucci arena on the Minneapolis campus to include an olympic-size ice sheet and tennis courts."

Page 1, line 14, delete "\$9,000,000" and insert "\$19,000,000"

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

**Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred**

**S.F. No. 2588:** A bill for an act relating to metropolitan government; authorizing municipalities providing replacement transit service to individually assess a levy for transit and collect the proceeds; amending Minnesota Statutes 1994, section 473.388, subdivisions 2, 5, and by adding a subdivision; repealing Minnesota Statutes 1994, section 473.388, subdivision 3; Minnesota Statutes 1995 Supplement, section 473.388, subdivision 4.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 473.388, subdivision 5, is amended to read:

Subd. 5. [OTHER ASSISTANCE.] A city or town receiving assistance or levying a transit tax under this section may also receive assistance from the council under section 473.384. In applying for assistance under that section an applicant must describe the portion of ~~the~~ its available local transit funds which are not obligated to subsidize its replacement transit service and which the applicant proposes to use to subsidize additional service. An applicant which has exhausted its available local transit funds may use any other local subsidy funds to complete the required local share.

Sec. 2. Minnesota Statutes 1994, section 473.388, is amended by adding a subdivision to read:

Subd. 7. [LOCAL LEVY OPTION.] (a) A statutory or home rule charter city or town that is eligible for assistance under this section, in lieu of receiving the assistance, may levy each year upon all taxable property within the municipality a transit tax consisting of an amount that must be used for payment of the operating and capital expenditures for transit and paratransit services and to provide for payment of obligations issued by the municipality for transit purposes.

(b) A maximum of 88 percent of the tax revenues may be levied by the town or statutory or home rule charter city providing replacement transit services under this subdivision with the remainder being levied by the council under section 473.446.

(c) The transit tax revenues derived by the municipality from the transit tax levied within the municipality may not exceed:

(1) for taxes levied in 1996, the maximum available local transit funds for the municipality in 1996 under section 473.446, (i) based on taxes levied in 1995, (ii) calculated as if the percentage of transit tax revenues for the municipality were 88 percent instead of 90 percent, and (iii) multiplied by the market value adjustment ratio as applied to the municipality only for taxes levied in 1996; and

(2) for taxes levied in 1997 and later years, the maximum transit taxes that the municipality may have levied in the last year under this subdivision, multiplied by the market value adjustment ratio for taxes levied in the current year.

The commissioner of revenue shall certify the municipality's levy limitation under this subdivision to the municipality by August 1 of the levy year. The tax must be extended, spread, and included

as a part of the general taxes for state, county, and municipal purposes by the county auditor, to be collected and enforced with them, together with the penalty, interest, and costs. As the tax, including any penalties, interest, and costs, is collected by the county treasurer it must be accumulated and kept in a separate fund to be known as the "replacement transit fund."

(d) To enable the municipality to receive revenues described in clauses (2) and (3) of the definition of "tax revenues" in section 473.388, subdivision 4, that would otherwise be lost to it if the municipality's transit tax levy was not treated as a successor levy to that made by the council under section 473.446 and that was paid over to the municipality as financial assistance under 473.388, subdivision 4:

(1) for the council and the municipality's transit taxes levied in 1996, 88 percent of the council's nondebt spread levy levied in 1995 and described in clauses (2) and (3) of the definition of "tax revenues" in section 473.388, subdivision 4, shall be treated as levied by the municipality, and not the council, for purposes of section 473F.08, subdivision 3, as its local tax rate for the preceding levy year; and

(2) for the municipality's transit tax levied in 1996 and thereafter, treating the municipality's transit tax as levied by the council for nondebt purposes only under clause (1) of the definition of "tax revenues" in section 473.388, subdivision 4, there shall be paid to the municipality instead of the council 88 percent of the revenues described in clause (3) of the definition of "tax revenues" in section 473.388, subdivision 4.

(e) Any transit taxes levied under this subdivision are not subject to, or counted towards, any limit hereafter imposed by law on the levy of taxes upon taxable property within any municipality unless the law specifically includes the transit tax.

(f) This subdivision is consistent with the transit redesign plan. Eligible municipalities opting to levy the transit tax under this subdivision shall continue to meet the regional performance standards established by the council.

(g) Within the designated Americans with Disabilities Act area, metro mobility remains the obligation of the state.

Sec. 3. Minnesota Statutes 1994, section 473.446, is amended by adding a subdivision to read:

Subd. 1b. [DEDUCTION OF LOCAL TRANSIT LEVY FOR ELIGIBLE MUNICIPALITIES.] (a) The maximum amount of taxes the council may levy for general purposes under subdivision 1, paragraph (a), upon taxable property within a municipality providing replacement transit service is:

(1) for taxes levied in 1996, an amount which equals the sum of (1) 12 percent of the tax revenues derived from the taxes levied upon the taxable property in 1995, and (2) the portion of any state feathering reimbursement under subdivision 1, attributable to taxes levied upon the taxable property in 1995 for nondebt purposes, multiplied by the market value adjustment ratio as applied to only the municipality for taxes levied in 1996; and

(2) for taxes levied in 1997 and later years, the amount of taxes that the council levied in the last year under this subdivision, multiplied by the market value adjustment ratio for taxes levied in the current year.

(b) For purposes of (1) extending on taxable property located within any municipality providing replacement transit service its share of the levy made by the council for general purposes under subdivision 1, clause (a), and (2) calculating the amount of the levy to be allocated to each county, the council and the county auditor shall, after 1995, deduct from the part of the levy that would otherwise be allocated to the municipality the amount by which that part exceeds the maximum amount of taxes the council may levy within the municipality under this subdivision. After making the deduction, the council and the county auditor shall reallocate to the taxable property located within the metropolitan transit taxing district, other than a municipality providing replacement transit service, the amount by which the council's tax levy within the municipality was reduced. The council shall notify the county auditor no later than October 1 of each year of the amount of the deduction for each municipality providing replacement transit service located in the county.

(c) For purposes of this subdivision:

(1) "municipality" means a municipality providing replacement transit service under section 473.388;

(2) "market value adjustment ratio" means the index for market valuation changes described in section 473.446, as applied to the municipalities; and

(3) "tax revenues" has the meaning given the term in section 473.388, subdivision 4."

Amend the title as follows:

Page 1, delete lines 6 to 9 and insert "sections 473.388, subdivision 5, and by adding a subdivision; and 473.446, by adding a subdivision."

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

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

**S.F. No. 2491:** A bill for an act relating to ethics; changing the name of the ethical practices board to the board of campaign finance and public disclosure.

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

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

**S.F. No. 1833:** A bill for an act relating to employee relations; excepting convicted sex offenders from standard discharge procedure; amending Minnesota Statutes 1994, section 43A.33, subdivisions 1, 3, and by adding a subdivision.

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

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

**S.F. No. 2189:** A bill for an act relating to the Minnesota municipal board; clarifying authority and procedures; amending Minnesota Statutes 1994, sections 414.01, subdivisions 1, 2, 6a, 7a, 8, 12, and 16; 414.02, subdivision 3; 414.031, subdivision 4; 414.0325, subdivisions 1, 1a, and 3; 414.033, subdivision 5, and by adding a subdivision; 414.041, subdivisions 3 and 5; and 414.061, subdivisions 4 and 5; repealing Minnesota Statutes 1994, sections 414.01, subdivisions 3, 3a, and 4; and 414.061, subdivision 4a.

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

Page 4, line 35, after "a" insert "copy of the"

Page 5, line 25, reinstate the stricken language and after the reinstated "development" insert a comma and after "planning" insert a comma

Page 5, lines 26 and 27, reinstate the stricken language

Page 8, line 25, reinstate the stricken "physical development" and delete "planning" and insert "planning,"

Page 8, lines 27 and 28, reinstate the stricken language

Page 8, line 29, reinstate the stricken language and delete "adjacent units of local government" and insert "land uses"

Page 12, line 27, delete "414.032" and insert "414.031"

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

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

**S.F. No. 2499:** A bill for an act relating to the environment; repealing the used motor oil and used motor oil filter law; amending Minnesota Statutes 1995 Supplement, sections 239.011, subdivision 2; 239.54; 325E.10, subdivision 1; and 325E.11; repealing Minnesota Statutes 1995 Supplement, sections 325E.112; and 325E.113.

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

Delete everything after the enacting clause and insert:

"Section 1. Laws 1995, chapter 220, section 142, is amended to read:

Sec. 142. [EFFECTIVE DATES.]

Sections 2, 5, 7, 20, 42, 44 to 49, 56, 57, 101, 102, 117, and 141, paragraph (d), are effective the day following final enactment.

Sections 114, 115, 118, and 121 are effective January 1, 1996.

~~Sections 119, 120, and Section~~ 141, paragraph (c), are is effective July 1, 1996.

Sections 119 and 120 are effective July 1, 1997.

Section 141, paragraph (b), is effective June 30, 1999.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to the environment; delaying the effective date of certain requirements relating to used motor oil filters; amending Laws 1995, chapter 220, section 142."

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

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

**S.F. No. 1775:** A bill for an act relating to game and fish; requiring a turkey stamp, setting the fee, and directing use of proceeds; amending Minnesota Statutes 1994, sections 97A.075, subdivision 4; 97A.475, subdivision 5; and 97B.721.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 97A.055, subdivision 4, is amended to read:

Subd. 4. [ANNUAL REPORTS.] (a) By November 15 each year, the commissioner shall submit to the legislative committees having jurisdiction over appropriations and the environment and natural resources reports on each of the following:

(1) the amount of revenue from the following and purposes for which expenditures were made:

(i) the small game license surcharge under section 97A.475, subdivision 4;

- (ii) the Minnesota migratory waterfowl stamp under section 97A.475, subdivision 5, clause (1);
- (iii) the trout and salmon stamp under section 97A.475, subdivision 10; ~~and~~
- (iv) the pheasant stamp under section 97A.475, subdivision 5, clause (2); and
- (v) the turkey stamp under section 97A.475, subdivision 5, clause (3);

(2) the amounts available under section 97A.075, subdivision 1, paragraphs (b) and (c), and the purposes for which these amounts were spent; and

(3) money credited to the game and fish fund under this section and purposes for which expenditures were made from the fund.

(b) The report must include the commissioner's recommendations, if any, for changes in the laws relating to the stamps and surcharge referenced in paragraph (a).

Sec. 2. Minnesota Statutes 1994, section 97A.055, subdivision 4a, is amended to read:

Subd. 4a. [CITIZEN OVERSIGHT COMMITTEES.] (a) The commissioner shall appoint committees of affected persons to review the reports prepared under subdivision 4 and other relevant information and make recommendations to the legislature and the commissioner for improvements in the management and use of money in the game and fish fund.

(b) The commissioner shall appoint the following committees:

(1) a committee to review the annual game and fish fund report and address general game and fish fund issues;

(2) a committee to address funding issues related to fishing;

(3) a committee to review the report on the small game license surcharge and the report required in subdivision 4, paragraph (a), clause (2), and address funding issues related to hunting;

(4) a committee to review the trout and salmon stamp report and address funding issues related to trout and salmon;

(5) a committee to review the report on the migratory waterfowl stamp and address funding issues related to migratory waterfowl; ~~and~~

(6) a committee to review the report on the pheasant stamp and address funding issues related to pheasants; and

(7) a committee to review the report on the turkey stamp and address funding issues related to wild turkeys.

Sec. 3. Minnesota Statutes 1994, section 97A.075, is amended by adding a subdivision to read:

Subd. 5. [TURKEY STAMPS.] (a) Ninety percent of the revenue from turkey stamps must be credited to the wild turkey management account. Money in the account may be used only for:

(1) the development, restoration, and maintenance of suitable habitat for wild turkeys on public and private land including forest stand improvement and establishment of nesting cover, winter roost area, and reliable food sources;

(2) acquisitions of, or easements on, critical wild turkey habitat;

(3) reimbursement of expenditures to provide wild turkey habitat on public and private land;

(4) trapping and transplantation of wild turkeys; and

(5) the promotion of turkey habitat development and maintenance, population surveys and monitoring, and research.

(b) Money in the account may not be used for:

(1) costs unless they are directly related to a specific parcel of land under paragraph (a), clauses (1) to (3), a specific trap and transplant project under paragraph (a), clause (4), or to specific promotional or evaluative activities under paragraph (a), clause (5); or

(2) any permanent personnel costs.

Sec. 4. Minnesota Statutes 1994, section 97A.475, subdivision 5, is amended to read:

Subd. 5. [HUNTING STAMPS.] Fees for the following stamps are:

(1) migratory waterfowl stamp, \$5; ~~and~~

(2) pheasant stamp, \$5; and

(3) turkey stamp, \$5.

Sec. 5. Minnesota Statutes 1994, section 97B.603, is amended to read:

97B.603 [SMALL GAME PARTY HUNTING.]

While two or more persons are hunting small game as a party and maintaining unaided visual and vocal contact, a member of the party may take and possess more than one limit of small game, but the total number of small game taken and possessed by the party may not exceed the limit of the number of persons in the party that may take and possess small game. This section does not apply to the hunting of migratory game birds or turkeys, except that a licensed turkey hunter may assist another licensed turkey hunter for the same zone and time period as long as the hunter does not shoot or tag a turkey for the other hunter.

Sec. 6. Minnesota Statutes 1994, section 97B.721, is amended to read:

97B.721 [LICENSE AND STAMP REQUIRED TO TAKE TURKEY; TAGGING AND REGISTRATION REQUIREMENTS.]

(a) Except as provided in paragraph (b), a person may not take a turkey without a turkey license and a turkey stamp in possession.

(b) The requirement in paragraph (a) to possess a turkey stamp does not apply to persons under age 18.

(c) The commissioner may by rule prescribe requirements for the tagging and registration of turkeys.

Sec. 7. [EFFECTIVE DATE.]

This act is effective March 1, 1997, and applies to licenses issued beginning with the 1997 license year."

Delete the title and insert:

"A bill for an act relating to game and fish; requiring a turkey stamp; setting a fee; directing use of proceeds; amending Minnesota Statutes 1994, sections 97A.055, subdivisions 4 and 4a; 97A.075, by adding a subdivision; 97A.475, subdivision 5; 97B.603; and 97B.721."

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

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

**S.F. No. 2409:** A bill for an act relating to game and fish; modifying restrictions for nonresident fish houses; amending Minnesota Statutes 1994, section 97C.355, subdivision 6.

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

Page 1, line 9, strike "only" and strike "that is"

Page 1, line 10, strike "collapsible" and delete "or" and strike "portable, and" and insert "but"

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

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

**S.F. No. 2104:** A bill for an act relating to transportation; delaying requirement for lead-free markings for road pavement; amending Minnesota Statutes 1994, section 115A.9651, subdivision 1.

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

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

**S.F. No. 2687:** A bill for an act relating to county fee lands; ratifying certain sales of county fee lands in Lake county.

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

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

**S.F. No. 2175:** A bill for an act relating to public employment; imposing conditions protecting the rights of employees on any transfer of the University of Minnesota hospital and clinics to Fairview hospital and healthcare services.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

RETIREMENT BENEFITS

Section 1. [352F.01] [PURPOSE.]

The purpose of this chapter is to assure, to the extent possible, that persons employed at the University of Minnesota hospital and clinics will be entitled to receive future retirement benefits under the general state employees retirement plan of the Minnesota state retirement system commensurate with the prior contributions made by them or on their behalf upon the integration of the University of Minnesota hospital and clinics and Fairview hospital and healthcare services.

Sec. 2. [352F.02] [DEFINITIONS.]

Subdivision 1. [DEFINITIONS.] As used in this chapter, unless the context or subject matter indicates otherwise, the following terms have the meanings given in this section.

Subd. 2. [ALLOWABLE SERVICE.] "Allowable service" has the meaning provided in Minnesota Statutes 1994, section 352.01, subdivision 11.

Subd. 3. [EFFECTIVE DATE.] "Effective date" is the date terminated hospital employees transfer employment to Fairview under a definitive integration agreement between the University of Minnesota and Fairview.

Subd. 4. [FAIRVIEW.] "Fairview" means Fairview hospital and healthcare services, a Minnesota nonprofit corporation, and its successors.

Subd. 5. [SECTION.] "Section" means the designated section of Minnesota Statutes.

Subd. 6. [TERMINATED HOSPITAL EMPLOYEE.] "Terminated hospital employee" means a person who:

(1) was employed on the day before the effective date by the University of Minnesota at the University of Minnesota hospital and clinics and was paid on a biweekly payroll;

(2) terminated employment with the University of Minnesota on the day before the effective date; and

(3) was a participant in the general state employees retirement plan of the Minnesota state retirement system at the time of termination of employment with the University of Minnesota.

Subd. 7. [UNIVERSITY OF MINNESOTA.] "University of Minnesota" means University of Minnesota hospital and clinics, the hospitals and clinics operated by the regents of the University of Minnesota.

Subd. 8. [YEARS OF ALLOWABLE SERVICE.] "Years of allowable service" has the meaning provided in Minnesota Statutes 1994, section 352.01, subdivision 16.

Sec. 3. [352F.03] [VESTING RULE FOR CERTAIN EMPLOYEES.]

Notwithstanding any provision of chapter 352 to the contrary, a terminated hospital employee is eligible to receive a retirement annuity under Minnesota Statutes 1994, section 352.115, without regard to the requirement for three years of allowable service.

Sec. 4. [352F.04] [AUGMENTATION INTEREST RATE FOR TERMINATED UNIVERSITY HOSPITAL EMPLOYEES.]

The deferred annuity of a terminated hospital employee is subject to augmentation in accordance with Minnesota Statutes 1994, section 352.72, subdivision 2, except that the rate of interest for this purpose is 5.5 percent compounded annually until January 1 of the year in which such person attains age 55. From that date to the effective date of retirement, the rate is 7.5 percent. These increased augmentation rates are no longer applicable for any time after the terminated hospital employee becomes covered again by a retirement fund enumerated in section 356.30, subdivision 3. These increased deferred annuity augmentation rates do not apply to a terminated transferred hospital employee who begins receipt of a retirement annuity while employed by Fairview.

Sec. 5. [352F.05] [AUTHORIZATION FOR ADDITIONAL ALLOWABLE SERVICE FOR CERTAIN EARLY RETIREMENT PURPOSES.]

Notwithstanding any provision of chapter 352 to the contrary, the years of allowable service for a terminated hospital employee who transfers to employment at Fairview on the effective date and does not apply for a refund of contributions pursuant to section 352.22, subdivision 2, or any similar provision in future Minnesota Statutes, includes service with Fairview following the effective date.

This section is solely for the purpose of determining eligibility for early retirement benefits provided in Minnesota Statutes 1994, section 352.116, subdivision 1, paragraphs (a) and (b). No early retirement benefits under this section may be paid during any period the terminated hospital employee is employed by Fairview. The reemployed annuitant earnings limitation of Minnesota Statutes 1994, section 352.115, subdivision 10, also applies to any service as an employee of Fairview. Fairview shall provide any reports that the executive director of the Minnesota state retirement system may reasonably request to permit calculation of this additional service credit.

Sec. 6. [352F.06] [EFFECT ON REFUND.]

Notwithstanding any provision of chapter 352 to the contrary, terminated hospital employees may receive a refund of employee accumulated contributions plus interest at the rate of six percent per year compounded annually in accordance with Minnesota Statutes 1994, section 352.22,

subdivision 2, at any time after the transfer of employment to Fairview. If a terminated hospital employee has received a refund from a pension plan enumerated in section 356.30, subdivision 3, the person may not repay that refund unless the person again becomes a member of one of those enumerated plans and complies with section 356.30, subdivision 2.

Sec. 7. [352F.07] [COUNSELING SERVICES.]

The University of Minnesota hospital and clinics and the Minnesota state retirement system shall provide terminated hospital employees with counseling on their benefits available under the general state employees retirement plan of the Minnesota state retirement system.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective as of the date employees of the University of Minnesota cease to be members of the Minnesota state retirement system as a result of an integration agreement between the University of Minnesota and Fairview.

ARTICLE 2

CONDITIONS FOR INTEGRATION AGREEMENT

Section 1. [CONDITIONS GOVERNING INTEGRATION.]

Subdivision 1. [LIMITATION.] The regents of the University of Minnesota may not enter into a definitive integration agreement affecting the University of Minnesota hospital and clinics and Fairview hospital and healthcare services unless the conditions set out in this section have been fulfilled.

Subd. 2. [COLLECTIVE BARGAINING AGREEMENTS.] If an integration agreement described in subdivision 1 results in the transfer of represented employees of the University of Minnesota hospital and clinics to Fairview hospital and healthcare services or a new entity, collective bargaining agreements covering those employees on the effective date of that agreement must remain in effect until representation of those employees has been determined under the national labor relations act and successor agreements covering the employees become effective.

Subd. 3. [CURRENT EXCLUSIVE REPRESENTATIVES.] The exclusive representatives of employees of the University of Minnesota hospital and clinics on the effective date of an agreement described in subdivision 1 must have continuing responsibility for administration of their agreements, and all contractual duties, rights, and obligations, including the right to deduction of dues and fair share fees, must remain in effect until new agreements become effective or new exclusive representatives have been certified.

Subd. 4. [UNREPRESENTED EMPLOYEES.] If an agreement described in subdivision 1 results in the transfer of unrepresented employees of the University of Minnesota hospital and clinics to Fairview hospital and healthcare services or a new entity, the terms and conditions of agreements, compensation plans, personnel policies, or other salary and benefit provisions covering those employees on the date of that agreement remain in effect until June 30, 1997.

Subd. 5. [COMPENSATION.] The compensation of employees of the University of Minnesota hospital and clinics on the effective date of an agreement described in subdivision 1 may not be diminished after the date of an agreement. If a successor collective bargaining agreement, compensation plan, personnel policy, or other pay and benefit provision provides for a lower compensation rate for an employee's classification, the employee's rate may not be decreased, but may remain at its current level until a higher rate becomes effective for that classification.

Subd. 6. [BENEFITS; SENIORITY.] Accumulations of leaves, years of service, and benefits accrued by employees of the University of Minnesota hospital and clinics on the effective date of an agreement described in subdivision 1 must remain in effect and be credited to the employees for purposes of their employment by a governing body established in accordance with subdivision 2. The governing body may not reduce the value or coverage of the employees' insurance benefits, eligibility for regents' scholarships, or other benefits, except as provided in Minnesota Statutes, sections 352F.01 to 352F.07. The new governing body shall compile and maintain a merged

seniority roster covering former employees of the University of Minnesota hospital and clinics and any former employees of Fairview hospital and healthcare services who are employed by the governing body. Probationary periods and provisions governing promotion, layoff, lateral transfers, disciplinary procedures, and dismissals under a collective bargaining agreement in effect on the effective date of an agreement described in subdivision 1 must remain in effect until modified by a successor agreement.

Subd. 7. [TRAINING MONEY.] Sufficient money must be provided for training and retraining of permanent or regular employees of the University of Minnesota hospital and clinics who are transferred to Fairview hospital and health care services or a new entity as a result of an agreement described in subdivision 1.

Subd. 8. [PRESERVATION OF RIGHTS.] This section does not abrogate or change any rights enjoyed by employees of the University of Minnesota hospital and clinics under the terms of a collective bargaining agreement authorized by Minnesota Statutes, section 179A.20, and in effect at the effective date of this section.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective as of the effective date of an integration agreement between the University of Minnesota hospitals and clinics and Fairview hospital and healthcare services."

Delete the title and insert:

"A bill for an act relating to retirement and public employment; modifying benefits for certain former participants in the Minnesota state retirement system, authorizing additional service credits for certain University of Minnesota hospital and clinics employees; authorizing additional augmentation for employees of the University of Minnesota hospital and clinics who terminate participation in the Minnesota state retirement system; imposing conditions protecting the rights of employees on any integration of the University of Minnesota hospital and clinics and Fairview hospital and healthcare services; proposing coding for new law as Minnesota Statutes, chapter 352F."

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

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

**S.F. No. 2349:** A bill for an act relating to utilities; authorizing public utilities commission to levy civil penalties for violations by public utilities and telecommunications companies; making technical changes; amending Minnesota Statutes 1994, sections 216B.54; 216B.57; 216B.59; 216B.60; 216B.61; and 237.27.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 216B.57, is amended to read:

216B.57 [PENALTIES.]

Any person who knowingly and intentionally violates any provision of Laws 1974, chapter 429, or who knowingly and intentionally fails, omits, or neglects to obey, observe, or comply with any lawful order, or any part or provision thereof, of the commission is subject to a penalty of not less than \$100 nor more than ~~\$1,000~~ \$5,000 for each violation."

Delete the title and insert:

"A bill for an act relating to utilities; increasing penalty for violation of law regulating utilities; amending Minnesota Statutes 1994, section 216B.57."

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

**Ms. Flynn from the Committee on Transportation and Public Transit, to which was referred**

**S.F. No. 2466:** A bill for an act relating to traffic regulations; exempting first hauls of farm and forest products from certain additional registration taxes when weight restrictions are not exceeded by more than ten percent; allowing use of safety cables on trailers and semitrailers; providing for maximum civil penalties for gross weight violations when not preceded by two or more violations within 12 months; requiring persons who load or unload goods to keep certain records; amending Minnesota Statutes 1994, sections 168.013, subdivision 3; 169.82, subdivision 3; 169.871, by adding a subdivision; and 169.872, subdivision 1.

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

Page 3, line 35, delete ", as defined"

Page 3, line 36, delete "in section 169.851, subdivision 3,"

Page 4, line 1, delete "prescribed" and insert "registered gross"

Page 4, line 2, delete "maximum" and delete "limitation"

Page 4, line 3, after the period, insert "For the purposes of this clause, "first haul" means:

(i) the first continuous transportation of unprocessed or raw farm products from the place of production or on-farm storage site to any other location within 50 miles of the place of production or on-farm storage site; or

(ii) the first continuous transportation of unfinished forest products from the place of production to the place of first unloading."

Page 5, line 4, after "vehicle" insert "in the course of a first haul as defined in section 168.013, subdivision 3, clause (3),"

Page 5, delete section 4

Amend the title as follows:

Page 1, line 9, delete everything after the semicolon

Page 1, line 10, delete everything before "amending"

Page 1, line 12, after "3;" insert "and"

Page 1, line 13, delete "; and 169.872, subdivision 1"

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

**Ms. Flynn from the Committee on Transportation and Public Transit, to which was referred**

**S.F. No. 2209:** A bill for an act relating to motor vehicles; abolishing vehicle registration tax exemption for representatives of foreign powers; allowing special license plates for certain persons to be issued to owner of certain trucks; removing restriction on time to apply for disability plates; changing fee and certain administrative procedures relating to the registration program for fleet vehicles; abolishing requirements to keep records of motor vehicles not using the highways and to prepare certain unnecessary reports; making various technical changes; amending Minnesota Statutes 1994, sections 168.021, subdivision 1; 168.12, subdivision 2b; 168.127; 168.325, subdivision 1; 168.33, subdivision 6; and 168.34; Minnesota Statutes 1995 Supplement, sections 168.012, subdivision 1; and 168.10, subdivision 1i; repealing Minnesota Statutes 1994, section 168.33, subdivisions 4 and 5.

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

Page 1, after line 19, insert:

"Section 1. Minnesota Statutes 1994, section 168.011, subdivision 4, is amended to read:

Subd. 4. [MOTOR VEHICLE.] (a) "Motor vehicle" means any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails, except snowmobiles, manufactured homes, and park trailers.

(b) "Motor vehicle" also includes an all-terrain vehicle, as defined in section 84.92, subdivision 8, which (1) has at least four wheels, (2) is owned and operated by a physically disabled person, and (3) displays both physically disabled license plates and a physically disabled certificate issued under section 169.345, subdivision 3.

(c) Motor vehicle does not include an all-terrain vehicle as defined in section 84.92, subdivision 8; except (1) an all-terrain vehicle described in paragraph (b), or (2) an all-terrain vehicle licensed as a motor vehicle before August 1, 1985, in which case the owner may continue to license it as a motor vehicle until it is conveyed or otherwise transferred to another owner, is destroyed, or fails to comply with the registration and licensing requirements of this chapter.

(d) Motor vehicle does not include an "electric assisted bicycle" as defined in section 169.01, subdivision 4b.

Sec. 2. Minnesota Statutes 1994, section 168.011, subdivision 27, is amended to read:

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

Page 4, after line 32, insert:

"Sec. 6. Minnesota Statutes 1994, section 168.12, subdivision 2a, is amended to read:

Subd. 2a. [PERSONALIZED PLATES; RULES.] Personalized license plates must be issued to an applicant for registration of a passenger automobile including a passenger automobile registered as a classic car, pioneer car, collector car, or street rod; van; pickup truck as defined in section 168.011, subdivision 29, and any other truck with a registered gross weight of 9,000 pounds or less and commonly known as a pickup truck; motorcycle including a classic motorcycle; or self-propelled recreational vehicle, upon compliance with the laws of this state relating to registration of the vehicle and upon payment of a one-time fee of \$100 in addition to the registration tax required by law for the vehicle. The registrar shall designate a replacement fee for personalized license plates that is calculated to cover the cost of replacement. This fee must be paid by the applicant whenever the personalized license plates are required to be replaced by law. In lieu of the numbers assigned as provided in subdivision 1, personalized license plates must have imprinted on them a series of not more than seven numbers and letters in any combination. When an applicant has once obtained personalized plates, the applicant shall have a prior claim for similar personalized plates in the next succeeding year as long as current registration is maintained. The commissioner of public safety shall adopt rules in the manner provided by chapter 14, regulating the issuance and transfer of personalized license plates. No words or combination of letters placed on personalized license plates may be used for commercial advertising, be of an obscene, indecent, or immoral nature, or be of a nature that would offend public morals or decency. The call signals or letters of a radio or television station are not commercial advertising for the purposes of this subdivision.

Notwithstanding the provisions of subdivision 1, personalized license plates issued under this

subdivision may be transferred to another motor vehicle owned or jointly owned by the applicant, upon the payment of a fee of \$5, which must be paid into the state treasury and credited to the highway user tax distribution fund. The registrar may by rule provide a form for notification. A personalized license plate issued for a classic car, pioneer car, collector car, street rod, or classic motorcycle may not be transferred to a vehicle not eligible for such a license plate.

Notwithstanding any law to the contrary, if the personalized license plates are lost, stolen, or destroyed, the applicant may apply and shall receive duplicate license plates bearing the same combination of letters and numbers as the former personalized plates upon the payment of the fee required by section 168.29.

Fees from the sale of permanent and duplicate personalized license plates must be paid into the state treasury and credited to the highway user tax distribution fund."

Page 6, line 15, strike everything after the period

Page 6, strike line 16

Page 6, line 26, reinstate the stricken "or authorized"

Page 6, line 28, before the period, insert "deputy registrar"

Page 6, line 36, before "destruction" insert "deleting vehicles from a fleet, including" and delete "these items" and insert "the license plates and registration cards"

Page 8, after line 21, insert:

"Sec. 12. Minnesota Statutes 1994, section 168A.01, subdivision 24, is amended to read:

Subd. 24. [VEHICLE.] "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks, but including motorized bicycles as defined in section 168.011, subdivision 27. "Vehicle" does not include an "electric assisted bicycle" as defined in section 169.01, subdivision 4b.

Sec. 13. Minnesota Statutes 1994, section 168C.02, subdivision 2, is amended to read:

Subd. 2. [BICYCLE.] "Bicycle" means every device propelled by human power upon which a person may ride, having two tandem wheels either of which is over 14 inches in diameter, or any device generally recognized as a bicycle though equipped with two front or rear wheels, or a unicycle. "Bicycle" includes an "electric assisted bicycle" as defined in section 169.01, subdivision 4b.

Sec. 14. Minnesota Statutes 1994, section 169.01, subdivision 3, is amended to read:

Subd. 3. [MOTOR VEHICLE.] "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires. Motor vehicle does not include a vehicle moved solely by human power. Motor vehicle does not include an "electric assisted bicycle" as defined in subdivision 4b.

Sec. 15. Minnesota Statutes 1994, section 169.01, subdivision 4a, is amended to read:

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

Sec. 16. Minnesota Statutes 1994, section 169.01, is amended by adding a subdivision to read:

Subd. 4b. [ELECTRIC ASSISTED BICYCLE.] "Electric assisted bicycle" means a vehicle with two or three wheels which has a saddle and fully operative pedals for human propulsion and also has an electric motor. For such a device to be considered an electric assisted bicycle, it shall

meet the requirements of the Federal Motor Vehicle Safety Standards as set forth in Code of Federal Regulations, title 49, part 571, and shall operate in a manner that the electric motor disengages or ceases to function when the brakes are applied. The electric assisted bicycle's electric motor shall:

- (1) have a power output of not more than 1,000 watts;
- (2) be incapable of propelling the device at a speed of more than 20 miles per hour on level ground; and
- (3) be incapable of further increasing the speed of the device when human power alone is used to propel the device at or more than 20 miles per hour.

Sec. 17. Minnesota Statutes 1994, section 169.01, subdivision 51, is amended to read:

Subd. 51. [BICYCLE.] "Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels except scooters and similar devices and including any device generally recognized as a bicycle though equipped with two front or rear wheels. Bicycle includes an "electric assisted bicycle" as defined in subdivision 4b.

Sec. 18. Minnesota Statutes 1994, section 171.01, subdivision 3, is amended to read:

Subd. 3. [MOTOR VEHICLE.] Every vehicle which is self-propelled and any vehicle propelled or drawn by a self-propelled vehicle, and not deriving its power from overhead wires except snowmobiles. Motor vehicle does not include an "electric assisted bicycle" as defined in section 169.01, subdivision 4b.

Sec. 19. Minnesota Statutes 1994, section 171.01, subdivision 20, is amended to read:

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

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "defining electric assisted bicycles;"

Page 1, line 4, after "plates" insert "and personalized plates"

Page 1, line 13, after "sections" insert "168.011, subdivisions 4 and 27;"

Page 1, line 14, delete the first "subdivision" and insert "subdivisions 2a and"

Page 1, line 15, after "168.34;" insert "168A.01, subdivision 24; 168C.02, subdivision 2; 169.01, subdivisions 3, 4a, 51, and by adding a subdivision; 171.01, subdivisions 3 and 20;"

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

**Ms. Flynn from the Committee on Transportation and Public Transit, to which was referred**

**S.F. No. 2270:** A bill for an act relating to motor vehicles; specifying percentages of the motorcycle safety fund that may be spent on administration and motorcycle safety instruction; amending Minnesota Statutes 1995 Supplement, section 126.115, subdivision 3.

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

**Ms. Flynn from the Committee on Transportation and Public Transit, to which was referred**

**S.F. No. 2063:** A bill for an act relating to motor carriers; authorizing the transportation regulation board to issue charter carrier permits for operation within a single city; amending Minnesota Statutes 1994, section 221.121, by adding a subdivision.

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

Page 1, line 11, after "service" insert "using trolley-type vehicles"

Page 1, line 12, delete "a single city" and insert "Saint Paul"

Page 1, line 13, after "carrier" insert "using trolley-type vehicles" and delete "that" and insert "the"

Page 1, line 20, delete "the"

Page 1, line 21, delete everything before the period and insert "Saint Paul"

Amend the title as follows:

Page 1, line 4, delete "a single city" and insert "Saint Paul"

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

**Ms. Flynn from the Committee on Transportation and Public Transit, to which was referred**

**S.F. No. 2342:** A bill for an act relating to motor carriers; providing for deregulation of motor carriers of property; amending Minnesota Statutes 1994, sections 221.011, subdivision 15, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 221.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 221.011, subdivision 15, is amended to read:

Subd. 15. [MOTOR CARRIER.] "Motor carrier" means a carrier operating for hire under the authority of this chapter and subject to the rules and orders of the commissioner ~~and~~ or the board.

Sec. 2. Minnesota Statutes 1994, section 221.011, is amended by adding a subdivision to read:

Subd. 47. [MOTOR CARRIER OF PROPERTY.] "Motor carrier of property" means a motor carrier engaged in the for-hire transportation of property, other than household goods, in Minnesota who has filed a registration statement with the commissioner.

Sec. 3. [221.0251] [CARRIER REGISTRATION.]

Subdivision 1. [REGISTRATION STATEMENT.] A person who wishes to operate as a motor carrier shall file a complete and accurate registration statement with the commissioner. A registration statement must be on a form provided by the commissioner and include:

(1) the registrant's name, including an assumed or fictitious name used by the registrant in doing business;

(2) the registrant's mailing address and business telephone number;

(3) the registrant's federal Employer Identification Number and Minnesota Business Identification Number and the identification numbers, if any, assigned to the registrant by the United States Department of Transportation, Interstate Commerce Commission, or Environmental Protection Agency;

(4) the name, title, and telephone number of the individual who is principally responsible for the operation of the registrant's transportation business;

(5) the principal location from which the registrant conducts its transportation business and where the records required by this chapter will be kept;

(6) if different from clause (5), the location in Minnesota where the records required by this chapter will be available for inspection and copying by the commissioner;

(7) whether the registrant transports hazardous materials or hazardous waste;

(8) whether the registrant's business is a corporation, partnership, limited liability partnership, limited liability company, or sole proprietorship; and

(9) if the registrant is a foreign corporation authorized to transact business in Minnesota, the state of incorporation and the name and address of its registered agent.

Subd. 2. [SIGNATURE REQUIRED.] A registration statement may be signed only by a corporate officer, general partner, limited liability company board member, or sole proprietor. A signature must be notarized.

Subd. 3. [CERTIFICATE OF REGISTRATION; ISSUANCE; LOCATION.] (a) The commissioner shall issue a certificate of registration to a registrant who has filed a registration statement that complies with subdivisions 1 and 2 and paid the required fee, has a satisfactory safety rating and, if applicable, has complied with the financial responsibility requirements in section 221.141. The commissioner may not issue a certificate of registration to a registrant who has an unsatisfactory safety rating.

(b) A certificate of registration must be numbered and bear an effective date.

(c) A certificate of registration must be kept at the registrant's principal place of business.

Subd. 4. [DURATION.] A certificate of registration is not assignable or transferable and is valid until it is suspended, revoked, or canceled.

Subd. 5. [OBLIGATION TO KEEP INFORMATION CURRENT.] A registrant shall notify the commissioner in writing of any change in the information described in subdivision 1.

Sec. 4. [221.026] [MOTOR CARRIERS OF PROPERTY; EXEMPTIONS.]

Subdivision 1. [REGISTRATION.] No person may engage in the for-hire transportation of property, other than household goods, in Minnesota unless the person has filed a registration statement with the commissioner on a form the commissioner prescribes.

Subd. 2. [EXEMPTIONS FROM REQUIREMENTS.] Notwithstanding any other law, a motor carrier of property is exempt from sections 221.021; 221.041; 221.061; 221.071; 221.072; 221.081; 221.121; 221.122; 221.123; 221.131; 221.132; 221.151; 221.161; 221.172, subdivisions 3 to 8; 221.185, except as provided in subdivision 4; and 221.296. The exemptions in this subdivision do not apply to a motor carrier of property while transporting household goods.

Subd. 3. [SAFETY REGULATIONS.] A motor carrier of property is subject to those federal regulations incorporated by reference in section 221.0314, unless exempted from those regulations by section 221.031.

Subd. 4. [SUSPENSION AND CANCELLATION OF REGISTRATION.] The commissioner shall suspend or cancel, following the procedures for suspension or cancellation in section 221.185, the registration of a motor carrier of property who fails to file with the commissioner or maintain the insurance or bond required under section 221.141. A person may not engage in the for-hire transportation of property, other than household goods, in Minnesota while the person's registration is under suspension or cancellation under this subdivision.

Subd. 5. [LOCAL REGULATION.] Section 221.091 applies to registration statements under this section to the same extent that it applies to certificates and permits issued by the board.

Sec. 5. [221.0269] [RELIEF FROM SAFETY REGULATIONS.]

Subdivision 1. [GOVERNOR MAY GRANT RELIEF.] The governor may declare an emergency and grant relief from any of the regulations incorporated in section 221.0314 to carriers and drivers operating motor vehicles in Minnesota to provide emergency relief during the emergency. The relief granted may not exceed the duration of the motor carrier's or driver's direct assistance in providing emergency relief, or 30 days from the date of the initial declaration of the emergency, whichever is less.

Subd. 2. [EXTENSION OF RELIEF.] On request of a carrier or driver, the commissioner may extend the 30-day relief period in subdivision 1. A request for extension must be in writing and must give a detailed explanation of the reasons for requesting additional relief. The commissioner shall consider the severity of the ongoing emergency and the nature of the relief services to be provided by the motor carrier or driver in determining whether to grant an extension. If the commissioner decides to grant an extension, the extension must include a new time limit and may include any restrictions on the carrier or driver the commissioner considers necessary.

Subd. 3. [TERMINATION OF RELIEF EFFORTS.] (a) Upon termination of direct assistance to an emergency relief effort, a carrier or driver is subject to the requirements of section 221.0314, except that a driver may return empty to a carrier's terminal or the driver's normal work reporting location without complying with those sections. A driver who informs the carrier that the driver needs immediate rest must be permitted at least eight consecutive hours off duty before the driver is required to return to the terminal or location. Having returned to the terminal or other location, the driver must be relieved of all duty and responsibilities.

(b) When a driver has been relieved of all duty and responsibilities upon termination of direct assistance to an emergency relief effort, no carrier shall permit or require any driver used by it to drive nor shall any such driver drive in commerce until the driver:

(1) has met the requirements of Code of Federal Regulations, title 49, section 395.3, paragraph (a); and

(2) has had at least 24 consecutive hours off duty if (i) the driver has been on duty for more than 60 hours in any seven consecutive days at the time the driver is relieved of all duty if the employing carrier does not operate every day in the week, or (ii) the driver has been on duty for more than 70 hours in any eight consecutive days at the time the driver is relieved of all duty if the employing carrier operates every day in the week.

(c) For purposes of this section, direct assistance to an emergency relief effort terminates when a driver or commercial motor vehicle is used to transport cargo not destined for the emergency relief effort, or when the carrier dispatches that driver or vehicle to another location to begin operations in commerce.

Sec. 6. Minnesota Statutes 1994, section 221.031 is amended by adding a subdivision to read:

Subd. 10. [CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING EXEMPTION.] A person who is required to comply with the alcohol and controlled substances testing requirements of Code of Federal Regulations, title 49, parts 382, 653, and 654, is exempt from sections 181.950 to 181.957 if the testing also complies with the procedures for transportation workplace drug and alcohol testing programs in Code of Federal Regulations, title 49, part 40.

Sec. 7. Minnesota Statutes 1994, section 221.605, subdivision 1, is amended to read:

Subdivision 1. [FEDERAL REGULATIONS.] (a) Interstate carriers and private carriers engaged in interstate commerce shall comply with the federal motor carrier safety regulations, Code of Federal Regulations, title 49, parts 390 to 398; with Code of Federal Regulations, title 49, part 40; and with the rules of the commissioner concerning inspections, vehicle and driver out-of-service restrictions and requirements, and vehicle, driver, and equipment checklists. For purposes of regulating commercial motor vehicles as defined in section 169.781, subdivision 1, the exemption provided in Code of Federal Regulations, title 49, section 396.11, paragraph (d), applies in Minnesota only to driveaway-towaway operations.

(b) An interstate carrier or private carrier engaged in interstate commerce who complies with federal regulations governing testing for controlled substances and alcohol is exempt from the requirements of sections 181.950 to 181.957 unless the carrier's drug testing program provides for testing for controlled substances in addition to those listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a), ~~or for alcohol~~. Persons subject to this section may test for drugs, in addition to those listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a), ~~or for alcohol~~, only in accordance with sections 181.950 to 181.957 and rules adopted under those sections.

Sec. 8. [CONVERSION OF PERMITS.]

The holder of a valid class I or petroleum carrier certificate, a class II, class II-T, class II-L, livestock carrier, contract carrier, courier services carrier, local cartage carrier, temperature-controlled commodities or armored carrier permit, or a hazardous materials carrier who is registered under Minnesota Statutes, section 221.0355, on the effective date of this section, is deemed to have complied with Minnesota Statutes, section 221.0251. The commissioner shall issue a certificate of registration to any such certificate or permit holder or registered hazardous materials carrier. Upon the commissioner's issuance of a certificate of registration, the existing certificates or permits held become null and void.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to motor carriers; providing for deregulation of motor carriers of property; establishing a carrier registration system; allowing relief from safety regulations during declared emergency; creating exemptions from certain workplace drug and alcohol testing; requiring alcohol testing; amending Minnesota Statutes 1994, sections 221.011, subdivision 15, and by adding a subdivision; 221.031, by adding a subdivision; and 221.605, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 221."

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

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

**S.F. No. 1938:** A bill for an act relating to juvenile justice; authorizing continued detention of juveniles in jails and lockups under certain circumstances; amending Minnesota Statutes 1994, section 260.171, subdivision 2.

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

Page 2, line 12, delete "a nonstandard" and insert "an adult detention facility outside of a standard"

Page 2, line 13, delete "adult detention facility" and before the colon, insert "if"

Page 2, line 14, delete "(1)" and insert "(i)" and delete "when"

Page 2, line 17, delete the second "24" and insert "48"

Page 2, line 19, delete "(2)" and insert "(ii)"

Page 2, after line 23, insert:

"The continued detention of a child under clause (i) or (ii) must be reported to the commissioner of corrections."

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

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

**S.F. No. 2346:** A bill for an act relating to corrections; defining the term criminal justice agency in the law governing the data communications network to include detention facilities licensed by the commissioner of corrections; providing appropriate persons with broader access to the detention information system that is supported by the state operated computer network under control of the commissioner of public safety; amending Minnesota Statutes 1994, section 299C.46, subdivision 2.

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

Page 1, line 20, delete "a"

Page 1, line 21, delete "facility" and insert "facilities"

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

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

**S.F. No. 1864:** A bill for an act relating to data practices; classifying data on members of the criminal alert network; amending Minnesota Statutes 1994, section 13.99, by adding a subdivision; Minnesota Statutes 1995 Supplement, section 299A.61.

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

Page 1, line 25, delete "on private sector" and insert "that identify individuals or businesses as"

Page 1, line 26, after "network" insert ", including names, addresses, telephone and fax numbers,"

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

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

**S.F. No. 2319:** A bill for an act relating to public safety; providing for response to state emergencies; making technical and style changes; amending Minnesota Statutes 1994, sections 12.01; 12.02; 12.03; 12.04; 12.11; 12.13; 12.14; 12.21, as amended; 12.22; 12.221; 12.23; 12.24; 12.25; 12.26; 12.27; 12.28; 12.29; 12.301; 12.31; 12.32; 12.33; 12.34; 12.35; 12.36; 12.37; 12.42; 12.43; 12.44; 12.45; and 12.46; proposing coding for new law in Minnesota Statutes, chapter 12; repealing Minnesota Statutes 1994, sections 12.06; 12.07; and 12.08.

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

Page 3, line 2, delete ", section 410.015 to the contrary notwithstanding"

Page 3, lines 14 and 15, delete "that is located in Goodhue county, but not on Prairie Island,"

Page 6, line 35, delete "MULTISTATE PREPAREDNESS" and insert "EXERCISE COORDINATION"

Page 6, line 36, delete "multistate agency"

Page 7, line 1, before the period, insert "involving multiple Minnesota state agencies"

Page 13, lines 35 and 36, reinstate the stricken language

Page 14, line 2, after "media" insert "of the affected community"

Page 15, line 17, delete everything after "subdivision"

Page 15, delete lines 18 and 19

Page 15, line 20, delete everything before the period

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

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

**S.F. No. 2193:** A bill for an act relating to drinking and driving; creating a separate law to prohibit persons under 21 years of age to drive a motor vehicle while consuming or after consuming any amount of alcoholic beverages; providing for license suspension; amending Minnesota Statutes 1994, sections 171.173; and 340A.503, by adding a subdivision; Minnesota Statutes 1995 Supplement, section 340A.503, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. [169.1218] [UNDERAGE DRINKING AND DRIVING.]

(a) It is a misdemeanor for a person under the age of 21 years to drive or operate a motor vehicle while consuming alcoholic beverages, or after having consumed alcoholic beverages while there is physical evidence of the consumption present in the person's body.

(b) When a person is found to have committed an offense under paragraph (a), the court shall notify the commissioner of public safety of its determination. Upon receipt of the court's determination, the commissioner shall suspend the person's driver's license or operating privileges for 30 days, or for 180 days if the person has previously been found to have violated paragraph (a) or a statute or ordinance in conformity with paragraph (a).

(c) If the person's conduct violates section 169.121, subdivision 1, or 169.1211, the penalties and license sanctions in those laws apply instead of the license sanction in paragraph (b).

(d) An offense under paragraph (a) may be prosecuted either in the jurisdiction where consumption occurs or the jurisdiction where evidence of consumption is observed.

Sec. 2. Minnesota Statutes 1995 Supplement, section 171.18, subdivision 1, is amended to read:

Subdivision 1. [OFFENSES.] The commissioner may suspend the license of a driver without preliminary hearing upon a showing by department records or other sufficient evidence that the licensee:

(1) has committed an offense for which mandatory revocation of license is required upon conviction;

(2) has been convicted by a court for violating a provision of chapter 169 or an ordinance regulating traffic and department records show that the violation contributed in causing an accident resulting in the death or personal injury of another, or serious property damage;

(3) is an habitually reckless or negligent driver of a motor vehicle;

(4) is an habitual violator of the traffic laws;

(5) is incompetent to drive a motor vehicle as determined in a judicial proceeding;

(6) has permitted an unlawful or fraudulent use of the license;

(7) has committed an offense in another state that, if committed in this state, would be grounds for suspension;

(8) has committed a violation of section 169.444, subdivision 2, paragraph (a), within five years of a prior conviction under that section;

(9) has committed a violation of section 171.22, except that the commissioner may not suspend a person's driver's license based solely on the fact that the person possessed a fictitious or fraudulently altered Minnesota identification card;

(10) has failed to appear in court as provided in section 169.92, subdivision 4; or

(11) has failed to report a medical condition that, if reported, would have resulted in cancellation of driving privileges; or

(12) has been found to have committed an offense under section 169.1218, paragraph (a).

However, an action taken by the commissioner under clause (2) or (5) must conform to the recommendation of the court when made in connection with the prosecution of the licensee.

Sec. 3. Minnesota Statutes 1995 Supplement, section 340A.503, subdivision 1, is amended to read:

Subdivision 1. [CONSUMPTION.] (a) It is unlawful for any:

(1) retail intoxicating liquor or nonintoxicating liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to drink alcoholic beverages on the licensed premises or within the municipal liquor store; or

(2) person under the age of 21 years to consume any alcoholic beverages. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian.

(b) An offense under paragraph (a), clause (2), may be prosecuted either ~~at the place in the jurisdiction~~ where consumption occurs or the place jurisdiction where evidence of consumption is observed.

~~(c) When a person is convicted of or adjudicated for an offense under paragraph (a), clause (2), the court shall determine whether the person consumed the alcohol while operating a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination. Upon receipt of the court's determination, the commissioner shall suspend the person's driver's license or operating privileges for 30 days, or for 180 days if the person has previously been convicted of or adjudicated for an offense under paragraph (a), clause (2).~~

~~(d) As used in this subdivision, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.~~

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective August 1, 1996, and apply to offenses occurring on or after that date.

Delete the title and insert:

"A bill for an act relating to drinking and driving; creating a separate law to prohibit persons under 21 years of age to drive a motor vehicle while consuming or after consuming any amount of alcoholic beverages; providing for license suspension; amending Minnesota Statutes 1995 Supplement, sections 171.18, subdivision 1; and 340A.503, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 169."

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

**Mr. Marty from the Committee on Ethics and Campaign Reform, to which was referred**

**S.F. No. 840:** A bill for an act relating to elections; campaign finance; changing the treatment of spending limits and public subsidy in certain cases; amending Minnesota Statutes 1994, section 10A.25, subdivision 10.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 10A.25, subdivision 10, is amended to read:

~~Subd. 10. [EFFECT OF OPPONENT'S AGREEMENT CONDUCT.] (a) The expenditure limits imposed by this section apply only to candidates whose major political party opponents~~

agree to be bound by the limits and who themselves agree to be bound by the limits as a condition of receiving a public subsidy for their campaigns.

(b) A candidate who agrees to be bound by the limits and receives a public subsidy, who has an opponent who:

(1) is a candidate of a major political party; and (2) does not agree to be bound by the limits but is otherwise eligible to receive a public subsidy:

(i) is no longer bound by the limits, including those in section 10A.324, subdivision 1, paragraph (c);

(ii) is eligible to receive a public subsidy; and

(iii) also receives, or shares equally with any other candidate who agrees to be bound by limits, the opponent's share of the general account public subsidy under section 10A.31.

For purposes of this subdivision, "otherwise eligible to receive a public subsidy" means that a candidate meets the requirements of sections 10A.31, 10A.315, 10A.321, and 10A.322, but does not mean that the candidate has filed an affidavit of matching funds under section 10A.323. A candidate who has agreed to be bound by the expenditure limits imposed by this section as a condition of receiving a public subsidy for the candidate's campaign is released from the expenditure limits but remains eligible to receive a public subsidy if the candidate has an opponent who does not agree to be bound by the limits and receives contributions or makes or becomes obligated to make expenditures during that election cycle in excess of the following limits:

(1) up to ten days before the primary election, receipts or expenditures equal to 20 percent of the expenditure limit for that office as set forth in subdivision 2; or

(2) after ten days before the primary election, cumulative receipts or expenditures during that election cycle equal to 50 percent of the expenditure limit for that office as set forth in subdivision 2.

(b) A candidate who has not agreed to be bound by expenditure limits, or the candidate's principal campaign committee, shall file written notice with the board and provide written notice to any other candidate for the same office within 24 hours of exceeding the limits in paragraph (a), clause (2). The notice must state only that the candidate or candidate's principal campaign committee has received contributions or made or become obligated to make campaign expenditures in excess of the limits in paragraph (a), clause (2). Upon receipt of the notice the candidate is no longer bound by the expenditure limits.

Sec. 2. [REPEALER.]

Minnesota Statutes 1994, section 10A.324, subdivision 5, is repealed.

Sec. 3. [EFFECTIVE DATE]

This act is effective the day following final enactment.

Amend the title as follows:

Page 1, line 5, before the period, insert "; repealing Minnesota Statutes 1994, section 10A.324, subdivision 5"

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

**Mr. Marty from the Committee on Ethics and Campaign Reform, to which was re-referred**

**S.F. No. 2255:** A bill for an act relating to cities; providing for certain vacancies in the elected offices of mayor or council member in statutory cities; amending Minnesota Statutes 1994, section 412.02, subdivision 2a, and by adding a subdivision.

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

Page 2, line 4, delete "not less" and insert "more"

Page 2, line 5, delete "the city or council"

Page 2, line 6, delete "district, as appropriate" and insert "council meetings"

Page 2, line 10, delete "such ill or absent member" and insert "the person"

Page 2, line 12, delete "ill or absent"

Page 2, line 13, delete "so"

Page 2, delete lines 14 and 15

Page 2, line 16, delete "officeholder" and insert "remove the temporary officeholder and restore the person to office"

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

### **SECOND READING OF SENATE BILLS**

S.F. Nos. 2118, 1796, 2328, 2676, 2714, 2275, 2363, 1908, 1980, 2450, 2581, 2698, 2491, 1833, 2189, 2499, 1775, 2409, 2104, 2687, 2349, 2209, 2063, 2342, 1938, 2346, 1864, 2319, 2193, 840 and 2255 were read the second time.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

Mr. Solon moved that his name be stricken as chief author and the name of Mr. Knutson be added as chief author to S.F. No. 1735. The motion prevailed.

Mr. Berg moved that the name of Mr. Morse be added as a co-author to S.F. No. 2696. The motion prevailed.

Mr. Sams moved that his name be stricken as a chief author, shown as a co-author and the name of Mr. Morse be added as chief author to S.F. No. 2779. The motion prevailed.

Mr. Morse moved that the name of Ms. Johnson, J.B. be added as a co-author to S.F. No. 2779. The motion prevailed.

Mr. Terwilliger moved that S.F. No. 1826 be withdrawn from the Committee on Finance and re-referred to the Committee on Commerce and Consumer Protection. The motion prevailed.

Ms. Flynn moved that H.F. No. 2380 be withdrawn from the Committee on Transportation and Public Transit and re-referred to the Committee on Rules and Administration for comparison with S.F. No. 2270. The motion prevailed.

Mr. Laidig moved that S.F. No. 1824, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Mr. Merriam moved that S.F. No. 1775, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Ms. Lesewski moved that S.F. No. 2097 be withdrawn from the Committee on Taxes and Tax Laws and re-referred to the Committee on Education. The motion prevailed.

### **INTRODUCTION AND FIRST READING OF SENATE BILLS**

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

**Messrs. Merriam and Betzold introduced--**

**S.F. No. 2804:** A bill for an act relating to taxation; authorizing establishment of a tax increment financing district in the city of Coon Rapids that is exempt from certain requirements.

Referred to the Committee on Taxes and Tax Laws.

**Ms. Pappas, Messrs. Langseth and Janezich introduced--**

**S.F. No. 2805:** A bill for an act relating to education; appropriating money for alcohol impaired driver education; amending Laws 1995, First Special Session chapter 3, articles 4, section 29, subdivision 5; and 11, section 21, subdivision 2.

Referred to the Committee on Education.

**Mr. Kleis introduced--**

**S.F. No. 2806:** A bill for an act relating to reemployment insurance; excepting from the definition of "employment" services performed by certain taxi cab drivers; amending Minnesota Statutes 1994, section 268.04, subdivision 12.

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

**Ms. Pappas, Mr. Price and Ms. Olson introduced--**

**S.F. No. 2807:** A bill for an act relating to taxation; sales and use taxes; changing the time limit for refund claims in certain instances; allowing claims to the commissioner for refunds in certain instances; providing for the tax rate reduction and exemption of replacement capital equipment; providing an exemption from the use tax for certain de minimis purchases; making the exemption for farm machinery permanent; exempting certain materials used in providing taxable services; extending the duration of the sales tax advisory council; amending Minnesota Statutes 1994, sections 289A.50, by adding a subdivision; 297A.01, subdivision 16; 297A.02, subdivision 5; 297A.14, by adding a subdivision; and 297A.25, by adding a subdivision; Minnesota Statutes 1995 Supplement, sections 289A.40, subdivision 1; and 297A.25, subdivision 59; Laws 1995, chapter 264, article 2, section 42, subdivision 1; repealing Minnesota Statutes 1994, section 297A.01, subdivision 20.

Referred to the Committee on Taxes and Tax Laws.

**Mr. Hottinger and Ms. Runbeck introduced--**

**S.F. No. 2808:** A bill for an act relating to taxation; sales and use; exempting sales to political subdivisions of the state; amending Minnesota Statutes 1994, sections 297A.25, subdivision 34; and 297A.47; Minnesota Statutes 1995 Supplement, section 297A.25, subdivision 11.

Referred to the Committee on Taxes and Tax Laws.

**Mr. Kelly introduced--**

**S.F. No. 2809:** A bill for an act relating to state government; changing the appointing authority for certain members of the Minnesota state high school league governing board; providing that the league is subject to certain procedures; amending Minnesota Statutes 1994, sections 128C.01, subdivision 4; and 128C.02, by adding subdivisions.

Referred to the Committee on Education.

**Mr. Beckman introduced--**

**S.F. No. 2810:** A bill for an act relating to capital improvements; appropriating money for a grant to Farmamerica; authorizing the sale of state bonds.

Referred to the Committee on Governmental Operations and Veterans.

**Ms. Berglin introduced--**

**S.F. No. 2811:** A bill for an act relating to health; appropriating money for the birth defect surveillance system project.

Referred to the Committee on Health Care.

**Mr. Riveness, Ms. Krentz and Mr. Sams introduced--**

**S.F. No. 2812:** A bill for an act relating to taxation; property tax refund; providing for a new property tax refund alternative for homeowners who are over 65 years old; amending Minnesota Statutes 1994, section 290A.04, subdivision 2; Minnesota Statutes 1995 Supplement, section 290A.04, subdivision 6.

Referred to the Committee on Taxes and Tax Laws.

**Mr. Janezich introduced--**

**S.F. No. 2813:** A bill for an act relating to commerce; regulating heavy and utility equipment manufacturers and dealers; modifying the definition of truck parts; amending Minnesota Statutes 1994, section 325E.068, subdivision 7.

Referred to the Committee on Commerce and Consumer Protection.

**Mr. Beckman introduced--**

**S.F. No. 2814:** A bill for an act relating to education; providing for elementary school counselor aid; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 124A.

Referred to the Committee on Education.

**MEMBERS EXCUSED**

Mr. Chmielewski was excused from the Session of today. Messrs. Morse and Ourada were excused from the Session of today at 10:45 a.m. Ms. Lesewski was excused from the Session of today from 10:00 to 10:25 a.m. Mr. Chandler was excused from the Session of today from 10:15 to 10:30 a.m.

**ADJOURNMENT**

Mr. Moe, R.D. moved that the Senate do now adjourn until 12:00 noon, Wednesday, February 14, 1996. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate



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