

STATE OF MINNESOTA

Journal of the Senate

EIGHTIETH LEGISLATURE

THIRTY-EIGHTH DAY

St. Paul, Minnesota, Monday, April 14, 1997

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. Ralph Olsen.

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

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

Anderson	Higgins	Laidig	Oliver	Scheevel
Beckman	Hottinger	Langseth	Olson	Scheid
Belanger	Janezich	Larson	Ourada	Solon
Berg	Johnson, D.E.	Lesewski	Pappas	Spear
Berglin	Johnson, D.H.	Lessard	Pariseau	Stevens
Betzold	Johnson, D.J.	Limmer	Piper	Stumpf
Cohen	Johnson, J.B.	Lourey	Pogemiller	Ten Eyck
Day	Junge	Marty	Price	Terwilliger
Dille	Kelley, S.P.	Metzen	Ranum	Vickerman
Fischbach	Kelly, R.C.	Moe, R.D.	Robertson	Wiener
Flynn	Kiscaden	Morse	Robling	Wiger
Foley	Kleis	Murphy	Runbeck	
Frederickson	Knutson	Neuville	Sams	
Hanson	Krentz	Novak	Samuelson	

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

April 11, 1997

The Honorable Allan H. Spear
President of the Senate

Dear President Spear:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 368 and 1645.

Warmest regards,
Arne H. Carlson, Governor

April 11, 1997

The Honorable Phil Carruthers
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1997 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1997	Date Filed 1997
	265	27	9:50 a.m. April 11	April 11
	266	28	9:55 a.m. April 11	April 11
368		29	10:00 a.m. April 11	April 11
1645		30	10:05 a.m. April 11	April 11

Sincerely,
Joan Anderson Growe
Secretary of State

REPORTS OF COMMITTEES

SUSPENSION OF RULES

Mr. Moe, R.D. moved that Joint Rule 2.03 be suspended as it relates to the Committee Report on S.F. No. 1122. The motion prevailed.

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the report on S.F. No. 1070. The motion prevailed.

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

S.F. No. 1122: A bill for an act relating to local governments; establishing an advisory council on local government roles and responsibilities; appropriating money.

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

Page 2, line 22, delete "A member"

Page 2, delete line 23

Page 2, line 24, delete everything before "to" and insert "The association of metropolitan municipalities shall select one of its appointees"

Page 2, line 27, delete everything after the second period

Page 2, delete lines 28 to 34

Page 2, line 35, delete everything before "[EXPIRATION.]"

Pages 2 and 3, delete section 2

Amend the title as follows:

Page 1, line 4, delete "; appropriating money"

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Joint Rule 2.03 suspended. Amendments adopted. Report adopted.

Ms. Ranum from the Committee on Judiciary, to which was referred

S.F. No. 1070: A bill for an act relating to government data practices; juvenile records; providing for disclosure to the victim of the name of the subject of a delinquent petition; expanding the authority of law enforcement to exchange juvenile records; amending Minnesota Statutes 1996, section 260.161, subdivisions 2 and 3.

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

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 1996, section 260.155, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] (a) Except for hearings arising under section 260.261, hearings on any matter shall be without a jury and may be conducted in an informal manner, except that a child who is prosecuted as an extended jurisdiction juvenile has the right to a jury trial on the issue of guilt. The rules of evidence promulgated pursuant to section 480.0591 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged to be delinquent, an extended jurisdiction juvenile, or a juvenile petty offender, and hearings conducted pursuant to section 260.125 except to the extent that the rules themselves provide that they do not apply. In all adjudicatory proceedings involving a child alleged to be in need of protection or services, the court shall admit only evidence that would be admissible in a civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of protection or services must be proved by clear and convincing evidence.

(b) Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the best interests of the child. If a hearing is held on a petition involving physical or sexual abuse of a child who is alleged to be in need of protection or services or neglected and in foster care, the court shall file the decision with the court administrator as soon as possible but no later than 15 days after the matter is submitted to the court. When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260.011 to 260.301.

(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court. The court shall open the hearings to the public in delinquency or extended jurisdiction juvenile proceedings where the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult and the child was at least 16 years of age at the time of the offense, except that the court may exclude the public from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public in an adult proceeding.

(d) In all delinquency cases a person named in the charging clause of the petition as a person

directly damaged in person or property shall be entitled, upon request, to be notified by the court administrator in writing, at the named person's last known address, of (1) the date of the certification or adjudicatory hearings, and (2) the disposition of the case. In addition, upon request the person is entitled to attend hearings in the delinquency or certification proceeding or extended jurisdiction juvenile prosecution unless the judge determines the person's presence would adversely affect the best interests of the juvenile. The county attorney may notify the person of the hearings and of the person's right to request attendance.

(e) Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoptions."

Page 3, lines 21 and 22, reinstate the stricken "if the exchanged information is pertinent and necessary"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "allowing victims to attend hearings;"

Page 1, line 7, delete "section" and insert "sections 260.155, subdivision 1; and"

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Ms. Ranum from the Committee on Judiciary, to which was referred

S.F. No. 513: A bill for an act relating to public nuisance; adding to the acts that constitute a nuisance; permitting a resident of the jurisdiction to join in a nuisance action and recover costs and attorney fees; amending Minnesota Statutes 1996, sections 617.81, subdivision 2; and 617.82; repealing Minnesota Statutes 1996, section 617.80, subdivision 6.

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 1996, section 617.81, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING A NUISANCE.] (a) For purposes of sections 617.80 to 617.87, a public nuisance exists upon proof of two or more separate behavioral incidents of one or more of the following, committed within the previous 12 months within the building:

- (1) prostitution or prostitution-related activity committed within the building;
- (2) gambling or gambling-related activity committed within the building;
- (3) ~~keeping or permitting a disorderly house within the building;~~ maintaining a public nuisance in violation of section 609.74, clause (1) or (3);
- (4) permitting a public nuisance in violation of section 609.745;
- ~~(4)~~ (5) unlawful sale, possession, storage, delivery, giving, manufacture, cultivation, or use of controlled substances committed within the building;
- ~~(5)~~ (6) unlicensed sales of alcoholic beverages committed within the building in violation of section 340A.401;
- ~~(6)~~ (7) unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building in violation of section 340A.503, subdivision 2, clause (1); or

(7) (8) unlawful use or possession of a firearm in violation of section 609.66, subdivision 1a, 609.67, or 624.713, committed within the building.

(b) If the building contains more than one rental unit, two or more behavioral incidents must consist of conduct:

(1) anywhere in the building by the same tenant or lessee, or persons acting in conjunction with or under the control of the same tenant or lessee;

(2) by any persons within the same rental unit while occupied by the same tenant or lessee or within two or more rental units while occupied by the same tenant or lessee; or

(3) by the owner of the building or persons acting in conjunction with or under the control of the owner.

(c) Proof of a nuisance exists if each of the elements of the conduct constituting the nuisance is established by clear and convincing evidence.

Sec. 2. Minnesota Statutes 1996, section 617.82, is amended to read:

617.82 [AGREED ABATEMENT PLANS; TEMPORARY ORDER.]

(a) If the recipient of a notice under section 617.81, subdivision 4, either abates the conduct constituting the nuisance or enters into an agreed abatement plan within 30 days of service of the notice and complies with the agreement within the stipulated time period, the prosecuting attorney may not file a nuisance action on the specified property regarding the nuisance activity described in the notice.

(b) If the recipient fails to comply with the agreed abatement plan, the prosecuting attorney may initiate a complaint for relief in the district court consistent with paragraph (c).

(c) Whenever a prosecuting attorney has cause to believe that a nuisance described in section 617.81, subdivision 2, exists within the jurisdiction the attorney serves, the prosecuting attorney may by verified petition seek a temporary injunction in district court in the county in which the alleged public nuisance exists, provided that at least 30 days have expired since service of the notice required under section 617.81, subdivision 4. No temporary injunction may be issued without a prior show cause notice of hearing to the respondents named in the petition and an opportunity for the respondents to be heard. Upon proof of a nuisance described in section 617.81, subdivision 2, the court shall issue a temporary injunction. Any temporary injunction issued must describe the conduct to be enjoined.

Sec. 3. Minnesota Statutes 1996, section 617.83, is amended to read:

617.83 [INJUNCTION; ORDER OF ABATEMENT.]

Upon proof of a nuisance described in section 617.81, subdivision 2, the court shall issue a permanent injunction and enter an order of abatement, except as otherwise provided by section 617.85. The permanent injunction must describe the conduct permanently enjoined. The order of abatement must direct the closing of the building or a portion of it for one year, except as otherwise provided in section 617.84 or 617.85, unless sooner released pursuant to section 617.87. Before an abatement order is enforced against a building or portion of it, the owner must be served with the abatement order and a notice of the right to file a motion under section 617.85 in the same manner that a summons is served under the rules of civil procedure. A copy of the abatement order shall also be posted in a conspicuous place on the building or affected portion.

Sec. 4. Minnesota Statutes 1996, section 617.85, is amended to read:

617.85 [NUISANCE; MOTION TO CANCEL LEASE.]

Where notice is provided under section 617.81, subdivision 4, that an abatement of a nuisance is sought and the circumstances that are the basis for the requested abatement involved the acts of a commercial or residential tenant or lessee of part or all of a building, the owner of the building

that is subject to the abatement proceeding may file before the court that has jurisdiction over the abatement proceeding a motion to cancel the lease or otherwise secure restitution of the premises from the tenant or lessee who has maintained or conducted the nuisance. The owner may assign to the prosecuting attorney the right to file this motion. In addition to the grounds provided in chapter 566, the maintaining or conducting of a nuisance as defined in section 617.81, subdivision 2, by a tenant or lessee, is an additional ground authorized by law for seeking the cancellation of a lease or the restitution of the premises. Service of motion brought under this section must be served in a manner that is sufficient under the Rules of Civil Procedure and chapter 566.

It is no defense to a motion under this section by the owner or the prosecuting attorney that the lease or other agreement controlling the tenancy or leasehold does not provide for eviction or cancellation of the lease upon the ground provided in this section.

Upon a finding by the court that the tenant or lessee has maintained or conducted a nuisance in any portion of the building, the court shall order cancellation of the lease or tenancy and grant restitution of the premises to the owner. The court must not order abatement of the premises if the court:

(a) cancels a lease or tenancy and grants restitution of that portion of the premises to the owner; and

(b) further finds that the acts constituting the nuisance as defined in section 617.81, subdivision 2, were committed by the tenant or lessee whose lease or tenancy has been canceled pursuant to this section and the tenant or lessee was not committing the acts in conjunction with or under the control of the owner.

Sec. 5. [REPEALER.]

Minnesota Statutes 1996, section 617.80, subdivision 6, is repealed.

Delete the title and insert:

"A bill for an act relating to public nuisance; adding to the acts that constitute a nuisance; modifying nuisance remedies and procedures; amending Minnesota Statutes 1996, sections 617.81, subdivision 2; 617.82; 617.83; and 617.85; repealing Minnesota Statutes 1996, section 617.80, subdivision 6."

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

Mr. Hottinger from the Committee on Health and Family Security, to which was re-referred

S.F. No. 1487: A bill for an act relating to insurance; regulating health care policy rates; amending Minnesota Statutes 1996, section 62A.021, subdivision 1.

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

Page 2, lines 5 and 6, reinstate the stricken language

Page 2, lines 8 to 20, reinstate the stricken language

Page 4, line 1, delete "the following shall be"

Page 4, lines 2 to 7, delete the new language and reinstate the stricken language

Page 4, after line 14, insert:

"(f) The loss ratio phase in as described in paragraph (a) does not apply to individual policies and small employer policies issued by a health plan company that is assessed less than three percent of the total annual amount assessed by the Minnesota comprehensive health association. These policies must meet 65 percent loss ratio for individual policies and small employer policies with fewer than ten employees, and a 75 percent loss ratio for all other small employer policies."

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. 556 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.
				556	98

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 556 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 556 and insert the language after the enacting clause of S.F. No. 98, the second engrossment; further, delete the title of H.F. No. 556 and insert the title of S.F. No. 98, the second engrossment.

And when so amended H.F. No. 556 will be identical to S.F. No. 98, and further recommends that H.F. No. 556 be given its second reading and substituted for S.F. No. 98, 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. 1880 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.
1880	1519				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1880 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1880 and insert the language after the enacting clause of S.F. No. 1519, the first engrossment; further, delete the title of H.F. No. 1880 and insert the title of S.F. No. 1519, the first engrossment.

And when so amended H.F. No. 1880 will be identical to S.F. No. 1519, and further recommends that H.F. No. 1880 be given its second reading and substituted for S.F. No. 1519, 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. 1301 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

H.F. No.	S.F. No.
1301	884

CONSENT CALENDAR

H.F. No.	S.F. No.
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CALENDAR

H.F. No.	S.F. No.
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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. 1122, 513 and 1487 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 556, 1880 and 1301 were read the second time.

MOTIONS AND RESOLUTIONS**Mr. Neville introduced--**

Senate Resolution No. 40: A Senate resolution congratulating Harland and Celia Solheid on their 50th wedding anniversary.

Referred to the Committee on Rules and Administration.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

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

SPECIAL ORDERS

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately.

S.F. Nos. 1881, 1888 and 1880.

SPECIAL ORDER

S.F. No. 1881: A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and other agencies with certain conditions; regulating certain activities and practices; providing for fees; establishing revolving

account; requiring a study; amending Minnesota Statutes 1996, sections 16B.335, subdivision 1; 161.082, by adding a subdivision; 168.011, subdivision 9; 168.018; 168A.29, subdivision 1; 169.974, subdivision 2; 171.06, subdivision 2a; 171.13, by adding a subdivision; 173.13, subdivision 4; 296.16, subdivision 1; 360.015, by adding a subdivision; 360.017, subdivision 1; and 457A.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 299A.

Ms. Johnson, J.B. moved to amend S.F. No. 1881 as follows:

Page 5, delete lines 42 to 51

Page 6, delete line 1

Page 6, line 2, delete "8" and insert "7"

Page 9, line 10, delete "9" and insert "8"

Page 10, line 23, delete "10" and insert "9"

Page 10, line 38, delete "11" and insert "10"

Page 10, line 56, delete "12" and insert "11"

Page 17, line 45, after the period, insert "The study must include a determination of the amount of gasoline consumed by vehicles in the course of transporting snowmobiles on the highways of this state."

Page 24, line 12, delete "place of application" and insert "time of written examination"

Page 28, after line 16, insert:

"Sec. 16. [REPEALER.]

Minnesota Statutes 1996, section 299D.10, is repealed."

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

Amend the title as follows:

Page 1, line 16, before the period, insert "; repealing Minnesota Statutes 1996, section 299D.10"

The motion prevailed. So the amendment was adopted.

S.F. No. 1881 was read the third time, as amended, and placed on its final passage.

With the unanimous consent of the Senate, Ms. Ranum moved to amend S.F. No. 1881 as follows:

Page 9, delete lines 31 and 32 and insert:

"The"

Page 10, line 2, after the period, insert "The demonstration project is subject to the approval requirements in Minnesota Statutes, section 160.85, subdivision 3, but is otherwise exempt from Minnesota Statutes, sections 160.84 to 160.92."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 40 and nays 24, as follows:

Those who voted in the affirmative were:

Berglin	Fischbach	Hanson	Johnson, D.E.	Kelly, R.C.
Betzold	Flynn	Higgins	Junge	Kiscaden
Dille	Frederickson	Hottinger	Kelley, S.P.	Kleis

Knutson	Lourey	Novak	Price	Scheevel
Krentz	Marty	Oliver	Ranum	Spear
Laidig	Metzen	Olson	Robertson	Stevens
Larson	Morse	Pariseau	Robling	Vickerman
Limmer	Neuville	Pogemiller	Runbeck	Wiener

Those who voted in the negative were:

Anderson	Day	Johnson, J.B.	Ourada	Scheid
Beckman	Foley	Langseth	Pappas	Stumpf
Belanger	Janezich	Lesewski	Piper	Ten Eyck
Berg	Johnson, D.H.	Lessard	Sams	Wiger
Cohen	Johnson, D.J.	Murphy	Samuelson	

The motion prevailed. So the amendment was adopted.

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

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

Those who voted in the affirmative were:

Anderson	Hanson	Knutson	Neuville	Sams
Beckman	Higgins	Krentz	Novak	Samuelson
Belanger	Hottinger	Laidig	Oliver	Scheevel
Berg	Janezich	Langseth	Olson	Scheid
Berglin	Johnson, D.E.	Larson	Ourada	Spear
Betzold	Johnson, D.H.	Lesewski	Pappas	Stevens
Cohen	Johnson, D.J.	Lessard	Pariseau	Stumpf
Day	Johnson, J.B.	Limmer	Piper	Ten Eyck
Dille	Junge	Lourey	Price	Vickerman
Fischbach	Kelley, S.P.	Marty	Ranum	Wiener
Flynn	Kelly, R.C.	Metzen	Robertson	Wiger
Foley	Kiscaden	Morse	Robling	
Frederickson	Kleis	Murphy	Runbeck	

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

SPECIAL ORDER

S.F. No. 1888: A bill for an act relating to education; appropriating money for education and related purposes to the higher education services office, board of trustees of the Minnesota state colleges and universities, board of regents of the University of Minnesota, and the Mayo medical foundation, with certain conditions; prescribing changes in certain financial assistance programs; establishing educational savings plan accounts; clarifying duties of the higher education services office; providing for appropriations for certain enrollments; defining the mission for the Minnesota state colleges and universities system; clarifying the common numbering and credit transfer requirements; making technical corrections relating to the post-secondary merger; modifying the higher education facilities authority revenue bond authority; modifying certain capital improvement projects; placing a condition on referendums by campus student associations; establishing the Minnesota Virtual University and a roundtable on vocational technical education; amending Minnesota Statutes 1996, sections 16A.69, subdivision 2; 125.1385, subdivision 2; 126.56, subdivisions 2, 4a, and 7; 135A.031, subdivision 2; 135A.052, subdivision 1; 135A.08, subdivision 2; 136A.01, subdivision 2, and by adding a subdivision; 136A.03; 136A.121, subdivisions 5, 7, and 9a; 136A.125, subdivisions 3 and 4; 136A.136, subdivision 2; 136A.15, by adding a subdivision; 136A.16, subdivisions 1, 2, 8, and by adding subdivisions; 136A.171; 136A.173, subdivisions 1, 3, and 5; 136A.174; 136A.175, subdivisions 1 and 2; 136A.233, subdivisions 1 and 2; 136A.29, subdivision 9; 136F.05; 216C.27, subdivision 7; Laws 1994, chapter 643, sections 10, subdivision 10, as amended; and 19, subdivision 9, as amended; proposing coding for new law in Minnesota Statutes, chapter 136A; repealing Laws 1995, chapter 212, article 4, section 34; and Laws 1995, First Special Session chapter 2, article 1, sections 35 and 36.

Mr. Johnson, D.J. moved to amend S.F. No. 1888 as follows:

Page 7, after line 32, insert:

"In each year of the 1998-1999 biennium, the board of trustees shall increase the percentage of the total general fund expenditures for direct instruction, as reported in the federal Integrated Postsecondary Education Data Survey (IPEDS).

By February 15 of 1998 and 1999, the board of trustees shall report to the legislature the percentage of total general fund expenditures spent on direct instruction and on administrative support during the previous fiscal year."

The motion prevailed. So the amendment was adopted.

Mr. Scheevel moved to amend S.F. No. 1888 as follows:

Page 3, line 40, delete "money for" and insert "an amount not to exceed \$100,000 for the Minnesota homework helpline."

Page 3, delete lines 41 and 42

Pages 13 and 14, delete section 5

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 17 and nays 45, as follows:

Those who voted in the affirmative were:

Belanger	Johnson, D.E.	Neuville	Pariseau	Stevens
Berg	Knutson	Oliver	Robertson	
Day	Laidig	Olson	Runbeck	
Frederickson	Limmer	Ourada	Scheevel	

Those who voted in the negative were:

Anderson	Janezich	Krentz	Murphy	Samuelson
Beckman	Johnson, D.H.	Langseth	Novak	Scheid
Berglin	Johnson, D.J.	Larson	Pappas	Solon
Betzold	Johnson, J.B.	Lesewski	Piper	Spear
Cohen	Junge	Lessard	Pogemiller	Stumpf
Fischbach	Kelley, S.P.	Lourey	Price	Ten Eyck
Foley	Kelly, R.C.	Marty	Ranum	Vickerman
Higgins	Kiscaden	Metzen	Robling	Wiener
Hottinger	Kleis	Morse	Sams	Wiger

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

S.F. No. 1888 was read the third time, as amended, and placed on its final passage.

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

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

Those who voted in the affirmative were:

Anderson	Betzold	Foley	Johnson, D.E.	Kelley, S.P.
Beckman	Cohen	Frederickson	Johnson, D.H.	Kelly, R.C.
Belanger	Day	Higgins	Johnson, D.J.	Kiscaden
Berg	Dille	Hottinger	Johnson, J.B.	Kleis
Berglin	Fischbach	Janezich	Junge	Knutson

Krentz	Marty	Ourada	Runbeck	Stumpf
Laidig	Metzen	Pappas	Sams	Ten Eyck
Langseth	Morse	Pariseau	Samuelson	Vickerman
Larson	Murphy	Pogemiller	Scheevel	Wiener
Lesewski	Neuville	Price	Scheid	Wiger
Lessard	Novak	Ranum	Solon	
Limmer	Oliver	Robertson	Spear	
Lourey	Olson	Robling	Stevens	

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

SPECIAL ORDER

S.F. No. 1880: A bill for an act relating to the organization and operation of state government; appropriating money for the judicial branch, public safety, public defense, corrections, criminal justice, crime prevention programs, and other related purposes; implementing, clarifying, and modifying certain criminal and juvenile provisions; prescribing, clarifying, and modifying certain penalty provisions; modifying and enacting various arson provisions; making various changes to the data privacy laws; establishing, modifying, and expanding permanent programs, pilot programs, grant programs, studies, offices, strike forces, task forces, councils, committees, and working groups; requiring reports; providing for an adjustment to the soft body armor reimbursement fund; authorizing the board on judicial standards to award attorneys fees; changing the name of the "superintendent" of the bureau of criminal apprehension to the "director" of the bureau of criminal apprehension; authorizing testing for HIV or Hepatitis B under certain circumstances; requiring employers of law enforcement officers to adopt a protocol; permitting the sale of ten or fewer unused hypodermic needles or syringes without a prescription; providing for statewide arson training courses; creating a criminal gang investigative data system; requiring the department of corrections to submit an annual performance report; expanding the commissioner of corrections' authority to release inmates on conditional medical release and the commissioner's authority related to rules and guidelines; requiring the department of corrections to amend a rule; ending the state's operation of the Minnesota correctional facility-Sauk Centre; requiring the commissioner of administration to issue a request for proposals and select a vendor to operate the facility; requiring the commissioner of corrections to charge counties for juveniles placed at the Minnesota correctional facility-Red Wing and to develop admissions criteria for the facility; striking the requirement that the Minnesota correctional facility-Red Wing accept all juveniles; establishing a state policy discouraging the out-of-state placement of juveniles; lowering the per se standard for alcohol concentration from 0.10 to 0.08 for adults, and to 0.04 for persons under 21 years of age, for driving motor vehicles, snowmobiles, all-terrain vehicles, and motorboats while impaired, as well as for criminal vehicular operation and hunting; providing orders for protection in the case of domestic abuse perpetrated by a minor; amending Minnesota Statutes 1996, sections 13.99, by adding a subdivision; 84.91, subdivision 1; 84.911, subdivision 1; 86B.331, subdivisions 1 and 4; 86B.335, subdivision 1; 97B.065, subdivision 1; 97B.066, subdivision 1; 119A.31, subdivision 1; 144.761, subdivisions 5 and 7; 144.762, subdivision 2, and by adding a subdivision; 144.765; 144.767, subdivision 1; 151.40; 152.01, subdivision 18; 152.021, subdivisions 1 and 2; 152.022, subdivisions 1 and 2; 152.023, subdivision 2; 169.121, subdivisions 1, 2, and 10a; 169.123, subdivisions 2, 4, 5a, and 6; 171.29, subdivision 2; 241.01, subdivision 3b; 242.19, subdivision 2; 242.32, by adding a subdivision; 242.55; 244.05, subdivision 8; 244.17, subdivision 2; 256E.03, subdivision 2; 257.071, subdivisions 3, 4, and by adding subdivisions; 257.072, subdivision 1; 259.41; 259.59, by adding a subdivision; 259.67, subdivision 2; 260.012; 260.015, subdivisions 2a and 29; 260.131, subdivisions 1 and 2; 260.155, subdivisions 1a, 2, 3, 4, and 8; 260.161, subdivisions 1, 1a, and by adding a subdivision; 260.165, subdivisions 1 and 3; 260.171, subdivision 2; 260.191, subdivisions 1, 3a, 3b, and 4; 260.192; 260.221, subdivisions 1 and 5; 260.241, subdivisions 1 and 3; 299A.38, subdivision 2, and by adding a subdivision; 299A.61, subdivision 1; 299C.065, subdivision 1; 299C.095; 299C.10, subdivisions 1 and 4; 299C.13; 299F.051; 299F.06, subdivisions 1 and 3; 326.3386, subdivision 3, and by adding subdivisions; 363.073, subdivision 1; 401.13; 609.035, subdivision 1, and by adding a subdivision; 609.10; 609.101, subdivision 5; 609.115, subdivision 1; 609.125; 609.135, subdivision 1; 609.21, subdivisions 1, 2, 2a, 2b, 3, 4, and 4a; 609.221; 609.748, subdivision 1; 609.902, subdivision 4; 611A.038; 611A.675; 611A.71, subdivision 5; 611A.74, subdivisions 1, 3, and by adding a

subdivision; and 611A.75; Laws 1995, chapter 226, article 2, section 37, subdivision 2; article 3, section 60, subdivision 4, and by adding a subdivision; and Laws 1996, chapter 408, article 8, sections 21; 22, subdivision 1; and 24; proposing coding for new law in Minnesota Statutes, chapters 241; 242; 257; 259; 299A; 299C; 299F; 609; 611A; and 626; repealing Minnesota Statutes 1996, sections 119A.30; 242.51; 244.09, subdivision 11a; 259.33; and 299F.07.

Mr. Kelly, R.C. moved to amend S.F. No. 1880 as follows:

Page 5, line 42, delete "2,320,000" and insert "508,000" and delete "2,029,000" and insert "509,000"

Page 6, line 23, delete "2,248,000" and insert "508,000" and delete "2,029,000" and insert "509,000"

Page 9, delete line 17

Correct the subdivision and section totals and the summaries by fund accordingly

The motion prevailed. So the amendment was adopted.

Mr. Kelly, R.C. then moved to amend S.F. No. 1880 as follows:

Amend the title as follows:

Page 1, lines 45 and 46, delete "for adults, and to 0.04 for persons under 21 years of age,"

Page 2, line 37, after the second semicolon, insert "609.684, subdivision 4;"

Page 2, line 49, delete "and" and before the period, insert "and 609.684, subdivision 2"

The motion prevailed. So the amendment was adopted.

Mr. Kelly, R.C. then moved to amend S.F. No. 1880 as follows:

Page 3, line 52, delete "in order"

Page 5, line 28, delete "attorneys" and insert "attorney"

Page 6, line 28, delete the period and insert a comma

Page 6, line 30, after "Minneapolis" insert a comma

Page 7, line 25, after "the" insert "criminal gang"

Page 11, line 1, delete "34" and insert "35"

Page 13, after line 18, insert:

"\$111,000 the first year and \$111,000 the second year are for a medical director."

Page 15, line 2, delete "is" and insert "are"

Page 15, line 3, delete "Dodge-Fillmore-Olmstead" and insert "Dodge-Fillmore-Olmsted"

Page 15, line 37, delete "In fiscal year 1998,"

Page 18, line 33, after "for" insert "a"

Page 29, line 30, delete the first comma and insert "and"

Page 29, line 33, delete "contain" and insert "include"

Page 33, line 31, delete "incidences" and insert "incidents"

Page 34, line 14, delete "grants" and insert "grant"

Page 34, line 16, delete "Hennepin county" and insert "the district"

Page 39, line 33, delete "task" and insert "strike"

Page 40, line 10, after "299A.628" insert ", subdivision 1,"

Page 43, line 20, delete "a comprehensive" and insert "the"

Page 43, line 21, delete "information" and insert "investigative data" and after "system" insert "described in section 299C.091"

Page 45, lines 21, 22, 28, and 30, delete "4" and insert "299A.626"

Page 119, line 9, delete "Each county" and insert "These three counties" and after "shall" insert "each"

Page 119, line 10, delete "These" and insert "The county"

Page 120, line 15, delete "19" and insert "20"

Page 147, line 22, delete "legislature" and insert "chairs of the senate and house committees or divisions having jurisdiction over criminal justice policy and funding"

The motion prevailed. So the amendment was adopted.

Mr. Kelly, R.C. then moved to amend S.F. No. 1880 as follows:

Page 138, after line 30, insert:

"Sec. 24. Minnesota Statutes 1996, section 363.073, is amended by adding a subdivision to read:

Subd. 5. [FEES.] The department shall charge fees to cover its cost of providing technical assistance in the preparation or revision of affirmative action plans when that assistance is requested by the applicant. The fees are to be established to cover the cost of providing technical assistance and are to be accounted for in a special revenue account."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Knutson moved to amend S.F. No. 1880 as follows:

Page 48, line 7, delete "13.45" and insert "13.42"

Page 70, line 10, delete "16" and insert "10"

The motion prevailed. So the amendment was adopted.

Mr. Johnson, D.J. moved to amend S.F. No. 1880 as follows:

Page 79, after line 14, insert:

"Section 1. [16A.86] [REIMBURSEMENT TO LOCAL UNITS OF GOVERNMENT FOR COSTS INCURRED BECAUSE OF LOWER BLOOD ALCOHOL CONTENT THRESHOLD.]

Subdivision 1. [DEFINITION.] As used in this section, "unreimbursed costs" means those costs that:

(1) are not paid for or that are not eligible for payment by the state or federal government;

(2) are not offset by new revenue or other savings provided by this act; and

(3) otherwise might be expected to result in an increase in the property tax levy for the affected local government.

Subd. 2. [REIMBURSEMENTS REQUIRED.] (a) On or before each March 1, any county, statutory or home rule charter city, or town that incurs unreimbursed costs resulting from the lowering of the blood alcohol content threshold from 0.10 to 0.08 in the impaired driving laws may submit a request for reimbursement to the commissioner of finance on a form prescribed by the commissioner.

(b) Upon receipt of a request for reimbursement, the commissioner, in consultation with the local government, shall review the request for accuracy. If the commissioner determines that the request is reasonable, accurate, and includes only those costs resulting from the lowering of the blood alcohol content threshold, the commissioner shall pay the amount requested on or before June 1 of the year the request was submitted. If the amounts are estimated, this must be clearly noted and actual data must be submitted for that year with the following year's request. The commissioner shall adjust the following year's reimbursement to reflect the difference between the estimated and actual prior year's costs. A local government that applies for reimbursement under this section is prohibited from including these costs in its property tax levy.

Subd. 3. [APPROPRIATION.] An amount sufficient to pay the reimbursements required by subdivision 2 is annually appropriated to the commissioner of finance."

Page 98, line 21, delete "20" and insert "21"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 41 and nays 23, as follows:

Those who voted in the affirmative were:

Anderson	Janezich	Metzen	Piper	Stumpf
Beckman	Johnson, D.E.	Murphy	Robertson	Terwilliger
Belanger	Johnson, D.H.	Neuville	Runbeck	Vickerman
Berg	Johnson, D.J.	Novak	Sams	Wiener
Day	Kleis	Oliver	Samuelson	Wiger
Fischbach	Laidig	Olson	Scheevel	
Frederickson	Langseth	Ourada	Scheid	
Hanson	Larson	Pappas	Solon	
Hottinger	Lessard	Pariseau	Stevens	

Those who voted in the negative were:

Berglin	Higgins	Knutson	Moe, R.D.	Robling
Betzold	Johnson, J.B.	Krentz	Morse	Spear
Cohen	Junge	Limmer	Pogemiller	Ten Eyck
Flynn	Kelley, S.P.	Lourey	Price	
Foley	Kelly, R.C.	Marty	Ranum	

The motion prevailed. So the amendment was adopted.

Mr. Metzen moved to amend S.F. No. 1880 as follows:

Page 132, line 8, after "OFFICER" insert "OR FIREFIGHTER"

Page 132, lines 9, 13, 14, 19, 24, 27, and 31, after "officer" insert "or firefighter"

Page 132, lines 11, 17, 25, 33, and 35, after "officer's" insert "or firefighter's"

Page 132, lines 15 and 26, after "officer" insert "or firefighter" and after "officer's" insert "or firefighter's"

Page 132, lines 20, 32, and 34, after "officer's" insert "or firefighter's" and after "officer" insert "or firefighter"

Page 132, line 28, after "person" insert "is"

Page 132, line 29, delete "meets the definition of" and insert "a"

Page 132, line 30, after "OFFICER" insert "OR FIREFIGHTER"

Page 133, lines 2 and 21, after "officer's" insert "or firefighter's"

Page 133, line 3, after "officer" insert "or firefighter"

Page 133, line 4, delete "meets the definition of" and "is a"

Page 133, line 7, after "officer" insert "or firefighter" and after "officer's" insert "or firefighter's"

Page 133, line 8, delete "provides" and insert "provide"

Page 133, after line 21, insert:

"(c) 'Firefighter' has the meaning given in section 424.03, but does not include volunteer firefighters."

Amend the title as follows:

Page 1, line 24, after the semicolon, insert "requiring employers of disabled or killed peace officers or firefighters to continue health benefits in certain instances; requiring the state to reimburse those employers;"

The motion prevailed. So the amendment was adopted.

Mr. Kelly, R.C. moved to amend S.F. No. 1880 as follows:

Page 3, delete lines 28 to 40

Page 4, lines 40 and 41, delete "\$1,399,000" and insert "\$1,386,000"

Page 4, line 49, delete "270,000" in both places and insert "265,000" in both places

Page 5, line 9, delete "\$99,000" and insert "\$95,000" and delete "\$93,000" and insert "\$90,000"

Page 5, line 27, delete "\$114,000" and insert "\$110,000"

Page 7, line 1, delete "\$4,544,000" and insert "\$4,494,000"

Page 7, line 2, delete "\$2,600,000" and insert "\$2,560,000"

Page 7, lines 14 and 15, delete "\$4,086,000" and insert "\$4,486,000"

Page 7, line 19, delete "82.87" and insert "75.48"

Page 7, line 33, delete "14.68" and insert "13.37"

Page 7, line 35, delete "and"

Page 7, line 36, delete "2.45" and insert "2.23"

Page 7, line 37, before the period, insert "for the bureau of criminal apprehension; and (4) 8.92 percent is for grants to fund overtime for law enforcement officers under Minnesota Statutes, section 299A.62, subdivision 1, clause (2)"

Page 9, lines 30 and 31, delete "\$2,500,000" and insert "\$2,000,000"

Page 9, line 49, delete "\$960,000" in both places and insert "\$950,000" in both places

Page 11, line 5, delete "3,707,000" and insert "3,701,000" and delete "3,591,000" and insert "3,586,000"

Page 11, line 11, delete "\$3,707,000" and insert "\$3,701,000"

Page 11, line 16, delete "\$3,591,000" and insert "\$3,586,000"

Page 12, line 5, delete "\$63,000" and insert "\$60,000" and delete "\$64,000" and insert "\$60,000"

Page 12, line 46, delete "181,800,000" and insert "181,688,000" and delete "191,331,000" and insert "191,218,000"

Page 13, line 19, delete "\$112,000" and insert "\$100,000" and delete "\$113,000" and insert "\$100,000"

Page 13, line 38, delete "\$300,000" in both places and insert "\$500,000" in both places

Page 14, line 23, delete "78,598,000" and insert "78,788,000" and delete "85,210,000" and insert "85,400,000"

Page 16, line 1, delete "\$300,000" in both places and insert "\$500,000" in both places

Page 16, line 4, after "court" insert "and night court"

Page 18, line 23, delete "\$250,000" in both places and insert "\$200,000" in both places

Correct the subdivision and section totals and the summaries by fund accordingly

The motion prevailed. So the amendment was adopted.

Mr. Sams moved to amend S.F. No. 1880 as follows:

Page 137, after line 29, insert:

"Sec. 20. Minnesota Statutes 1996, section 326.3321, subdivision 1, is amended to read:

Subdivision 1. [EXECUTIVE DIRECTOR.] The ~~board~~ commissioner of public safety shall appoint an executive director to serve in the unclassified service at the pleasure of the ~~board commissioner~~. The executive director shall perform the duties as the board and commissioner shall prescribe."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Sams then moved to amend S.F. No. 1880 as follows:

Pages 79 to 98, delete article 5 and insert:

"ARTICLE 5
DWI PROVISIONS

Section 1. Minnesota Statutes 1996, section 84.91, subdivision 1, is amended to read:

Subdivision 1. [ACTS PROHIBITED.] (a) No person shall operate or be in physical control of any snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state:

- (1) when the person is under the influence of alcohol;
- (2) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;
- (3) when the person is under the influence of a combination of any two or more of the elements named in clauses (1), (2), and ~~(6)~~ (7);
- (4) when the person's alcohol concentration is 0.10 or more;
- (5) when the person's alcohol concentration as measured within two hours of the time of operating is 0.10 or more; ~~or~~
- (6) when the person's alcohol concentration is 0.08 or more at the time of operating or as measured within two hours of the time of operating, if the person commits the violation anytime after a prior impaired driving conviction or a prior civil liability; or
- (7) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to operate the snowmobile or all-terrain vehicle.

For purposes of clause (6), "prior impaired driving conviction" has the meaning given in section 169.121, subdivision 3, and "prior civil liability" means a civil penalty imposed under section 84.911 or 86B.335.

(b) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall authorize or permit any individual the person knows or has reason to believe is under the influence of alcohol or a controlled substance or other substance, as provided under paragraph (a), to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

(c) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall knowingly authorize or permit any person, who by reason of any physical or mental disability is incapable of operating the vehicle, to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

Sec. 2. Minnesota Statutes 1996, section 84.911, subdivision 1, is amended to read:

Subdivision 1. [MANDATORY CHEMICAL TESTING.] A person who operates or is in physical control of a snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 84.91, subdivision 2. Taking or submitting to the test is mandatory when requested by an officer who has probable cause to believe the person was operating or in physical control of a snowmobile or all-terrain vehicle in violation of section 84.91, subdivision 1, paragraph (a), and one of the following conditions exists:

- (1) the person has been lawfully placed under arrest for violating section 84.91, subdivision 1, paragraph (a);
- (2) the person has been involved while operating a snowmobile or all-terrain vehicle in an accident resulting in property damage, personal injury, or death;
- (3) the person has refused to take the preliminary screening test provided for in section 84.91, subdivision 3; ~~or~~
- (4) the screening test was administered and indicated an alcohol concentration of 0.10 or more; or
- (5) the screening test was administered and indicated an alcohol concentration of 0.08 or more, if the person has ever had a prior impaired driving conviction or a prior civil liability.

For purposes of clause (5), "prior impaired driving conviction" has the meaning given in section 169.121, subdivision 3, and "prior civil liability" means a civil penalty imposed under this section or section 86B.335.

Sec. 3. Minnesota Statutes 1996, section 86B.331, subdivision 1, is amended to read:

Subdivision 1. [ACTS PROHIBITED.] (a) A person may not operate or be in physical control of a motorboat in operation on the waters of this state:

(1) when the person is under the influence of alcohol;

(2) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;

(3) when the person is under the influence of a combination of any two or more of the elements named in clauses (1), (2), and ~~(6)~~ (7);

(4) when the person's alcohol concentration is 0.10 or more;

(5) when the person's alcohol concentration as measured within two hours of the time of operating is 0.10 or more; ~~or~~

(6) when the person's alcohol concentration is 0.08 or more at the time of operating or as measured within two hours of the time of operating, if the person commits the violation anytime after a prior impaired driving conviction or a prior civil liability; or

(7) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to operate the motorboat.

(b) An owner or other person having charge or control of a motorboat may not authorize or allow an individual the person knows or has reason to believe is under the influence of alcohol or a controlled or other substance, as provided under paragraph (a), to operate the motorboat in operation on the waters of this state.

(c) An owner or other person having charge or control of a motorboat may not knowingly authorize or allow a person, who by reason of a physical or mental disability is incapable of operating the motorboat, to operate the motorboat in operation on the waters of this state.

(d) For purposes of this subdivision, a motorboat "in operation" does not include a motorboat that is anchored, beached, or securely fastened to a dock or other permanent mooring. For purposes of clause (6), "prior impaired driving conviction" has the meaning given in section 169.121, subdivision 3, and "prior civil liability" means a civil penalty imposed under section 84.911 or 86B.335.

Sec. 4. Minnesota Statutes 1996, section 86B.331, subdivision 4, is amended to read:

Subd. 4. [EVIDENCE.] (a) Upon the trial of a prosecution arising out of acts alleged to have been committed by a person arrested for operating or being in physical control of a motorboat in violation of subdivision 1, paragraph (a), or an ordinance in conformity with it, the court may admit evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine as shown by an analysis of those items.

(b) For the purposes of this subdivision:

(1) evidence that there was at the time an alcohol concentration of 0.05 or less is prima facie evidence that the person was not under the influence of alcohol; and

(2) evidence that there was at the time an alcohol concentration of more than 0.05 and less than 0.10 is relevant evidence in indicating whether or not the person was under the influence of alcohol.

(c) Evidence of the refusal to take a preliminary screening test required under subdivision 3 or a chemical test required under section 86B.335 is admissible into evidence in a prosecution under this section or an ordinance in conformity with it.

(d) This subdivision does not limit the introduction of other competent evidence bearing upon the question of whether or not the person violated this section, including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample. A sample is adequate if the instrument analyzes the sample and does not indicate the sample is deficient.

(e) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, paragraph (a), clause (5), that the defendant consumed a sufficient quantity of alcohol after the time of operating or being in physical control of a motorboat and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed 0.10. Provided, that this evidence may not be admitted unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

(f) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, paragraph (a), clause (6), that the defendant consumed a sufficient quantity of alcohol after the time of operating or being in physical control of a motorboat and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed 0.08. Provided, that this evidence may not be admitted unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

Sec. 5. Minnesota Statutes 1996, section 86B.335, subdivision 1, is amended to read:

Subdivision 1. [CHEMICAL TESTING.] A person who operates or is in physical control of a motorboat in operation on the waters of this state is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. A motorboat "in operation" does not include a motorboat that is anchored, beached, or securely fastened to a dock or other permanent mooring. The test shall be administered at the direction of an officer authorized to make arrests under section 86B.331, subdivision 2. Taking or submitting to the test is mandatory when requested by an officer who has probable cause to believe the person was operating or in physical control of a motorboat in violation of section 86B.331, subdivision 1, paragraph (a), and one of the following conditions exist:

(1) the person has been lawfully placed under arrest for violating section 86B.331, subdivision 1, paragraph (a);

(2) the person has been involved in a motorboat accident resulting in property damage, personal injury, or death;

(3) the person has refused to take the preliminary screening test provided for in section 86B.331, subdivision 3; ~~or~~

(4) the screening test was administered and indicated an alcohol concentration of 0.10 or more; or

(5) the screening test was administered and indicated an alcohol concentration of 0.08 or more, if the person has ever had a prior impaired driving conviction or a prior civil liability.

For purposes of clause (5), "prior impaired driving conviction" has the meaning given in section 169.121, subdivision 3, and "prior civil liability" means a civil penalty imposed under this section or section 84.911.

Sec. 6. Minnesota Statutes 1996, section 97B.065, subdivision 1, is amended to read:

Subdivision 1. [ACTS PROHIBITED.] (a) A person may not take wild animals with a firearm or by archery:

- (1) when the person is under the influence of alcohol;
- (2) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;
- (3) when the person is under the influence of a combination of any two or more of the elements in clauses (1) ~~and~~, (2), and (7);
- (4) when the person's alcohol concentration is 0.10 or more;
- (5) when the person's alcohol concentration as measured within two hours of the time of taking is 0.10 or more; ~~or~~
- (6) when the person's alcohol concentration is 0.08 or more at the time of taking or as measured within two hours of the time of taking, if the person commits the violation anytime after a prior violation of this subdivision or a prior civil liability under section 97B.066; or
- (7) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to operate a firearm or bow and arrow.

(b) An owner or other person having charge or control of a firearm or bow and arrow may not authorize or permit an individual the person knows or has reason to believe is under the influence of alcohol or a controlled substance, as provided under paragraph (a), to possess the firearm or bow and arrow in this state or on a boundary water of this state.

Sec. 7. Minnesota Statutes 1996, section 97B.066, subdivision 1, is amended to read:

Subdivision 1. [MANDATORY CHEMICAL TESTING.] A person who takes wild animals with a bow or firearm in this state or on a boundary water of this state is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 97B.065, subdivision 2. Taking or submitting to the test is mandatory when requested by an officer who has probable cause to believe the person was hunting in violation of section 97B.065, subdivision 1, paragraph (a), and one of the following conditions exists:

- (1) the person has been lawfully placed under arrest for violating section 97B.065, subdivision 1, paragraph (a);
- (2) the person has been involved while hunting in an accident resulting in property damage, personal injury, or death;
- (3) the person has refused to take the preliminary screening test provided for in section 97B.065, subdivision 3; ~~or~~
- (4) the screening test was administered and indicated an alcohol concentration of 0.10 or more; or
- (5) the screening test was administered and indicated an alcohol concentration of 0.08 or more, if the person has ever been convicted of violating section 97B.065, subdivision 1, or had a prior civil liability under this section.

Sec. 8. Minnesota Statutes 1996, section 169.121, subdivision 1, is amended to read:

Subdivision 1. [CRIME; ACTS PROHIBITED.] It is a crime for any person to drive, operate, or be in physical control of any motor vehicle within this state or upon the ice of any boundary water of this state under any of the following circumstances:

- (a) when the person is under the influence of alcohol;

- (b) when the person is under the influence of a controlled substance;
- (c) when the person is under the influence of a combination of any two or more of the elements named in clauses (a), (b), and ~~(f)~~ (g);
- (d) when the person's alcohol concentration is 0.10 or more;
- (e) when the person's alcohol concentration as measured within two hours of the time of driving, operating, or being in physical control of the motor vehicle is 0.10 or more;
- (f) when the person's alcohol concentration is 0.08 or more at the time of driving, operating, or being in physical control of the motor vehicle or as measured within two hours of the time of driving, operating, or being in physical control of the motor vehicle, if the person commits the violation anytime after a prior impaired driving conviction or a prior license revocation;
- (g) when the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle; or
- ~~(g)~~ (h) when the person's body contains any amount of a controlled substance listed in schedule I or II other than marijuana or tetrahydrocannabinols.

For purposes of clause (f), "prior impaired driving conviction" and "prior license revocation" have the meanings given in subdivision 3.

Sec. 9. Minnesota Statutes 1996, section 169.121, subdivision 2, is amended to read:

Subd. 2. [EVIDENCE.] (a) Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for driving, operating, or being in physical control of a motor vehicle in violation of subdivision 1, the court may admit evidence of the presence or amount of alcohol, controlled substances, or hazardous substances in the person's blood, breath, or urine as shown by an analysis of those items.

(b) For the purposes of this subdivision, evidence that there was at the time an alcohol concentration of 0.04 or more is relevant evidence in indicating whether or not the person was under the influence of alcohol.

(c) Evidence of the refusal to take a test is admissible into evidence in a prosecution under this section or an ordinance in conformity with it.

(d) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, clause (e), that the defendant consumed a sufficient quantity of alcohol after the time of actual driving, operating, or being in physical control of a motor vehicle and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed 0.10. Evidence that the defendant consumed alcohol after the time of actual driving, operating, or being in physical control of a motor vehicle may not be admitted in defense to any alleged violation of this section unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

(e) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, clause (f), that the defendant consumed a sufficient quantity of alcohol after the time of actual driving, operating, or being in physical control of a motor vehicle and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed 0.08. Evidence that the defendant consumed alcohol after the time of actual driving, operating, or being in physical control of a motor vehicle may not be admitted in defense to any alleged violation of this section unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

(f) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, clause ~~(g)~~ (h), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

(f) (g) The preceding provisions do not limit the introduction of any other competent evidence bearing upon the question of whether the person violated this section, including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample, as defined in section 169.123, subdivision 2b, paragraph (b).

Sec. 10. Minnesota Statutes 1996, section 169.121, subdivision 3, is amended to read:

Subd. 3. [CRIMINAL PENALTIES.] (a) As used in this subdivision:

(1) "prior impaired driving conviction" means a prior conviction under this section; section 84.91, subdivision 1, paragraph (a); 86B.331, subdivision 1, paragraph (a); 169.129; 360.0752; 609.21, subdivision 1, clauses (2) to (6) (7); 609.21, subdivision 2, clauses (2) to (6) (7); 609.21, subdivision 2a, clauses (2) to (6) (7); 609.21, subdivision 2b, clauses (2) to (6) (7); 609.21, subdivision 3, clauses (2) to (6) (7); 609.21, subdivision 4, clauses (2) to (6) (7); or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes a prior juvenile adjudication that would have been a prior impaired driving conviction if committed by an adult; and

(2) "prior license revocation" means a driver's license suspension, revocation, or cancellation under this section; section 169.123; 171.04; 171.14; 171.16; 171.17; or 171.18 because of an alcohol-related incident; 609.21, subdivision 1, clauses (2) to (6) (7); 609.21, subdivision 2, clauses (2) to (6) (7); 609.21, subdivision 2a, clauses (2) to (6) (7); 609.21, subdivision 2b, clauses (2) to (6) (7); 609.21, subdivision 3, clauses (2) to (6) (7); or 609.21, subdivision 4, clauses (2) to (6) (7); or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them.

(b) A person who violates subdivision 1 or 1a, or an ordinance in conformity with either of them, is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor under any of the following circumstances:

(1) the person violates subdivision 1 within five years of a prior impaired driving conviction, or within ten years of the first of two or more prior impaired driving convictions;

(2) the person violates subdivision 1a within five years of a prior license revocation, or within ten years of the first of two or more prior license revocations;

(3) the person violates section 169.26 while in violation of subdivision 1; or

(4) the person violates subdivision 1 or 1a while a child under the age of 16 is in the vehicle, if the child is more than 36 months younger than the violator.

(d) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

(e) The court must impose consecutive sentences when it sentences a person for a violation of this section or section 169.129 arising out of separate behavioral incidents. The court also must impose a consecutive sentence when it sentences a person for a violation of this section or section 169.129 and the person, at the time of sentencing, is on probation for, or serving, an executed sentence for a violation of this section or section 169.129 and the prior sentence involved a separate behavioral incident. The court also may order that the sentence imposed for a violation of this section or section 169.129 shall run consecutively to a previously imposed misdemeanor, gross misdemeanor or felony sentence for a violation other than this section or section 169.129.

(f) The court may impose consecutive sentences for offenses arising out of a single course of conduct as permitted in section 609.035, subdivision 2.

(g) When an attorney responsible for prosecuting gross misdemeanors under this section

requests criminal history information relating to prior impaired driving convictions from a court, the court must furnish the information without charge.

(h) A violation of subdivision 1a may be prosecuted either in the jurisdiction where the arresting officer observed the defendant driving, operating, or in control of the motor vehicle or in the jurisdiction where the refusal occurred.

Sec. 11. Minnesota Statutes 1996, section 169.123, subdivision 1, is amended to read:

Subdivision 1. [~~PEACE OFFICER DEFINED~~ DEFINITIONS.] (a) For purposes of this section, section 169.121, and section 169.1211, the term "peace officer" means a state patrol officer, University of Minnesota peace officer, a constable as defined in section 367.40, subdivision 3, or police officer of any municipality, including towns having powers under section 368.01, or county.

(b) For purposes of this section, the terms "prior impaired driving conviction" and "prior license revocation" have the meanings given in section 169.121, subdivision 3.

Sec. 12. Minnesota Statutes 1996, section 169.123, subdivision 2, is amended to read:

Subd. 2. [IMPLIED CONSENT; CONDITIONS; ELECTION OF TEST.] (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state or upon the ice of any boundary water of this state consents, subject to the provisions of this section and sections 169.121 and 169.1211, to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence of alcohol, controlled substances, or hazardous substances. The test shall be administered at the direction of a peace officer. The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and one of the following conditions exist:

(1) the person has been lawfully placed under arrest for violation of section 169.121, or an ordinance in conformity with it;

(2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death;

(3) the person has refused to take the screening test provided for by section 169.121, subdivision 6; or

(4) the screening test was administered and indicated an alcohol concentration of 0.10 or more; or

(5) the screening test was administered and indicated an alcohol concentration of 0.08 or more, if the person has ever had a prior impaired driving conviction or a prior license revocation.

The test may also be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol.

(b) At the time a test is requested, the person shall be informed:

(1) that Minnesota law requires the person to take a test: (i) to determine if the person is under the influence of alcohol, controlled substances, or hazardous substances; (ii) to determine the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols; and (iii) if the motor vehicle was a commercial motor vehicle, to determine the presence of alcohol;

(2) that refusal to take a test is a crime;

(3) if the peace officer has probable cause to believe the person has violated the criminal vehicular homicide and injury laws, that a test will be taken with or without the person's consent; and

(4) that the person has the right to consult with an attorney, but that this right is limited to the extent that it cannot unreasonably delay administration of the test.

(c) The peace officer who requires a test pursuant to this subdivision may direct whether the test shall be of blood, breath, or urine. Action may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

Sec. 13. Minnesota Statutes 1996, section 169.123, subdivision 4, is amended to read:

Subd. 4. [REFUSAL; REVOCATION OF LICENSE.] (a) If a person refuses to permit a test, none shall be given, but the peace officer shall report the refusal to the commissioner of public safety and the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred. However, if a peace officer has probable cause to believe that the person has violated section 609.21, a test may be required and obtained despite the person's refusal. A refusal to submit to an alcohol concentration test does not constitute a violation of section 609.50, unless the refusal was accompanied by force or violence or the threat of force or violence.

(b) If a person submits to a test and, the results of that test shall be reported to the commissioner of public safety and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred, if the test results indicate:

(1) an alcohol concentration of 0.10 or more;

(2) an alcohol concentration of 0.08 or more, if the person has ever had a prior impaired driving conviction or a prior license revocation;

(3) an alcohol concentration of 0.04 or more, if the person was driving, operating, or in physical control of a commercial motor vehicle at the time of the violation; or

(4) the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, or if a person was driving, operating, or in physical control of a commercial motor vehicle and the test results indicate an alcohol concentration of 0.04 or more, the results of the test shall be reported to the commissioner of public safety and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred.

(c) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and that the person refused to submit to a test, the commissioner of public safety shall revoke the person's license or permit to drive, or nonresident operating privilege, for a period of one year even if a test was obtained pursuant to this section after the person refused to submit to testing.

(d) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol in violation of section 169.121 or 169.1211, and that the person refused to submit to a test, the commissioner shall disqualify the person from operating a commercial motor vehicle for a period of one year under section 171.165 and shall revoke the person's license or permit to drive or nonresident operating privilege for a period of one year.

(e) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and that the person submitted to a test and the test results indicate: an alcohol concentration of 0.10 or more; an alcohol concentration of 0.08 or more, if the person has ever had a prior impaired driving conviction or a prior license revocation; or the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, then the commissioner of public safety shall revoke the person's license or permit to drive, or nonresident operating privilege:

(1) for a period of 90 days; or

(2) if the person is under the age of 21 years, for a period of six months; or

(3) for a person with a prior impaired driving conviction or prior license revocation within the past five years, for a period of 180 days.

(f) On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner of public safety shall disqualify the person from operating a commercial motor vehicle under section 171.165.

(g) If the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner of public safety shall deny to the person the issuance of a license or permit for the same period after the date of the alleged violation as provided herein for revocation, subject to review as hereinafter provided.

~~(h) As used in this subdivision, the terms "prior impaired driving conviction" and "prior license revocation" have the meanings given in section 169.121, subdivision 3, paragraph (a).~~

Sec. 14. Minnesota Statutes 1996, section 169.123, subdivision 5a, is amended to read:

Subd. 5a. [TEST REFUSAL; DRIVING PRIVILEGE LOST.] (a) On behalf of the commissioner of public safety, a peace officer requiring a test or directing the administration of a chemical test shall serve immediate notice of intention to revoke and of revocation on a person who refuses to permit a test or on a person who submits to a test the results of which indicate:

(1) an alcohol concentration of 0.10 or more; or

(2) an alcohol concentration of 0.08 or more, if the person has ever had a prior impaired driving conviction or a prior license revocation.

(b) On behalf of the commissioner of public safety, a peace officer requiring a test or directing the administration of a chemical test of a person driving, operating, or in physical control of a commercial motor vehicle shall serve immediate notice of intention to disqualify and of disqualification on a person who refuses to permit a test, or on a person who submits to a test the results of which indicate an alcohol concentration of 0.04 or more.

(c) The officer shall either:

(1) take the driver's license or permit, if any, send it to the commissioner of public safety along with the certificate required by subdivision 4, and issue a temporary license effective only for seven days; or

(2) invalidate the driver's license or permit in such a way that no identifying information is destroyed.

Sec. 15. Minnesota Statutes 1996, section 169.123, subdivision 6, is amended to read:

Subd. 6. [HEARING.] (a) A hearing under this section shall be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing shall be to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169.121, if any. The hearing shall be recorded. The commissioner of public safety shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing shall be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the county courts within the judicial district.

(b) The scope of the hearing shall be limited to the issues in clauses (1) to ~~(9)~~ (10):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of:

- (i) a motor vehicle in violation of section 169.121; or
- (ii) a commercial motor vehicle in violation of section 169.1211?

(2) Was the person lawfully placed under arrest for violation of section 169.121 or 169.1211?

(3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

(4) Did the person refuse to take a screening test provided for by section 169.121, subdivision 6?

(5) If the screening test was administered, did the test indicate:

- (i) an alcohol concentration of 0.10 or more; or
- (ii) an alcohol concentration of 0.08 or more, if the person has ever had a prior impaired driving conviction or a prior license revocation?

(6) At the time of the request for the test, did the peace officer inform the person of the person's rights and the consequences of taking or refusing the test as required by subdivision 2?

(7) Did the person refuse to permit the test?

(8) If a test was taken:

(i) by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

- (i) an alcohol concentration of 0.10 or more at the time of testing;
- (ii) an alcohol concentration of 0.08 or more, if the person has ever had a prior impaired driving conviction or a prior license revocation; or

(iii) the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols; or?

(ii) (9) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(9) (10) Was the testing method used valid and reliable and were the test results accurately evaluated?

(c) It shall be an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates shall be admissible as substantive evidence.

(e) The court shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner of public safety. The court shall file its order within 14 days following the hearing. If the revocation or disqualification is sustained, the court shall also forward the person's driver's license or permit to the commissioner of public safety for further action by the commissioner of public safety if the license or permit is not already in the commissioner's possession.

Sec. 16. Minnesota Statutes 1996, section 169.129, is amended to read:

169.129 [AGGRAVATED VIOLATIONS; PENALTY.]

Any person is guilty of a gross misdemeanor who drives, operates, or is in physical control of a motor vehicle, the operation of which requires a driver's license, within this state or upon the ice of any boundary water of this state in violation of section 169.121 or an ordinance in conformity with it before the person's driver's license or driver's privilege has been reinstated following its cancellation, suspension, revocation, or denial under any of the following: section 169.121, 169.1211, or 169.123; section 171.04, 171.14, 171.16, 171.17, or 171.18 because of an alcohol-related incident; section 609.21, subdivision 1, clauses (2) to ~~(6)~~ (7); 609.21, subdivision 2, clauses (2) to ~~(6)~~ (7); 609.21, subdivision 2a, clauses (2) to ~~(6)~~ (7); ~~609.21, subdivision 2b, clauses (2) to ~~(6)~~ (7);~~ 609.21, subdivision 3, clauses (2) to ~~(6)~~ (7); or 609.21, subdivision 4, clauses (2) to ~~(6)~~ (7).

The attorney in the jurisdiction in which the violation of this section occurred who is responsible for prosecution of misdemeanor violations of section 169.121 shall also be responsible for prosecution of violations of this section.

Sec. 17. Minnesota Statutes 1996, section 609.21, is amended to read:

609.21 [CRIMINAL VEHICULAR HOMICIDE AND INJURY.]

Subdivision 1. [CRIMINAL VEHICULAR HOMICIDE.] A person is guilty of criminal vehicular homicide resulting in death and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the person causes the death of a human being not constituting murder or manslaughter as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
- (3) while having an alcohol concentration of 0.10 or more;
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;
- (5) while having an alcohol concentration of 0.08 or more at the time of driving or as measured within two hours of the time of driving, if the person commits the violation anytime after a prior impaired driving conviction or a prior license revocation;
- ~~(5)~~ (6) in a negligent manner while knowingly under the influence of a hazardous substance;
- ~~(6)~~ (7) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or
- ~~(7)~~ (8) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2. [RESULTING IN GREAT BODILY HARM.] A person is guilty of criminal vehicular operation resulting in great bodily harm and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person causes great bodily harm to another, not constituting attempted murder or assault, as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more;

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;

(5) while having an alcohol concentration of 0.08 or more at the time of driving or as measured within two hours of the time of driving, if the person commits the violation anytime after a prior impaired driving conviction or a prior license revocation;

~~(5)~~ (6) in a negligent manner while knowingly under the influence of a hazardous substance;

~~(6)~~ (7) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

~~(7)~~ (8) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2a. [RESULTING IN SUBSTANTIAL BODILY HARM.] A person is guilty of criminal vehicular operation resulting in substantial bodily harm and may be sentenced to imprisonment of not more than three years or to payment of a fine of not more than \$10,000, or both, if the person causes substantial bodily harm to another, as a result of operating a motor vehicle;

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more;

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;

(5) while having an alcohol concentration of 0.08 or more at the time of driving or as measured within two hours of the time of driving, if the person commits the violation anytime after a prior impaired driving conviction or a prior license revocation;

~~(5)~~ (6) in a negligent manner while knowingly under the influence of a hazardous substance;

~~(6)~~ (7) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

~~(7)~~ (8) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2b. [RESULTING IN BODILY HARM.] A person is guilty of criminal vehicular operation resulting in bodily harm and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the person causes bodily harm to another, as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

- (ii) a controlled substance; or
- (iii) any combination of those elements;
- (3) while having an alcohol concentration of 0.10 or more;
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;
- (5) while having an alcohol concentration of 0.08 or more at the time of driving or as measured within two hours of the time of driving, if the person commits the violation anytime after a prior impaired driving conviction or a prior license revocation;
- ~~(5)~~ (6) in a negligent manner while knowingly under the influence of a hazardous substance;
- ~~(6)~~ (7) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or
- ~~(7)~~ (8) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 3. [RESULTING IN DEATH TO AN UNBORN CHILD.] A person is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the person causes the death of an unborn child as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
- (3) while having an alcohol concentration of 0.10 or more;
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;
- (5) while having an alcohol concentration of 0.08 or more at the time of driving or as measured within two hours of the time of driving, if the person commits the violation anytime after a prior impaired driving conviction or a prior license revocation;
- ~~(5)~~ (6) in a negligent manner while knowingly under the influence of a hazardous substance;
- ~~(6)~~ (7) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or
- ~~(7)~~ (8) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. [RESULTING IN INJURY TO UNBORN CHILD.] A person is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person causes great bodily harm to an unborn child who is subsequently born alive, as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;

- (2) in a negligent manner while under the influence of:
- (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
- (3) while having an alcohol concentration of 0.10 or more;
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;
- (5) while having an alcohol concentration of 0.08 or more at the time of driving or as measured within two hours of the time of driving, if the person commits the violation anytime after a prior impaired driving conviction or a prior license revocation;
- ~~(5)~~ (6) in a negligent manner while knowingly under the influence of a hazardous substance;
- ~~(6)~~ (7) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or
- ~~(7)~~ (8) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4a. [AFFIRMATIVE DEFENSE.] It shall be an affirmative defense to a charge under subdivision 1, clause ~~(6)~~ (7); 2, clause ~~(6)~~ (7); 2a, clause ~~(6)~~ (7); 2b, clause ~~(6)~~ (7); 3, clause ~~(6)~~ (7); or 4, clause ~~(6)~~ (7), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

Subd. 5. [DEFINITIONS.] For purposes of this section, the terms defined in this subdivision have the meanings given them.

- (a) "Motor vehicle" has the meaning given in section 609.52, subdivision 1.
- (b) "Controlled substance" has the meaning given in section 152.01, subdivision 4.
- (c) "Hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182.
- (d) "Prior impaired driving conviction" has the meaning given in section 169.121, subdivision 3.
- (e) "Prior license revocation" has the meaning given in section 169.121, subdivision 3.

Sec. 18. [EFFECTIVE DATE.]

Sections 1 to 17 are effective August 1, 1997, and apply to violations occurring on or after that date.

Amend the title accordingly

CALL OF THE SENATE

Mr. Limmer imposed a call of the Senate for the balance of the proceedings on the Sams amendment. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 39 and nays 28, as follows:

Those who voted in the affirmative were:

Beckman	Johnson, D.H.	Lessard	Ourada	Scheid
Berg	Johnson, D.J.	Metzen	Pappas	Solon
Day	Kiscaden	Moe, R.D.	Pariseau	Spear
Fischbach	Kleis	Morse	Pogemiller	Stevens
Frederickson	Laidig	Murphy	Robertson	Stumpf
Hanson	Langseth	Novak	Sams	Vickerman
Higgins	Larson	Oliver	Samuelson	Wiger
Janezich	Lesewski	Olson	Scheevel	

Those who voted in the negative were:

Anderson	Flynn	Kelley, S.P.	Marty	Runbeck
Belanger	Foley	Kelly, R.C.	Neuville	Ten Eyck
Berglin	Hottinger	Knutson	Piper	Terwilliger
Betzold	Johnson, D.E.	Krentz	Price	Wiener
Cohen	Johnson, J.B.	Limmer	Ranum	
Dille	Junge	Lourey	Robling	

The motion prevailed. So the amendment was adopted.

Mr. Kelly, R.C. moved to amend S.F. No. 1880 as follows:

Page 122, line 2, delete "18" and insert "17"

Page 122, line 4, after "11," insert "18,"

The motion prevailed. So the amendment was adopted.

Mr. Kelly, R.C. then moved to amend S.F. No. 1880 as follows:

Page 145, after line 15, insert:

"Sec. 33. Minnesota Statutes 1996, section 626.843, subdivision 1, is amended to read:

Subdivision 1. [RULES REQUIRED.] The board shall adopt rules with respect to:

(a) The certification of peace officer training schools, programs, or courses including training schools for the Minnesota state patrol. Such schools, programs and courses shall include those administered by the state, county, school district, municipality, or joint or contractual combinations thereof, and shall include preparatory instruction in law enforcement and minimum basic training courses;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at each certified peace officers training school located within the state;

(c) Minimum qualifications for instructors at certified peace officer training schools located within this state;

(d) Minimum standards of physical, mental, and educational fitness which shall govern the recruitment and licensing of peace officers within the state, by any state, county, municipality, or joint or contractual combination thereof, including members of the Minnesota state patrol;

(e) Minimum standards of conduct which would affect the individual's performance of duties as a peace officer;

These standards shall be established and published. The board shall review the minimum standards of conduct described in this paragraph for possible modification in 1998 and every three years after that time.

(f) Minimum basic training which peace officers appointed to temporary or probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following any such appointment to a temporary or probationary term;

(g) Minimum specialized training which part-time peace officers shall complete in order to be eligible for continued employment as a part-time peace officer or permanent employment as a peace officer, and the time within which the specialized training must be completed;

(h) Content of minimum basic training courses required of graduates of certified law enforcement training schools or programs. Such courses shall not duplicate the content of certified academic or general background courses completed by a student but shall concentrate on practical skills deemed essential for a peace officer. Successful completion of such a course shall be deemed satisfaction of the minimum basic training requirement;

(i) Grading, reporting, attendance and other records, and certificates of attendance or accomplishment;

(j) The procedures to be followed by a part-time peace officer for notifying the board of intent to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to clause (g), and section 626.845, subdivision 1, clause (g);

(k) The establishment and use by any political subdivision or state law enforcement agency which employs persons licensed by the board of procedures for investigation and resolution of allegations of misconduct by persons licensed by the board. The procedures shall be in writing and shall be established on or before October 1, 1984;

(l) The issues that must be considered by each political subdivision and state law enforcement agency that employs persons licensed by the board in establishing procedures under section 626.5532 to govern the conduct of peace officers who are in pursuit of a vehicle being operated in violation of section 609.487, and requirements for the training of peace officers in conducting pursuits. The adoption of specific procedures and requirements is within the authority of the political subdivision or agency;

(m) Supervision of part-time peace officers and requirements for documentation of hours worked by a part-time peace officer who is on active duty. These rules shall be adopted by December 31, 1993; and

(n) Citizenship requirements for full-time and part-time peace officers;

(o) Driver's license requirements for full-time and part-time peace officers; and

(p) Such other matters as may be necessary consistent with sections 626.84 to 626.855. Rules promulgated by the attorney general with respect to these matters may be continued in force by resolution of the board if the board finds the rules to be consistent with sections 626.84 to 626.855.

Sec. 34. [AWARD FOR EXCELLENCE IN PEACE OFFICER TRAINING.]

The board of peace officer standards and training shall establish an award for excellence in peace officer training to encourage innovation, quality, and effectiveness, and to recognize achievement in the area of peace officer training. The board may annually make awards in the categories of individual achievement, lifetime achievement, and organizational achievement. The board shall establish standards regarding award eligibility and application, evaluation, and selection procedures."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Kelly, R.C. then moved to amend S.F. No. 1880 as follows:

Page 24, line 7, delete "must" and insert "may"

Page 24, line 22, delete "be comprehensive, involving" and insert ":

(1) involve" and delete "three" and insert "two"

Page 24, line 24, delete "(1)" and insert "(i)"

Page 24, line 25, delete "(2)" and insert "(ii)"

Page 24, line 26, delete "(3)" and insert "(iii)"

Page 24, line 27, delete "(4)" and insert "(iv)"

Page 24, line 28, delete "(5)" and insert "(v)" and after "initiatives" insert "; or

(2) be a community-based program or initiative designed to generally reduce crime in the neighborhood and enhance the neighborhood's safety, appearance, or economy"

The motion prevailed. So the amendment was adopted.

Ms. Kiscaden moved to amend S.F. No. 1880 as follows:

Page 138, after line 11, insert:

"Sec. 23. Minnesota Statutes 1996, section 357.021, subdivision 1a, is amended to read:

Subd. 1a. (a) Every person, including the state of Minnesota and all bodies politic and corporate, who shall transact any business in the district court, shall pay to the court administrator of said court the sundry fees prescribed in subdivision 2. Except as provided in paragraph (d), the court administrator shall transmit the fees monthly to the state treasurer for deposit in the state treasury and credit to the general fund.

(b) In a county which has a screener-collector position, fees paid by a county pursuant to this subdivision shall be transmitted monthly to the county treasurer, who shall apply the fees first to reimburse the county for the amount of the salary paid for the screener-collector position. The balance of the fees collected shall then be forwarded to the state treasurer for deposit in the state treasury and credited to the general fund. In a county in the eighth judicial district which has a screener-collector position, the fees paid by a county shall be transmitted monthly to the state treasurer for deposit in the state treasury and credited to the general fund. A screener-collector position for purposes of this paragraph is an employee whose function is to increase the collection of fines and to review the incomes of potential clients of the public defender, in order to verify eligibility for that service.

(c) No fee is required under this section from the public authority or the party the public authority represents in an action for:

(1) child support enforcement or modification, medical assistance enforcement, or establishment of parentage in the district court, or child or medical support enforcement conducted by an administrative law judge in an administrative hearing under section 518.5511;

(2) civil commitment under chapter 253B;

(3) the appointment of a public conservator or public guardian or any other action under chapters 252A and 525;

(4) wrongfully obtaining public assistance under section 256.98 or 256D.07, or recovery of overpayments of public assistance;

(5) court relief under chapter 260;

(6) forfeiture of property under sections 169.1217 and 609.531 to 609.5317;

(7) recovery of amounts issued by political subdivisions or public institutions under sections 246.52, 252.27, 256.045, 256.25, 256.87, 256B.042, 256B.14, 256B.15, 256B.37, and 260.251, or other sections referring to other forms of public assistance; or

(8) restitution under section 611A.04.

(d) The fees collected for child support modifications under subdivision 2, clause (13), must be transmitted to the county treasurer for deposit in the county general fund. The fees must be used by the county to pay for child support enforcement efforts by county attorneys."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Kleis moved to amend S.F. No. 1880 as follows:

Page 113, after line 15, insert:

"Sec. 9. [243.92] [CORRECTIONAL FACILITY SITE SELECTION COMMITTEE.]

Subdivision 1. [CREATION; MEMBERSHIP.] (a) An advisory task force is created to coordinate the site selection process for state correctional facilities. The task force shall convene when the legislature authorizes the planning of a new correctional facility. The task force, to be known as the site selection committee, consists of the:

(1) commissioner of corrections or the commissioner's designee;

(2) deputy commissioner of corrections who has supervision and control over correctional facilities;

(3) commissioner of transportation or the commissioner's designee;

(4) commissioner of administration or the commissioner's designee;

(5) chair of the senate crime prevention finance division and the ranking member of that division from the minority political caucus, or the chair's and ranking member's designee; and

(6) chair of the house judiciary finance division and the ranking member of that division from the minority political caucus or the chair's and ranking member's designee.

(b) The chairs of the senate crime prevention finance division and house judiciary finance division, or the chairs' designees, shall chair the committee.

Subd. 2. [SITE SELECTION PROCESS.] The committee shall develop a correctional site selection process that most effectively and efficiently utilizes state financial resources for construction of correctional facilities. The committee may include such other factors as the committee considers relevant as criteria for the site selection process.

Subd. 3. [RECOMMENDATIONS.] Before recommendation of an individual site for a correctional facility, the committee shall require that all costs associated with the facility and the site be identified and reported, including but not limited to construction costs, site improvement, infrastructure upgrades, and operating costs for that site. The commissioners of administration and corrections and any other agencies involved with site construction or land acquisition shall cooperate with the committee in supplying information described in this subdivision and any other information required for project budgets under section 16B.335.

Subd. 4. [REPORT.] The committee shall report its recommendations for the siting of correctional facilities to the legislature.

Subd. 5. [LEGISLATIVE AUTHORIZATION OF SITE.] Each site for a new state of Minnesota correctional facility shall be chosen in the law authorizing and providing funding for the facility."

Page 121, after line 33, insert:

"Sec. 26. [STAFFING.]

The site selection committee described in section 9 may utilize employees from the legislative and executive branch entities with membership on the committee. The department of administration shall provide administrative support."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Stevens moved to amend S.F. No. 1880 as follows:

Page 147, after line 28, insert:

"Sec. 36. [TASK FORCE TO IMPROVE THE COLLECTION OF RESTITUTION.]

Subdivision 1. [CREATION; DUTIES.] A task force is created to study methods to improve the collection of restitution and the enforcement of restitution orders for repeat offenders. The task force must consider the feasibility of:

(1) incarcerating offenders who have been convicted two or more times of committing an offense for which restitution to a victim, as defined in Minnesota Statutes, section 611A.01, or to society is owed or should be paid, including but not limited to violations of Minnesota Statutes, sections 169.121 (DWI) or 169.129 (aggravated DWI); 609.375 (nonpayment of child support); 609.52 (theft); 609.561 to 609.563 (arson); or 609.582 (burglary);

(2) requiring these inmates to work at a fair market wage; and

(3) enabling inmates to first pay restitution to their victims, after satisfying any outstanding or ongoing child support or spousal maintenance obligations, and secondly, to pay the operating costs of their confinement, including the costs of any privileges, treatment, or services received by the inmates in the facility.

Subd. 2. [MEMBERSHIP.] The task force consists of the following 14 members:

(1) the commissioner of corrections or the commissioner's designee;

(2) two district court judges appointed by the chief justice, one from the metropolitan area, and one from outside the metropolitan area;

(3) the ombudsman for crime victims;

(4) the ombudsman for corrections;

(5) a representative of the Minnesota association of community corrections act counties;

(6) a representative of the Minnesota association of county probation officers;

(7) two members of the house of representatives appointed by the speaker, and two members of the senate appointed by the subcommittee on committees. These appointments must be made in a manner that ensures a fair representation of viewpoints on business and labor issues;

(8) one crime victim;

(9) one representative of the business community appointed by the commissioner of corrections after consultation with the Minnesota business partnership and the Minnesota chamber of commerce; and

(10) one representative of labor unions appointed by the commissioner of corrections after consultation with public and private labor organizations from the affiliated membership of the Minnesota AFL-CIO.

The commissioner of corrections or the commissioner's designee shall chair and provide necessary staff support to the task force.

Subd. 3. [ADDITIONAL DUTIES.] (a) The task force shall study the feasibility of and develop recommendations concerning guidelines for sentencing courts to use when sentencing offenders to incarceration and when ordering offenders to pay restitution to crime victims or to the public.

(b) The task force shall investigate whether it would be feasible for the state to enter into a long-term contract with one or more business entities under which the business entity would employ inmates at a fair market wage. The commissioner of corrections would ensure that inmates use the wages they earn to pay restitution to their victims according to restitution guidelines approved by the legislature, and to pay the costs of their confinement. Based on this investigation, the task force shall make recommendations to the legislature by February 1, 1998, regarding the type of business entity or entities with which the state could contract to operate an industry program.

(c) The task force shall examine current methods of collecting restitution and determine whether there are better ways of collecting restitution and enforcing restitution orders within the current criminal justice system."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mrs. Pariseau moved to amend S.F. No. 1880 as follows:

Page 145, after line 15, insert:

"Sec. 33. Minnesota Statutes 1996, section 624.714, is amended by adding a subdivision to read:

Subd. 5a. [PERMITS FOR RETIRED PEACE OFFICERS.] Notwithstanding subdivision 5, a permit to carry a pistol shall be granted to a retired peace officer formerly licensed by the board of peace officer standards and training under section 626.845 if the applicant:

(1) is not a person prohibited by section 624.713 from possessing a pistol; and

(2) provides a certificate, dated within 30 days of the date of application, from the chief law enforcement officer of the department that the applicant retired from, stating that:

(i) the applicant was not fired or discharged from the applicant's position; and

(ii) the applicant's disciplinary record does not indicate a reason why the applicant should not be granted a permit."

Page 148, line 4, delete "33, 35, 36, and 38" and insert "34, 36, 37, and 39"

Page 148, line 11, delete "and 34" and insert ", 33, and 35"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Kelly, R.C. questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Ms. Runbeck moved to amend S.F. No. 1880 as follows:

Page 113, after line 15, insert:

"Sec. 9. [243.556] [INTERNET AND ON-LINE SERVICES.]

No adult inmate in a state correctional facility may use or have access to any computer Internet service, Internet file, on-line computer service, or computer equipped with a phone modem."

Page 114, after line 32, insert:

"Sec. 13. [64.175] [INTERNET AND ON-LINE SERVICES.]

No adult inmate in a county jail, workhouse, or workfarm may use or have access to any computer Internet service, Internet file, on-line computer service, or computer equipped with a phone modem."

Reorder the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Kelly, R.C. requested division as follows:

First portion:

Page 113, after line 15, insert:

"Sec. 9. [243.556] [INTERNET AND ON-LINE SERVICES.]

No adult inmate in a state correctional facility may use or have access to any computer Internet service, Internet file, on-line computer service, or computer equipped with a phone modem."

Reorder the sections in sequence and correct the internal references

Amend the title accordingly

Second portion:

Page 114, after line 32, insert:

"Sec. 13. [64.175] [INTERNET AND ON-LINE SERVICES.]

No adult inmate in a county jail, workhouse, or workfarm may use or have access to any computer Internet service, Internet file, on-line computer service, or computer equipped with a phone modem."

Reorder the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the first portion of the Runbeck amendment. The motion prevailed. So the first portion of the amendment was adopted.

The question was taken on the adoption of the second portion of the Runbeck amendment. The motion did not prevail. So the second portion of the amendment was not adopted.

Mr. Knutson moved to amend S.F. No. 1880 as follows:

Page 36, line 29, delete "attorney general and the"

Page 36, line 30, delete "cochairs" and insert "chair"

Page 37, line 5, delete everything after "The" and insert "superintendent of the bureau of criminal apprehension"

CALL OF THE SENATE

Mr. Kelly, R.C. imposed a call of the Senate for the balance of the proceedings on the Knutson amendment. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 26 and nays 37, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson	Janezich	Lourey	Piper	Stumpf
Beckman	Johnson, D.H.	Marty	Pogemiller	Ten Eyck
Betzold	Johnson, D.J.	Metzen	Price	Vickerman
Cohen	Junge	Moe, R.D.	Ranum	Wiener
Flynn	Kelley, S.P.	Morse	Samuelson	Wiger
Foley	Kelly, R.C.	Murphy	Scheid	
Higgins	Krentz	Novak	Solon	
Hottinger	Langseth	Pappas	Spear	

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

Ms. Junge moved to amend the fifth Kelly, R.C. amendment to S.F. No. 1880, adopted by the Senate April 14, 1997, as follows:

Page 1, delete lines 26 and 27 and insert:

"Page 9, line 42, delete "\$75,000" in both places and insert "\$125,000" in both places

Page 9, line 49, delete "\$960,000" in both places and insert "\$900,000" in both places"

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

Mr. Neuville moved to amend S.F. No. 1880 as follows:

Page 147, delete section 36

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Mr. Neuville then moved to amend S.F. No. 1880 as follows:

Page 132, after line 5, insert:

"Sec. 15. Minnesota Statutes 1996, section 260.185, subdivision 1a, is amended to read:

Subd. 1a. [POSSESSION OF FIREARM OR DANGEROUS WEAPON.] If the child is petitioned and found delinquent by the court, and the court also finds that the child was in possession of a firearm at the time of the offense, in addition to any other disposition the court shall order that the firearm be immediately seized and shall order that the child be required to serve at least 100 hours of community work service unless the child is placed in a residential treatment program or a juvenile correctional facility. If the child is petitioned and found delinquent by the court, and the court finds that the child was in possession of a dangerous weapon in a

school zone, as defined in section 152.01, subdivision 14a, clauses (1) and (3), at the time of the offense, the court also shall order that the child's driver's license be canceled or driving privileges denied until the child's 18th birthday or until the court determines that the child has complied with all dispositional requirements and that it is in the best interest of the child that the driver's license be reinstated. The court shall send a copy of its order to the commissioner of public safety and, upon receipt of the order, the commissioner is authorized to cancel the child's driver's license or deny the child's driving privileges without a hearing."

Page 148, line 4, before "Sections" insert "Section 15 is effective the day following final enactment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Mr. Neuville then moved to amend S.F. No. 1880 as follows:

Page 109, after line 13, insert:

"Sec. 3. Minnesota Statutes 1996, section 241.271, is amended to read:

241.271 [REIMBURSEMENT OF COUNTIES AND MUNICIPALITIES; BUDGET REQUEST.]

(a) The department of corrections shall include in its budget requests such amounts as may be claimed by any county or municipality necessary to reimburse said county or municipality for expenses of a county attorney or sheriff or municipal police department resulting from activities involving inmates of state correctional institutions located in its county or municipality.

(b) The department of corrections shall include in its budget requests amounts sufficient to reimburse counties and municipalities for expenses related to probation costs for offenders sentenced to lifetime probation under section 609.152, subdivision 26."

Page 142, after line 28, insert:

"Sec. 29. Minnesota Statutes 1996, section 609.152, subdivision 2a, is amended to read:

Subd. 2a. [DANGEROUS REPEAT OFFENDERS; MANDATORY MINIMUM SENTENCE.] Unless a longer mandatory minimum sentence is otherwise required by law or the court imposes a longer aggravated durational departure under subdivision 2, a person who is convicted of a violent crime that is a felony must be committed to the commissioner of corrections for a mandatory sentence of at least the length of the presumptive sentence under the sentencing guidelines if the court determines on the record at the time of sentencing that the person has two or more prior felony convictions for violent crimes. In addition, the court shall sentence the person to lifetime probation under subdivision 2b. The court shall impose and execute the prison sentence regardless of whether the guidelines presume an executed prison sentence. For purposes of this subdivision, "violent crime" does not include a violation of section 152.023 or 152.024. Any person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, or work release, until that person has served the full term of imprisonment as provided by law, notwithstanding sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

Sec. 30. Minnesota Statutes 1996, section 609.152, is amended by adding a subdivision to read:

Subd. 2b. [LIFETIME PROBATION FOR CERTAIN DANGEROUS REPEAT OFFENDERS.] (a) Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines or section 609.135, when a court sentences a person under subdivision 2a, in addition to the sentence required in that subdivision, the court shall sentence the person to lifetime probation.

(b) When sentencing a person to lifetime probation under paragraph (a), the court shall also

sentence the person to a sentence equal to the length of time for which the offender is committed to the commissioner of corrections under subdivision 2a. However, the court shall stay the execution of this sentence.

(c) In addition to the stayed sentence required under paragraph (b), the court may impose other reasonable conditions of probation on the defendant.

(d) The court shall have continuing jurisdiction over persons sentenced to lifetime probation under paragraph (a). Upon a violation of a term of probation, the court may order an appropriate sanction, including, but not limited to, the execution of a portion or all of the stayed sentence pronounced under paragraph (b). However, the person may not be incarcerated for a period longer than the total length of the stayed sentence over the course of the person's life for a violation or violations of probation.

(e) A person sentenced to lifetime probation under this subdivision is also required to serve a supervised release term under section 244.05 upon the person's release from prison for the sentence imposed under subdivision 2a. The court and the commissioner of corrections shall have concurrent jurisdiction over the person while the person is serving the supervised release term.

(f) If a person who has been placed on lifetime probation has not been convicted of a new crime during the 15 years following the end of the person's supervised release term, the court may discharge the person from probation. In deciding whether to terminate probation, in addition to any other factors deemed relevant by the court, the court may consider the extent to which the person adhered to the terms and conditions of probation."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 1880 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 62 and nays 3, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Laidig	Oliver	Scheid
Beckman	Hottinger	Langseth	Olson	Solon
Belanger	Johnson, D.E.	Larson	Ourada	Spear
Berg	Johnson, D.H.	Lesewski	Pappas	Stevens
Berglin	Johnson, D.J.	Lessard	Pariseau	Stumpf
Betzold	Johnson, J.B.	Limmer	Piper	Ten Eyck
Cohen	Junge	Lourey	Pogemiller	Terwilliger
Day	Kelley, S.P.	Marty	Price	Vickerman
Dille	Kelly, R.C.	Metzen	Ranum	Wiener
Fischbach	Kiscaden	Moe, R.D.	Robertson	Wiger
Flynn	Kleis	Morse	Robling	
Foley	Knutson	Murphy	Runbeck	
Frederickson	Krentz	Neuville	Scheevel	

Messrs. Janezich, Sams and Samuelson voted in the negative.

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received and referred to the committee indicated.

March 13, 1997

The Honorable Allan H. Spear
President of the Senate

Dear Sir:

The following appointment is hereby respectfully submitted to the Senate for confirmation as required by law:

BOARD ON JUDICIAL STANDARDS

Christopher P. Georgacas, 309 - 69th St. N., Mahtomedi, Washington County, effective March 18, 1997, for a term expiring on the first Monday in January, 2001.

(Referred to the Committee on Judiciary.)

Warmest regards,
Arne H. Carlson, Governor

REPORTS OF COMMITTEES**SUSPENSION OF RULES**

Mr. Moe, R.D. moved that Joint Rule 2.03 be suspended as it relates to the Committee Report on S.F. No. 234. The motion prevailed.

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the report on S.F. No. 1820. The motion prevailed.

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

S.F. No. 1383: A bill for an act relating to the legislature; increasing membership on the legislative audit commission; prescribing procedures for rotation of the chair; amending Minnesota Statutes 1996, section 3.97, 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 1996, section 3.97, subdivision 2, is amended to read:

Subd. 2. The legislative audit commission is created. The commission consists of:

- (1) the majority leader of the senate and the president of the senate or their designees;
- (2) the chair of the senate committee on taxes or a designee who is a member of the committee;
- (3) the chair of the senate committee on governmental operations and reform or a designee who is a member of the committee;
- (4) the chair of the senate committee on finance or a designee who is a member of the committee;
- (5) ~~three~~ five members of the senate appointed by the senate minority leader;

- (6) the speaker of the house and the chair of the house committee on rules or their designees;
- (7) the chair of the house committee on taxes or a designee who is a member of the committee;
- (8) the chair of the house committee on governmental operations and gaming or a designee who is a member of the committee;
- (9) the chair of the house ways and means committee or a designee who is a member of the committee; and
- (10) ~~three~~ five members of the house appointed by the house minority leader.

The appointed members of the commission shall serve for a term commencing upon appointment and expiring at the opening of the next regular session of the legislature in the odd-numbered year and until a successor is appointed. A vacancy in the membership of the commission shall be filled for the unexpired term in a manner that will preserve the representation established by this subdivision.

The commission shall meet in January of each odd-numbered year to elect its chair and other officers as it may determine necessary. ~~It~~ A chair shall serve a two-year term, expiring on January 1 in the odd-numbered year following election, and until a successor is elected. The chair shall alternate biennially between the senate and the house. The commission shall meet at the call of the chair or the executive secretary. The members shall serve without compensation but be reimbursed for their reasonable expenses as members of the legislature. The commission may exercise the powers prescribed by section 3.153.

Sec. 2. Minnesota Statutes 1996, section 3.971, subdivision 4, is amended to read:

Subd. 4. (a) To perform best practices reviews, the legislative auditor through the program evaluation division shall examine the procedures and practices used to deliver local government services, including municipalities and counties, determine the methods of local government service delivery, identify variations in cost and effectiveness, and identify practices to save money or provide more effective service delivery. The legislative auditor shall recommend to local governments, service delivery methods and practices to improve the cost-effectiveness of services. The legislative auditor and the board of government innovation and cooperation shall notify each other of projects being conducted relating to improving local government services.

(b) The commission shall identify local government services to be reviewed with advice from an advisory council whose membership shall consist of:

- (1) three representatives from the Association of Minnesota Counties;
- (2) three representatives from the League of Minnesota Cities; ~~and~~
- (3) two representatives from the Association of Metropolitan Municipalities; and
- (4) one representative from the Minnesota Association of Townships.

(c) This subdivision expires June 30, 1999.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Amend the title as follows:

Page 1, line 3, before the semicolon, insert "and the commission advisory council"

Page 1, line 5, delete "section" and insert "sections" and before the period, insert "; and 3.971, subdivision 4"

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 re-referred

S.F. No. 724: A bill for an act relating to transportation; preserving exempt rules of department of transportation; clarifying that specific service signs may be placed at certain intersections of trunk highways; defining residential roadway; defining daytime and nighttime; directing the commissioner of transportation to determine cost reimbursement policies; correcting obsolete reference; repealing deadline requirement for noise barriers on trunk highway No. 280 project; directing commissioner of transportation to study and prepare a report proposing a comprehensive, statewide highway access management policy; amending Minnesota Statutes 1996, sections 14.387; 160.292, subdivision 5; 169.01, subdivision 81, and by adding subdivisions; 169.14, subdivision 5d; 174.23, by adding a subdivision; and 174.51, subdivision 2; repealing Minnesota Rules, parts 8840.0100; 8840.0200; 8840.0300; 8840.0400; 8840.0500; 8840.0600; 8840.0700; 8840.0800; 8840.0900; 8840.1000; 8840.1100; 8840.1200; and 8840.1300.

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

Pages 1 to 3, delete section 1

Page 5, delete section 8 and insert:

"Sec. 7. Minnesota Statutes 1996, section 473.894, subdivision 3, is amended to read:

Subd. 3. [APPLICATION TO FCC.] Within 180 days from adoption of the regionwide public safety radio system communication plan the commissioner of transportation, on behalf of the state of Minnesota, shall use the plan adopted by the board under subdivision 2 to submit an extended implementation application to the Federal Communications Commission (FCC) for the NPSPAC channels and other public safety frequencies available for use in the metropolitan area and necessary to implement the plan. Local governments and all other public or private entities eligible under part 90 of the FCC rules shall not apply for public safety channels in the 821 to 824 and 866 to 869 megahertz bands for use within the metropolitan counties until the FCC takes final action on the regional application submitted under this section. Exceptions to the restrictions on the application for the NPSPAC channels may be granted by the radio board. The Minnesota department of transportation shall hold the master system licenses for all public safety frequencies assigned to the metropolitan area issued by the FCC first phase under the board's plan and these channels shall be used for the implementation of the plan. ~~Local governments and other public and private entities eligible under part 90 of the FCC rules may apply to the FCC as colicensees for subscriber equipment and those portions of the network infrastructure owned by them. Application for colicensing under this section shall require the concurrence of the radio board. The radio board shall hold the master system licenses for the public safety frequencies assigned to local government subsystems under the board's plan and these channels shall be used for implementation of the plan. Upon approval by the board of a local government's subsystem plan and evidence of a signed contract with a vendor for construction of a subsystem consistent with the board's system plan, the board shall apply to the FCC to transfer to the local government the licenses for the public safety frequencies assigned by the plan for use in the network infrastructure owned by the local government. The radio board, the Minnesota department of transportation, and local subsystem owners shall jointly colicense all subscriber equipment for the backbone system.~~"

Page 6, after line 12, insert:

"Sec. 10. [APPLICATION.]

Section 7 applies in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties."

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 13, after the semicolon, insert "directing transfer of ownership of licenses for public safety radio system frequencies;"

Page 1, line 14, delete "14.387;"

Page 1, line 17, delete everything before "repealing" and insert "473.894, subdivision 3;"

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 re-referred

S.F. No. 1693: A bill for an act relating to labor relations; requiring employers to recognize certain employee organizations; defining public employer for the purposes of the public employment labor relations act; amending Minnesota Statutes 1996, sections 179A.03, subdivision 15; and 179A.12, by adding a subdivision.

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

Pages 1 and 2, delete section 1

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, delete "defining"

Page 1, delete line 4

Page 1, line 5, delete everything before "amending"

Page 1, line 6, delete "sections 179A.03, subdivision 15; and" and insert "section"

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

Ms. Ranum from the Committee on Judiciary, to which was referred

S.F. No. 1277: A bill for an act relating to privacy; providing for the classification of and access to government data; eliminating the requirement that government agencies pay a fee for commissioner's opinions; amending Minnesota Statutes 1996, sections 13.99, by adding subdivisions; and 53A.081, by adding a subdivision; repealing Minnesota Statutes 1996, sections 13.072, subdivision 3; 13.71, subdivisions 18, 19, 20, and 21; and 13.99, subdivision 21d.

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

Page 1, after line 11, insert:

"Section 1. Minnesota Statutes 1996, section 13.32, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section:

(a) "Educational data" means data on individuals maintained by a public educational agency or institution or by a person acting for the agency or institution which relates to a student.

Records of instructional personnel which are in the sole possession of the maker thereof and are not accessible or revealed to any other individual except a substitute teacher, and are destroyed at the end of the school year, shall not be deemed to be government data.

Records of a law enforcement unit of a public educational agency or institution which are maintained apart from education data and are maintained solely for law enforcement purposes, and

are not disclosed to individuals other than law enforcement officials of the jurisdiction are not educational data; provided, that education records maintained by the educational agency or institution are not disclosed to the personnel of the law enforcement unit. The University of Minnesota police department is a law enforcement agency for purposes of section 13.82 and other sections of Minnesota Statutes dealing with law enforcement records. Records of organizations providing security services to a public educational agency or institution must be administered consistent with section 13.861.

Records relating to a student who is employed by a public educational agency or institution which are made and maintained in the normal course of business, relate exclusively to the individual in that individual's capacity as an employee, and are not available for use for any other purpose are classified pursuant to section 13.43.

(b) "Juvenile justice system" includes criminal justice agencies and the judiciary when involved in juvenile justice activities.

(c) "Student" means an individual currently or formerly enrolled or registered, applicants for enrollment or registration at a public educational agency or institution, or individuals who receive shared time educational services from a public agency or institution.

(d) "Substitute teacher" means an individual who performs on a temporary basis the duties of the individual who made the record, but does not include an individual who permanently succeeds to the position of the maker of the record.

Sec. 2. Minnesota Statutes 1996, section 13.32, subdivision 3, is amended to read:

Subd. 3. [PRIVATE DATA; WHEN DISCLOSURE IS PERMITTED.] Except as provided in subdivision 5, educational data is private data on individuals and shall not be disclosed except as follows:

(a) Pursuant to section 13.05;

(b) Pursuant to a valid court order;

(c) Pursuant to a statute specifically authorizing access to the private data;

(d) To disclose information in health and safety emergencies pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code of Federal Regulations, title 34, section 99.36 which are in effect on July 1, 1993;

(e) Pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and Code of Federal Regulations, title 34, sections 99.31, 99.32, 99.33, 99.34, and 99.35 which are in effect on July 1, 1993;

(f) To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;

(g) When disclosure is required for institutions that participate in a program under title IV of the Higher Education Act, United States Code, title 20, chapter 1092, in effect on July 1, 1993;

(h) To the appropriate school district officials to the extent necessary under subdivision 6, annually to indicate the extent and content of remedial instruction, including the results of assessment testing and academic performance at a post-secondary institution during the previous academic year by a student who graduated from a Minnesota school district within two years before receiving the remedial instruction; or

(i) To appropriate authorities as provided in United States Code, title 20, section 1232g(b)(1)(E)(ii), if the data concern the juvenile justice system and the ability of the system to effectively serve, prior to adjudication, the student whose records are released; and the authorities

to whom the data are released certify in writing that the data will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student; or

(+) (j) To volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students.

Sec. 3. Minnesota Statutes 1996, section 13.32, is amended by adding a subdivision to read:

Subd. 8. [ACCESS BY JUVENILE JUSTICE SYSTEM.] Upon request, the following education data shall be disclosed under subdivision 3, clause (i), to the juvenile justice system: a student's full name, home address, telephone number, and date of birth; a student's school schedule and attendance record; and parents' names, home addresses, telephone numbers, and photographs, if any.

Sec. 4. Minnesota Statutes 1996, section 13.646, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] As used in this section, "state administration" means the governor's office, the department of finance, and any state agency that is under the direct control of the governor. "State administration" also includes the office of the attorney general.

Page 2, after line 30, insert:

"Sec. 14. Minnesota Statutes 1996, section 144.335, subdivision 3a, is amended to read:

Subd. 3a. [PATIENT CONSENT TO RELEASE OF RECORDS; LIABILITY.] (a) A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release, unless the release is specifically authorized by law. Except as provided in paragraph (c) or (d), a consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law.

(b) This subdivision does not prohibit the release of health records:

(1) for a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency; or

(2) to other providers within related health care entities when necessary for the current treatment of the patient.

(c) Notwithstanding paragraph (a), if a patient explicitly gives informed consent to the release of health records for the purposes and pursuant to the restrictions in clauses (1) and (2), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient.

(d) Notwithstanding paragraph (a), health records may be released to a an external researcher solely for purposes of medical or scientific research only as follows:

(1) health records generated before January 1, 1997, may be released if the patient has not objected or does not elect to object after that date;

(2) for health records generated on or after January 1, 1997, the provider must:

(i) disclose in writing to patients currently being treated by the provider that health records, regardless of when generated, may be released and that the patient may object, in which case the records will not be released; and

(ii) use reasonable efforts to obtain the patient's written general authorization that describes the release of records in item (i), which does not expire but may be revoked or limited in writing at any time by the patient or the patient's authorized representative; and

(3) authorization may be established if an authorization is mailed at least two times to the patient's last known address with a postage prepaid return envelope and a conspicuous notice that consent will be implied if the patient does not object, and at least 60 days have expired since the second notice was sent; and the provider must advise the patient that the medical records will be released if the patient does not object; and

(4) the provider must, at the request of the patient, provide information on how the patient may contact an external researcher to whom the health record was released and the date it was released. The provider must advise the patient of the right to request this information.

In making a release for research purposes the provider shall make a reasonable effort to determine that:

(i) the use or disclosure does not violate any limitations under which the record was collected;

(ii) the use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which the use or disclosure is to be made;

(iii) the recipient has established and maintains adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient; and

(iv) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited.

(e) A person who negligently or intentionally releases a health record in violation of this subdivision, or who forges a signature on a consent form, or who obtains under false pretenses the consent form or health records of another person, or who, without the person's consent, alters a consent form, is liable to the patient for compensatory damages caused by an unauthorized release, plus costs and reasonable attorney's fees.

(f) Upon the written request of a spouse, parent, child, or sibling of a patient being evaluated for or diagnosed with mental illness, a provider shall inquire of a patient whether the patient wishes to authorize a specific individual to receive information regarding the patient's current and proposed course of treatment. If the patient so authorizes, the provider shall communicate to the designated individual the patient's current and proposed course of treatment. Paragraph (a) applies to consents given under this paragraph.

(g) In cases where a provider releases health records without patient consent as authorized by law, the release must be documented in the patient's health record.

Sec. 15. Minnesota Statutes 1996, section 260.161, is amended by adding a subdivision to read:

Subd. 3a. [COUNTY ATTORNEY REFERRAL OF CHILD IN NEED OF PROTECTION OR SERVICES.] In a county in which the county attorney refers children who are in need of protection or services to community programs, the county attorney may provide a community program with data on a child who is a participant or being considered for participation in the program.

Sec. 16. [268.3716] [EMERGENCY SERVICES; PRIVATE DATA.]

Data on individuals maintained by a grant recipient providing emergency services for homeless persons from which the identity of any individual receiving services may be determined, is private data on individuals, as defined in section 13.02, subdivision 12, and the grant recipient shall maintain the data in accordance with chapter 13.

Sec. 17. [TAXPAYER'S PERSONAL INFORMATION; DISCLOSURE.]

(a) An owner of property in Washington county that is subject to property taxation must be informed in a clear and conspicuous manner in writing on a form sent to property taxpayers that the property owner's name, address, and other information may be used, rented, or sold for business purposes, including surveys, marketing, and solicitation.

(b) If the property owner so requests on the form provided, then any such list generated by the county and sold for business purposes must exclude the owner's name and address if the business purpose is conducting surveys, marketing, or solicitation.

Sec. 18. [LOCAL APPROVAL REQUIRED.]

Section 17 is effective the day after the chief clerical officer of Washington county complies with Minnesota Statutes, section 645.021, subdivision 3.

Sec. 19. [SCHOOL-BASED PROBATION PILOT PROJECT DATA.]

This section applies until December 31, 1999, to government data in a school-based probation pilot project established by the commissioner of corrections in Dakota county. Data created, collected, used, or maintained by school-based probation officers and school officials participating in the pilot project are private data on individuals as defined in Minnesota Statutes, section 13.02, subdivision 12, and may be disseminated to probation officers working with the school-based probation project and as follows:

- (1) pursuant to Minnesota Statutes, section 13.05;
- (2) pursuant to a valid court order;
- (3) pursuant to a statute specifically authorizing access to the private data;
- (4) as allowed in Code of Federal Regulations, title 34, part 99; or
- (5) within the participating school district or educational entity as necessary to protect persons or property or to address the educational and other needs of students.

Sec. 20. [JOBS-PLUS PILOT PROJECT; ACCESS TO DATA.]

Upon request Ramsey county and the relevant state agencies shall release to the Manpower Demonstration Research Corporation data on public assistance benefits received, wages earned, and unemployment insurance benefits received by residents of the Mt. Airy Homes, McDonough Homes, and Roosevelt Homes public housing developments in St. Paul during the period from 1992 to 2002 for the purposes of complying with the research and evaluation requirements of the jobs-plus pilot program."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "modifying provisions governing access to medical records for research purposes;"

Page 1, line 6, after "sections" insert "13.32, subdivisions 1, 3, and by adding a subdivision; 13.646;" and delete "and"

Page 1, line 7, after the semicolon, insert "144.335, subdivision 3a; and 260.161, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 268;"

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

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

H.F. No. 282: A bill for an act relating to the metropolitan council; providing for appointment, discharge, and discipline of metropolitan transit police peace officers; amending Minnesota Statutes 1996, sections 473.125; 473.407, subdivision 4; and 626.84, subdivision 1.

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

Page 3, before line 1, insert:

"Sec. 3. Minnesota Statutes 1996, section 473.407, is amended by adding a subdivision to read:

Subd. 4a. [EXCEPTION.] Subdivision 4 does not apply to part-time officers employed by the metropolitan council transit police prior to January 1, 1998, who were full-time employees of another police department upon the date the officer was hired by the metropolitan council transit police and who subsequently voluntarily separated from the full-time position."

Page 4, line 21, delete "3" and insert "4"

Page 4, line 24, delete "4" and insert "5" and delete "the day following their final" and insert "January 1, 1998"

Page 4, line 25, delete "enactment"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "providing an exception;"

Page 1, line 6, after "4" insert ", and by adding a subdivision"

Amend the report from the Committee on Local and Metropolitan Government, adopted by the Senate February 24, 1997, as follows:

Delete the amendments to page 2, lines 34 to 36

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

Mr. Hottinger from the Committee on Health and Family Security, to which was referred

S.F. No. 473: A bill for an act relating to human services; repealing the Medicare certification requirement in the Medicare maximization program for certain providers; repealing Minnesota Statutes 1996, section 256B.071, 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 1996, section 144A.46, subdivision 2, is amended to read:

Subd. 2. [EXEMPTIONS.] The following individuals or organizations are exempt from the requirement to obtain a home care provider license:

(1) a person who is licensed as a registered nurse under sections 148.171 to 148.285 and who independently provides nursing services in the home without any contractual or employment relationship to a home care provider or other organization;

(2) a personal care assistant who provides services to only one individual under the medical assistance program as authorized under sections 256B.0625, subdivision 19, and 256B.04, subdivision 16;

(3) a person or organization that exclusively offers, provides, or arranges for personal care assistant services to only one individual under the medical assistance program as authorized under sections 256B.0625, subdivision 19, and 256B.04, subdivision 16;

(4) a person who is registered under sections 148.65 to 148.78 and who independently provides physical therapy services in the home without any contractual or employment relationship to a home care provider or other organization;

(5) a provider that is licensed by the commissioner of human services to provide semi-independent living services under Minnesota Rules, parts 9525.0500 to 9525.0660 when providing home care services to a person with a developmental disability;

(6) a provider that is licensed by the commissioner of human services to provide home and community-based services under Minnesota Rules, parts 9525.2000 to 9525.2140 when providing home care services to a person with a developmental disability;

(7) a person or organization that provides only home management services, if the person or organization is registered under section 144A.43, ~~subdivision 3~~ 144A.461; or

(8) a person who is licensed as a social worker under sections 148B.18 to 148B.28 and who provides social work services in the home independently and not through any contractual or employment relationship with a home care provider or other organization.

An exemption under this subdivision does not excuse the individual from complying with applicable provisions of the home care bill of rights.

Sec. 2. Minnesota Statutes 1996, section 256B.055, subdivision 12, is amended to read:

Subd. 12. [DISABLED CHILDREN.] (a) A person is eligible for medical assistance if the person is under age 19 and qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance under the state plan if residing in a medical institution, and the child requires a level of care provided in a hospital, nursing facility, or intermediate care facility for persons with mental retardation or related conditions, for whom home care is appropriate, provided that the cost to medical assistance under this section is not more than the amount that medical assistance would pay for if the child resides in an institution. After the child is determined to be eligible under this section, the commissioner shall review the child's disability under United States Code, title 42, section 1382c(a) and level of care defined under this section no more often than annually and may elect, based on the recommendation of health care professionals under contract with the state medical review team, to extend the review of disability and level of care up to a maximum of four years. The commissioner's decision on the frequency of continuing review of disability and level of care is not subject to administrative appeal under section 256.045. Nothing in this subdivision shall be construed as affecting other redeterminations of medical assistance eligibility under this chapter and annual cost-effective reviews under this section.

(b) For purposes of this subdivision, "hospital" means an institution as defined in section 144.696, subdivision 3, 144.55, subdivision 3, or Minnesota Rules, part 4640.3600, and licensed pursuant to sections 144.50 to 144.58. For purposes of this subdivision, a child requires a level of care provided in a hospital if the child is determined by the commissioner to need an extensive array of health services, including mental health services, for an undetermined period of time, whose health condition requires frequent monitoring and treatment by a health care professional or by a person supervised by a health care professional, who would reside in a hospital or require frequent hospitalization if these services were not provided, and the daily care needs are more complex than a nursing facility level of care.

A child with serious emotional disturbance requires a level of care provided in a hospital if the commissioner determines that the individual requires 24-hour supervision because the person exhibits recurrent or frequent suicidal or homicidal ideation or behavior, recurrent or frequent psychosomatic disorders or somatopsychic disorders that may become life threatening, recurrent or frequent severe socially unacceptable behavior associated with psychiatric disorder, ongoing

and chronic psychosis or severe, ongoing and chronic developmental problems requiring continuous skilled observation, or severe disabling symptoms for which office-centered outpatient treatment is not adequate, and which overall severely impact the individual's ability to function.

(c) For purposes of this subdivision, "nursing facility" means a facility which provides nursing care as defined in section 144A.01, subdivision 5, licensed pursuant to sections 144A.02 to 144A.10, which is appropriate if a person is in active restorative treatment; is in need of special treatments provided or supervised by a licensed nurse; or has unpredictable episodes of active disease processes requiring immediate judgment by a licensed nurse. For purposes of this subdivision, a child requires the level of care provided in a nursing facility if the child is determined by the commissioner to meet the requirements of the preadmission screening assessment document under section 256B.0911 and the home care independent rating document under section 256B.0627, subdivision 5, paragraph (f), item (iii), adjusted to address age-appropriate standards for children age 18 and under, pursuant to section 256B.0627, subdivision 5, paragraph (d), clause (2).

(d) For purposes of this subdivision, "intermediate care facility for persons with mental retardation or related conditions" or "ICF/MR" means a program licensed to provide services to persons with mental retardation under section 252.28, and chapter 245A, and a physical plant licensed as a supervised living facility under chapter 144, which together are certified by the Minnesota department of health as meeting the standards in Code of Federal Regulations, title 42, part 483, for an intermediate care facility which provides services for persons with mental retardation or persons with related conditions who require 24-hour supervision and active treatment for medical, behavioral, or habilitation needs. For purposes of this subdivision, a child requires a level of care provided in an ICF/MR if the commissioner finds that the child has mental retardation or a related condition in accordance with section 256B.092, is in need of a 24-hour plan of care and active treatment similar to persons with mental retardation, and there is a reasonable indication that the child will need ICF/MR services.

(e) For purposes of this subdivision, a person requires the level of care provided in a nursing facility if the person requires 24-hour monitoring or supervision and a plan of mental health treatment because of specific symptoms or functional impairments associated with a serious mental illness or disorder diagnosis, which meet severity criteria for mental health established by the commissioner ~~based on standards developed for the Wisconsin Katie Beckett program and published in July 1994~~ March 1997 as the Minnesota mental health level of care for children and adolescents with severe emotional disorders.

(f) The determination of the level of care needed by the child shall be made by the commissioner based on information supplied to the commissioner by the parent or guardian, the child's physician or physicians, and other professionals as requested by the commissioner. The commissioner shall establish a screening team to conduct the level of care determinations according to this subdivision.

(g) If a child meets the conditions in paragraph (b), (c), (d), or (e), the commissioner must assess the case to determine whether:

(1) the child qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance if residing in a medical institution; and

(2) the cost of medical assistance services for the child, if eligible under this subdivision, would not be more than the cost to medical assistance if the child resides in a medical institution to be determined as follows:

(i) for a child who requires a level of care provided in an ICF/MR, the cost of care for the child in an institution shall be determined using the average payment rate established for the regional treatment centers that are certified as ICFs/MR;

(ii) for a child who requires a level of care provided in an inpatient hospital setting according to paragraph (b), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3520, items F and G; and

(iii) for a child who requires a level of care provided in a nursing facility according to paragraph (c) or (e), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3040, except that the nursing facility average rate shall be adjusted to reflect rates which would be paid for children under age 16. The commissioner may authorize an amount up to the amount medical assistance would pay for a child referred to the commissioner by the preadmission screening team under section 256B.0911.

(h) Children eligible for medical assistance services under section 256B.055, subdivision 12, as of June 30, 1995, must be screened according to the criteria in this subdivision prior to January 1, 1996. Children found to be ineligible may not be removed from the program until January 1, 1996.

Sec. 3. Minnesota Statutes 1996, section 256B.071, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] (a) "Dual entitlees" means recipients eligible for either the medical assistance program or the alternative care program who are also eligible for the federal Medicare program.

(b) For purposes of this section, "home care services" means home health agency services, private duty nursing services, personal care assistant services, waived services, alternative care program services, hospice services, rehabilitation therapy services, and suppliers of medical supplies and equipment.

Sec. 4. Minnesota Statutes 1996, section 256B.071, subdivision 3, is amended to read:

Subd. 3. [~~REFERRALS TO MEDICARE CERTIFIED PROVIDERS REQUIRED.~~] Non-Medicare certified home care providers and nonparticipating Medicare certified home care service providers medical suppliers that do not participate or accept Medicare assignment must refer and document the referral of dual eligible recipients to Medicare certified providers when Medicare is determined to be the appropriate payer for services and supplies and equipment or services. Non-Medicare certified and nonparticipating Medicare certified home care service Providers will be terminated from participation in the medical assistance program for failure to make such referrals.

Sec. 5. Minnesota Statutes 1996, section 256B.071, subdivision 4, is amended to read:

Subd. 4. [~~MEDICARE CERTIFICATION REQUIREMENT.~~] Medicare certification is required of all medical assistance enrolled home care providers as defined in subdivision 1 within one year of the date the Minnesota department of health gives notice to the department that initial Medicare surveys will resume required under Title XIX of the Social Security Act.

Sec. 6. [PERSONAL CARE ASSISTANT PROVIDERS.]

The commissioner of health shall create a unique category of licensure as appropriate for providers offering, providing, or arranging personal care assistant services to more than one individual. The commissioner shall work with the department of human services, providers, consumers, and advocates in developing the licensure standards. Prior to promulgating the rule, the commissioner shall submit the proposed rule to the legislature by January 15, 1999.

Sec. 7. [WAIVER AMENDMENT.]

By July 15, 1997, the commissioner shall submit proposed amendments to the health care financing administration for changes in the home- and community-based waiver for persons with mental retardation or a related condition, which maximize the number of persons served within the limits of appropriations and diverts persons from institutional placement. The commissioner shall monitor county utilization of allocated resources and reassign those not utilized as appropriate. Priority consideration for the reassignment of resources shall be given to counties who enter into written agreements with other counties to jointly plan, request resources, and develop services for persons with mental retardation or a related condition who are screened and waiting for waived services. In addition to the priorities listed in Minnesota Rules, part 9525.1880, the commissioner shall also give priority consideration to persons whose living situations are unstable due to the age or incapacity of the primary caregiver. The commissioner shall report to the chairs of the senate

health and family security budget division and the house health and human services finance division by March 1, 1998, on the results of the waiver amendment, the authorization and utilization of waived services for persons with mental retardation or a related condition, including crisis respite services, plans to increase the number of counties working together, additional persons served by the reassignment of resources, and options which would allow an increased number of persons served within the existing appropriation.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 5 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to human services; eliminating the Medicare certification requirement for home care providers; amending Minnesota Statutes 1996, sections 144A.46, subdivision 2; 256B.055, subdivision 12; and 256B.071, subdivisions 1, 3, and 4."

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 re-referred

S.F. No. 234: A bill for an act relating to human services; adding provisions for licensing programs; imposing and modifying civil penalties; amending Minnesota Statutes 1996, sections 14.387; 245A.02, subdivisions 15, 16, and 17; 245A.03, subdivision 2; 245A.04, subdivisions 3, 3a, 3b, 3c, 4, 5, 6, 7, and by adding a subdivision; 245A.06, subdivisions 1, 3, 4, 5, 5a, 6, and 7; 245A.07, subdivisions 1 and 3; 245A.08, subdivisions 1 and 2; 245A.09, subdivision 7; 245A.11, subdivision 2; 245A.16, subdivision 2; 256E.115; and 364.09; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 1996, sections 245A.091; 245A.20; 245A.21; and 252.53; Laws 1996, chapter 408, article 10, section 13; Minnesota Rules, parts 4668.0020; 9503.0170, subpart 7; 9525.0215; 9525.0225; 9525.0235; 9525.0243; 9525.0245; 9525.0255; 9525.0265; 9525.0275; 9525.0285; 9525.0295; 9525.0305; 9525.0315; 9525.0325; 9525.0335; 9525.0345; 9525.0355; 9525.0500; 9525.0510; 9525.0520; 9525.0530; 9525.0540; 9525.0550; 9525.0560; 9525.0570; 9525.0580; 9525.0590; 9525.0600; 9525.0610; 9525.0620; 9525.0630; 9525.0640; 9525.0650; 9525.0660; 9525.1240, subpart 1, item E, subitem (6); 9525.1500; 9525.1510; 9525.1520; 9525.1530; 9525.1540; 9525.1550; 9525.1560; 9525.1570; 9525.1590; 9525.1610; 9525.1620; 9525.1630; 9525.1640; 9525.1650; 9525.1660; 9525.1670; 9525.1680; 9525.1690; 9525.2000; 9525.2010; 9525.2020; 9525.2025; 9525.2030; 9525.2040; 9525.2050; 9525.2060; 9525.2070; 9525.2080; 9525.2090; 9525.2100; 9525.2110; 9525.2120; 9525.2130; 9525.2140; 9543.3070; 9555.8000; 9555.8100; 9555.8200; 9555.8300; 9555.8400; and 9555.8500.

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

Pages 1 to 4, delete section 1 and insert:

"Section 1. Minnesota Statutes 1996, section 144.057, subdivision 1, is amended to read:

Subdivision 1. [BACKGROUND STUDIES REQUIRED.] The commissioner of health shall contract with the commissioner of human services to conduct background studies of:

(1) individuals providing services which have direct contact, as defined under section 245A.04, subdivision 3, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; residential care homes licensed under chapter 144B, and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17; and

(2) by July 1, 1999, all other employees in nursing homes licensed under chapter 144A and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual

in this section shall disqualify the individual from positions allowing direct contact or access to patients or residents receiving services.

If a facility or program is licensed by the department of human services and subject to the background study provisions of chapter 245A and is also licensed by the department of health, the department of human services is solely responsible for the background studies of individuals in the jointly licensed programs.

Sec. 2. Minnesota Statutes 1996, section 144A.46, subdivision 5, is amended to read:

~~Subd. 5. [PRIOR CRIMINAL CONVICTIONS.] (a) Before the commissioner issues a license and, as defined in the home care licensure rules promulgated by the commissioner of health, an owner or managerial official shall be required to disclose all criminal convictions have a background study under section 144.057. These individuals shall be disqualified under the provisions of chapter 245A. The commissioner may adopt rules that may require a person who must disclose criminal convictions under this subdivision to provide fingerprints and releases that authorize law enforcement agencies, including the bureau of criminal apprehension and the Federal Bureau of Investigation, to release information about the person's criminal convictions to the commissioner and home care providers. The bureau of criminal apprehension, county sheriffs, and local chiefs of police shall, if requested, provide the commissioner with criminal conviction data available from local, state, and national criminal record repositories, including the criminal justice data communications network. No person may be involved in the management, operation, or control of a provider, if the person has been convicted of a crime that relates to the provision of home care services or to the position, duties, or responsibilities undertaken by that person in the operation of the home care provider, unless the person can provide sufficient evidence of rehabilitation. The commissioner shall adopt rules for determining whether a crime relates to home care services and what constitutes sufficient evidence of rehabilitation. The rules must require consideration of the nature and seriousness of the crime; the relationship of the crime to the purposes of home care licensure and regulation; the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the person's position; mitigating circumstances or social conditions surrounding the commission of the crime; the length of time elapsed since the crime was committed; the seriousness of the risk to the home care client's person or property; and other factors the commissioner considers appropriate. Data collected under this subdivision shall be classified as private data under section 13.02, subdivision 12.~~

~~(b) Employees, contractors, and volunteers of a home care provider or hospice are subject to the background study required by section 144.057. These individuals shall be disqualified under the provisions of chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. Until October 1, 1997, grounds for disqualification shall also include the crimes specified under Minnesota Rules, part 4668.0020, subpart 14, or a comparable crime or act in another jurisdiction. Nothing in this section shall be construed to prohibit a home care provider from requiring self-disclosure of criminal conviction information; however, compliance with the provisions of section 144.057 constitutes compliance with the provisions of Minnesota Rules, part 4668.0020, subpart 8.~~

~~(c) Notwithstanding the provisions of Minnesota Rules, part 4668.0020, subparts 12, 13, and 15, disqualifications under paragraph (b), removal from a direct care position, and the process for reconsiderations shall be governed by the provisions of section 144.057.~~

~~(d) Unless superseded by the provisions of section 144.057 or this section, the provisions of Minnesota Rules, part 4668.0020, remain in effect.~~

~~(e) (c) Termination of an employee in good faith reliance on information or records obtained under paragraph (a) or (b) regarding a confirmed conviction does not subject the home care provider to civil liability or liability for reemployment insurance benefits.~~

Sec. 3. Minnesota Statutes 1996, section 245A.02, is amended by adding a subdivision to read:

Subd. 6b. [EXPERIENCE.] For purposes of child care centers, "experience" includes paid or unpaid employment serving children as a teacher, assistant teacher, aide, or a student intern in a

licensed child care center, in a public or nonpublic school, or in a program licensed as a family day care or group family day care provider."

Page 5, after line 5, insert:

"Sec. 7. Minnesota Statutes 1996, section 245A.02, is amended by adding a subdivision to read:

Subd. 18. [SUPERVISION.] For purposes of child care centers, "supervision" means when a program staff person is within sight and hearing of a child at all times so that the program staff can intervene to protect the health and safety of the child. When an infant is placed in a crib room to sleep, supervision occurs when a staff person is within sight or hearing of the infant. When supervision of a crib room is provided by sight or hearing, the center must have a plan to address the other supervision component.

Sec. 8. [245A.023] [IN-SERVICE TRAINING.]

For purposes of child care centers, in-service training must be completed within the license period for which it is required. In-service training completed by staff persons as required must be transferable upon a staff person's change in employment to another child care program. License holders shall record all staff in-service training on forms prescribed by the commissioner of human services."

Page 11, line 34, after "written" insert "or electronic"

Page 13, line 10, after the period, insert "By January 1, 2000, for background studies conducted by the department of human services, the commissioner shall implement a system for the electronic transmission of: (1) background study information to the commissioner; and (2) background study results to the license holder."

Page 20, line 9, after "writing" insert "or by electronic transmission"

Page 56, line 12, after "and" insert "when the consumer meets the criteria of having overriding health care needs, then medication administration taught by a health services professional."

Page 72, line 6, after the period, insert "The task force expires June 30, 1998."

Pages 72 and 73, delete section 44

Page 73, line 23, delete "7" and insert "11"

Page 74, delete line 13 and insert:

"Sections 3, 4, 6, 12 to 31, 40 to 42, and 49,"

Page 74, line 15, delete "4, 6 to 8, and 46" and insert "5, 9 to 11, and 49"

Page 74, line 16, delete "29 to 36 and 46" and insert "32 to 38 and 49"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, delete "14.387;" and insert "144.057, subdivision 1; 144A.46, subdivision 5;" and after "17" insert ", and by adding subdivisions"

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Joint Rule 2.03 suspended. Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Joint Rule 2.03, together with the committee report thereon,

S.F. No. 1208: A bill for an act relating to health insurance; repealing the health care commission; modifying the regional coordinating boards; modifying the health technology advisory committee; expanding the eligibility of the MinnesotaCare program; modifying the enforcement mechanisms for the provider tax pass-through; modifying mandatory Medicare assignment; amending Minnesota Statutes 1996, sections 62A.61; 62J.07, subdivisions 1 and 3; 62J.09, subdivision 1; 62J.15, subdivision 1; 62J.152, subdivisions 1, 2, 4, and 5; 62J.17, subdivision 6a; 62J.22; 62J.25; 62J.2914, subdivision 1; 62J.2915; 62J.2916, subdivision 1; 62J.2917, subdivision 2; 62J.2921, subdivision 2; 62J.451, subdivision 6b; 62N.25, subdivision 5; 62Q.03, subdivision 5a; 62Q.33, subdivision 2; 256.9354, subdivision 5; 256.9355, by adding a subdivision; and 295.582; repealing Minnesota Statutes 1996, sections 62J.04, subdivisions 4 and 7; 62J.05; 62J.051; 62J.06; 62J.09, subdivision 3a; 62N.02, subdivision 3; 62Q.165, subdivision 3; 62Q.25; 62Q.29; and 62Q.41; Laws 1993, chapter 247, article 4, section 8; Laws 1994, chapter 625, article 5, section 5, subdivision 1, as amended; Laws 1995, chapter 96, section 2; and Laws 1995, First Special Session chapter 3, article 13, section 2.

Reports the same back with the recommendation that the report from the Committee on Health and Family Security, shown in the Journal for April 9, 1997, be adopted; that committee recommendation being:

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

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

S.F. No. 1820: A bill for an act relating to utilities; reorganizing and renaming the legislative electric energy task force as the legislative commission on utility competition; establishing a process for the review of electric industry restructuring; making technical change; amending Minnesota Statutes 1996, section 216B.2424, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 216C; repealing Minnesota Statutes 1996, section 216C.051.

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 1996, section 216B.05, is amended to read:

216B.05 [FILING SCHEDULES, RULES, AND SERVICE AGREEMENTS.]

Subdivision 1. [~~SCHEDULES PUBLIC RATE FILINGS.~~] Every public utility shall file with the commission schedules showing all rates, tolls, tariffs and charges which it has established and which are in force at the time for any service performed by it within the state, or for any service in connection therewith or performed by any public utility controlled or operated by it.

Subd. 2. [~~SCHEDULES AND RULES AND SERVICE AGREEMENTS FILINGS.~~] Every public utility shall file with and as a part of the schedule filings under subdivision 1, all rules that, in the judgment of the commission, in any manner affect the service or product, or the rates charged or to be charged for any service or product, as well as any contracts, agreements or arrangements relating to the service or product or the rates to be charged for any service or product to which the schedule is applicable as the commission may by general or special order direct; provided that contracts and agreements for electric service must be filed as required by subdivision 2a of this section.

Subd. 2a. [ELECTRIC SERVICE CONTRACTS.] A contract for electric service entered into between a public utility and one of its customers, in which the public utility and the customer agree to customer-specific rates, terms, or service conditions not already contained in the approved schedules, tariffs, or rules of the utility, must be filed for approval by the commission pursuant to the commission's rules of practice. Contracts between public utilities and customers that are

necessitated by specific statutes in this chapter must be filed for approval under those statutes and any rules adopted by the commission pursuant to those statutes.

Subd. 3. [PUBLIC INSPECTION.] Every public utility shall keep copies of the schedules filings under subdivisions 1, 2, and 2a open to public inspection under rules as the commission may prescribe.

Sec. 2. Minnesota Statutes 1996, section 216B.162, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) The terms used in this section have the meanings given them in this subdivision.

(b) "Effective competition" means a market situation in which an electric utility serves a customer that:

(1) is located within the electric utility's assigned service area determined under section 216B.39; and

(2) has the ability to obtain its energy requirements from an energy supplier that is not regulated by the commission under section 216B.16.

(c) "Competitive rate schedule" means a rate schedule under which an electric utility may set or change the price for its service to an individual customer or group of customers subject to effective competition.

(d) "Competitive rate" means the actual rate offered by the utility, and approved by the commission, to a customer subject to effective competition.

(e) "Discretionary rate reduction" means a specific reduction to an existing rate, offered voluntarily by the utility to an individual customer or group of customers and approved by the commission in accordance with subdivisions 9 and 10.

Sec. 3. Minnesota Statutes 1996, section 216B.162, subdivision 4, is amended to read:

Subd. 4. [RATES AND TERMS OF COMPETITIVE RATE SCHEDULE.] When the commission authorizes a competitive rate schedule for a customer class, it shall set the terms and conditions of service for that schedule, which must include:

(1) that the minimum rate for the schedule recover at least the incremental cost of providing the service, including the cost of additional capacity that is to be added while the rate is in effect and any applicable on-peak or off-peak differential;

(2) that the maximum possible rate reduction under a competitive rate schedule does not exceed the difference between the electric utility's applicable standard tariff and the cost to the customer of the lowest cost competitive energy supply;

~~(3) that the term of a contract for a customer who elects to take service under a competitive rate must be no less than one year and no longer than five years;~~

(4) that the electric utility, within a general rate case, be allowed to seek recovery of the difference between the standard tariff and the competitive rate times the usage level during the test year period;

~~(5) (4) a determination that a rate within a competitive rate schedule meets the conditions of section 216B.03, for other customers in the same customer class;~~

~~(6) (5) that the rate does not compete with district heating or cooling provided by a district heating utility as defined by section 216B.166, subdivision 2, paragraph (c); and~~

~~(7) (6) that the rate may not be offered to a customer in which the utility has a financial interest greater than 50 percent.~~

Sec. 4. Minnesota Statutes 1996, section 216B.162, is amended by adding a subdivision to read:

Subd. 9. [DISCRETIONARY RATE REDUCTIONS PERMITTED.] Notwithstanding sections 216B.03, 216B.06, 216B.07, and 216B.16, a public utility whose rates are regulated under this chapter may, at its discretion, offer a reduced rate for tariffed electric services to eligible customers. The commission may approve a discretionary rate reduction provided that:

(1) the reduction is offered to customers who are located within the exclusive service territory of the public utility that offers discretionary rate reductions or to potential customers who are not customers of a Minnesota electric utility, as defined in section 216B.38, but who propose to be located within the exclusive service territory of the public utility;

(2) the reduction applies to customers requiring electric service with a connected load of at least 2,000 kilowatts;

(3) the reduced rate recovers at least the incremental cost of providing the service, including the cost of additional capacity that is to be added while the rate is in effect and any applicable on-peak or off-peak differential;

(4) in the event the commission has approved unbundled rates, the reduction is not offered for any unbundled service other than generation, unless the unbundled service is available to the customer from a competitive supplier;

(5) the reduced rate does not compete with district heating or cooling services provided by a district heating utility as defined by section 216B.166, subdivision 2, paragraph (c); and

(6) the reduced rate does not compete with a natural gas service provided by a natural gas utility and regulated by the commission.

Sec. 5. Minnesota Statutes 1996, section 216B.162, is amended by adding a subdivision to read:

Subd. 10. [COMMISSION DETERMINATION.] (a) Proposals for discretionary rate reductions offered by utilities must be filed with the commission, with copies of the filing served upon the department of public service and the office of attorney general at the same time it is served upon the commission. The commission shall review the proposals according to procedures developed under section 216B.05, subdivision 2a. The commission shall not approve discretionary rate reductions offered by public utilities that do not have an accepted resource plan on file with the commission. The commission shall not approve discretionary rate reductions unless the utility has made the customer aware of all cost-effective opportunities for energy efficiency improvements offered by the utility.

(b) Public utilities that provide service under discretionary rate reductions shall not, through increased revenue requirements or through prospective rate design changes, recover any revenues foregone due to the discretionary rate reductions, nor shall the commission grant such recovery.

Sec. 6. Minnesota Statutes 1996, section 216C.051, subdivision 2, is amended to read:

Subd. 2. [ESTABLISHMENT.] (a) There is established a legislative electric energy task force to study future electric energy sources and costs and to make recommendations for legislation for an environmentally and economically sustainable and advantageous electric energy supply.

(b) The task force consists of:

(1) eight members of the house of representatives including the chairs of the environment and natural resources and regulated industries and energy committees and six members to be appointed by the speaker of the house, two of whom must be from the minority caucus;

(2) eight members of the senate including the chairs of the environment and natural resources and jobs, energy, and community development committees and six members to be appointed by the subcommittee on committees, two of whom must be from the minority caucus.

(c) The task force may employ staff, contract for consulting services, and may reimburse the

expenses of persons requested to assist it in its duties other than state employees or employees of electric utilities. The director of the legislative coordinating commission shall assist the task force in administrative matters. The task force shall elect cochair, one member of the house and one member of the senate from among the committee chairs named to the committee. The task force members from the house shall elect the house cochair, and the task force members from the senate shall elect the senate cochair.

Sec. 7. Minnesota Statutes 1996, section 216C.051, subdivision 6, is amended to read:

Subd. 6. [ASSESSMENT; APPROPRIATION.] On request by the cochair of the legislative task force and after approval of the legislative coordinating commission, the commissioner of the department of public service shall assess from electric utilities, in addition to assessments made under section 216B.62, the amount requested for the ~~studies and analysis required in subdivisions 3 and 4~~ and for operation of the task force not to exceed ~~\$350,000~~ \$700,000. This authority to assess continues until the commissioner has assessed a total of ~~\$350,000~~ \$700,000. The amount assessed under this section is appropriated to the director of the legislative coordinating commission for those purposes, and is available until expended.

Sec. 8. Minnesota Statutes 1996, section 216C.19, subdivision 5, is amended to read:

Subd. 5. [NATURAL GAS OUTDOOR LIGHTING PROHIBITED; EXCEPTION.] After July 1, 1974, no new natural gas outdoor lighting shall be installed in the state. However, the installation and use of natural gas outdoor lighting that is equipped with either an automatic daytime shutoff device or is otherwise capable of being switched on and off, is permitted.

Sec. 9. Minnesota Statutes 1996, section 272.02, subdivision 1, is amended to read:

Subdivision 1. All property described in this section to the extent herein limited shall be exempt from taxation:

- (1) All public burying grounds.
- (2) All public schoolhouses.
- (3) All public hospitals.
- (4) All academies, colleges, and universities, and all seminaries of learning.
- (5) All churches, church property, and houses of worship.
- (6) Institutions of purely public charity except parcels of property containing structures and the structures described in section 273.13, subdivision 25, paragraph (c), clauses (1), (2), and (3), or paragraph (d), other than those that qualify for exemption under clause (25).
- (7) All public property exclusively used for any public purpose.
- (8) Except for the taxable personal property enumerated below, all personal property and the property described in section 272.03, subdivision 1, paragraphs (c) and (d), shall be exempt.

The following personal property shall be taxable:

- (a) personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures;
- (b) railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;
- (c) personal property defined in section 272.03, subdivision 2, clause (3);
- (d) leasehold or other personal property interests which are taxed pursuant to section 272.01,

subdivision 2; 273.124, subdivision 7; or 273.19, subdivision 1; or any other law providing the property is taxable as if the lessee or user were the fee owner;

(e) manufactured homes and sectional structures, including storage sheds, decks, and similar removable improvements constructed on the site of a manufactured home, sectional structure, park trailer or travel trailer as provided in section 273.125, subdivision 8, paragraph (f); and

(f) flight property as defined in section 270.071.

(9) Personal property used primarily for the abatement and control of air, water, or land pollution to the extent that it is so used, and real property which is used primarily for abatement and control of air, water, or land pollution as part of an agricultural operation, as a part of a centralized treatment and recovery facility operating under a permit issued by the Minnesota pollution control agency pursuant to chapters 115 and 116 and Minnesota Rules, parts 7001.0500 to 7001.0730, and 7045.0020 to 7045.1260, as a wastewater treatment facility and for the treatment, recovery, and stabilization of metals, oils, chemicals, water, sludges, or inorganic materials from hazardous industrial wastes, or as part of an electric generation system. For purposes of this clause, personal property includes ponderous machinery and equipment used in a business or production activity that at common law is considered real property.

Any taxpayer requesting exemption of all or a portion of any real property or any equipment or device, or part thereof, operated primarily for the control or abatement of air or water pollution shall file an application with the commissioner of revenue. The equipment or device shall meet standards, rules, or criteria prescribed by the Minnesota pollution control agency, and must be installed or operated in accordance with a permit or order issued by that agency. The Minnesota pollution control agency shall upon request of the commissioner furnish information or advice to the commissioner. On determining that property qualifies for exemption, the commissioner shall issue an order exempting the property from taxation. The equipment or device shall continue to be exempt from taxation as long as the permit issued by the Minnesota pollution control agency remains in effect.

(10) Wetlands. For purposes of this subdivision, "wetlands" means: (i) land described in section 103G.005, subdivision 15a; (ii) land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice; or (iii) land in a wetland preservation area under sections 103F.612 to 103F.616. "Wetlands" under items (i) and (ii) include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands, but do not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms. Exemption of wetlands from taxation pursuant to this section shall not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership to the wetlands.

(11) Native prairie. The commissioner of the department of natural resources shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which the lands are located. Pasture land used for livestock grazing purposes shall not be considered native prairie for the purposes of this clause. Upon receipt of an application for the exemption provided in this clause for lands for which the assessor has no determination from the commissioner of natural resources, the assessor shall refer the application to the commissioner of natural resources who shall determine within 30 days whether the land is native prairie and notify the county assessor of the decision. Exemption of native prairie pursuant to this clause shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.

(12) Property used in a continuous program to provide emergency shelter for victims of domestic abuse, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1992, notwithstanding the fact that the sponsoring organization receives funding under section 8 of the United States Housing Act of 1937, as amended.

(13) If approved by the governing body of the municipality in which the property is located, property not exceeding one acre which is owned and operated by any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders; provided the property is used primarily as a clubhouse, meeting facility, or recreational facility by the group or association and the property is not used for residential purposes on either a temporary or permanent basis.

(14) To the extent provided by section 295.44, real and personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the federal government, the state, or a local governmental unit which is developed and operated pursuant to the provisions of section 103G.535.

(15) If approved by the governing body of the municipality in which the property is located, and if construction is commenced after June 30, 1983:

(a) a "direct satellite broadcasting facility" operated by a corporation licensed by the federal communications commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band; and

(b) a "fixed satellite regional or national program service facility" operated by a corporation licensed by the federal communications commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz. band.

An exemption provided by clause (15) shall apply for a period not to exceed five years. When the facility no longer qualifies for exemption, it shall be placed on the assessment rolls as provided in subdivision 4. Before approving a tax exemption pursuant to this paragraph, the governing body of the municipality shall provide an opportunity to the members of the county board of commissioners of the county in which the facility is proposed to be located and the members of the school board of the school district in which the facility is proposed to be located to meet with the governing body. The governing body shall present to the members of those boards its estimate of the fiscal impact of the proposed property tax exemption. The tax exemption shall not be approved by the governing body until the county board of commissioners has presented its written comment on the proposal to the governing body or 30 days have passed from the date of the transmittal by the governing body to the board of the information on the fiscal impact, whichever occurs first.

(16) Real and personal property owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used in the generation and distribution of hot water for heating buildings and structures.

(17) Notwithstanding section 273.19, state lands that are leased from the department of natural resources under section 92.46.

(18) Electric power distribution lines and their attachments and appurtenances, that are used primarily for supplying electricity to farmers at retail.

(19) Transitional housing facilities. "Transitional housing facility" means a facility that meets the following requirements. (i) It provides temporary housing to individuals, couples, or families. (ii) It has the purpose of reuniting families and enabling parents or individuals to obtain self-sufficiency, advance their education, get job training, or become employed in jobs that provide a living wage. (iii) It provides support services such as child care, work readiness training, and career development counseling; and a self-sufficiency program with periodic monitoring of each resident's progress in completing the program's goals. (iv) It provides services to a resident of the facility for at least three months but no longer than three years, except residents enrolled in an educational or vocational institution or job training program. These residents may receive services during the time they are enrolled but in no event longer than four years. (v) It is owned and operated or under lease from a unit of government or governmental agency under a property disposition program and operated by one or more organizations exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31,

1992. This exemption applies notwithstanding the fact that the sponsoring organization receives financing by a direct federal loan or federally insured loan or a loan made by the Minnesota housing finance agency under the provisions of either Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant to it, and notwithstanding the fact that the sponsoring organization receives funding under Section 8 of the United States Housing Act of 1937, as amended.

(20) Real and personal property, including leasehold or other personal property interests, owned and operated by a corporation if more than 50 percent of the total voting power of the stock of the corporation is owned collectively by: (i) the board of regents of the University of Minnesota, (ii) the University of Minnesota Foundation, an organization exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1992, and (iii) a corporation organized under chapter 317A, which by its articles of incorporation is prohibited from providing pecuniary gain to any person or entity other than the regents of the University of Minnesota; which property is used primarily to manage or provide goods, services, or facilities utilizing or relating to large-scale advanced scientific computing resources to the regents of the University of Minnesota and others.

(21)(a) Wind energy conversion systems, as defined in section 216C.06, subdivision 12, installed after January 1, 1991, and before January 2, 1995, and used as an electric power source, are exempt.

(b) Wind energy conversion systems, as defined in section 216C.06, subdivision 12, installed after January 1, 1995, including the foundation or support pad, which are (i) used as an electric power source; (ii) located within one county and owned by the same owner; and (iii) produce two megawatts or less of electricity as measured by nameplate ratings, are exempt.

(c) Wind energy conversion systems, as defined in section 216C.06, subdivision 12, installed after January 1, 1995, and used as an electric power source but not exempt under item (b), are treated as follows: (i) the foundation and support pad are taxable; (ii) the associated supporting and protective structures are exempt for the first five assessment years after they have been constructed, and thereafter, 30 percent of the market value of the associated supporting and protective structures are taxable; and (iii) the turbines, blades, transformers, and its related equipment, are exempt.

(22) Containment tanks, cache basins, and that portion of the structure needed for the containment facility used to confine agricultural chemicals as defined in section 18D.01, subdivision 3, as required by the commissioner of agriculture under chapter 18B or 18C.

(23) Photovoltaic devices, as defined in section 216C.06, subdivision 13, installed after January 1, 1992, and used to produce or store electric power.

(24) Real and personal property owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used for an ice arena or ice rink, and used primarily for youth and high school programs.

(25) A structure that is situated on real property that is used for:

(i) housing for the elderly or for low- and moderate-income families as defined in Title II of the National Housing Act, as amended through December 31, 1990, and funded by a direct federal loan or federally insured loan made pursuant to Title II of the act; or

(ii) housing lower income families or elderly or handicapped persons, as defined in Section 8 of the United States Housing Act of 1937, as amended.

In order for a structure to be exempt under (i) or (ii), it must also meet each of the following criteria:

(A) is owned by an entity which is operated as a nonprofit corporation organized under chapter 317A;

(B) is owned by an entity which has not entered into a housing assistance payments contract under Section 8 of the United States Housing Act of 1937, or, if the entity which owns the structure has entered into a housing assistance payments contract under Section 8 of the United States Housing Act of 1937, the contract provides assistance for less than 90 percent of the dwelling units in the structure, excluding dwelling units intended for management or maintenance personnel;

(C) operates an on-site congregate dining program in which participation by residents is mandatory, and provides assisted living or similar social and physical support services for residents; and

(D) was not assessed and did not pay tax under chapter 273 prior to the 1991 levy, while meeting the other conditions of this clause.

An exemption under this clause remains in effect for taxes levied in each year or partial year of the term of its permanent financing.

(26) Real and personal property that is located in the Superior National Forest, and owned or leased and operated by a nonprofit organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1992, and primarily used to provide recreational opportunities for disabled veterans and their families.

(27) Manure pits and appurtenances, which may include slatted floors and pipes, installed or operated in accordance with a permit, order, or certificate of compliance issued by the Minnesota pollution control agency. The exemption shall continue for as long as the permit, order, or certificate issued by the Minnesota pollution control agency remains in effect.

(28) Notwithstanding clause (8), item (a), attached machinery and other personal property which is part of a facility containing a cogeneration system as described in section 216B.166, subdivision 2, paragraph (a), if the cogeneration system has met the following criteria: (i) the system utilizes natural gas as a primary fuel and the cogenerated steam initially replaces steam generated from existing thermal boilers utilizing coal; (ii) the facility developer is selected as a result of a procurement process ordered by the public utilities commission; and (iii) construction of the facility is commenced after July 1, 1994, and before July 1, 1997.

(29) Real property acquired by a home rule charter city, statutory city, county, town, or school district under a lease purchase agreement or an installment purchase contract during the term of the lease purchase agreement as long as and to the extent that the property is used by the city, county, town, or school district and devoted to a public use and to the extent it is not subleased to any private individual, entity, association, or corporation in connection with a business or enterprise operated for profit.

Sec. 10. Minnesota Statutes 1996, section 295.44, subdivision 1, is amended to read:

Subdivision 1. [EXEMPTION.] Notwithstanding the provisions of sections 272.01, subdivision 2, 272.02, subdivision 5, and 273.19, subdivision 1, real or personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the federal government, the state, or a local governmental unit and developed and operated pursuant to section 103G.535 may be exempt from property taxation for all years during which the site is developed and operated under the terms of a lease or agreement authorized by section 103G.535.

Sec. 11. [LEGISLATIVE ELECTRIC ENERGY TASK FORCE; ELECTRIC INDUSTRY RESTRUCTURING.]

(a) The legislative electric energy task force shall review and analyze issues relating to the restructuring of the electric industry. At a minimum, the task force shall study the potential costs and benefits of restructuring on:

(1) low-income, residential, small business and large commercial, and industrial electric consumer rates and services, including the ability of all customers to participate in and benefit from a restructured industry;

(2) the overall state's economy, as well as the economy of regions within the state, and the cost of doing business in the state;

(3) the reliability and safety of the electricity system, including system planning and operation;

(4) the state's environment, including the cost-effective promotion of conservation and renewable energy; and

(5) public, private, and cooperative utilities, and alternative electricity suppliers, including the development of competitively neutral markets.

The task force shall present recommendations to the legislature regarding electric industry restructuring by January 15, 1998.

(b) In performing the review and analysis under paragraph (a), the task force shall solicit information from and the viewpoints of all affected and involved parties, which include, but are not limited to:

(1) the public utilities commission;

(2) investor-owned utilities;

(3) rural electric cooperatives and municipal electric utilities;

(4) large business electricity consumers;

(5) small business electricity consumers;

(6) residential consumers;

(7) environmental interest groups; and

(8) the general public.

Sec. 12. [EFFECTIVE DATE.]

Sections 1 and 8 are effective the day following final enactment. Sections 9 and 10 are effective for taxes payable in 1998 and thereafter.

ARTICLE 2

Section 1. [TITLE.]

Section 2 may be referred to as the Mercury Emissions Consumer Information Act of 1997.

Sec. 2. [116.925] [ELECTRIC ENERGY; MERCURY EMISSIONS REPORT.]

Subdivision 1. [REPORT.] To address the shared responsibility between the providers and consumers of electricity for the protection of Minnesota's lakes, each electric utility, as defined in section 216B.38, subdivision 5, and each person that generates electricity in this state for that person's own use or for sale at retail or wholesale shall provide the commissioner an annual report of the amount of mercury emitted in generating that electricity at that person's facilities.

Subd. 2. [TERMS AND CONDITIONS.] (a) The report referenced in subdivision 1 must be made to the commissioner annually. This report must include:

(1) a list of all generation facilities owned or operated by the utility or person subject to subdivision 1;

(2) all readily available information regarding the amount of electricity purchased by the utility or person subject to subdivision 1, for use in the state; and

(3) information for each facility owned or operated by the utility or person subject to subdivision 1, stating: (i) the amount of electricity generated at the facility for use or for sale in

this state at retail or wholesale; (ii) the amount of fuel used to generate that electricity at the facility; and (iii) the amount of mercury emitted in generating that electricity in the previous calendar year, based on emission factors, stack tests, fuel analysis, or other methods approved by the commissioner. The report must include the mercury content of the fuel if it is determined in conjunction with a stack test.

(b) The following are de minimis standards for small and little-used generation facilities:

(1) less than 120 hours of operation by the combustion unit per year;

(2) a fuel capacity input at the combustion unit of less than 50 million British thermal units per hour; or

(3) an electrical generation unit with maximum output of less than or equal to five megawatts.

A utility or person subject to this section who owns or operates a combustion unit that qualifies under one of these de minimis standards is not required to provide the information described in paragraph (a) for that combustion unit.

(c) Facilities documenting mercury emissions of less than three pounds per year for a combustion device are exempt from reporting.

Subd. 3. [REPORT TO CONSUMERS.] By January 1, 1999, and biennially thereafter in the report on air toxics required under section 115D.15, the commissioner shall report the amount of mercury emitted in the generation of electricity, based on the information in the reports under this section.

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 energy; providing for customer-specific terms in electric utility service contracts; modifying provisions relating to the legislative electric energy task force; requiring study on restructuring the electric industry; allowing exception to prohibition on natural gas outdoor lighting; exempting property that produces hydroelectric or hydromechanical power on federal land from property taxation; requiring reports on mercury emissions resulting from generation of electricity; amending Minnesota Statutes 1996, sections 216B.05; 216B.162, subdivisions 1, 4, and by adding subdivisions; 216C.051, subdivisions 2 and 6; 216C.19, subdivision 5; 272.02, subdivision 1; and 295.44, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 116."

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 292: A bill for an act relating to the legislative coordinating commission; providing sign language interpreters for meetings with legislators; amending Minnesota Statutes 1996, section 3.303, by adding a subdivision.

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

Page 1, line 9, delete "contract for" and insert "provide"

Page 1, delete lines 11 and 12 and insert "services are available when requested by a legislator for a meeting within the state with one or more legislators."

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

Mr. Cohen from the Committee on State Government Finance, to which was referred

S.F. No. 1905: A bill for an act relating to the organization and operation of state government; appropriating money for the general legislative and administrative expenses of state government; requiring studies; creating working groups; creating state accounts; modifying local government financial reporting provisions; modifying agency and budget reporting provisions; modifying cash advance provisions; modifying provisions for claims against appropriations; providing for disposition of lawsuit proceeds; modifying state property rental provisions; waiving contractor's bond for art in state buildings; modifying the disposition of certain fees and surcharges; authorizing reimbursement charges for certain inspections; modifying responsibilities for payment of certain retirement supplemental benefits; modifying provisions of the amateur sports commission; restricting payments related to the Target Center; modifying appointment provisions for the board of ethical practices executive director; providing for additional legislative leadership positions; establishing the Minnesota office of technology; providing for repayment of certain local government grants; changing the name of the ethical practices board; amending Minnesota Statutes 1996, sections 3.099, subdivision 3; 6.47; 10A.02, subdivision 5; 16A.10, subdivision 2; 16A.11, subdivisions 1, 3, and 3c; 16A.1285, subdivision 3; 16A.129, subdivision 3; 16A.15, subdivision 3; 16B.24, subdivision 5; 16B.35, by adding a subdivision; 16B.465, subdivision 3; 16B.70, subdivision 2; 176.611, by adding subdivisions; 240A.08; 327.33, subdivision 2; 327B.04, subdivision 7; 349.163, subdivision 4; 356.865, subdivision 3; and 473.556, subdivision 16; Laws 1994, chapter 643, section 3, subdivision 2; and Laws 1996, chapter 463, section 13, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 16A; 16B; 129D; and 465; proposing coding for new law as Minnesota Statutes, chapter 237A; repealing Minnesota Statutes 1996, sections 10A.21; 15.95; 15.96; 16B.40; 16B.41; 16B.42; 16B.43; and 16B.58, subdivision 8.

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

Page 2, line 13, delete "\$308,871,000" and insert "\$308,961,000" and delete "\$314,265,000" and insert "\$314,280,000" and delete "\$628,136,000" and insert "\$628,241,000"

Page 2, line 24, delete "\$326,988,000" and insert "\$327,078,000" and delete "\$333,547,000" and insert "\$333,562,000" and delete "\$665,535,000" and insert "\$665,640,000"

Page 4, delete line 35 and insert:

"Sec. 7. SECRETARY OF STATE	6,187,000	5,914,000"
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Page 5, line 21, delete "46,014,000" and insert "49,794,000" and delete "47,533,000" and insert "50,699,000"

Page 5, line 23, delete "41,783,000" and insert "40,883,000" and delete "41,743,000" and insert "40,843,000"

Page 6, line 16, delete "15,509,000" and insert "14,609,000" and delete "15,627,000" and insert "14,727,000"

Page 6, delete lines 17 and 18 and insert:

"\$5,775,000 the first year and \$5,775,000 the second year are for"

Page 6, after line 27, insert:

"The commissioner of administration shall examine the feasibility and practicality of relocating the division of emergency services to larger quarters outside the capitol."

Page 7, line 8, delete "Access"

Page 7, delete lines 9 to 11

Page 7, line 12, delete "Minnesota." and insert "Twin Cities public television will work with the University of Minnesota and other higher education institutions to explore and demonstrate educational uses of the broadcast services funded by this appropriation."

Page 7, line 51, delete "2,095,000" and insert "2,995,000" and delete "2,135,000" and insert "3,035,000"

Page 8, after line 6, insert:

"Subd. 4. Minnesota Trade Point

400,000 400,000

This appropriation is available only as matched by \$1 of nonstate money for each \$2 of from this appropriation.

Subd. 5. Uniform Business Identifier/
One-Stop Licensing

500,000 500,000

This appropriation is available only as matched by \$1 of nonstate money for each \$2 from this appropriation."

Page 9, line 55, delete "80,171,000" and insert "80,251,000"

Page 10, line 2, delete "78,031,000" and insert "78,111,000"

Page 10, line 14, delete "11,517,000" and insert "11,597,000"

Page 10, delete line 26 and insert:

"3,830,000 3,832,000

\$80,000 the first year is to complete the Minnesota/Wisconsin tax reciprocity study."

Page 19, line 8, delete "four" and insert "five"

Page 28, line 27, strike "may" and insert "shall"

Page 33, after line 3, insert:

"Sec. 23. Minnesota Statutes 1996, section 363.073, subdivision 1, is amended to read:

Subdivision 1. [SCOPE OF APPLICATION.] No department or agency of the state shall accept any bid or proposal for a contract or agreement or execute any contract or agreement for goods or services in excess of \$50,000 with any business having more than 20 full-time employees, either within or outside this state, on a single working day during the previous 12 months, unless the firm or business has an affirmative action plan for the employment of minority persons, women, and the disabled that has been approved by the commissioner of human rights. Receipt of a certificate of compliance issued by the commissioner shall signify that a firm or business has an affirmative action plan that has been approved by the commissioner. A certificate shall be valid for a period of two years. A municipality as defined in section 466.01, subdivision 1, that receives state money for any reason is encouraged to prepare and implement an affirmative action plan for the employment of minority persons, women, and the disabled and submit the plan to the commissioner of human rights."

Page 35, delete sections 25 and 26

Page 36, line 11, delete "24" and insert "25"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 34, before "and" insert "363.073, subdivision 1;" and delete "Laws 1994,"

Page 1, delete line 35

Page 1, line 36, delete everything before "proposing"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 1383, 724, 1693, 1277, 473, 234 and 1905 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 282 was read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Mses. Ranum, Pappas, Berglin, Higgins and Flynn introduced--

Senate Resolution No. 41: A Senate resolution commending Chue Lee, Heather Neumiller, Jason Mulligan, Sahasha Berry, and Reuben Moore, and all other Minnesota students, who are beating the odds.

Referred to the Committee on Rules and Administration.

Mr. Vickerman moved that S.F. No. 738 be withdrawn from the Committee on Governmental Operations and Veterans and re-referred to the Committee on State Government Finance. The motion prevailed.

Mr. Kelly, R.C. moved that the name of Mr. Knutson be added as a co-author to S.F. No. 1880. The motion prevailed.

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

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. Hottinger; Johnson, D.J.; Mses. Pappas, Flynn and Mr. Vickerman introduced--

S.F. No. 1906: A bill for an act relating to taxation; proposing an amendment to the Minnesota Constitution, article XIII, section 1; prohibiting financing of certain education costs with local property taxes; providing for school funding; appropriating money; amending Minnesota Statutes 1996, sections 124.2131, subdivision 1; 124A.02, subdivision 8; 124A.03, by adding a subdivision; 124A.22, subdivision 1; 124A.23, subdivision 1; 275.065, subdivision 3; 275.08, subdivision 1b; 276.04, subdivision 2; 276A.01, subdivision 5; 276A.06, subdivision 3; 473F.02, subdivision 5; and 473F.08, subdivision 3; repealing Minnesota Statutes 1996, sections 124A.22, subdivisions 4a, 4b, 8a, 8b, 13d, and 13e; and 124A.23, subdivisions 2, 3, and 4.

Referred to the Committee on Local and Metropolitan Government.

Mr. Morse introduced--

S.F. No. 1907: A bill for an act relating to the organization and operation of state government; appropriating money for environmental, natural resource, and agricultural purposes; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; amending Minnesota Statutes 1996, sections 17.03, by adding a subdivision; 17.101; 17.116, subdivisions 2 and 3; 17.4988; 17.76; 18.79, by adding a subdivision; 18C.421, subdivisions 1 and 4; 18C.425, subdivisions 1, 2, 3, and 6; 18C.531, subdivision 2; 18C.551; 25.31; 25.32; 25.33, subdivisions 1, 5, 6, 9, 20, and by adding subdivisions; 25.35; 25.36; 25.37; 25.38; 25.39; 25.41, subdivision 6; 28A.08, subdivision 3; 32.103; 32.394, subdivisions 8, 8a, 8b, and 8d; 35.71, subdivision 5; 35.824; 41A.09, subdivision 3a; 84.027, by adding a subdivision; 84.0273; 84.82, subdivision 3; 85.015, by adding a subdivision; 85.052, subdivision 3; 85.053, subdivisions 1 and 4; 85.055, subdivision 1, and by adding a subdivision; 88.79, by adding a subdivision; 92.06, subdivisions 1 and 4; 92.16, subdivision 1; 94.10, subdivision 2; 97A.015, by adding a subdivision; 97A.028, subdivisions 1 and 3; 97A.075, subdivision 1; 97A.405, subdivision 2; 97A.415, subdivision 2; 97A.475; 97B.667; 97B.715, subdivision 1; 97B.721; 97B.801; 97C.305, subdivision 1; 97C.501, subdivision 2; 97C.801; 97C.835, by adding a subdivision; 103F.378, subdivision 1; 115A.932, subdivision 1; 115B.02, subdivision 16, and by adding a subdivision; 115B.17, subdivisions 14, 15, and by adding subdivisions; 115B.175, subdivisions 2 and 6a; 115B.412, subdivision 10; 115B.48, subdivisions 3 and 8; 115B.49, subdivision 4; 116.07, subdivisions 4d and 7; 116.92, by adding a subdivision; 116C.834, subdivision 2; 116O.09, subdivisions 2, 5, and 9; 168.1291; 216B.2423, by adding a subdivision; 216C.41, subdivision 1; 223.17, subdivision 3; 236.02, subdivisions 1 and 2; 300.11, by adding a subdivision; 308A.101, by adding a subdivision; 308A.201, by adding a subdivision; 347.33, subdivision 3; 394.25, subdivision 2, and by adding a subdivision; 446A.02, subdivision 6; 462.357, subdivision 1; 477A.12; and 477A.14; Laws 1995, chapter 220, section 19; and Laws 1996, chapter 463, section 7, subdivision 24; proposing coding for new law in Minnesota Statutes, chapters 4; 17; 25; 92; 94; 115; and 116; repealing Minnesota Statutes 1996, sections 18C.541, subdivision 6; 25.34; 115A.908, subdivision 3; 115B.223; 115B.224; 116.991; 116.992; and 296.02, subdivision 7a; Laws 1995, chapter 220, section 21.

Referred to the Committee on State Government Finance.

Mr. Samuelson introduced--

S.F. No. 1908: A bill for an act relating to the operation of state government services; appropriating money for the operation of the departments of human services and health, the veterans home board, the health related boards, the disability council, the ombudsman for families, and the ombudsman for mental health and mental retardation; including provisions for agency management; children's programs; basic health care programs; medical assistance and general assistance medical care; long-term care; state-operated services; mental health and developmentally disabled; MinnesotaCare; child support enforcement; assistance to families; health department; amending Minnesota Statutes 1996, sections 13.99, by adding a subdivision; 16A.124, subdivision 4b; 62D.04, subdivision 5; 62E.14, by adding a subdivision; 103I.101, subdivision 6; 103I.208; 103I.401, subdivision 1; 144.057, subdivision 1; 144.0721, subdivision 3; 144.121, subdivision 1, and by adding subdivisions; 144.125; 144.2215; 144.226, subdivision 1, and by adding a subdivision; 144.394; 144A.071, subdivisions 1, 2, and 4a; 144A.073, subdivision 2; 144A.46, subdivision 5; 153A.17; 157.15, by adding subdivisions; 157.16, subdivision 3; 245.03, subdivision 2; 245.4882, subdivision 5; 245.493, subdivision 1, and by adding a subdivision; 245.652, subdivisions 1 and 2; 245.98, by adding a subdivision; 245A.04, subdivisions 3 and 3a; 246.02, subdivision 2; 252.025, subdivisions 1, 4, and by adding a subdivision; 252.28, by adding a subdivision; 252.32, subdivisions 1a, 3, 3a, 3c, and 5; 254.04; 254B.02, subdivisions 1 and 3; 254B.04, subdivision 1; 254B.09, subdivisions 4, 5, and 7; 256.01, subdivision 2, and by adding a subdivision; 256.025, subdivisions 2 and 4; 256.045, subdivisions 3, 3b, 4, 5, 7, 8, and 10; 256.476, subdivisions 2, 3, 4, and 5; 256.82, subdivision 1, and by adding a subdivision; 256.871, subdivision 6; 256.935; 256.969, subdivision 1; 256.9695, subdivision 1; 256B.037, subdivision 1a; 256B.04, by adding a subdivision; 256B.056, subdivisions 4 and 5; 256B.0625, subdivisions 13 and 15; 256B.0626; 256B.0627, subdivision 5, and by adding a

subdivision; 256B.064, subdivisions 1a, 1c, and 2; 256B.0911, subdivisions 2 and 7; 256B.0912, by adding a subdivision; 256B.0913, subdivisions 10, 14, 15, and by adding a subdivision; 256B.0915, subdivision 3, and by adding a subdivision; 256B.19, subdivisions 1, 2a, and 2b; 256B.421, subdivision 1; 256B.431, subdivision 25, and by adding subdivisions; 256B.433, by adding a subdivision; 256B.434, subdivisions 2, 3, 4, 9, and 10; 256B.48, subdivision 6; 256B.49, subdivision 1, and by adding a subdivision; 256B.69, subdivisions 2, 3a, 5, 5b, and by adding subdivisions; 256D.03, subdivisions 2, 2a, 3b, and 6; 256D.36; 256F.11, subdivision 2; 256G.02, subdivision 6; 256G.05, subdivision 2; 256I.05, subdivision 1a, and by adding a subdivision; 326.37, subdivision 1; 393.07, subdivision 2; 466.01, subdivision 1; 469.155, subdivision 4; 471.59, subdivision 11; 626.556, subdivisions 10b, 10d, 10e, 10f, 11c, and by adding a subdivision; 626.558, subdivisions 1 and 2; and 626.559, subdivision 5; Laws 1995, chapter 207, articles 6, section 115; and 8, section 41, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 144; 145A; 157; 252; 256B; and 257; repealing Minnesota Statutes 1996, sections 144.0721, subdivision 3; 144.1222, subdivision 3; 145.9256; 256.026; 256.82, subdivision 1; 256B.041, subdivision 5; 256B.0625, subdivision 13b; 256B.0911, subdivision 4; 256B.19, subdivision 1a; and 469.154, subdivision 6; Minnesota Rules, part 9505.1000.

Referred to the Committee on Human Resources Finance.

Mr. Beckman introduced--

S.F. No. 1909: A bill for an act relating to community development; appropriating money for community development and certain agencies of state government with certain conditions; establishing and modifying certain programs; regulating certain activities and practices; setting and modifying fees; defining terms; requiring studies and reports; amending Minnesota Statutes 1996, sections 60A.23, subdivision 8; 65B.48, subdivision 3; 79.255, by adding a subdivision; 116J.01, subdivision 5; 116J.553, subdivision 2; 116J.554, subdivision 1; 116L.04, subdivision 1, and by adding a subdivision; 176.181, subdivision 2a; 268A.15, subdivisions 2, 6, and by adding subdivisions; 394.25, by adding a subdivision; 446A.04, subdivision 5; 446A.081, subdivisions 1, 4, and 9; 462.357, by adding a subdivision; and 462A.206, subdivisions 2 and 4; proposing coding for new law in Minnesota Statutes, chapters 116J; 116L; 268; and 366; repealing Minnesota Statutes 1996, sections 116J.990, subdivision 7; and 462A.206, subdivision 5.

Referred to the Committee on Human Resources Finance.

MOTIONS AND RESOLUTIONS - CONTINUED

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 117: Ms. Junge, Mr. Oliver and Ms. Wiener.

S.F. No. 1: Messrs. Samuelson, Stevens, Meses. Berglin, Kiscaden and Mr. Hottinger.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Mr. Terwilliger was excused from the Session of today from 11:50 a.m. to 2:00 p.m. Messrs. Metzen; Moe, R.D. and Solon were excused from the Session of today from 12:00 noon to 1:30 p.m. Ms. Flynn was excused from the Session of today from 12:30 to 1:30 p.m. Ms. Hanson was excused from the Session of today at 3:30 p.m. Mr. Novak was excused from the Session of today at 4:30 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 8:00 a.m., Tuesday, April 15, 1997. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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