

STATE OF MINNESOTA

# Journal of the Senate

EIGHTIETH LEGISLATURE

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FORTY-NINTH DAY

St. Paul, Minnesota, Tuesday, April 29, 1997

The Senate met at 8:00 a.m. and was called to order by the President.

## CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Joan Marie Dehzad.

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

Anderson	Hottinger	Langseth	Olson	Scheid
Beckman	Janezich	Larson	Ourada	Solon
Belanger	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	
Higgins	Laidig	Oliver	Scheevel	

The President declared a quorum present.

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

## MEMBERS EXCUSED

Mr. Berg was excused from the Session of today.

## EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

April 28, 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. 495, 1116 and 432.

Warmest regards,  
Arne H. Carlson, Governor

April 28, 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
495		57	10:50 a.m. April 28	April 28
1116		58	10:52 a.m. April 28	April 28
	211	59	10:40 a.m. April 28	April 28
	179	60	10:42 a.m. April 28	April 28
	889	61	10:43 a.m. April 28	April 28
	949	62	10:46 a.m. April 28	April 28
	1301	63	10:46 a.m. April 28	April 28
	1045	64	10:48 a.m. April 28	April 28
432		65	10:54 a.m. April 28	April 28

Sincerely,  
Joan Anderson Growe  
Secretary of State

### MESSAGES FROM THE HOUSE

Mr. President:

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

**S.F. No. 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.02, subdivision 13; 62E.14, by adding a subdivision; 103I.101, subdivision 6; 103I.208; 103I.401, 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; 144.3351; 144.394; 144A.071, subdivisions 1, 2, and 4a; 144A.073, subdivision 2; 145.925, subdivision 9; 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; 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, 5, and 8; 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 a subdivision; 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; 256J.50, 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 145.9256; 256.026; 256.82, subdivision 1; 256B.041, subdivision 5; 256B.0625, subdivision 13b; 256B.19, subdivision 1a; and 469.154, subdivision 6; Minnesota Rules, part 9505.1000.

Senate File No. 1908 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 28, 1997

Mr. Moe, R.D., for Mr. Samuelson, moved that the Senate do not concur in the amendments by the House to S.F. No. 1908, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

**S.F. No. 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; repealing Minnesota Statutes 1996, section 299D.10.

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

Lieder, Wagenius, Hausman, Molnau and Finseth.

Senate File No. 1881 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 28, 1997

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

**S.F. No. 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; providing a teen court program; providing for a uniform business identifier and electronic business licensing; authorizing the payment of salary differential for reserve forces on active duty in Haiti; 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; setting state policy for regulatory rules and programs of agencies; regulating obsolete, unnecessary, or duplicative rules; providing for expansion of international trading opportunities; 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; 14.05, subdivision 5; 14.131; 16A.10, subdivision 2; 16A.11, subdivisions 1, 3, and 3c; 16A.1285, subdivision 3; 16A.129, subdivision 3; 16A.15, subdivision 3; 16B.19, subdivision 2b; 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; 363.073, subdivision 1; and 473.556, subdivision 16; proposing coding for new law in Minnesota Statutes, chapters 14; 16A; 16B; 43A; 260; 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.

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

Rukavina, Kahn, Jefferson, Jennings and Osskopp.

Senate File No. 1905 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 28, 1997

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1, and repassed said bill in accordance with the report of the Committee, so adopted.

**S.F. No. 1:** A bill for an act relating to human services; replacing the aid to families with dependent children program with the Minnesota family investment program-statewide; amending Minnesota Statutes 1996, sections 13.46, subdivisions 1 and 2; 84.98, subdivision 3; 124.17, subdivisions 1d and 1e; 124.175; 124A.02, subdivision 16; 124A.22, subdivision 3; 136A.125, subdivision 2; 196.27; 237.70, subdivision 4a; 254B.02, subdivision 1; 256.01, subdivisions 2 and 4a; 256.017, subdivisions 1 and 4; 256.019; 256.031, subdivision 5, and by adding subdivisions; 256.033, subdivisions 1 and 1a; 256.046, subdivision 1; 256.736, subdivision 3a; 256.74, subdivision 1; 256.82, subdivision 2; 256.935, subdivision 1; 256.9354, by adding a subdivision; 256.98, subdivision 8; 256.981; 256.983, subdivisions 1 and 4; 256.9861, subdivision 5; 256B.055, subdivisions 3, 5, and by adding subdivisions; 256B.056, subdivisions 1a, 3, and 4; 256B.057, subdivisions 1, 1b, and 2b; 256B.06, subdivision 4; 256B.062; 256D.01, subdivisions 1, 1a, and 1e; 256D.02, subdivisions 6 and 12a; 256D.03, subdivision 3; 256D.05, subdivisions 1, 2,

5, 7, and 8; 256D.051, subdivisions 1a, 2a, 3a, and by adding a subdivision; 256D.055; 256D.06, subdivisions 2 and 5; 256D.08, subdivisions 1 and 2; 256D.09, by adding a subdivision; 256D.435, subdivision 3; 256D.44, subdivision 5; 256E.03, subdivision 2; 256E.06, subdivisions 1 and 3; 256E.07, subdivision 1; 256E.08, subdivision 3; 256F.04, subdivisions 1 and 2; 256F.05, subdivisions 2, 3, 4, 5, and 8; 256F.06, subdivisions 1 and 2; 256G.01, subdivision 4; 256G.02, subdivision 6; 257.3573, subdivision 2; 259.67, subdivision 4; 260.38; 268.0111, subdivisions 5 and 7; 268.0122, subdivision 3; 268.552, subdivision 5; 268.6751, subdivision 1; 268.676, subdivision 1; 268.86, subdivision 2; 268.871, subdivision 1; 268.90, subdivision 2; 268.916; 268.95, subdivision 4; 393.07, subdivision 6; and 477A.0122, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 256B; and 256D; proposing coding for new law as Minnesota Statutes, chapters 256J; and 256K; repealing Minnesota Statutes 1996, sections 256.12, subdivisions 9, 10, 14, 15, 20, 21, 22, and 23; 256.72; 256.73; 256.7341; 256.7351; 256.7352; 256.7353; 256.7354; 256.7355; 256.7356; 256.7357; 256.7358; 256.7359; 256.736, subdivision 19; 256.7365; 256.7366; 256.7381; 256.7382; 256.7383; 256.7384; 256.7385; 256.7386; 256.7387; 256.7388; 256.74, subdivisions 1, 1a, 1b, 2, and 6; 256.745; 256.75; 256.76; 256.78; 256.80; 256.81; 256.82; 256.84; 256.85; 256.86; 256.863; 256.871; 256.8711; 256.879; 256D.02, subdivision 5; 256D.05, subdivisions 3 and 3a; 256D.0511; 256D.065; 256F.05, subdivisions 5 and 7; and 256G.05, subdivision 2.

Senate File No. 1 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 28, 1997

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 704:

**H.F. No. 704:** A bill for an act relating to utilities; exempting large electric power generating plant from certificate of need proceeding when selected by public utilities commission from a bidding process to select resources to meet utility's projected energy demand; amending Minnesota Statutes 1996, section 216B.2422, subdivision 5.

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

Ozment, Jennings and Delmont have been appointed as such committee on the part of the House.

House File No. 704 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 28, 1997

Mr. Moe, R.D., for Mr. Johnson, D.H., moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 704, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2163:

**H.F. No. 2163:** A bill for an act relating to the financing and operation of state and local government; providing for property tax reform; providing for education financing; limiting education revenue referenda for 1997; changing property tax refunds for homeowners and renters; changing truth-in-taxation requirements; providing for joint truth-in-taxation hearings; imposing levy limits on cities and counties; changing fiscal note requirements for state mandates; providing

for reimbursement for costs of state mandates; providing for certain property tax exemptions; establishing a property tax reform account; providing a refundable credit for 1997 property taxes; making miscellaneous property tax changes; providing a senior citizens property tax deferral program; changing aids to local governments; changing tax increment financing provisions; authorizing certain tax increment districts; exempting certain tax increment districts from certain requirements; authorizing local taxes, levies, and abatements; conforming certain income tax laws with changes in federal law; providing income tax credits; modifying the application of sales and excise taxes; exempting certain purchases from the sales tax; modifying waste management tax and taconite tax provisions; increasing the budget reserve; revising the law governing regional development commissions; providing for certain payments to counties; making miscellaneous technical changes and corrections; requiring studies; appropriating money; amending Minnesota Statutes 1996, sections 6.76; 16A.152, subdivision 2; 69.021, subdivision 7; 93.41; 103D.905, subdivisions 4, 5, and by adding a subdivision; 115A.554; 116.07, subdivision 10; 117.155; 121.15, by adding a subdivision; 122.247, subdivision 3; 122.45, subdivision 3a; 122.531, subdivisions 4a and 9; 122.533; 122.535, subdivision 6; 124.2131, subdivision 1; 124.239, subdivision 5, and by adding subdivisions; 124.2601, subdivisions 2 and 3; 124.2711, subdivisions 1 and 5; 124.2713, subdivision 1; 124.2714; 124.2715, subdivision 1; 124.2716, subdivision 2; 124.2725, subdivisions 2, 6, 13, and 14; 124.2726, subdivisions 1 and 3; 124.2727, subdivision 6a; 124.312, subdivision 5; 124.313; 124.4945; 124.83, subdivision 3; 124.91, subdivisions 1, 2, 5, and 7; 124.912, subdivisions 1, 3, 6, and 7; 124.914, subdivisions 1, 2, 3, and 4; 124.916, subdivisions 1, 3, and 4; 124.918, subdivision 8; 124.95, subdivision 1; 124A.03, subdivision 1g; 124A.23, subdivision 1; 124A.292, subdivision 2; 161.45, by adding a subdivision; 216B.16, by adding subdivisions; 270.60, by adding a subdivision; 270B.02, by adding a subdivision; 270B.12, by adding a subdivision; 271.01, subdivision 5; 271.19; 272.02, subdivision 1, and by adding a subdivision; 272.115; 273.11, subdivisions 1a, 16, and by adding a subdivision; 273.111, subdivisions 3 and 6; 273.112, by adding a subdivision; 273.121; 273.124, subdivisions 1, 14, and by adding a subdivision; 273.13, subdivisions 1, 22, 23, 24, 25, 31, and by adding subdivisions; 273.135, subdivision 2; 273.1391, subdivision 2; 273.1398, subdivisions 1, 1a, 6, 8, and by adding subdivisions; 273.18; 274.01; 274.13, by adding subdivisions; 275.065, subdivisions 1, 3, 5a, 6, 8, and by adding subdivisions; 275.07, subdivision 4; 275.08, subdivision 1b; 276.04, subdivision 2; 276A.04; 276A.05, subdivisions 1 and 5; 276A.06, subdivisions 2, 3, 5, and 9; 278.07; 281.13; 281.23, subdivision 6; 281.273; 281.276; 282.01, subdivision 8; 282.04, subdivision 1; 287.22; 289A.02, subdivision 7; 289A.26, subdivisions 2, 3, 6, and 7; 289A.56, subdivision 4; 290.01, subdivisions 19, 19a, 19b, 19c, 19d, 19g, and 31; 290.014, subdivisions 2 and 3; 290.015, subdivision 5; 290.06, subdivision 22, and by adding subdivisions; 290.067, subdivision 1; 290.068, subdivision 1; 290.0922, subdivision 1; 290.17, subdivision 1; 290.371, subdivision 2; 290.92, by adding a subdivision; 290.9725; 290.9727, subdivision 1; 290.9728, subdivision 1; 290A.03, subdivisions 6, 7, 11, and 13; 290A.04, subdivisions 1, 2, 6, and by adding a subdivision; 290A.19; 291.005, subdivision 1; 295.50, subdivision 6; 295.58; 296.141, subdivision 4; 296.18, subdivision 1; 297A.01, subdivisions 3, 4, 7, 11, 15, and 16; 297A.02, subdivision 2; 297A.14, subdivision 4; 297A.211, subdivision 1; 297A.25, subdivisions 2, 3, 7, 11, 56, 59, and by adding subdivisions; 297A.45; 297B.01, subdivisions 7 and 8; 297E.02, subdivision 6; 297E.04, subdivision 3; 298.24, subdivision 1; 298.28, subdivisions 2, 3, 4, 5, 9a, and by adding subdivisions; 298.2961, subdivision 1; 298.75, subdivisions 1, 4, and by adding a subdivision; 325D.33, subdivision 3; 349.12, subdivision 26a; 349.154, subdivision 2; 349.163, subdivision 8; 349.19, subdivision 2a; 349.191, subdivision 1b; 373.40, subdivision 7; 398A.04, subdivision 1; 462.381; 462.383; 462.384, subdivision 5; 462.385; 462.386, subdivision 1; 462.387; 462.388; 462.389, subdivisions 1, 3, and 4; 462.39, subdivisions 2 and 3; 462.391, subdivision 5, and by adding subdivisions; 462.393; 462.394; 462.396; 462.398; 469.012, subdivision 1; 469.033, subdivision 6; 469.040, subdivision 3, and by adding a subdivision; 469.174, subdivisions 10, 19, and by adding subdivisions; 469.175, subdivision 3, and by adding subdivisions; 469.176, subdivisions 1b, 2, 4c, 4g, 4j, and 6; 469.177, subdivisions 1, 3, and 4; 473F.06; 473F.07, subdivisions 1 and 5; 473F.08, subdivisions 2, 3, 5, and 8a; 477A.011, subdivisions 20, 34, 35, 36, 37, and by adding subdivisions; 477A.013, subdivisions 1 and 9; 477A.03, subdivision 2; and 477A.05; Laws 1992, chapter 511, article 2, section 52; Laws 1993, chapter 375, article 9, section 45, subdivisions 2, 3, 4, and by adding a subdivision; Laws 1995, chapter 264, article 5, sections 44, subdivision 4, as amended; and 45, subdivision 1, as amended; Laws 1997, chapter 34, section 2; proposing coding for new law in Minnesota Statutes, chapters 3; 14; 16A; 124; 124A; 270; 273;

275; 290; 297A; 383A; 383B; 458D; 462A; 469; 477A; proposing coding for new law as Minnesota Statutes, chapter 290B; repealing Minnesota Statutes 1996, sections 3.982; 124.2131, subdivision 3a; 124.2134; 124.225, subdivisions 1, 3a, 7a, 7b, 7d, 7e, 7f, 8a, 8k, 8l, 8m, 9, 10, 13, 14, 15, 16, and 17; 124.226; 124.2442; 124.2601, subdivisions 4, 5, and 6; 124.2711, subdivisions 2a and 3; 124.2713, subdivisions 6, 6a, 6b, and 7; 124.2715, subdivisions 2 and 3; 124.2716, subdivisions 3 and 4; 124.2725, subdivisions 3, 4, 5, and 7; 124.2727, subdivisions 6b, 6c, and 9; 124.314, subdivision 2; 124.321; 124.91, subdivisions 2, 4, and 7; 124.912, subdivision 2; 124A.029; 124A.03, subdivisions 2a and 3b; 124A.0311; 124A.22, subdivisions 4a, 4b, 8a, 8b, 13d, and 13e; 124A.23, subdivisions 1, 2, 3, and 4; 124A.26, subdivisions 2 and 3; 124A.292, subdivisions 3 and 4; 270B.12, subdivision 11; 273.13, subdivisions 21a and 32; 273.1315; 273.1317; 273.1318; 273.1398, subdivisions 2, 2c, 2d, 3, and 3a; 273.1399; 273.166; 275.08, subdivisions 1c and 1d; 275.61; 276.012; 276A.06, subdivision 9; 290A.03, subdivisions 12a and 14; 290A.055; 290A.26; 297A.01, subdivisions 20 and 21; 297A.02, subdivision 5; 297A.25, subdivision 29; 462.384, subdivision 7; 462.385, subdivision 2; 462.389, subdivision 5; 462.391, subdivisions 1, 2, 3, 4, 6, 7, 8, and 9; 462.392; 469.176, subdivisions 1a and 5; 469.1782, subdivision 1; 469.181; 473F.08, subdivision 8a; and 645.34; Laws 1995, chapter 264, article 4, as amended.

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

Long; Winter; Olson, E.; Dawkins and Abrams have been appointed as such committee on the part of the House.

House File No. 2163 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 28, 1997

Mr. Moe, R.D., for Mr. Johnson, D.J.; moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2163, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

## MOTIONS AND RESOLUTIONS

Mr. Betzold moved that the name of Ms. Pappas be added as a co-author to S.F. No. 1378. The motion prevailed.

### **Mr. Larson introduced--**

**Senate Resolution No. 48:** A Senate resolution congratulating Tom Lehman on being ranked No. 1 golfer in the Official World Rankings.

Referred to the Committee on Rules and Administration.

## RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 10:00 a.m. The motion prevailed.

The hour of 10:00 a.m. having arrived, the President called the Senate to order.

## CALL OF THE SENATE

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

### REPORTS OF COMMITTEES

Ms. Junge moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

#### **Mr. Johnson, D.J. from the Committee on Taxes, to which was referred**

**S.F. No. 1930:** A bill for an act relating to highway construction; increasing the gasoline and special fuel excise tax rates; allocating funds for repair and reconstruction of highways and roads damaged by 1997 spring flooding; appropriating money.

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

Page 3, line 22, delete "\$7,695,000" and insert "\$7,439,000"

Page 3, after line 25, insert:

"Subd. 4. [COUNTY TURNBACK ACCOUNT APPROPRIATION.] \$864,000 is appropriated from the county turnback account in the county state-aid highway fund to the commissioner of transportation to be used as provided in section 1 for repairs and reconstruction purposes due to damage caused by the 1997 spring flooding. Of this amount, \$410,000 shall be used for township roads, \$216,000 shall be used for township bridges, and \$238,000 is added to the amount appropriated in subdivision 3 and shall be used on county state-aid highways."

Page 3, line 26, delete "4" and insert "5"

Page 3, line 31, delete "5" and insert "6"

Page 3, line 32, delete "\$2,403,000" and insert "\$2,309,000"

Page 3, after line 35, insert:

"Subd. 7. [MUNICIPAL TURNBACK ACCOUNT APPROPRIATION.] \$108,000 is appropriated from the municipal turnback account in the municipal state-aid street fund to the commissioner of transportation to be used as provided in section 1 for repair and reconstruction purposes due to damage caused by the 1997 spring flooding. This amount is added to the amount appropriated in subdivision 6 and shall be used on municipal state-aid streets."

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

#### **Mr. Johnson, D.J. from the Committee on Taxes, to which was re-referred**

**H.F. No. 243:** A bill for an act relating to traffic regulations; requiring wheel flaps on truck tractors; regulating weight restrictions on vehicle axles; making technical changes; amending Minnesota Statutes 1996, sections 169.733, subdivision 1; 169.825, subdivision 8; and 299D.06.

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

Amend the report from the Committee on State Government Finance, adopted by the Senate April 17, 1997, as follows:

Page 1, after line 10, insert:



"Section 1. Minnesota Statutes 1996, section 162.07, subdivision 1, is amended to read:

Subdivision 1. [FORMULA.] After deducting for administrative costs and for the disaster account and research account and state park roads as heretofore provided, the remainder of the total sum provided for in section 162.06, subdivision 1, shall be identified as the apportionment sum ~~and~~. Of the apportionment sum, up to \$280,000,000 shall be apportioned by the commissioner to the several counties ~~on the basis of the needs of the counties~~ as determined in accordance with the following formula:

(1) An amount equal to ten percent of the apportionment sum shall be apportioned equally among the 87 counties.

(2) An amount equal to ten percent of the apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its motor vehicle registration for the calendar year preceding the one last past, determined by residence of registrants, bears to the total statewide motor vehicle registration.

(3) An amount equal to 30 percent of the apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its total lane-miles of approved county state-aid highways bears to the total lane-miles of approved statewide county state-aid highways. ~~In 1997 and subsequent years no county may receive, as a result of an apportionment under this clause based on lane-miles rather than miles of approved county state-aid highways, an apportionment that is less than its apportionment in 1996.~~

(4) An amount equal to 50 percent of the apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its money needs bears to the sum of the money needs of all of the individual counties; provided, that the percentage of such amount that each county is to receive shall be adjusted so that each county shall receive in 1958 a total apportionment at least ten percent greater than its total 1956 apportionments from the state road and bridge fund; and provided further that those counties whose money needs are thus adjusted shall never receive a percentage of the apportionment sum less than the percentage that such county received in 1958.

Any amount of the apportionment sum in excess of \$280,000,000 shall be known as the excess apportionment sum and shall be distributed in accordance with the following formula:

(1) an amount equal to 50 percent of the excess apportionment sum shall be divided among the counties so that each county receives the percentage that its population bears to the population of the state; and

(2) an amount equal to 50 percent of the excess apportionment sum shall be apportioned among the several counties so that each county shall receive of such amount the percentage that its money needs bears to the sum of the money needs of all of the individual counties."

Page 7, line 8, after "area" insert "as described in section 473.386"

Page 12, after line 15, insert:

"Sec. 14. [APPROPRIATION TO COMMISSIONER OF PUBLIC SAFETY.]

\$2,437,000 is appropriated in fiscal year 1998 and \$4,039,000 in fiscal year 1999 from the trunk highway fund to the commissioner of public safety for the addition of 25 state patrol positions in each year of the biennium. These appropriations are in addition to any other appropriation for this purpose."

Page 12, line 17, delete "section" and insert "sections 473.388, subdivision 7, and"

Page 12, line 20, delete "11 and 12" and insert "12 to 14" and delete "3" and insert "4"

Page 12, line 21, delete "4" and insert "5" and after "gasoline" insert "and special fuels"

Page 12, line 22, delete "7" and insert "8"

Page 12, line 23, delete "6, 8 to 10, and 13" and insert "7, 9 to 11, and 15"

Page 12, line 24, after the period, insert "Section 1 is effective for county state-aid highway fund distributions in 1998 and thereafter."

Page 12, line 25, delete "6 to 10 and 13" and insert "7 to 11 and 15"

Renumber the sections in sequence

Amend the title amendment as follows:

Page 12, line 28, after the semicolon, insert "changing formula for apportionment of county state-aid highway fund;"

Page 12, line 34, after "sections" insert "162.07, subdivision 1;"

Page 12, line 38, delete "section" and insert "sections 473.388, subdivision 7; and"

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

### **SECOND READING OF SENATE BILLS**

S.F. No. 1930 was read the second time.

### **SECOND READING OF HOUSE BILLS**

H.F. No. 243 was read the second time.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

#### **SPECIAL ORDERS**

Pursuant to Rule 10, Ms. Junge, designee of the Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately.

S.F. Nos. 832, 338, H.F. No. 735, S.F. Nos. 240, 184 and 1292.

#### **SPECIAL ORDER**

**S.F. No. 832:** A bill for an act relating to crime prevention; specifying that the prosecution may reply in rebuttal to the closing argument of the defense; amending Minnesota Statutes 1996, section 631.07.

### **CALL OF THE SENATE**

Mr. Johnson, D.J. imposed a call of the Senate for the balance of the proceedings on S.F. No. 832. The Sergeant at Arms was instructed to bring in the absent members.

S.F. No. 832 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 45 and nays 16, as follows:

Those who voted in the affirmative were:

Beckman	Johnson, D.E.	Knutson	Oliver	Samuelson
Belanger	Johnson, D.H.	Krentz	Olson	Scheevel
Day	Johnson, D.J.	Langseth	Ourada	Scheid
Dille	Johnson, J.B.	Lesewski	Pariseau	Stevens
Fischbach	Junge	Lessard	Ranum	Stumpf
Foley	Kelley, S.P.	Lourey	Robertson	Ten Eyck
Frederickson	Kelly, R.C.	Morse	Robling	Terwilliger
Hanson	Kiscaden	Murphy	Runbeck	Vickerman
Janezich	Kleis	Novak	Sams	Wiger

Those who voted in the negative were:

Anderson	Flynn	Laidig	Neuville	Price
Berglin	Higgins	Limmer	Piper	Spear
Betzold	Hottinger	Marty	Pogemiller	Wiener
Cohen				

So the bill passed and its title was agreed to.

### SPECIAL ORDER

**S.F. No. 338:** A bill for an act relating to agriculture; changing limitations on ownership of agricultural land by corporations, limited liability companies, pension or investment funds, and limited partnerships; amending Minnesota Statutes 1996, section 500.24, subdivisions 2, 3, 3a, 3b, and 4.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

### SPECIAL ORDER

**H.F. No. 735:** A bill for an act relating to civil commitment; clarifying and reorganizing portions of the commitment act; allowing the designated agency to consent to voluntary treatment for certain incompetent persons; creating a new standard for court-ordered early intervention to provide less intrusive treatment; modifying standards and procedures for the administration of neuroleptic medications; providing for access to records; amending the provisional discharge procedures; requiring medical documentation of a patient's refusal to be examined and allowing determination of need for treatment based on other information; prohibiting prepetition screeners from filing commitment petitions; limiting use of prepetition screening reports in unrelated proceedings; requiring distribution to specified parties; increasing time for return after provisional discharge; modifying provisions governing special review boards; increasing time for hearing appeals; changing provisions for state liens for cost of care; amending Minnesota Statutes 1996, sections 13.42, subdivisions 2 and 3; 55.10, subdivision 4; 246B.01, subdivisions 3 and 4; 253B.01; 253B.02, subdivisions 2, 4, 4a, 7, 9, 13, 14, 15, 18, 18a, 18b, and by adding

subdivisions; 253B.03, subdivisions 1, 2, 3, 4, 5, 6, 6b, 7, 8, and by adding a subdivision; 253B.04; 253B.05, subdivisions 1, 2, 3, 4, and by adding a subdivision; 253B.06; 253B.07, subdivisions 1, 2, 2a, 3, 4, 5, 7, and by adding subdivisions; 253B.08, subdivisions 1, 2, 3, 5, and by adding subdivisions; 253B.09, subdivisions 1, 2, 3, 5, and by adding a subdivision; 253B.095; 253B.10; 253B.11, subdivision 2; 253B.12, subdivisions 1, 3, 4, and by adding a subdivision; 253B.13, subdivisions 1 and 2; 253B.14; 253B.15, subdivisions 1, 1a, 2, 3, 5, 10, and by adding subdivisions; 253B.16, subdivision 1; 253B.17, subdivisions 1 and 3; 253B.18, subdivisions 1, 2, 3, 4, 4a, 4b, 5, 6, 7, 9, 12, 14, 15, and by adding a subdivision; 253B.185, subdivision 4; 253B.19, subdivisions 1, 2, 3, and 5; 253B.20, subdivisions 1, 3, 4, 6, and 7; 253B.21, subdivision 4; 253B.22, subdivision 1; 253B.23, subdivisions 1, 4, 6, 7, and 9; 256.015, subdivisions 1, 2, and 4; 256B.042, subdivisions 1, 2, and 4; 256B.37, subdivision 1; 514.71; 514.980, subdivision 2; 514.981, subdivision 2; 514.982, subdivisions 1 and 2; 514.985; 524.1-201; 524.3-801; 524.3-1004; 524.3-1201; and 524.6-207; proposing coding for new law in Minnesota Statutes, chapter 253B; repealing Minnesota Statutes 1996, sections 253B.03, subdivisions 6c and 9; 253B.05, subdivisions 2a and 5; 253B.07, subdivision 6; 253B.08, subdivisions 4 and 6; 253B.091; 253B.12, subdivisions 5 and 8; 253B.13, subdivision 3; 253B.15, subdivisions 4 and 6; 253B.18, subdivision 4; 253B.21, subdivision 5; and 253B.23, subdivision 1a.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 48 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Hottinger	Laidig	Olson	Scheid
Beckman	Janezich	Lessard	Ourada	Spear
Belanger	Johnson, D.E.	Limmer	Pariseau	Stevens
Betzold	Johnson, D.H.	Lourey	Piper	Stumpf
Dille	Johnson, D.J.	Marty	Price	Ten Eyck
Fischbach	Johnson, J.B.	Moe, R.D.	Ranum	Terwilliger
Flynn	Kelley, S.P.	Morse	Robertson	Vickerman
Foley	Kiscaden	Murphy	Robling	Wiener
Frederickson	Kleis	Neuville	Runbeck	
Higgins	Krentz	Oliver	Scheevel	

Ms. Hanson voted in the negative.

So the bill passed and its title was agreed to.

### SPECIAL ORDER

**S.F. No. 240:** A bill for an act relating to state agencies; providing for the electronic conduct of state business; authorizing the commissioner of administration to approve digital signatures; amending Minnesota Statutes 1996, sections 16B.05, subdivision 2; and 16B.467.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

Anderson	Higgins	Krentz	Olson	Samuelson
Beckman	Hottinger	Laidig	Ourada	Scheevel
Belanger	Janezich	Larson	Pariseau	Scheid
Betzold	Johnson, D.H.	Lourey	Piper	Spear
Day	Johnson, J.B.	Marty	Price	Stevens
Dille	Junge	Moe, R.D.	Ranum	Stumpf
Fischbach	Kelley, S.P.	Morse	Robertson	Ten Eyck
Flynn	Kiscaden	Murphy	Robling	Terwilliger
Foley	Kleis	Neuville	Runbeck	Vickerman
Frederickson	Knutson	Oliver	Sams	Wiener

So the bill passed and its title was agreed to.

### SPECIAL ORDER

**S.F. No. 184:** A bill for an act relating to the environment; modifying requirements relating to toxics in products; amending Minnesota Statutes 1996, section 115A.9651.

Mr. Stevens moved to amend S.F. No. 184 as follows:

Page 5, line 23, delete "TOXICS" and insert "LISTED METALS"

Page 5, lines 24 and 31, delete "toxics" and insert "listed metals"

The motion prevailed. So the amendment was adopted.

Mr. Stevens then moved to amend S.F. No. 184 as follows:

Page 8, line 22, delete "\$275" and insert "\$295"

The motion prevailed. So the amendment was adopted.

S.F. No. 184 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 53 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

### SPECIAL ORDER

**S.F. No. 1292:** A bill for an act relating to agriculture; changing the director of farmer-lender mediation; amending Minnesota Statutes 1996, section 583.22, subdivision 5; and Laws 1986, chapter 398, article 1, section 18, as amended.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 51 and nays 3, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Johnson, D.E.	Knutson	Metzen
Beckman	Foley	Johnson, D.H.	Krentz	Moe, R.D.
Belanger	Frederickson	Johnson, D.J.	Laidig	Morse
Betzold	Hanson	Johnson, J.B.	Lesewski	Murphy
Day	Higgins	Junge	Lessard	Neuville
Dille	Hottinger	Kelley, S.P.	Lourey	Oliver
Fischbach	Janezich	Kleis	Marty	Olson

Pariseau	Robling	Samuelson	Spear	Terwilliger
Piper	Runbeck	Scheid	Stumpf	Vickerman
Price	Sams	Solon	Ten Eyck	Wiener
Robertson				

Messrs. Larson, Scheevel and Stevens voted in the negative.

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1504 a Special Order to be heard immediately.

### SPECIAL ORDER

**S.F. No. 1504:** A bill for an act relating to natural resources; extending permits for timber sales that expire in 1997.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 53 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1807 a Special Order to be heard immediately.

### SPECIAL ORDER

**S.F. No. 1807:** A bill for an act relating to workers' compensation; changing certain reporting deadlines; modifying certain workers' compensation procedures; adding correctional officers to the presumption of occupational disease; amending Minnesota Statutes 1996, sections 79.55, subdivisions 9 and 10; 176.011, subdivision 15; and 176.191, subdivisions 1 and 5.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

Anderson	Flynn	Johnson, D.E.	Kleis	Lourey
Beckman	Foley	Johnson, D.H.	Knutson	Marty
Belanger	Frederickson	Johnson, D.J.	Krentz	Metzen
Betzold	Hanson	Johnson, J.B.	Laidig	Moe, R.D.
Day	Higgins	Junge	Larson	Morse
Dille	Hottinger	Kelley, S.P.	Lesewski	Murphy
Fischbach	Janezich	Kelly, R.C.	Lessard	Neuville

Olson	Ranum	Samuelson	Stevens	Wiener
Ourada	Robertson	Scheevel	Stumpf	Wiger
Pariseau	Robling	Scheid	Ten Eyck	
Piper	Runbeck	Solon	Terwilliger	
Price	Sams	Spear	Vickerman	

So the bill passed and its title was agreed to.

### MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Betzold moved that S.F. No. 1377, No. 30 on General Orders, be stricken and re-referred to the Committee on Governmental Operations and Veterans. The motion prevailed.

Mr. Sams moved that S.F. No. 1591, No. 34 on General Orders, be stricken and returned to its author. The motion prevailed.

Mrs. Lourey moved that S.F. No. 1139, No. 37 on General Orders, be stricken and re-referred to the Committee on Environment and Natural Resources. The motion prevailed.

Mr. Lessard moved that S.F. No. 892, No. 18 on General Orders, be stricken and re-referred to the Committee on Environment and Natural Resources. The motion prevailed.

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

### REPORTS OF COMMITTEES

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

#### **Ms. Berglin from the Committee on Human Resources Finance, to which was re-referred**

**S.F. No. 1208:** A bill for an act relating to MinnesotaCare; eliminating the health care commission; modifying the regional coordinating boards; eliminating integrated service networks; modifying the health technology advisory committee; expanding the eligibility of the MinnesotaCare program; modifying general assistance medical care; modifying the enforcement mechanisms for the provider tax pass-through; modifying mandatory Medicare assignment; making technical, policy, and administrative changes and connections to MinnesotaCare taxes; providing grants for MinnesotaCare outreach; appropriating money; amending Minnesota Statutes 1996, sections 60A.15, subdivision 1; 60A.951, subdivision 5; 62A.61; 62J.017; 62J.06; 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; 62M.02, subdivision 21; 62N.01, subdivision 1; 62N.22; 62N.23; 62N.25, subdivision 5; 62N.26; 62N.40; 62Q.01, subdivisions 3, 4, and 5; 62Q.03, subdivision 5a; 62Q.106; 62Q.19, subdivision 1; 62Q.33, subdivision 2; 62Q.45, subdivision 2; 136A.1355; 144.147, subdivisions 1, 2, 3, and 4; 144.1484, subdivision 1; 256.9352, subdivision 3; 256.9353, subdivisions 1, 3, and 7; 256.9354, subdivisions 4, 5, 6, 7, and by adding a subdivision; 256.9355, subdivisions 1, 4, and by adding a subdivision; 256.9357, subdivision 3; 256.9359, subdivision 2; 256.9363, subdivisions 1 and 5; 256.9657, subdivision 3; 256B.04, by adding a subdivision; 256D.03, subdivision 3; 295.50, subdivisions 3, 4, 6, 7, 13, and 14; 295.51, subdivision 1; 295.52, subdivision 4, and by adding a subdivision; 295.53, subdivisions 1, 3, and 4; 295.54, subdivisions 1 and 2; 295.55, subdivision 2; and 295.582; proposing coding for new law in Minnesota Statutes, chapters 16A; 144; and 256; repealing Minnesota Statutes 1996, sections 62J.04, subdivisions 4 and 7; 62J.05; 62J.051; 62J.09, subdivision 3a; 62J.37; 62N.01, subdivision 2; 62N.02, subdivisions 2, 3, 4b, 4c, 6, 7, 8, 9, 10, and 12; 62N.03; 62N.04; 62N.05; 62N.06; 62N.065; 62N.071; 62N.072; 62N.073; 62N.074; 62N.076; 62N.077; 62N.078; 62N.10; 62N.11; 62N.12; 62N.13; 62N.14; 62N.15; 62N.17; 62N.18; 62N.24; 62N.38; 62Q.165, subdivision 3; 62Q.25; 62Q.29; 62Q.41; 147.01, subdivision 6; 295.52,

subdivision 1b; and 295.53, subdivision 5; Laws 1993, chapter 247, article 4, section 8; Laws 1994, chapter 625, article 5, section 5, 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 bill be amended as follows:

Page 3, line 9, delete "1998" and insert "1997"

Page 4, line 23, before the period, insert ". The copayment amount shall be calculated as 50 percent of the payment amount calculated according to section 256B.76, paragraph (b)"

Page 5, after line 1, insert:

"When a MinnesotaCare enrollee becomes a member of a prepaid health plan, or changes from one prepaid health plan to another during a calendar year, any charges submitted towards the \$10,000 annual inpatient benefit limit, and any out-of-pocket expenses incurred by the enrollee for inpatient services, that were submitted or incurred prior to enrollment, or prior to the change in health plans, shall be disregarded."

Page 7, line 23, before "The" insert "(a)"

Page 7, after line 27, insert:

"(b) In awarding the grants, the commissioner shall consider the following:

- (1) geographic areas and populations with high uninsured rates;
- (2) the ability to raise matching funds from private or nonpublic sources; and
- (3) the ability to contact or serve eligible populations.

The commissioner shall monitor the grants and may terminate a grant if the outreach effort does not increase the MinnesotaCare program enrollment."

Page 7, line 28, before "Information" insert "(c)"

Page 9, after line 29, insert:

"Sec. 13. Minnesota Statutes 1996, section 256.9358, subdivision 4, is amended to read:

Subd. 4. [INELIGIBILITY.] Families with children whose gross monthly income is above the amount specified in subdivision 3 are not eligible for the plan. ~~Beginning October 1, 1994, An individual or households with no children whose gross family income is greater than 125 percent of the federal poverty guidelines~~ the amount specified in section 256.9354, subdivision 5, are ineligible for the plan."

Pages 10 to 13, delete sections 15 and 16

Page 18, delete lines 27 to 36

Page 19, delete lines 1 to 6 and insert:

"(b) The commissioner of human services shall report to the legislature by January 15, 1998, on the impact of the outreach efforts for the MinnesotaCare program, and on the reasons why enrollees are leaving the MinnesotaCare program, and make recommendations on:

- (1) the affordability of the MinnesotaCare premium schedule;
- (2) the eligibility income level for the MinnesotaCare program that will result in the greatest number of individuals having health coverage;
- (3) what will encourage greater availability of health coverage in the private market;



- (4) steps to increase the availability of health coverage in the small employer market;
- (5) the need, if any, and the feasibility of increasing the MinnesotaCare program income eligibility level for individuals and households without children; and
- (6) the possibility of alternative payments and waiving the premiums for the MinnesotaCare program for certain enrollees."

Page 19, delete sections 19 and 20

Page 24, line 3, reinstate the stricken "commissioner and the"

Page 25, line 12, before "legislative" insert "commissioner and the"

Page 51, after line 12, insert:

"Sec. 42. [144.1475] [RURAL HOSPITAL DEMONSTRATION PROJECT.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of health, for the biennium ending June 30, 1999, shall establish at least three demonstration projects per fiscal year to assist rural hospitals in the planning and implementation process to either consolidate or cooperate with another existing hospital in its service area to provide better quality health care to its community. A demonstration project must include at least two eligible hospitals. For purposes of this section, an "eligible hospital" means a hospital that:

- (1) is located outside the seven-county metropolitan area;
- (2) has 50 or fewer licensed beds; and
- (3) is located within a 25-mile radius of another hospital.

At least one of the eligible hospitals in a demonstration project must have had a negative operating margin during one of the two years prior to application.

Subd. 2. [APPLICATION.] (a) An eligible hospital seeking to be a participant in a demonstration project must submit an application to the commissioner of health detailing the hospital's efforts to consolidate health care delivery in its service area, cooperate with another hospital in the delivery of health care, or both consolidate and cooperate. Applications must be submitted by October 15 of each fiscal year for grants awarded for that fiscal year.

(b) Applications must:

(1) describe the problem that the proposed consolidation or cooperation will address, the consolidation or cooperation project, how the grant funds will be used, what will be accomplished, and the results expected;

(2) describe achievable objectives, a timetable, and the roles and capabilities of responsible individuals and organizations;

(3) include written commitments from the applicant hospital and at least one other hospital that will participate in the consolidation or cooperation demonstration project, that specify the activities the organization will undertake during the project, the resources the organization will contribute to the demonstration project, and the expected role and nature of the organization's involvement in proposed consolidation or cooperation activities; and

(4) provide evidence of support for the proposed project from other local health service providers and from local community and government leaders.

Subd. 3. [GRANTS.] The commissioner of health shall allocate a grant of up to \$100,000 to the highest scoring applicants each year until available funding is expended. Grants may be used by eligible hospitals to:

- (1) conduct consolidation or cooperation negotiations;

(2) develop consolidation or cooperation plans, including financial plans and architectural designs;

(3) seek community input and conduct community education on proposed or planned consolidations or cooperative activities; and

(4) implement consolidation or cooperation plans.

Subd. 4. [CONSIDERATION OF GRANTS.] In evaluating applications, the commissioner shall score each application on a 100 point scale, assigning: a maximum of 40 points for an applicant's understanding of the problem, description of the project, and likelihood of successful outcome of the project; a maximum of 30 points for explicit and unequivocal written commitments from organizations participating in the project; a maximum of 20 points for matching funds or in-kind services committed by the applicant or others to the project; and a maximum of ten points for the extent of community support for the project. The commissioner shall consider the comments, if any, resulting from a review of the application by the community health board in whose community health service area the applicant is located. The commissioner may also take into account other relevant factors.

Subd. 5. [EVALUATION.] The commissioner of health shall evaluate the overall effectiveness of the demonstration projects and report to the legislature by September 1, 2000. The commissioner may collect, from the hospitals receiving grants, any information necessary to evaluate the demonstration project."

Page 54, after line 22, insert:

"Sec. 45. Minnesota Statutes 1996, section 256.045, subdivision 3a, is amended to read:

Subd. 3a. [PREPAID HEALTH PLAN APPEALS.] (a) All prepaid health plans under contract to the commissioner under chapter 256B or 256D must provide for a complaint system according to section 62D.11. When a prepaid health plan denies, reduces, or terminates a health service or denies a request to authorize a previously authorized health service, the prepaid health plan must notify the recipient of the right to file a complaint or an appeal. The notice must include the name and telephone number of the ombudsman and notice of the recipient's right to request a hearing under paragraph (b). When a complaint is filed, the prepaid health plan must notify the ombudsman within three working days. Recipients may request the assistance of the ombudsman in the complaint system process. The prepaid health plan must issue a written resolution of the complaint to the recipient within 30 days after the complaint is filed with the prepaid health plan. A recipient is not required to exhaust the complaint system procedures in order to request a hearing under paragraph (b).

(b) Recipients enrolled in a prepaid health plan under chapter 256B or 256D may contest a prepaid health plan's denial, reduction, or termination of health services, a prepaid health plan's denial of a request to authorize a previously authorized health service, or the prepaid health plan's written resolution of a complaint by submitting a written request for a hearing according to subdivision 3. A state human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. The commissioner need not grant a hearing if the sole issue raised by a recipient is the commissioner's authority to require mandatory enrollment in a prepaid health plan in a county where prepaid health plans are under contract with the commissioner. The state human services referee may order a second medical opinion from the prepaid health plan or may order a second medical opinion from a nonprepaid health plan provider at the expense of the prepaid health plan. Recipients may request the assistance of the ombudsman in the appeal process.

(c) In the written request for a hearing to appeal from a prepaid health plan's denial, reduction, or termination of a health service, a prepaid health plan's denial of a request to authorize a previously authorized service, or the prepaid health plan's written resolution to a complaint, a recipient may request an expedited hearing. If an expedited appeal is warranted, the state human services referee shall hear the appeal and render a decision within a time commensurate with the level of urgency involved, based on the individual circumstances of the case."

Page 59, line 28, strike "services" and insert "service"

Page 59, line 30, strike everything after "amount"

Page 59, line 31, strike everything before the period and insert "determined by the commissioner of finance as described under paragraph (g)"

Page 60, delete lines 14 to 27 and insert:

"(g) The commissioner of finance shall determine the balance of the health care access fund on September 1 of each year beginning September 1, 1999. If the commissioner determines that there is no structural deficit for the next fiscal year, no tax shall be imposed under paragraph (d). If the commissioner determines that there will be a structural deficit in the fund for the following fiscal year, then the commissioner, in consultation with the commissioner of revenue, shall determine the amount needed to eliminate the structural deficit and a tax shall be imposed under paragraph (d). The commissioner shall determine the rate of the tax as either one-quarter of one percent, one-half of one percent, three-quarters of one percent, or one percent of premiums described in paragraph (b), whichever is the lowest of those rates that the commissioner determines will produce sufficient revenue to eliminate the projected structural deficit. The commissioner of finance shall publish in the State Register by October 1 of each year the amount of tax to be imposed for the following calendar year."

Page 60, line 28, delete "(i)" and insert "(h)"

Page 60, line 30, delete "consider" and insert "ensure that"

Page 60, line 31, delete "paragraphs (g) and (h)" and insert "paragraph (g)"

Page 60, line 32, delete everything before "is"

Page 62, lines 26, 27, and 29, before "patient" insert "resident and nonresident"

Page 63, line 5, before "patient" insert "resident and nonresident"

Page 65, after line 1, insert:

"Sec. 8. Minnesota Statutes 1996, section 295.50, is amended by adding a subdivision to read:

Subd. 7a. [NONRESIDENT PATIENT SERVICES.] "Nonresident patient services" means inpatient and outpatient services and other goods and services provided by hospitals, surgical centers, or health care providers. They include the following health care goods and services provided to a patient or consumer who is not a Minnesota resident:

(1) bed and board;

(2) nursing services and other related services;

(3) use of hospitals, surgical centers, or health care provider facilities;

(4) medical social services;

(5) drugs, biologicals, supplies, appliances, and equipment;

(6) other diagnostic or therapeutic items or services;

(7) medical or surgical services;

(8) items and services furnished to ambulatory patients not requiring emergency care;

(9) emergency services; and

(10) covered services listed in section 256B.0625 and in Minnesota Rules, parts 9505.0170 to 9505.0475.

Sec. 9. Minnesota Statutes 1996, section 295.50, subdivision 9b, is amended to read:

Subd. 9b. [RESIDENT PATIENT SERVICES.] "Resident patient services" means inpatient and outpatient services and other goods and services provided by hospitals, surgical centers, or health care providers. They include the following health care goods and services provided to a patient or consumer who is a Minnesota resident:

- (1) bed and board;
- (2) nursing services and other related services;
- (3) use of hospitals, surgical centers, or health care provider facilities;
- (4) medical social services;
- (5) drugs, biologicals, supplies, appliances, and equipment;
- (6) other diagnostic or therapeutic items or services;
- (7) medical or surgical services;
- (8) items and services furnished to ambulatory patients not requiring emergency care;
- (9) emergency services; and
- (10) covered services listed in section 256B.0625 and in Minnesota Rules, parts 9505.0170 to 9505.0475."

Page 65, after line 24, insert:

"Sec. 13. Minnesota Statutes 1996, section 295.52, subdivision 1, is amended to read:

Subdivision 1. [HOSPITAL TAX.] A tax is imposed on each hospital equal to two percent of its gross revenues from resident patient services and equal to one percent of its gross revenues from nonresident patient services.

Sec. 14. Minnesota Statutes 1996, section 295.52, subdivision 1a, is amended to read:

Subd. 1a. [SURGICAL CENTER TAX.] A tax is imposed on each surgical center equal to two percent of its gross revenues from resident patient services and equal to one percent of its gross revenues from nonresident patient services.

Sec. 15. Minnesota Statutes 1996, section 295.52, subdivision 2, is amended to read:

Subd. 2. [PROVIDER TAX.] A tax is imposed on each health care provider equal to two percent of its gross revenues from resident patient services and equal to one percent of its gross revenues for nonresident patient services."

Page 66, after line 4, insert:

"Sec. 18. Minnesota Statutes 1996, section 295.52, is amended by adding a subdivision to read:

Subd. 7. [TAX REDUCTION.] Notwithstanding subdivisions 1, 1a, 2, 3, and 4, the tax imposed under this section for calendar years 1998 and 1999 shall be equal to 1.75 percent of the gross revenues received on or after January 1, 1998, and before January 1, 2000."

Page 74, delete section 21

Page 75, delete line 4 and insert:

"Sections 4, 5, 6, 8, 9, 11 to 18, 20, and 23 are effective"

Page 75, lines 6 and 8, delete "15" and insert "19"

Page 75, line 11, delete "18" and insert "22"

Page 75, line 12, delete "20" and insert "24"

Page 75, line 14, delete "9, and 21" and insert "10, and 25"

Page 75, line 16, delete "17" and insert "21"

Page 75, line 18, delete "22" and insert "27"

Page 75, after line 18, insert:

#### "ARTICLE 4

##### SENIOR CITIZEN DRUG PROGRAM

Section 1. Minnesota Statutes 1996, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017; and

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds.

(2) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified

indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The proposed comprehensive plan, including estimated project costs and the proposed order establishing the waiver, shall be filed with the secretary of the senate and chief clerk of the house of representatives at least 60 days prior to its effective date.

(b) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(c) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) In accordance with federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and AFDC programs, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children pursuant to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a

county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

(19) Have the authority to administer a drug rebate program for drugs purchased pursuant to the senior citizen drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. The rebate program shall utilize the identical terms, conditions, and formulas used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

Sec. 2. [256.955] [SENIOR CITIZEN DRUG PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of human services shall establish and administer a senior citizen drug program. Qualified senior citizens shall be eligible for prescription drug coverage under the program beginning no later than January 1, 1999.

Subd. 2. [DEFINITIONS.] For purposes of this section, the following definitions apply.

(b) "Health plan" has the meaning provided in section 62Q.01, subdivision 3.

(c) "Health plan company" has the meaning provided in section 62Q.01, subdivision 4.

(d) "Qualified senior citizen" means an individual age 65 or older who:

(1) is eligible as a qualified Medicare beneficiary according to section 256B.057, subdivision 3 or 3a, or is eligible under section 256B.057, subdivision 3 or 3a, and medical assistance or general assistance medical care with a spenddown as defined in section 256B.056, subdivision 5. Persons who are determined eligible for medical assistance according to section 256B.0575 and persons who are eligible for medical assistance without a spenddown according to section 256B.056, subdivision 4, are not eligible for this program;

(2) is not enrolled in prescription drug coverage under a health plan;

(3) is not enrolled in prescription drug coverage under a Medicare supplement plan, as defined in sections 62A.31 to 62A.44, or policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations or those policies, contracts, or certificates governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended;



(4) has not had coverage described in clauses (2) and (3) for at least four months prior to application for the program; and

(5) is a permanent resident of Minnesota as defined in section 256.9359.

Subd. 3. [PRESCRIPTION DRUG COVERAGE.] Coverage under the program is limited to prescription drugs covered under the medical assistance program as described in section 256B.0625, subdivision 13, subject to a maximum deductible of \$300 annually.

Subd. 4. [APPLICATION PROCEDURES AND COORDINATION WITH MEDICAL ASSISTANCE.] Applications and information on the program must be made available at county social service agencies, health care provider offices, and agencies and organizations serving senior citizens. Senior citizens shall submit applications and any information specified by the commissioner as being necessary to verify eligibility directly to the county social service agencies:

(1) beginning January 1, 1999, the county social service agency shall determine medical assistance spenddown eligibility of individuals who qualify for the senior citizen drug program of individuals; and

(2) program payments will be used to reduce the spenddown obligations of individuals who are determined to be eligible for medical assistance with a spenddown as defined in section 256B.056, subdivision 5.

Seniors who are eligible for medical assistance with a spenddown shall be financially responsible for the deductible amount up to the satisfaction of the spenddown. No deductible applies once the spenddown has been met. Payments to providers for prescription drugs for persons eligible under this subdivision shall be reduced by the deductible.

County social service agencies shall determine an applicant's eligibility for the program within 45 days from the date the application is received.

Subd. 5. [DRUG UTILIZATION REVIEW PROGRAM.] The commissioner shall utilize the drug utilization review program as described in section 256B.0625, subdivision 13a.

Subd. 6. [PHARMACY REIMBURSEMENT.] The commissioner shall reimburse participating pharmacies for drug and dispensing costs at the medical assistance reimbursement level, minus the deductible required under subdivision 7.

Subd. 7. [COST SHARING.] (a) Enrollees shall pay an annual premium of \$120.

(b) Program enrollees must satisfy a \$300 annual deductible, based upon expenditures for prescription drugs, as follows:

(1) \$25 monthly deductible for persons with a monthly spenddown; and

(2) \$150 biannual deductible for persons with a six-month spenddown.

The commissioner may adjust the annual deductible amount to stay within the program's appropriation.

Subd. 8. [REPORT.] The commissioner shall annually report to the legislature on the senior citizen drug program. The report must include demographic information on enrollees, per-prescription expenditures, total program expenditures, hospital and nursing home costs avoided by enrollees, any savings to medical assistance and Medicare resulting from the provision of prescription drug coverage under Medicare by health maintenance organizations, other public and private options for drug assistance to the senior population, and any recommendations for changes in the senior drug program.

Subd. 9. [PROGRAM LIMITATION.] This section shall be repealed upon federal approval of the waiver to allow the commissioner to provide prescription drug coverage for qualified Medicare beneficiaries whose income is less than 150 percent of the federal poverty guidelines.

Sec. 3. Minnesota Statutes 1996, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control. The commissioner, after receiving recommendations from professional medical associations and professional pharmacist associations, shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve three-year terms and shall serve without compensation. Members may be reappointed once.

(b) The commissioner shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. The formulary committee shall review and recommend drugs which require prior authorization. The formulary committee may recommend drugs for prior authorization directly to the commissioner, as long as opportunity for public input is provided. Prior authorization may be requested by the commissioner based on medical and clinical criteria before certain drugs are eligible for payment. Before a drug may be considered for prior authorization at the request of the commissioner:

(1) the drug formulary committee must develop criteria to be used for identifying drugs; the development of these criteria is not subject to the requirements of chapter 14, but the formulary committee shall provide opportunity for public input in developing criteria;

(2) the drug formulary committee must hold a public forum and receive public comment for an additional 15 days; and

(3) the commissioner must provide information to the formulary committee on the impact that placing the drug on prior authorization will have on the quality of patient care and information regarding whether the drug is subject to clinical abuse or misuse. Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. The formulary shall not include:

(i) drugs or products for which there is no federal funding;

(ii) over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, and vitamins for children under the age of seven and pregnant or nursing women;

(iii) any other over-the-counter drug identified by the commissioner, in consultation with the drug formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14;

(iv) anorectics; and

(v) drugs for which medical value has not been established; and

(vi) drugs from manufacturers who have not signed a rebate agreement with the Department of Health and Human Services pursuant to section 1927 of title XIX of the Social Security Act and who have not signed an agreement with the state for drugs purchased pursuant to the senior citizen drug program established under section 256.955.

The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(c) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee; the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee; or the usual and customary price charged to the public. The pharmacy dispensing fee shall be \$3.85. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus nine percent. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the administrative procedure act. An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written - brand necessary" on the prescription as required by section 151.21, subdivision 2.

Sec. 4. [STUDY ON DUAL PRESCRIPTION DRUG COVERAGE.]

The commissioner of human services shall study the implications to the senior citizen drug program if a health plan company offers within the state a product that provides a prescription drug benefit as part of the standard coverage for Medicare enrollees and shall make recommendations on how to address this issue to the legislature by January 15, 1998.

ARTICLE 5

APPROPRIATIONS

Section 1. [APPROPRIATIONS; SUMMARY.]

Except as otherwise provided in this act, the sums set forth in the columns designated "fiscal year 1998" and "fiscal year 1999" are appropriated from the general fund, or other named fund, to the agencies for the purposes specified in this act for the fiscal years ending June 30, 1998, and June 30, 1999.

Sec. 2. APPROPRIATIONS

SUMMARY BY FUND

	1998	1999	TOTAL
Health Care			
Access Fund	\$125,029,000	\$154,017,000	\$279,046,000
General Fund	689,000	5,096,000	5,785,000
Subdivision 1. Department of Human Services			
Health Care			
Access Fund	91,999,000	122,341,000	214,340,000
General Fund	689,000	5,096,000	5,785,000

[DENTAL SERVICES REIMBURSEMENT

INCREASE.] Notwithstanding statutory provisions to the contrary, the commissioner shall increase reimbursement rates by 15 percent for dental services covered under the MinnesotaCare program and rendered on or after July 1, 1997. The commissioner shall increase the prepaid capitation rates as appropriate to reflect this rate increase.

[FEDERAL RECEIPTS FOR ADMINISTRATION.] Receipts received as a result of federal participation pertaining to administrative costs of the Minnesota Health Care Reform Waiver shall be deposited as a nondedicated revenue to the Health Care Access Fund, while receipts received as a result of federal participation pertaining to grants shall be deposited to the federal fund and shall offset health care access funds for payments to providers.

[MINNESOTA OUTREACH.] Of the health care access fund appropriation, \$750,000 each year shall be disbursed for grants to public and private organizations to provide outreach for the MinnesotaCare program in areas of the state with high uninsured populations.

The general fund appropriation is for administrative and service costs associated with the senior drug program. If program expenditures in any year after the 1998-1999 biennium exceed \$11,000,000, the commissioner shall adjust the annual deductible and premium to keep the general fund expenditures under \$11,000,000.

Subd. 2. Department of Health

Health Care			
Access Fund	11,427,000	11,526,000	22,953,000

[RURAL HOSPITAL CAPITAL GRANTS.] Of this appropriation, \$4,200,000 in each fiscal year shall be disbursed for rural hospital capital improvement grants or loans. This appropriation shall not become part of the base for the fiscal year 2000-2001 biennium.

[RURAL HOSPITAL DEMONSTRATION PROJECTS.] Of this appropriation, \$300,000 in each fiscal year shall be disbursed for rural hospital demonstration projects. This appropriation shall not become part of the base for the fiscal year 2000-2001 biennium.

Subd. 3. University of Minnesota <UF1>Health Care Access Fund

2,357,000	2,357,000
4,714,000	

## Subd. 4. Department of Revenue

## Health Care

Access Fund	3,121,000	1,668,000	4,789,000
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[RESEARCH DEDUCTION.] Of this appropriation, \$1,500,000 shall be disbursed in fiscal year 1998 to be used for research deduction claims filed by hospitals and health care providers under Minnesota Statutes, section 295.53, subdivision 4, for research expenditures incurred in calendar year 1996. These claims must be filed by August 1, 1997, and the commissioner must pay the refund no later than October 1, 1997.

## Subd. 5. Department of Commerce

## Health Care

Access Fund	16,000,000	16,000,000	32,000,000
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[MINNESOTA COMPREHENSIVE HEALTH ASSOCIATION ASSESSMENT OFFSET.]

This appropriation is for a grant to the Minnesota Comprehensive Health Association and shall be made available on January 1 of each fiscal year to be used to offset the annual assessments for calendar years 1998 and 1999 that are required to be paid by each contributing member in accordance with Minnesota Statutes, section 62E.11. This appropriation shall not become part of the base for the fiscal year 2000-2001 biennium.

## Subd. 6. Legislative Coordinating Commission

## Health Care

Access Fund	125,000	125,000	250,000
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## Sec. 3. TRANSFERS

\$4,112,000 in fiscal year 1998 and \$4,104,000 in fiscal year 1999 are transferred from the health care access fund to the general fund to replace the revenue lost due to the repeal of the \$400 physician surcharge."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 27, after the semicolon, insert "256.01, subdivision 2; 256.045, subdivision 3a;"

Page 1, line 31, after the second semicolon, insert "256.9358, subdivision 4;"

Page 1, line 33, delete "256B.04, by adding a"

Page 1, line 34, delete "subdivision" and insert "256B.0625, subdivision 13"

Page 1, line 35, after "7," insert "9b," and delete "and 14" and insert "14, and by adding a subdivision"

Page 1, line 36, delete the second "subdivision" and insert "subdivisions 1, 1a, 2,"

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

### **SECOND READING OF SENATE BILLS**

S.F. No. 1208 was read the second time.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

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

### **MESSAGES FROM THE HOUSE**

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 5, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 5 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 29, 1997

### **CONFERENCE COMMITTEE REPORT ON H.F. NO. 5**

A bill for an act relating to crime; clarifying the elements of the harassment and stalking crime; amending Minnesota Statutes 1996, section 609.749, subdivisions 1, 2, 5, and by adding a subdivision.

April 22, 1997

The Honorable Phil Carruthers  
Speaker of the House of Representatives

The Honorable Allan H. Spear  
President of the Senate

We, the undersigned conferees for H.F. No. 5, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 5 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1996, section 244.09, subdivision 5, is amended to read:

Subd. 5. The commission shall, ~~on or before January 1, 1980,~~ promulgate sentencing guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines may provide for an increase or decrease of up to 15 percent in the presumptive, fixed sentence.

The sentencing guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

Although the sentencing guidelines are advisory to the district court, the court shall follow the procedures of the guidelines when it pronounces sentence in a proceeding to which the guidelines apply by operation of statute. Sentencing pursuant to the sentencing guidelines is not a right that accrues to a person convicted of a felony; it is a procedure based on state public policy to maintain uniformity, proportionality, rationality, and predictability in sentencing.

In establishing and modifying the sentencing guidelines, the primary consideration of the commission shall be public safety. The commission shall also consider current sentencing and release practices; correctional resources, including but not limited to the capacities of local and state correctional facilities; and the long-term negative impact of the crime on the community.

The provisions of sections 14.001 to 14.69 do not apply to the promulgation of the sentencing guidelines, and the sentencing guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules. However, ~~on or before January 1, 1986,~~ the commission shall adopt rules pursuant to sections 14.001 to 14.69 which establish procedures for the promulgation of the sentencing guidelines, including procedures for the promulgation of severity levels and criminal history scores, and these rules shall be subject to review by the legislative commission to review administrative rules.

Sec. 2. Minnesota Statutes 1996, section 244.11, is amended to read:

244.11 [APPELLATE REVIEW OF SENTENCE.]

Subdivision 1. [GENERALLY.] An appeal to the court of appeals may be taken by the defendant or the state from any sentence imposed or stayed by the district court according to the rules of criminal procedure for the district court of Minnesota. Except as otherwise provided in subdivision 3, a dismissal or a resolution of an appeal brought under this section shall not prejudice an appeal brought under any other section or rule.

Subd. 2. [PROCEDURE.] (a) When an appeal taken under this section is filed, the court administrator of the district court shall certify the transcript of the proceedings and any files or records relating to the defendant, the offense, and the sentence imposed or stayed, that the supreme court by rule or order may require.

(b) On an appeal pursuant to this section, the court may review the sentence imposed or stayed to determine whether the sentence is inconsistent with statutory requirements, unreasonable, inappropriate, excessive, unjustifiably disparate, or not warranted by the findings of fact issued by the district court. This review shall be in addition to all other powers of review presently existing. The court may dismiss or affirm the appeal, vacate or set aside the sentence imposed or stayed and direct entry of an appropriate sentence or order further proceedings to be had as the court may direct.

Subd. 3. [LIMITATION ON DEFENDANT'S RIGHT TO SEEK SENTENCE MODIFICATION.] (a) As used in this subdivision, "appeal" means:

(1) an appeal of a sentence under Rule 28 of the Rules of Criminal Procedure; and

(2) an appeal from a denial of a sentence modification motion brought under Rule 27.03, subdivision 9, of the Rules of Criminal Procedure.

(b) If a defendant agrees to a plea agreement and is given a stayed sentence, which is a dispositional departure from the presumptive sentence under the Minnesota sentencing guidelines, the defendant may appeal the sentence only if the appeal is taken:

(1) within 90 days of the date sentence was pronounced; or

(2) before the date of any act committed by the defendant resulting in revocation of the stay of sentence;

whichever occurs first.

(c) A defendant who is subject to paragraph (b) who has failed to appeal as provided in that paragraph may not file a petition for postconviction relief under chapter 590 regarding the sentence.

(d) Nothing in this subdivision shall be construed to:

(1) alter the time period provided for the state to appeal a sentence under Rule 28 of the Rules of Criminal Procedure; or

(2) affect the court's authority to correct errors under Rule 27.03, subdivision 8, of the Rules of Criminal Procedure.

Subd. 4. [RELEASE PENDING APPEAL.] This section shall not be construed to confer or enlarge any right of a defendant to be released pending an appeal.

Sec. 3. Minnesota Statutes 1996, section 518B.01, subdivision 14, is amended to read:

Subd. 14. [VIOLATION OF AN ORDER FOR PROTECTION.] (a) A person who violates an order for protection issued under this section is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), whenever an order for protection is granted pursuant to this section, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor. Upon a misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A violation of an order for protection shall also constitute contempt of court and be subject to the penalties provided in chapter 588.

(c) A person is guilty of a gross misdemeanor who knowingly violates this paragraph subdivision during the time period between a previous conviction under this paragraph subdivision; sections 609.221 to 609.224; 609.2242; 609.713, subdivision 1 or 3; 609.748, subdivision 6; 609.749; or a similar law of another state; and the end of the five years following discharge from sentence for that conviction. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person knowingly violates this subdivision:

(1) during the time period between the first of two or more previous convictions under this section or sections 609.221 to 609.224; 609.2242; 609.713, subdivision 1 or 3; 609.748, subdivision 6; 609.749; or a similar law of another state; and the end of the five years following discharge from sentence for that conviction; or

(2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6.

Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other



appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

~~(b)~~ (e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The person shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

~~(c)~~ A violation of an order for protection shall also constitute contempt of court and be subject to the penalties therefor.

~~(d)~~ (f) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed \$10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(e) (g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (a) ~~(b)~~, (c), or (d).

(f) (h) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

~~(g)~~ (i) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by paragraph ~~(b)~~ (e).

~~(h)~~ (j) When a person is convicted of violating an order for protection under this section and the court determines that the person used a firearm in any way during commission of the violation, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and

that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(+) (k) Except as otherwise provided in paragraph (h) (j), when a person is convicted of violating an order for protection under this section, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(+) (l) Except as otherwise provided in paragraph (h) (j), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1996, of violating an order for protection under this section, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(+) (m) If the court determines that a person convicted of violating an order for protection under this section owns or possesses a firearm and used it in any way during the commission of the violation, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

Sec. 4. Minnesota Statutes 1996, section 609.11, subdivision 9, is amended to read:

Subd. 9. [APPLICABLE OFFENSES.] The crimes for which mandatory minimum sentences shall be served as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; drive-by shooting under section 609.66, subdivision 1e; harassment and stalking under section 609.749, subdivision 3, clause (3); possession or other unlawful use of a firearm in violation of section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (b), a felony violation of chapter 152; or any attempt to commit any of these offenses.

Sec. 5. Minnesota Statutes 1996, section 609.748, subdivision 6, is amended to read:

Subd. 6. [VIOLATION OF RESTRAINING ORDER.] (a) A person who violates a restraining order issued under this section is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), when a temporary restraining order or a restraining order is granted under this section and the respondent knows of the order, violation of the order is a misdemeanor.

(c) A person is guilty of a gross misdemeanor who knowingly violates the order during the time period between a previous conviction under this subdivision; sections 609.221 to 609.224; 609.2242; 518B.01, subdivision 14; 609.713, subdivisions 1 or 3; or 609.749; and the end of the five years following discharge from sentence for that conviction.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person knowingly violates the order:

(1) during the time period between the first of two or more previous convictions under this subdivision or sections 518B.01, subdivision 14; 609.221 to 609.224; 609.2242; 609.713, subdivision 1 or 3; 609.749; and the end of the five years following discharge from sentence for that conviction;

(2) because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363.01, age, or national origin;

(3) by falsely impersonating another;

(4) while possessing a dangerous weapon;

(5) with an intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(6) against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

(b) (e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under subdivision 4 or 5 if the existence of the order can be verified by the officer.

(e) (f) A violation of a temporary restraining order or restraining order shall also constitute contempt of court.

(d) (g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated an order issued under subdivision 4 or 5, the court may issue an order to the respondent requiring the respondent to appear within 14 days and show cause why the respondent should not be held in contempt of court. The court also shall refer the violation of the order to the appropriate prosecuting authority for possible prosecution under paragraph (a) (b), (c), or (d).

Sec. 6. Minnesota Statutes 1996, section 609.749, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] As used in this section, "harass" means to engage in intentional conduct in a manner that which:

(1) the actor knows or has reason to know would cause a reasonable person the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated; and

(2) causes this reaction on the part of the victim.

Sec. 7. Minnesota Statutes 1996, section 609.749, is amended by adding a subdivision to read:

Subd. 1a. [NO PROOF OF SPECIFIC INTENT REQUIRED.] In a prosecution under this section, the state is not required to prove that the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted, or intimidated, or except as otherwise provided in subdivision 3, clause (4), that the actor intended to cause any other result.

Sec. 8. Minnesota Statutes 1996, section 609.749, subdivision 2, is amended to read:

Subd. 2. [HARASSMENT AND STALKING CRIMES.] (a) A person who harasses another by committing any of the following acts is guilty of a gross misdemeanor:

(1) directly or indirectly manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

(2) stalks, follows, or pursues another;

(3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;

(4) repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;

(5) makes or causes the telephone of another repeatedly or continuously to ring;

(6) repeatedly ~~uses the mail~~ mails or delivers or causes the delivery of letters, telegrams, messages, packages, or other objects; or

(7) engages in any other harassing conduct that interferes with another person or intrudes on the person's privacy or liberty.

(b) The conduct described in paragraph (a), clauses (4) and (5), may be prosecuted either at the place where the any call is either made or where it is received. The conduct described in paragraph (a), clause (6), may be prosecuted either where the mail is deposited or where it is any letter, telegram, message, package, or other object is either sent or received.

Sec. 9. Minnesota Statutes 1996, section 609.749, subdivision 5, is amended to read:

Subd. 5. [PATTERN OF HARASSING CONDUCT.] (a) A person who engages in a pattern of harassing conduct with respect to a single victim or one or more members of a single household ~~in a manner that which the actor knows or has reason to know would cause a reasonable person the victim~~ under the circumstances to feel terrorized or to fear bodily harm and ~~that which does cause this reaction on the part of the victim, is guilty of a felony 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.~~

(b) For purposes of this subdivision, a "pattern of harassing conduct" means two or more acts within a five-year period that violate the provisions of any of the following:

- (1) this section;
- (2) section 609.713;
- (3) section 609.224;
- (4) section 609.2242;
- (5) section 518B.01, subdivision 14;
- (6) section 609.748, subdivision 6;
- (7) section 609.605, subdivision 1, paragraph (b), clauses (3), (4), and (7);
- (8) section 609.79;
- (9) section 609.795;
- (10) section 609.582; ~~or~~
- (11) section 609.595; or
- (12) section 609.765.

(c) When acts constituting a violation of this subdivision are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts constituting the pattern.

Sec. 10. [EFFECT ON RULES OF CRIMINAL PROCEDURE.]

Rules 27 and 28 of the Rules of Criminal Procedure are superseded to the extent they conflict with Minnesota Statutes, section 244.09, subdivision 5, or 244.11.

Sec. 11. [AMENDMENT TO SENTENCING GUIDELINES.]

(a) Except as provided in paragraph (b), the sentencing guidelines commission may not amend the sentencing guidelines by adding a plea agreement to the list of factors that should not be used as a reason for departure from the presumptive sentence under the guidelines.

(b) The commission shall study the advisability of allowing a plea agreement to be used as a reason for a departure from a presumptive sentence. By December 15, 1997, the commission shall report its findings and recommendations to the chairs of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding. If the commission

determines that it would be advisable to modify the guidelines regarding the use of plea agreements for departures, the commission shall submit its proposed modification to the legislature before January 1 of the year the commission wishes to make the change. The modification shall be effective only if the legislature, by law, approves the modification.

Sec. 12. [EFFECTIVE DATES.]

Sections 1, 6 to 9, and 11 are effective the day following final enactment and apply to crimes committed on or after that date. Sections 2 to 5 and 10 are effective August 1, 1997, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crime; clarifying the elements of the harassment and stalking crime; increasing the penalties for a violation of a domestic abuse order for protection and a harassment restraining order; adding certain violations of the harassment and stalking law to the list of crimes for which mandatory minimum prison sentences must be imposed; expanding the definition of "pattern of harassing conduct"; clarifying that the application of the sentencing guidelines system is not a right that a defendant may waive; limiting a defendant's right to take an appeal regarding a sentence; requiring a study on the sentencing guidelines; amending Minnesota Statutes 1996, sections 244.09, subdivision 5; 244.11; 518B.01, subdivision 14; 609.11, subdivision 9; 609.748, subdivision 6; and 609.749, subdivisions 1, 2, 5, and by adding a subdivision."

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

House Conferees: (Signed) Mary Jo McGuire, Wesley J. "Wes" Skoglund, Dave Bishop

Senate Conferees: (Signed) Ember R. Junge, Allan H. Spear, David L. Knutson

Ms. Junge moved that the foregoing recommendations and Conference Committee Report on H.F. No. 5 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 5 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

**MOTIONS AND RESOLUTIONS - CONTINUED****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. No. 1404 and H.F. No. 10.

**SPECIAL ORDER**

**S.F. No. 1404:** A bill for an act relating to motor vehicles; requiring vehicle buyer to notify registrar of motor vehicles of vehicle transfer within ten days; imposing fees and penalties; amending Minnesota Statutes 1996, sections 168.101, subdivision 2; and 168.15, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 168; repealing Minnesota Statutes 1996, section 168A.10, subdivision 6.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

**SPECIAL ORDER**

**H.F. No. 10:** A bill for an act relating to consumer protection; requiring child protective devices in shopping carts; proposing coding for new law in Minnesota Statutes, chapter 325E.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 17 and nays 40, as follows:

Those who voted in the affirmative were:

Betzold	Kelley, S.P.	Metzen	Scheid	Wiger
Dille	Larson	Oliver	Solon	
Johnson, D.H.	Lessard	Piper	Stumpf	
Johnson, D.J.	Lourey	Pogemiller	Ten Eyck	

Those who voted in the negative were:

Beckman	Belanger	Fischbach	Flynn	Foley
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Frederickson	Kiscaden	Moe, R.D.	Pariseau	Samuelson
Hanson	Kleis	Morse	Price	Scheevel
Higgins	Knutson	Murphy	Ranum	Spear
Hottinger	Krentz	Neuville	Robertson	Stevens
Johnson, D.E.	Laidig	Olson	Robling	Terwilliger
Johnson, J.B.	Langseth	Ourada	Runbeck	Vickerman
Junge	Lesewski	Pappas	Sams	Wiener

So the bill failed to pass.

### RECESS

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

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

### APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 1880: Messrs. Kelly, R.C.; Spear; Ms. Ranum, Messrs. Neuville and Knutson.

H.F. No. 704: Messrs. Johnson, D.H.; Novak and Ourada.

S.F. No. 1908: Mr. Samuelson, Mses. Berglin, Junge, Kiscaden and Mr. Sams.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

### MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 10, Ms. Junge, designee of the Chair of the Committee on Rules and Administration, designated S.F. No. 1351 a Special Order to be heard immediately.

### SPECIAL ORDER

**S.F. No. 1351:** A bill for an act relating to public employment; making technical changes; modifying definitions; modifying certain arbitration procedures; ratifying certain labor agreements; amending Minnesota Statutes 1996, sections 3.855, subdivision 2; 43A.06, subdivision 1; 179A.03, subdivision 14; 179A.10, subdivision 1; 179A.11, subdivision 1; and 179A.16, subdivision 1.

Ms. Flynn moved to amend S.F. No. 1351 as follows:

Page 10, after line 28, insert:

"Subd. 4. [TECHNICAL COLLEGE FACULTY.] The labor agreement between the state of Minnesota and the united technical college educators, as recommended by the legislative coordinating commission subcommittee on employee relations on April 28, 1997, is ratified.

Subd. 5. [MANAGERIAL PLAN AMENDMENT.] The amendment to the managerial plan as recommended by the legislative coordinating commission subcommittee on employee relations on April 28, 1997, is ratified."

The motion prevailed. So the amendment was adopted.

Ms. Flynn moved that S.F. No. 1351 be laid on the table. The motion prevailed.

**SPECIAL ORDERS**

Pursuant to Rule 10, Ms. Junge, designee of the Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately.

S.F. Nos. 1324 and 590.

**SPECIAL ORDER**

**S.F. No. 1324:** A bill for an act relating to the city of Saint Paul; authorizing a program for the disconnection of rainleaders and repair of defective sanitary sewer connections and the charging or assessment of costs for the program and the issuance of general or special obligations to pay the costs of the program.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

**SPECIAL ORDER**

**S.F. No. 590:** A bill for an act relating to public utilities; adding a high voltage transmission line that crosses the state boundary to the definition of a large energy facility; amending Minnesota Statutes 1996, section 216B.2421, subdivision 2.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.



**INTRODUCTION AND FIRST READING OF SENATE BILLS**

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

**Messrs. Johnson, D.J. and Solon introduced--**

**S.F. No. 1935:** A bill for an act relating to capital improvements; authorizing the issuance of bonds for a library on the campus of the University of Minnesota, Duluth; appropriating money.

Referred to the Committee on Children, Families and Learning.

**Mrs. Fischbach, Messrs. Scheevel, Kleis, Limmer and Stevens introduced--**

**S.F. No. 1936:** A bill for an act relating to education; offering an alternative of a locally controlled graduation rule; providing locally controlled graduation rule aid and district assistance and academic enhancement aid; appropriating money; amending Minnesota Statutes 1996, section 120.101, subdivision 8, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 124.

Referred to the Committee on Children, Families and Learning.

**MEMBERS EXCUSED**

Ms. Berglin and Mr. Novak were excused from the Session of today at 12:30 p.m. Mr. Limmer was excused from the Session of today at 1:00 p.m. Mr. Dille was excused from the Session of today at 2:15 p.m. Messrs. Solon and Metzen were excused from the Session of today from 12:00 noon to 1:15 p.m. Mr. Larson was excused from the Session of today from 12:15 to 1:00 p.m. Ms. Lesewski was excused from the Session of today from 12:45 to 1:00 p.m. Messrs. Kelly, R.C. and Wiger was excused from the Session of today from 12:30 to 1:30 p.m. Mr. Lessard was excused from the Session of today from 12:30 to 1:00 p.m. Mr. Cohen and Ms. Pappas were excused from the Session of today from 12:30 to 1:45 p.m. Mr. Pogemiller was excused from the Session of today from 1:00 to 1:55 p.m. Ms. Johnson, J.B. was excused from the Session of today from 1:30 to 2:00 p.m. Ms. Olson was excused from the Session of today from 1:45 to 2:00 p.m. Mr. Moe, R.D. was excused from the Session of today from 2:00 to 2:30 p.m.

**ADJOURNMENT**

Ms. Junge moved that the Senate do now adjourn until 11:00 a.m., Wednesday, April 30, 1997. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate



# INDEX TO DAILY JOURNAL

Tuesday, April 29, 1997

## EXECUTIVE AND OFFICIAL COMMUNICATIONS

Pages 2597 to 2598

## CHAPTER LAWS

S.F. Nos.	H.F. Nos.	Session Laws	
		Chapter No.	Page
495		57	2598
1116		58	2598
	211	59	2598
	179	60	2598
	889	61	2598
	949	62	2598
	1301	63	2598
	1045	64	2598
432		65	2598

## MESSAGES FROM THE HOUSE AND FIRST READINGS OF HOUSE FILES

S.F. Nos.	Message Page	H.F. Nos.	Message Page	1st Reading Page
1	2600	5	2626	
1881	2599	704	2601	
1905	2600	2163	2601	
1908	2598			

## REPORTS OF COMMITTEES AND SECOND READINGS

S.F. Nos.	Report Page	2nd Reading Page	H.F. Nos.	Report Page	2nd Reading Page
1208	2611	2626	243	2604	2606
1930	2604	2606			

## MOTIONS AND RESOLUTIONS

S.F. Nos.	Page	H.F. Nos.	Page
892	2611		
1139	2611		
1377	2611		
1378	2603		
1591	2611		
Sen. Res. No. 48	2603		

**APPOINTMENTS TO CONFERENCE COMMITTEES**

S.F. Nos.	Page	H.F. Nos.	Page
1880 .....	2635	704 .....	2635
1908 .....	2635		

**SPECIAL ORDERS**

S.F. Nos.	Page	H.F. Nos.	Page
184 .....	2609	10 .....	2634
240 .....	2608	735 .....	2607
338 .....	2607		
590 .....	2636		
832 .....	2606		
1292 .....	2609		
1324 .....	2636		
1351 .....	2635		
1404 .....	2634		
1504 .....	2610		
1807 .....	2610		

**CONFERENCE COMMITTEE REPORTS AND THIRD READINGS**

S.F. Nos.	Page	H.F. Nos.	Page
		5 .....	2626

**INTRODUCTION AND FIRST READING OF SENATE BILLS**

S.F. Nos. 1935 to 1936 .....	Page 2637
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