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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **855**

01/25/2023 Authored by Frazier, Agbaje and Hollins
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy
03/09/2023 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to public safety; establishing a public safety innovation board; providing
1.3 for community safety grants; providing for body camera data storage; providing
1.4 for law enforcement policy; providing civilian oversight of law enforcement;
1.5 requiring a report; providing for rulemaking; appropriating money; amending
1.6 Minnesota Statutes 2022, sections 13.825, subdivision 2; 214.10, subdivision 10;
1.7 626.843, by adding a subdivision; 626.8473, subdivision 3; 626.89, subdivision
1.8 17; Laws 2021, First Special Session chapter 11, article 1, section 15, subdivision
1.9 3; proposing coding for new law in Minnesota Statutes, chapter 299A.

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

1.11 **ARTICLE 1**
1.12 **COMMUNITY SAFETY GRANTS**

1.13 Section 1. **[299A.625] PUBLIC SAFETY INNOVATION BOARD.**

1.14 Subdivision 1. **Establishment.** The Public Safety Innovation Board is established in the
1.15 Office of Justice Programs within the Department of Public Safety. The board has the powers
1.16 and duties described in this section.

1.17 Subd. 2. **Membership.** (a) The Public Safety Innovation Board is composed of the
1.18 following members:

1.19 (1) three individuals with experience conducting research in the areas of crime, policing,
1.20 or sociology while employed by an academic or nonprofit entity, appointed by the governor;

1.21 (2) five individuals appointed by the governor of whom:

1.22 (i) one shall be a victim of a crime or an advocate for victims of crime;

1.23 (ii) one shall be a person impacted by the criminal justice system or an advocate for
1.24 defendants in criminal cases; and

2.1 (iii) one shall have a background in social work;

2.2 (3) four members representing the community-specific boards established under sections
2.3 3.922 and 15.0145, with one appointment made by each board; and

2.4 (4) three members representing law enforcement, with one appointment by the Minnesota
2.5 Sheriffs' Association, one by the Minnesota Chiefs of Police Association, and one by the
2.6 Minnesota Police and Peace Officers Association.

2.7 (b) The members of the board shall elect one member to serve as chair.

2.8 Subd. 3. **Terms; removal; vacancy.** (a) Members are appointed to serve three-year
2.9 terms following the initial staggered-term lot determination and may be reappointed.

2.10 (b) Initial appointment of members must take place by August 1, 2023. The initial term
2.11 of members appointed under paragraph (a) shall be determined by lot by the secretary of
2.12 state and shall be as follows:

2.13 (1) five members shall serve one-year terms;

2.14 (2) five members shall serve two-year terms; and

2.15 (3) five members shall serve three-year terms.

2.16 (c) A member may be removed by the appointing authority at any time for cause, after
2.17 notice and hearing.

2.18 (d) If a vacancy occurs, the appointing authority shall appoint a new qualifying member
2.19 within 90 days.

2.20 (e) Compensation of board members is governed by section 15.0575.

2.21 Subd. 4. **Powers and duties.** The board shall improve public safety by increasing the
2.22 efficiency, effectiveness, and capacity of public safety providers and has the following
2.23 powers and duties:

2.24 (1) monitoring trends in crime within Minnesota;

2.25 (2) reviewing research on criminal justice and public safety;

2.26 (3) providing information on criminal trends and research to the commissioner,
2.27 municipalities, and the legislature;

2.28 (4) awarding grants;

2.29 (5) evaluating grant applications to assure compliance with evidence-based practices;

2.30 (6) assuring an efficient and expeditious distribution of grant funds; and

3.1 (7) working with the Minnesota Statistical Analysis Center to identify appropriate
3.2 outcomes to track on an annual basis for both programs receiving grants and local
3.3 communities for the purpose of monitoring trends in public safety and the impact of specific
3.4 programmatic models.

3.5 Subd. 5. **Meetings.** The board shall meet at least monthly. Meetings of the board are
3.6 subject to chapter 13D.

3.7 Subd. 6. **Report.** The board shall report to the legislative committees and divisions with
3.8 jurisdiction over public safety on the work of the board; the implementation, use, and
3.9 administration of grant programs under the board's jurisdiction; all grants issued by the
3.10 Office of Justice Programs to local law enforcement agencies for portable recording systems;
3.11 the outcomes tracked on an annual basis by the Minnesota Statistical Analysis Center; and
3.12 a summary and analysis of the evaluation programs completed by grant recipients in the
3.13 previous year.

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

3.15 Sec. 2. **OFFICE OF JUSTICE PROGRAMS; EXPANSION; APPROPRIATION.**

3.16 (a) \$4,852,000 in fiscal year 2024 and \$4,852,000 in fiscal year 2025 are appropriated
3.17 from the general fund to the commissioner of public safety to increase staffing in the Office
3.18 of Justice Programs, work to simplify grant procedures, and expand the pool of grant
3.19 applicants. Money must be used as provided in paragraphs (b) to (f).

3.20 (b) The commissioner shall hire at least eight additional staff members to provide training
3.21 and technical assistance to grantees and potential grantees. Technical assistance must include
3.22 training on grant applications and programmatic elements required to qualify for grants.
3.23 The additional staff must hold weekly meetings in communities around the state to provide
3.24 information about the Office of Justice Programs, available grants, and grant processes and
3.25 requirements, and to receive feedback on the needs of communities in order to inform the
3.26 policies and practices of the Office of Justice Programs.

3.27 (c) The commissioner shall hire 12 additional community outreach specialists to leverage
3.28 relationships, knowledge, and experience in different communities. The community outreach
3.29 specialists shall make suggested changes to the practices and procedures of the Office of
3.30 Justice Programs to make them more accessible.

3.31 (d) The commissioner shall hire grant capacity trainers to implement the suggestions of
3.32 the community outreach specialists to continually expand the reach of the new training and
3.33 meet the needs identified by communities.

4.1 (e) The commissioner shall increase the funding of the Minnesota Statistical Analysis
 4.2 Center to create a uniform evaluation program for all grantees.

4.3 (f) The commissioner shall hire additional grant compliance and financial compliance
 4.4 staff to support the Office of Justice Programs and grantees in meeting state and federal
 4.5 requirements and audits.

4.6 Sec. 3. **PUBLIC SAFETY INNOVATION BOARD; APPROPRIATION.**

4.7 \$...... in fiscal year 2024 is appropriated from the general fund to the commissioner of
 4.8 public safety to establish and maintain the Public Safety Innovation Board.

4.9 ARTICLE 2

4.10 BODY CAMERA DATA

4.11 Section 1. Minnesota Statutes 2022, section 13.825, subdivision 2, is amended to read:

4.12 Subd. 2. **Data classification; court-authorized disclosure.** (a) Data collected by a
 4.13 portable recording system are private data on individuals or nonpublic data, subject to the
 4.14 following:

4.15 (1) all government data that record, describe, or otherwise document actions and
 4.16 circumstances surrounding either the discharge of a firearm by a peace officer in the course
 4.17 of duty, if a notice is required under section 626.553, subdivision 2, or the use of force by
 4.18 a peace officer that results in substantial bodily harm, as defined in section 609.02,
 4.19 subdivision 7a, are public;

4.20 (2) data are public if a subject of the data requests it be made accessible to the public,
 4.21 except that, if practicable, (i) data on a subject who is not a peace officer and who does not
 4.22 consent to the release must be redacted, and (ii) data on a peace officer whose identity is
 4.23 protected under section 13.82, subdivision 17, clause (a), must be redacted;

4.24 (3) portable recording system data that are active criminal investigative data are governed
 4.25 by section 13.82, subdivision 7, and portable recording system data that are inactive criminal
 4.26 investigative data are governed by this section;

4.27 (4) portable recording system data that are public personnel data under section 13.43,
 4.28 subdivision 2, clause (5), are public; and

4.29 (5) data that are not public data under other provisions of this chapter retain that
 4.30 classification.

5.1 (b) Notwithstanding section 13.82, subdivision 7, a deceased individual's next of kin,
5.2 legal representative of the next of kin, or other parent of the deceased individual's children
5.3 is entitled to view any and all recordings from a peace officer's portable recording system
5.4 and police vehicle dashboard camera, redacted no more than what is required by law, that
5.5 documents the use of deadly force no later than five business days following an incident
5.6 where deadly force used by a peace officer results in the death of an individual, except that
5.7 a chief law enforcement officer may deny a request if the investigating agency requests and
5.8 can articulate a compelling reason as to why allowing the deceased individual's next of kin,
5.9 legal representative of next of kin, or other parent of the deceased individual's children to
5.10 review the recordings would interfere with a thorough investigation. If the chief law
5.11 enforcement officer denies a request under this paragraph, the involved officer's agency
5.12 must issue a prompt, written denial and provide notice to the deceased individual's next of
5.13 kin, legal representative of the next of kin, or other parent of the deceased individual's
5.14 children that relief may be sought from the district court.

5.15 (c) Notwithstanding section 13.82, subdivision 7, an involved officer's agency shall
5.16 release all body-worn camera and police vehicle dashboard camera recordings of an incident
5.17 where a peace officer used deadly force and an individual dies to the public no later than
5.18 14 business days after the incident, except that a chief law enforcement officer shall not
5.19 release the video if the investigating agency asserts in writing that allowing the public to
5.20 view the recordings would interfere with the ongoing investigation.

5.21 ~~(b)~~ (d) A law enforcement agency may redact or withhold access to portions of data that
5.22 are public under this subdivision if those portions of data are clearly offensive to common
5.23 sensibilities.

5.24 ~~(e)~~ (e) Section 13.04, subdivision 2, does not apply to collection of data classified by
5.25 this subdivision.

5.26 ~~(d)~~ (f) Any person may bring an action in the district court located in the county where
5.27 portable recording system data are being maintained to authorize disclosure of data that are
5.28 private or nonpublic under this section or to challenge a determination under paragraph (b)
5.29 to redact or withhold access to portions of data because the data are clearly offensive to
5.30 common sensibilities. The person bringing the action must give notice of the action to the
5.31 law enforcement agency and subjects of the data, if known. The law enforcement agency
5.32 must give notice to other subjects of the data, if known, who did not receive the notice from
5.33 the person bringing the action. The court may order that all or part of the data be released
5.34 to the public or to the person bringing the action. In making this determination, the court
5.35 shall consider whether the benefit to the person bringing the action or to the public outweighs

6.1 any harm to the public, to the law enforcement agency, or to a subject of the data and, if
6.2 the action is challenging a determination under paragraph (b), whether the data are clearly
6.3 offensive to common sensibilities. The data in dispute must be examined by the court in
6.4 camera. This paragraph does not affect the right of a defendant in a criminal proceeding to
6.5 obtain access to portable recording system data under the Rules of Criminal Procedure.

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

6.7 Sec. 2. **BODY CAMERA DATA STORAGE PROGRAM; BODY CAMERA GRANT**
6.8 **PROGRAM; APPROPRIATION.**

6.9 Subdivision 1. **Definition.** As used in this section, "local law enforcement agency" has
6.10 the meaning given to "law enforcement agency" in Minnesota Statutes, section 626.84,
6.11 subdivision 1, paragraph (f), but does not include a unit of state government.

6.12 Subd. 2. **Body camera data storage program.** (a) \$6,016,000 in fiscal year 2024 is
6.13 appropriated from the general fund to the commissioner of public safety to develop and
6.14 administer a statewide cloud-based body camera data storage program. Of this amount, the
6.15 commissioner may use up to \$1,000,000 to retain and compensate a staff necessary to
6.16 administer the program. The base for this appropriation is \$6,036,000 in fiscal year 2025
6.17 and \$6,057,000 in fiscal year 2026. The base for this appropriation is \$0 in fiscal year 2027
6.18 and beyond.

6.19 (b) State and local law enforcement agencies may voluntarily participate in the body
6.20 camera data storage program, but must agree to the conditions established in subdivision
6.21 4.

6.22 Subd. 3. **Body camera grant program.** (a) \$9,000,000 in fiscal year 2024 is appropriated
6.23 from the general fund to the commissioner of public safety for grants administered by the
6.24 Office of Justice Programs as directed by the Public Safety Innovation Board to local law
6.25 enforcement agencies for portable recording systems. The executive director shall award
6.26 grants to local law enforcement agencies for the purchase and maintenance of portable
6.27 recording systems and portable recording system data.

6.28 (b) The executive director must give preference to applicants that satisfy any of the
6.29 following criteria:

6.30 (1) agree to store body camera data in the statewide cloud-based body camera data
6.31 storage program; or

6.32 (2) do not have an existing body camera program.

7.1 (c) The executive director must award at least 25 percent of grant funds to applicants
7.2 located outside of the seven-county metropolitan area.

7.3 (d) The executive director must award at least 25 percent of grant funds to applicants
7.4 with existing body camera programs for maintenance and necessary upgrades to body camera
7.5 equipment.

7.6 ARTICLE 3

7.7 LAW ENFORCEMENT POLICY

7.8 Section 1. Minnesota Statutes 2022, section 214.10, subdivision 10, is amended to read:

7.9 Subd. 10. **Board of Peace Officers Standards and Training; receipt of**
7.10 **complaint.** Notwithstanding the provisions of subdivision 1 to the contrary, when the
7.11 executive director or any member of the Board of Peace Officer Standards and Training
7.12 produces or receives a written statement or complaint that alleges a violation of a statute or
7.13 rule that the board is empowered to enforce, the executive director shall designate the
7.14 appropriate law enforcement agency to investigate the complaint and ~~shall~~ may order it to
7.15 conduct an inquiry into the complaint's allegations. The investigating agency must complete
7.16 the inquiry and submit a written summary of it to the executive director within 30 days of
7.17 the order for inquiry.

7.18 Sec. 2. Minnesota Statutes 2022, section 626.843, is amended by adding a subdivision to
7.19 read:

7.20 Subd. 1c. **Rules governing certain misconduct.** No later than January 1, 2025, the
7.21 board must adopt rules under chapter 14 that permit the board to take disciplinary action
7.22 on a licensee for a violation of a standard of conduct in Minnesota Rules, chapter 6700,
7.23 whether or not criminal charges have been filed and in accordance with the evidentiary
7.24 standards and civil processes for boards under chapter 214.

7.25 Sec. 3. Minnesota Statutes 2022, section 626.8473, subdivision 3, is amended to read:

7.26 Subd. 3. **Written policies and procedures required.** (a) The chief officer of every state
7.27 and local law enforcement agency that uses or proposes to use a portable recording system
7.28 must establish and enforce a written policy governing its use. In developing and adopting
7.29 the policy, the law enforcement agency must provide for public comment and input as
7.30 provided in subdivision 2. Use of a portable recording system without adoption of a written
7.31 policy meeting the requirements of this section is prohibited. The written policy must be
7.32 posted on the agency's website, if the agency has a website.

8.1 (b) At a minimum, the written policy must incorporate and require compliance with the
8.2 following:

8.3 (1) the requirements of section 13.825 and other data classifications, access procedures,
8.4 retention policies, and data security safeguards that, at a minimum, meet the requirements
8.5 of chapter 13 and other applicable law. The policy must prohibit altering, erasing, or
8.6 destroying any recording made with a peace officer's portable recording system or data and
8.7 metadata related to the recording prior to the expiration of the applicable retention period
8.8 under section 13.825, subdivision 3, except that the full, unedited, and unredacted recording
8.9 of a peace officer using deadly force must be maintained indefinitely;

8.10 (2) mandate that a portable recording system be:

8.11 (i) worn where it affords an unobstructed view, and above the mid-line of the waist;

8.12 (ii) activated during all contacts with citizens in the performance of official duties other
8.13 than community engagement, to the extent practical without compromising officer safety;
8.14 and

8.15 (iii) activated when the officer arrives on scene of an incident and remain active until
8.16 the conclusion of the officer's duties at the scene of the incident;

8.17 (3) mandate that officers assigned a portable recording system wear and operate the
8.18 system in compliance with the agency's policy adopted under this section while performing
8.19 law enforcement activities under the command and control of another chief law enforcement
8.20 officer or federal law enforcement official;

8.21 (4) mandate that, notwithstanding any law to the contrary, a deceased individual's next
8.22 of kin, legal representative of the next of kin, or other parent of the deceased individual's
8.23 children be entitled to view any and all recordings from a peace officer's portable recording
8.24 system, redacted no more than what is required by law, of an officer's use of deadly force
8.25 no later than five business days following an incident where deadly force used by a peace
8.26 officer results in the death of an individual, except that a chief law enforcement officer may
8.27 deny a request if the investigating agency requests and can articulate a compelling reason
8.28 as to why allowing the deceased individual's next of kin, legal representative of the next of
8.29 kin, or other parent of the deceased individual's children to review the recordings would
8.30 interfere with a thorough investigation. If the chief law enforcement officer denies a request
8.31 under this paragraph, the involved officer's agency must issue a prompt, written denial and
8.32 provide notice to the deceased individual's next of kin, legal representative of the next of
8.33 kin, or other parent of the deceased individual's children that relief may be sought from the
8.34 district court;

9.1 (5) mandate that, notwithstanding any law to the contrary, an involved officer's agency
9.2 shall release all body-worn camera recordings of an incident where a peace officer used
9.3 deadly force and an individual dies to the public no later than 14 business days after the
9.4 incident, except that a chief law enforcement officer shall not release the video if the
9.5 investigating agency asserts in writing that allowing the public to view the recordings would
9.6 interfere with the ongoing investigation;

9.7 (6) procedures for testing the portable recording system to ensure adequate functioning;

9.8 ~~(3)~~ (7) procedures to address a system malfunction or failure, including requirements
9.9 for documentation by the officer using the system at the time of a malfunction or failure;

9.10 ~~(4)~~ (8) circumstances under which recording is mandatory, prohibited, or at the discretion
9.11 of the officer using the system;

9.12 ~~(5)~~ (9) circumstances under which a data subject must be given notice of a recording;

9.13 ~~(6)~~ (10) circumstances under which a recording may be ended while an investigation,
9.14 response, or incident is ongoing;

9.15 ~~(7)~~ (11) procedures for the secure storage of portable recording system data and the
9.16 creation of backup copies of the data; and

9.17 ~~(8)~~ (12) procedures to ensure compliance and address violations of the policy, which
9.18 must include, at a minimum, supervisory or internal audits and reviews, and the employee
9.19 discipline standards for unauthorized access to data contained in section 13.09.

9.20 (c) The board has authority to inspect state and local law enforcement agency policies
9.21 to ensure compliance with this section. The board may conduct this inspection based upon
9.22 a complaint it receives about a particular agency or through a random selection process.
9.23 The board may impose licensing sanctions and seek injunctive relief under section 214.11
9.24 for an agency's or licensee's failure to comply with this section.

9.25 Sec. 4. Minnesota Statutes 2022, section 626.89, subdivision 17, is amended to read:

9.26 Subd. 17. **Civilian review.** (a) As used in this subdivision, the following terms have the
9.27 meanings given:

9.28 (1) "civilian oversight council" means a civilian review board, commission, or other
9.29 oversight body established by a local unit of government to provide civilian oversight of a
9.30 law enforcement agency and officers employed by the agency; and

9.31 (2) "misconduct" means a violation of law, standards promulgated by the Peace Officer
9.32 Standards and Training Board, or agency policy.

10.1 (b) A local unit of government may establish a civilian review board, commission, or
10.2 other oversight body shall not have council and grant the council the authority to make a
10.3 finding of fact or determination regarding a complaint against an officer or impose discipline
10.4 on an officer. A civilian review board, commission, or other oversight body may make a
10.5 recommendation regarding the merits of a complaint, however, the recommendation shall
10.6 be advisory only and shall not be binding on nor limit the authority of the chief law
10.7 enforcement officer of any unit of government.

10.8 (c) At the conclusion of any criminal investigation or prosecution, if any, a civilian
10.9 oversight council may conduct an investigation into allegations of peace officer misconduct
10.10 and retain an investigator to facilitate an investigation. Subject to other applicable law, a
10.11 council may subpoena or compel testimony and documents in an investigation. Upon
10.12 completion of an investigation, a council may make a finding of misconduct and recommend
10.13 appropriate discipline against peace officers employed by the agency. If the governing body
10.14 grants a council the authority, the council may impose discipline on peace officers employed
10.15 by the agency. A council may submit investigation reports that contain findings of peace
10.16 officer misconduct to the chief law enforcement officer and the Peace Officer Standards
10.17 and Training Board's complaint committee. A council may also make policy
10.18 recommendations to the chief law enforcement officer and the Peace Officer Standards and
10.19 Training Board.

10.20 (d) The chief law enforcement officer of a law enforcement agency under the jurisdiction
10.21 of a civilian oversight council shall cooperate with the council and facilitate the council's
10.22 achievement of its goals. However, the officer is under no obligation to agree with individual
10.23 recommendations of the council and may oppose a recommendation. If the officer fails to
10.24 implement a recommendation that is within the officer's authority, the officer shall inform
10.25 the council of the failure along with the officer's underlying reasons.

10.26 (e) Peace officer discipline decisions imposed pursuant to the authority granted under
10.27 this subdivision shall be subject to the applicable grievance procedure established or agreed
10.28 to under chapter 179A.

10.29 (f) Data collected, created, received, maintained, or disseminated by a civilian oversight
10.30 council related to an investigation of a peace officer are personnel data as defined by section
10.31 13.43, subdivision 1, and are governed by that section.

- 11.1 Sec. 5. Laws 2021, First Special Session chapter 11, article 1, section 15, subdivision 3,
11.2 is amended to read:
- 11.3 **Subd. 3. Peace Officer Training Assistance**
- 11.4 **Philando Castile Memorial Training Fund**
- 11.5 \$6,000,000 each year is to support and
11.6 strengthen law enforcement training and
11.7 implement best practices. This funding shall
11.8 be named the "Philando Castile Memorial
11.9 Training Fund." These funds may only be used
11.10 to reimburse costs related to training courses
11.11 that qualify for reimbursement under
11.12 Minnesota Statutes, sections 626.8469
11.13 (training in crisis response, conflict
11.14 management, and cultural diversity), 626.8452
11.15 (use of force), and 626.8474 (autism training).
- 11.16 Each sponsor of a training course is required
11.17 to include the following in the sponsor's
11.18 application for approval submitted to the
11.19 board: course goals and objectives; a course
11.20 outline including at a minimum a timeline and
11.21 teaching hours for all courses; instructor
11.22 qualifications, ~~including skills and concepts~~
11.23 ~~such as crisis intervention, de-escalation, and~~
11.24 ~~cultural competency that are relevant to the~~
11.25 ~~course provided~~; and a plan for learning
11.26 assessments of the course and documenting
11.27 the assessments to the board during review.
- 11.28 Upon completion of each course, instructors
11.29 must submit student evaluations of the
11.30 instructor's teaching to the sponsor.
- 11.31 The board shall keep records of the
11.32 applications of all approved and denied
11.33 courses. All continuing education courses shall
11.34 be reviewed after the first year. The board
11.35 must set a timetable for recurring review after

12.1 the first year. For each review, the sponsor
12.2 must submit its learning assessments to the
12.3 board to show that the course is teaching the
12.4 learning outcomes that were approved by the
12.5 board.

12.6 A list of licensees who successfully complete
12.7 the course shall be maintained by the sponsor
12.8 and transmitted to the board following the
12.9 presentation of the course and the completed
12.10 student evaluations of the instructors.

12.11 Evaluations are available to chief law
12.12 enforcement officers. The board shall establish
12.13 a data retention schedule for the information
12.14 collected in this section.

12.15 Each year, if funds are available after
12.16 reimbursing all eligible requests for courses
12.17 approved by the board under this subdivision,
12.18 the board may use the funds to reimburse law
12.19 enforcement agencies for other
12.20 board-approved law enforcement training
12.21 courses. The base for this activity is \$0 in
12.22 fiscal year 2026 and thereafter.

12.23 **Sec. 6. PEACE OFFICER STANDARDS AND TRAINING BOARD**

12.24 **INVESTIGATORS; APPROPRIATION.**

12.25 \$1,450,000 in fiscal year 2024 and \$1,203,000 in fiscal year 2025 are appropriated from
12.26 the general fund to the Peace Officer Standards and Training Board to hire investigators
12.27 and additional staff to perform compliance reviews and investigate alleged code of conduct
12.28 violations, and to obtain or improve equipment for that purpose.