

## STATE OF MINNESOTA

## SIXTY-EIGHTH SESSION - 1974

## EIGHTY-THIRD DAY

SAINT PAUL, MINNESOTA, MONDAY, FEBRUARY 11, 1974

The House convened at 2:00 p.m. and was called to order by the Speaker.

Prayer was offered by the Chaplain.

The roll was called, and the following members were present:

Adams, J.	Eken	Kahn	Munger	Schreiber
Andersen, R.	Enebo	Kelly	Myrah	Schulz
Anderson, G.	Erdahl	Kempe	Nelson	Searle
Anderson, I.	Erickson	Klaus	Newcome	Sherwood
Becklin	Faricy	Knickerbocker	Niehaus	Sieben, H.
Belisle	Ferderer	Knoll	Norton	Sieben, M.
Bell	Fjoslien	Kostohryz	Ohnstad	Skaar
Bennett	Forsythe	Kvam	Ojala	Smith
Berg	Fudro	Laidig	Parish	Spanish
Berglin	Fugina	Larson	Patton	Stangeland
Biersdorf	Graba	Lemke	Pavlak, R.	Stanton
Braun	Graw	Lindstrom, E.	Pavlak, R. L.	Swanson
Carlson, A.	Grove	Lindstrom, J.	Pehler	Tomlinson
Carlson, B.	Hagedorn	Lombardi	Peterson	Ulland
Carlson, D.	Hanson	Long	Pieper	Vanasek
Carlson, L.	Haugerud	Mann	Pleasant	Vento
Casserly	Heinitz	McArthur	Prahl	Voss
Cleary	Hook	McCarron	Quirin	Wenzel
Connors	Jacobs	McCauley	Resner	Wigley
Culhane	Jaros	McEachern	Rice	Wohlwend
Cummiskey	Johnson, C.	McFarlin	Ryan	Wolcott
Dahl	Johnson, D.	McMillan	St. Onge	Mr. Speaker
DeGroat	Johnson, J.	Menke	Salchert	
Dieterich	Johnson, R.	Miller, M.	Samuelson	
Dirlam	Jopp	Moe	Sarna	
Eckstein	Jude	Mueller	Savelkoul	

A quorum was present.

Adams, S.; Brinkman; Esau; and Weaver were excused. Anderson, D., was excused until 3:20 p.m. Clifford was excused until 3:10 p.m. LaVoy was excused until 3:55 p.m. Miller, D., was excused until 3:30 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day, when on the motion of Mr. Johnson, C., the further reading was dispensed with and the Journal was approved as corrected.

## REPORTS OF CHIEF CLERK

Pursuant to Rules of the House, printed copies of H. F. Nos. 2681, 2746, 3074, 3076, 3077, 2680, 2831, and 2890 and S. F. No. 2590 have been placed in the members' files.

## PETITIONS AND COMMUNICATIONS

The following communication was received:

STATE OF MINNESOTA  
OFFICE OF THE SECRETARY OF STATE  
ST. PAUL 55155

The Honorable Martin O. Sabo  
Speaker of the House of Representatives  
The Honorable Alec G. Olson  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1974 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 11:

<i>S.F. No.</i>	<i>H.F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Date Approved 1974</i>	<i>Date Filed 1974</i>
296		28	February 5	February 5
2426		29	February 5	February 5
	140	30	February 5	February 5
	284	31	February 5	February 5
	371	32	February 5	February 5
	487	33	February 5	February 5
	854	34	February 5	February 5
	1005	35	February 5	February 5
	1184	36	February 5	February 5
	1196	37	February 5	February 5
	1211	38	February 5	February 5
	1895	39	February 5	February 5

<i>S.F. No.</i>	<i>H.F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Date Approved 1974</i>	<i>Date Filed 1974</i>
	2197	40	February 5	February 5
	2789	41	February 5	February 5

Sincerely,

ARLEN I. ERDAHL  
Secretary of State

### REPORTS OF STANDING COMMITTEES

Mr. Adams, J., from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 2710, A bill for an act relating to mobile homes; certain devices not to be included in the advertised length of mobile homes by dealers and manufacturers; prescribing penalties.

Reported the same back with the following amendments:

Page 1, line 8, after "HOMES;" strike "HITCH NOT INCLUDED IN".

Page 1, line 9, strike the word "LENGTH;".

Page 1, line 15, strike " , whether".

Page 1, line 16, strike "or by radio or".

Page 1, line 17, strike "television,".

Page 1, line 19, after "home" insert " , unless the length of the hitch is stated in equally conspicuous print".

Further, amend the title in line 2 after the semicolon by inserting "restricting inclusion of" and in line 3 by striking "not to be included".

With the recommendation that when so amended the bill do pass.

The report was adopted.

Mr. Adams, J., from the Committee on Commerce and Economic Development to which was referred:

S. F. No. 951, A bill for an act relating to food; providing for the regulation and control of its manufacture, distribution and sale; prescribing penalties; amending Minnesota Statutes 1971, Chapter 31, by adding sections; Sections 31.01, Subdivisions 2, 3, and 4, and by adding subdivisions; 31.02; 31.04; 31.05; 31.14; and 32.021, Subdivision 2; and repealing Minnesota Statutes 1971, Section 31.01, Subdivisions 5 and 19.

Reported the same back with the following amendments:

Page 18, line 2, after "*April 1,*" delete "*1973*" and insert in lieu thereof "*1974*".

Page 18, line 8, after "*April 1,*" delete "*1973*" and insert in lieu thereof "*1974*".

Page 18, line 14, after "*April 1,*" delete "*1973*" and insert in lieu thereof "*1974*".

Page 18, line 20, after "*April 1,*" delete "*1973*" and insert in lieu thereof "*1974*".

Page 18, line 26, after "*April 1,*" delete "*1973*" and insert in lieu thereof "*1974*".

Page 19, line 13, after "*April 1,*" delete "*1973*" and insert in lieu thereof "*1974*".

Page 20, line 7, after "*April 1,*" delete "*1973*" and insert in lieu thereof "*1974*".

Page 22, line 21, after "*April 1,*" delete "*1973*" and insert in lieu thereof "*1974*".

Page 33, line 23, after "*effect*" delete "*July*" and on line 24, delete "*1, 1973*", and insert in lieu thereof "*the day following its final enactment*".

With the recommendation that when so amended the bill do pass.

The report was adopted.

Mr. Adams, J., from the Committee on Commerce and Economic Development to which was referred:

S. F. No. 980, A bill for an act relating to consumer protection; restricting door to door distribution of certain items; broadening enforcement powers; providing penalties; amending Minnesota Statutes 1971, Section 325.925.

Reported the same back with the recommendation that the bill do pass.

The report was adopted.

Mr. Johnson, C., from the Committee on Education to which was referred:

H. F. No. 2280, A bill for an act relating to education; permitting school nicknames to be affixed to the sides of school buses.

Reported the same back with the recommendation that the bill do pass.

The report was adopted.

Mr. Johnson, C., from the Committee on Education to which was referred:

S. F. No. 283, A bill for an act relating to education; school board membership in certain associations; requiring filing of financial statements; amending Minnesota Statutes 1971, Section 123.33, Subdivisions 10 and 14.

Reported the same back with the recommendation that the bill do pass.

The report was adopted.

Mr. Johnson, C., from the Committee on Education to which was referred:

S. F. No. 534, A bill for an act relating to education; providing compensation for expenses for members of Minnesota education council; amending Minnesota Statutes 1971, Section 121.83.

Reported the same back with the recommendation that the bill do pass.

The report was adopted.

Mr. Munger from the Committee on Environmental Preservation and Natural Resources to which was referred:

H. F. No. 2458, A bill for an act relating to the membership of municipalities and other political subdivisions in state and national associations; amending Minnesota Statutes 1971, Section 471.96, Subdivision 1.

Reported the same back with the recommendation that the bill do pass and be placed on the Consent Calendar.

The report was adopted.

Mr. Munger from the Committee on Environmental Preservation and Natural Resources to which was referred:

H. F. No. 2704, A bill for an act relating to the department of natural resources; appropriating money for the improvement of a certain road leading to a state park; and providing for the transfer of the road to the town of Camp Release.

Reported the same back with the following amendments:

Page 1, line 10, strike "\$10,400" and insert "\$6,400".

With the recommendation that when so amended the bill do pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Mr. Munger from the Committee on Environmental Preservation and Natural Resources to which was referred:

S. F. No. 1712, A bill for an act relating to water resources in Chisago and Pine counties.

Reported the same back with the recommendation that the bill do pass.

The report was adopted.

Mr. Fudro from the Committee on General Legislation and Veterans Affairs to which was referred:

H. F. No. 2799, A bill for an act relating to charitable organizations; exempting volunteer firemen from the prohibition against uniformed personnel of governmental agencies or departments soliciting contributions on the behalf of a charitable organization; amending Minnesota Statutes 1971, Section 309.55, Subdivision 4, as added.

Reported the same back with the following amendments:

Page 1, line 18, strike "*volunteer*".

Page 1, line 19, after "*uniform*" insert a period and strike the remainder of the language.

Page 1, line 20, strike all of the language.

Further amend the title as follows:

Line 3, strike "volunteer".

With the recommendation that when so amended the bill do pass.

The report was adopted.

Mr. Fudro from the Committee on General Legislation and Veterans Affairs to which was referred:

H. F. No. 2985, A bill for an act relating to elections; information and instructions furnished county auditors by the secretary of state; amending Minnesota Statutes 1971, Section 203.16, Subdivision 2.

Reported the same back with the following amendments:

Page 1, after line 16, insert the following:

"Sec. 2. This act shall take the effect upon the day following final enactment."

With the recommendation that when so amended the bill do pass and be placed on the Consent Calendar.

The report was adopted.

Mr. Fudro from the Committee on General Legislation and Veterans Affairs to which was referred:

H. F. No. 3021, A bill for an act relating to elections; registration of voters; amending Minnesota Statutes, 1973 Supplement, Section 201.061, Subdivision 1.

Reported the same back with the recommendation that the bill do pass and be placed on the Consent Calendar.

The report was adopted.

Mr. Quirin from the Committee on Governmental Operations to which was referred:

H. F. No. 1835, A bill for an act regulating public utilities furnishing at retail natural, manufactured or mixed gas, or electric service; prescribing the duties of the public service commission in relation thereto; prescribing penalties.

Reported the same back with the following amendments:

Strike everything after the enacting clause and insert in lieu thereof the following:

"Section 1. [LEGISLATIVE FINDING.] It is hereby declared to be in the public interest that public utilities be regulated as hereinafter provided in order to provide the retail consumers of natural gas and electric service in this state with adequate and reliable services at reasonable rates, consistent with the financial and economic requirements of public utilities and their need to construct facilities to provide such services or to otherwise obtain energy supplies, to avoid unnecessary duplication of facilities which increase the cost of service to the consumer and to minimize disputes between public utilities which may result in inconvenience or diminish efficiency in service to the consumers. Because municipal utilities are presently effectively regulated by the residents of the municipalities which own and operate them, it is deemed unnecessary to subject such utilities to regulation under this act except as specifically provided herein.

Sec. 2. [DEFINITIONS.] Subdivision 1. For the purposes of this act the terms defined in this section have the meanings given them.

Subd. 2. "Corporation" includes a private corporation, a public corporation, a municipality, an association, a cooperative whether incorporated or not, a joint stock association, a business trust, or any political subdivision or agency.

Subd. 3. "Person" includes a natural person, a partnership, or two or more persons having a joint or common interest, and a corporation as hereinbefore defined.

Subd. 4. "Public utility" includes persons, corporations or other legal entities, their lessees, trustees, and receivers, now or hereafter operating, maintaining, or controlling in this state equipment or facilities for furnishing at retail natural, manufactured or mixed gas or electric service to or for the public or its members, or engaged in the production and retail sale thereof but does not include a municipality producing or furnishing natural, manufactured or mixed gas or electric service. Except as otherwise provided, the provisions of this act shall not be applicable to any sale of natural gas or electricity by a public utility to another public utility for resale. No person shall be deemed to be a public utility if it presently furnishes its services only to tenants in buildings owned, leased or operated by such person. No person shall be deemed to be a public utility if it presently furnishes service to occupants of a mobile home or trailer park owned, leased, or operated by such person. No person shall be deemed to be a public utility if it presently produces or furnishes service to less than 25 persons.

Subd. 5. "Rate" means and includes every compensation, charge, fare, toll, tariff, rental and classification, or any of them,



demand, observed, charged, or collected by any public utility for any service and any rules, regulations, practices, or contracts affecting any such compensation, charge, fare, toll, rental, tariff, or classification.

Subd. 6. "Service" means and includes natural, manufactured or mixed gas and electricity; the installation, removal, or repair of equipment or facilities for delivering or measuring such gas and electricity.

Subd. 7. "Commission" shall refer to and mean the public service commission of the department of public service.

Subd. 8. "Department" shall refer to and mean the department of public service of the state of Minnesota.

Subd. 9. "Municipality" means any city however organized, and any village or borough.

Sec. 3. [REASONABLE RATE.] Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, unreasonably prejudicial or discriminatory, but shall be sufficient, equitable and consistent in application to a class of consumers. Any doubt as to reasonableness should be resolved in favor of the consumer. For rate making purposes a public utility may treat two or more municipalities served by it as a single class wherever the populations are comparable in size or the conditions of service are similar.

Sec. 4. [STANDARD OF SERVICE.] Every public utility shall furnish safe, adequate, efficient, and reasonable service; provided that service shall be deemed adequate if made so within 90 days after a person requests service. Upon application by a public utility, and for good cause shown, the commission may extend such period for not to exceed another 90 days.

Sec. 5. [PUBLISH SCHEDULES; REGULATIONS; FILES; JOINT RATES.] Subdivision 1. Every public utility shall file with the commission schedules showing all rates, tolls, tariffs and charges which it has established and which are in force at the time for any service performed by it within the state, or for any service in connection therewith or performed by any public utility controlled or operated by it.

Subd. 2. Every public utility shall file with and as a part of such schedule all rules and regulations that, in the judgment of the commission, in any manner affect the service or product, or the rates charged or to be charged for any service or product, as well as any contracts, agreements or arrangements relating to the service or product or the rates to be charged for any service or product to which the schedule is applicable as the commission may by general or special order direct.

Subd. 3. Every public utility shall keep copies of such schedules open to public inspection under such rules and regulations as the commission may prescribe.

Sec. 6. [RECEIVING DIFFERENT COMPENSATION.] No public utility shall directly or indirectly, by any device whatsoever, or in any manner, charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered by such utility than that prescribed in the schedules of rates of such public utility applicable thereto then filed in the manner provided in this act, nor shall any person knowingly receive or accept any service from a public utility for a compensation greater or less than that prescribed in such schedules, provided that all rates being charged and collected by a public utility upon the effective date of this act may be continued until schedules are filed. Nothing in this act shall prevent a cooperative association from returning to its patrons the whole, or any part of, the net earnings resulting from its operations in proportion to their purchases from or through the association.

Sec. 7. [RATE PREFERENCE PROHIBITED.] No public utility shall, as to rates or service, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage.

Sec. 8. [DUTIES OF COMMISSION.] The commission is hereby vested with the powers, rights, functions, and jurisdiction to regulate in accordance with the provisions of this act every public utility as defined herein. The exercise of such powers, rights, functions, and jurisdiction is prescribed as a duty of the commission. The commission is authorized to make rules and regulations in furtherance of the purposes of this act.

Sec. 9. [STANDARDS; CLASSIFICATIONS; REGULATIONS; PRACTICES.] The commission, after hearing upon reasonable notice had upon its own motion or upon complaint, may ascertain and fix just and reasonable standards, classifications, regulations, or practices to be observed and followed by any or all public utilities with respect to the service to be furnished; ascertain and fix adequate and reasonable standards for the measurement of the quantity, quality, pressure, initial voltage, or other condition pertaining to the supply of such service; prescribe reasonable regulations for the examination and testing of such service and for the measurement thereof; establish or approve reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters, instruments and equipment used for the measurement of any service of any public utility. Any standards, classifications, regulations, or practices now or hereafter observed or followed by any public utility may be filed by it with the commission, and the same shall continue in force until amended by the public utility or until changed by the commission as herein provided.

The commission may require the filing of all rates, including rates charged to and by public utilities. The commission is empowered to appear before the Federal Power Commission to offer evidence and to seek appropriate relief in any case in which the rates charged consumers within the state of Minnesota may be affected.

Sec. 10. [ACCOUNTING SYSTEM.] Subdivision 1. The commission shall establish a system of accounts to be kept by public utilities subject to its jurisdiction. A public utility which maintains its accounts in accordance with the system of accounts prescribed by a federal agency or authority shall be deemed to be in compliance with the system of accounts prescribed by the commission. Where optional accounting is prescribed by a federal agency or authority, the commission may prescribe which option is to be followed.

Subd. 2. Every public utility engaged directly or indirectly in any other business than that of the production, transmission or furnishing of natural gas or electric service shall, if required by the commission, keep and render separately to the commission in like manner and form the accounts of all such other business, in which case all the provisions of this act shall apply to the books, accounts, papers and records of such other business.

Subd. 3. Every public utility is required to keep and render its books, accounts, papers and records accurately and faithfully in the manner and form prescribed by the commission, and to comply with all directions of the commission relating to such books, accounts, papers and records.

Subd. 4. The commission may require any public utility to file annual reports in such form and of such content, having regard for the provisions of this section, as the commission may require, and special reports concerning any matter about which the commission is authorized to inquire or to keep itself informed. The commission may require such reports to be verified. The basic financial statements in the annual report of a public utility may, at the direction of the public service commission, be examined by an independent certified public accountant and his opinion thereof included in such annual report filed with the commission.

Subd. 5. [AUDIT AND INSPECTION.] The commission may require the examination and audit of all accounts, and all items shall be allocated to the accounts in the manner prescribed by the commission.

Subd. 6. The term public utility as used in this section includes municipal utility.

Sec. 11. [DEPRECIATION RATES AND PRACTICES.] The commission shall fix proper and adequate rates and meth-

ods of depreciation, amortization, or depletion in respect of utility property, including utility property owned by a municipality owned gas or electric utility, and every public and every municipally owned gas and electric utility shall conform its depreciation, amortization or depletion accounts to the rates and methods fixed by the commission.

Sec. 12. [RIGHT OF ENTRANCE; INSPECTION.] Subdivision 1. The commissioners and the duly authorized officers and employees of the department, during business hours, may enter upon any premises occupied by any public utility for the purpose of making examinations and tests and to inspect the accounts, books, papers, and documents of any public utility for the purpose of exercising any power provided for in this act, and may set up and use on such premises any apparatus and appliance necessary therefor. Such public utility shall have the right to be represented at the making of such examinations, tests, and inspections. Such public utility, its officers and employees, shall facilitate such examinations, tests, and inspections by giving every reasonable aid to the commissioners and any person or persons designated by the department for the duties aforesaid.

Subd. 2. The term public utility as used in this section includes municipal utility.

Sec. 13. [PRODUCTION OF RECORDS.] Subdivision 1. The commission may require, by order served on any public utility in the manner provided herein for the service of orders, the production within this state at such reasonable time and place as the commission may designate, of any books, accounts, papers, or records of the public utility relating to its business or affairs within the state, pertinent to any lawful inquiry and kept by said public utility in any office or place within or without this state, or, at its option, verified or photostatic copies in lieu thereof, so that an examination thereof may be made by the commission or under its direction.

Subd. 2. The term public utility as used in this section includes municipal utility.

Sec. 14. [INVESTIGATION.] The commission upon complaint or upon its own initiative and whenever it may deem it necessary in the performance of its duties may investigate and examine the condition and operation of any public utility or any part thereof. In conducting such investigations the commission may proceed either with or without a hearing as it may deem best, but it shall make no order without affording the parties affected thereby a hearing.

Sec. 15. [HEARINGS; EXAMINER.] The commission may, in addition to the hearings specifically provided for by this act, conduct such other hearings as may reasonably be required in the administration of the powers and duties conferred upon it by this act. The commission may designate one of its members

to act as an examiner for the purpose of holding any hearing which the commission has the power or authority to hold or in the event parties to the hearing so stipulate the commission may designate a qualified commission employee as such examiner. Reasonable notice of all such hearings shall be given the persons interested therein as determined by the commission.

Sec. 16. [RATE CHANGES; PROCEDURE; HEARING.] Subdivision 1. Unless the commission otherwise orders, no public utility shall change any rate which has been duly established under this act, except after 30 days notice to the commission, which notice shall state the change proposed to be made in the rates then in force, and the time when the modified rates will go into effect. The commission shall give written notice of the proposed change to the governing body of each municipality and county in the area affected. All proposed changes shall be shown by filing new schedules or shall be plainly indicated upon schedules on file and in force at the time.

Subd. 2. Whenever there is filed with the commission any schedules modifying or resulting in a change in any rate or rates then in force, the commission shall upon complaint or may upon its own motion, upon reasonable notice to the governing bodies of municipalities affected, enter upon a hearing to determine whether such rates are unjust or unreasonable; and pending such hearing and the decision thereon, the commission, upon filing with such schedule of rate or rates and delivering to the utility affected thereby a statement in writing of its reasons therefor at any time before they become effective, may suspend the operation of such schedule of rate or rates, but not for a longer period than 90 days beyond the time when such schedule of rate or rates would otherwise go into effect unless the commission shall find that a longer time will be required, in which case the commission may further extend the period for not to exceed a total of nine months. If the commission does not make a final determination concerning any such schedule of rate or rates within a period of nine months beyond the time when such schedule of rate or rates would otherwise go into effect, under subdivision 1, the schedule shall be deemed to have been approved by the commission.

Subd. 3. Notwithstanding any order of suspension of a proposed increase in rates, the public utility may put the suspended schedule into effect on the date when it would have become effective if not suspended, or any date subsequent thereto within such suspension period, by filing with the commission a bond in an amount approved by the commission with sureties approved by the commission, conditioned upon the refund, in a manner to be prescribed by order of the commission, of the excess in increased rates, including interest thereon which shall be at the current rate of interest as determined by the commission, collected during the period of the suspension if the schedule so put into effect is finally disallowed by the commission. There may be substituted for such bond other arrangements satisfactory to the commission

for the protection of persons affected. If the public utility fails to make refunds within the period of time prescribed by the commission, the commission shall sue therefor and is authorized to recover in behalf of all persons entitled to a refund. In addition to the amount of the refund and interest due, the commission shall be entitled to recover reasonable attorney's fees, court costs and estimated cost of administering the distribution of the refund to persons entitled thereto. No suit under this subdivision shall be maintained unless instituted within two years after the end of the period of time prescribed by the commission for repayment of refunds. However, no public utility shall put a suspended rate schedule into effect as provided by this subdivision until at least 90 days after the commission has made a determination concerning any previously filed change of said rate schedule or the change has otherwise become effective under subdivision 2.

Subd. 4. The burden of proof to show that any such rate change is just and reasonable shall be upon the public utility seeking the change.

Subd. 5. If, after such hearing, the commission finds any such rate or rates to be unjust or unreasonable or discriminatory, the commission shall determine the level of rates to be charged or applied by the utility for the service in question and shall fix the same by order to be served upon the utility; and such rates are thereafter to be observed until changed, as provided by this act. In no event shall such rates exceed the level of rates requested by the public utility, except that individual rates may be adjusted upward or downward.

Subd. 6. The commission, in the exercise of its powers under this act to determine just and reasonable rates for public utilities, shall give due consideration to the public need for adequate, efficient, and reasonable service and to the need of the public utility for revenue sufficient to enable it to meet the cost of furnishing such service, including adequate provision for depreciation of its utility property used and useful in rendering service to the public, and to earn a fair and reasonable return upon the investment in such property. In determining the rate base upon which the utility is to be allowed to earn a fair rate of return, the commission shall give due consideration to evidence of the cost of the property when first devoted to public use, to prudent acquisition cost to the public utility less appropriate depreciation on each, to construction work in progress, to offsets in the nature of capital provided by sources other than the investors, and any other factors or evidence material and relevant thereto. To the extent that construction work in progress is included in the rate base, the income used in determining the actual return on the public utility property shall include an allowance for funds used during construction. In setting just and reasonable rates the commission shall give the utility a reasonable opportunity of earning a fair rate of return on its rate base during the period that said rates are to be in effect.

Subd. 7. Notwithstanding any other provision of this act, the commission may permit a public utility to file rate schedules containing provisions for the automatic adjustment of charges for public utility service in direct relation to changes in federally regulated wholesale rates for energy delivered through interstate facilities or fuel used in generation of electricity or the manufacture of gas.

Sec. 17. [COMPLAINTS.] Subdivision 1. On its own motion or upon a complaint made against any public utility by the governing body of any political subdivision, by another public utility, or by any 50 consumers of the particular utility that any of the rates, tolls, tariffs, charges, or schedules or any joint rate or any regulation, measurement, practice, act or omission affecting or relating to the production, transmission, delivery or furnishing of natural gas or electricity or any service in connection therewith is in any respect unreasonable, insufficient or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission shall proceed, with notice, to make such investigation as it may deem necessary. The commission may dismiss any complaint without a hearing if in its opinion a hearing is not in the public interest.

Subd. 2. The commission shall, prior to any formal hearing, notify the public utility complained of that a complaint has been made, and ten days after such notice has been given the commission may proceed to set a time and place for a hearing and an investigation as hereinafter provided.

Subd. 3. The commission shall give the public utility and the complainant, ten days notice of the time and place when and where such hearing will be held and such matters to be considered and determined. Both the public utility and complainant shall be entitled to be heard and be represented by counsel.

Subd. 4. Notice shall also be given to the governing bodies of affected municipalities and counties, and to such other persons as the commission shall deem necessary.

Subd. 5. The notice provided for in subdivisions 2 and 3 may be combined but if combined the notice shall not be less than ten days.

Subd. 6. The commission shall have the power to hear, determine and adjust complaints made against any municipally owned gas or electric utility with respect to rates and services upon petition of ten percent of the non-resident consumers of such municipally owned utility or 25 such non-resident consumers whichever is less. The hearing of such complaints shall be governed by subdivisions 1 through 5 of this section.

Subd. 7. Minnesota Statutes, Section 15.0419, shall be applicable to all contested cases before the commission.

Sec. 18. [SERVICE OF NOTICE.] Service of notice of all hearings, investigations and proceedings pending before the commission and of complaints, reports, orders and other documents shall be made personally or by mail as the commission may direct.

Sec. 19. [JOINT HEARINGS AND INVESTIGATIONS.] In the discharge of its duties under this act, the commission may cooperate with similar commissions of states and any federal agency and may hold joint hearings and make joint investigations with such commissions.

Sec. 20. [SEPARATE RATE HEARINGS.] The commission may, in its discretion, when complaint is made of more than one rate or charge, order separate hearings thereon, and may consider and determine the several matters complained of separately and at such times as it may prescribe.

Sec. 21. [SUMMARY INVESTIGATIONS.] Subdivision 1. Whenever the commission shall believe that any rate or charge may be unreasonable or unjustly discriminatory or that any service is inadequate or cannot be obtained or that an investigation of any matter relating to any public utility should for any reason be made, it may on its own motion summarily investigate the same with or without notice.

Subd. 2. If, after making such summary investigation, the commission becomes satisfied that sufficient grounds exist to warrant a formal hearing being ordered as to the matters investigated, it shall set a time and place for a hearing.

Subd. 3. Notice of the time and place for such hearing shall be made as provided in section 18 of this act.

Sec. 22. [LAWFUL RATES; REASONABLE SERVICE.] Subdivision 1. Whenever upon an investigation made under the provisions of this act, the commission shall find rates, tolls, charges, schedules or joint rates to be unjust, unreasonable, insufficient or unjustly discriminatory or preferential or otherwise unreasonable or unlawful, the commission shall determine and by order fix reasonable rates, tolls, charges, schedules or joint rates to be imposed, observed and followed in the future in lieu of those found to be unreasonable or unlawful.

Subd. 2. Whenever the commission shall find any regulations, measurements, practices, acts or service to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise unreasonable or unlawful, or shall find that any service which can be reasonably demanded cannot be obtained, the commission shall determine and by order fix reasonable measurements, regulations, acts, practices or service to be furnished, imposed, observed and followed in the future in lieu of those found to be unreasonable, inadequate or otherwise unlaw-



ful, and shall make such other order respecting such measurement, regulation, act, practice or service as shall be just and reasonable.

Subd. 3 A copy of such order shall be served upon the person against whom it runs or his attorney, and notice thereof shall be given to the other parties to the proceedings or their attorneys.

Sec. 23. [CONSTRUCTION OF FACILITIES; COMMISSION APPROVAL.] Subdivision 1. The words "major utility facility" shall mean: (1) electric generating plant and associated facilities designed for, or capable of, operation at a capacity of 50 megawatts or more; (2) an electric transmission line and associated facilities of a design capacity of 125 kilovolts or more; and (3) a gas transmission line and associated facilities designed for, or capable of, transporting gas at pressures in excess of 125 pounds per square inch; provided, however, that the words "major utility facility" shall not include electric or gas distribution lines and gas gathering lines and associated facilities as defined by the commission.

Subd. 2. Under such rules and regulations as the commission may prescribe, every public utility shall file with the commission, within such time and in such form as the commission may designate, plans showing any contemplated construction of major utility facilities.

Subd. 4. The provisions of this section shall apply to the construction of major utility facilities by a municipally owned gas or electric utility.

Sec. 24. [CHANGE; AMENDMENT; RECISION OF ORDERS.] The commission may at any time, on its own motion or upon motion of an interested party, and upon notice to the public utility and after opportunity to be heard, rescind, alter or amend any order fixing rates, tolls, charges or schedules, or any other order made by the commission, and may reopen any case following the issuance of an order therein, for the taking of further evidence or for any other reason. Any order rescinding, altering, amending or reopening a prior order shall have the same effect as an original order.

Sec. 25. [ORDERS; EFFECTIVE DATE.] Every decision made by the commission constituting an order or determination shall be in force and effective 20 days after the same has been filed and has been served by personal delivery or by mailing a copy thereof to all parties to the proceeding in which such decision was made or to their attorneys, unless the commission shall specify a different date upon which the same shall be effective.

Sec. 26. [REHEARINGS BEFORE COMMISSION; CONDITION PRECEDENT TO JUDICIAL REVIEW.] Subdivision 1.

Within 20 days after the service by the commission of any decision constituting an order or determination, any party to the proceeding and any other person, aggrieved by such decision and directly affected thereby, may apply to the commission for a rehearing in respect to any matters determined in said decision. The commission may grant and hold such rehearing on said matters, or upon such of them as it may specify in the order granting such rehearing, if in its judgment sufficient reason therefor exists.

Subd. 2. The application for a rehearing shall set forth specifically the ground or grounds on which the applicant contends said decision to be unlawful or unreasonable. No cause of action arising out of any decision constituting an order or determination of the commission or any proceeding for the judicial review thereof shall accrue in any court to any person or corporation unless the plaintiff or petitioner in such action or proceeding within 20 days after the service of said decision, shall have made application to the commission for a rehearing in the proceeding in which such decision was made. No person or corporation shall in any court urge or rely on any ground not so set forth in said application for rehearing.

Subd. 3. Applications for rehearing shall be governed by such general rules as the commission may establish. In case a rehearing is granted the proceedings thereupon shall conform as nearly as may be to the proceedings in an original hearing, except as the commission may otherwise direct. If in the commission's judgment, after such rehearing, it shall appear that the original decision, order or determination is in any respect unlawful or unreasonable, the commission may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination. Only one rehearing shall be granted by the commission; but this shall not be construed to prevent any party from filing a new application or complaint. No order of the commission shall become effective while an application for a rehearing or a rehearing shall be pending and until ten days after such application for a rehearing is either denied, expressly or by implication, or the commission has announced its final determination on rehearing.

Subd. 4. Any application for a rehearing not granted within 20 days from the date of filing thereof, may be taken to be denied.

Subd. 5. It is hereby declared that the legislative powers of the state, in so far as they are involved in the issuance of orders and decisions by the commission, have not been completely exercised until the commission has acted upon an application for rehearing, as provided for by this section and by the rules of

the commission, or until such application for rehearing has been denied by implication, as above provided for.

Sec. 27. [SUBPOENA; WITNESSES; FEES; AND MILEAGE.] The commission and each commissioner, or the secretary of the commission may issue subpoenas and all necessary processes in proceedings pending before it; and such process shall extend to all parts of the state and may be served by any person authorized to serve processes of courts of record. Each witness who shall appear before the commission, or at a hearing before one of the individuals designated by it as provided in section 15 of this act, or whose deposition is taken, shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of record.

Sec. 28. [OATHS; CONTEMPT; EXAMINER'S POWERS.] The commission and each of the commissioners or authorized examiner, for the purpose mentioned in this act, may administer oaths and examine witnesses. In case of failure on the part of any person to comply with any subpoena, or in the case of the refusal of any witness to testify concerning any matter on which he may be interrogated lawfully, any court of record of general jurisdiction or a judge thereof, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

Sec. 29. [DEPOSITIONS.] The commission or any party to the proceedings may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

Sec. 30. [TESTIMONY AND PRODUCTION OF RECORDS; PERJURY.] No person shall be excused from testifying or from producing any book, document, paper, or account in any investigation, or inquiry by, or hearing before, the commission or any commissioner, or person designated by it to conduct hearings, when ordered to do so, upon the ground that the testimony or evidence, book, document, paper, or account required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished, or subjected to any forfeiture or penalty for or on account of any act, transaction, matter, or thing concerning which he shall have been compelled under oath to testify or produce documentary evidence; provided, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

Sec. 31. [COPIES OF DOCUMENTS AS EVIDENCE.] Copies of official documents and orders filed or deposited according to law in the office of the commission, certified by a commissioner or by the secretary under the official seal of the commission to be true copies of the original shall be evidence

in like manner as the originals, in all matters before the commission and in the courts of this state.

Sec. 32. [ORDERS AND FINDINGS IN WRITING.] Every order, finding, authorization, or certificate issued or approved by the commission under any provisions of this act shall be in writing and filed in the office of the secretary of the commission. A certificate under the seal of the commission that any such order, finding, authorization, or certificate has not been modified, stayed, suspended, or revoked, shall be received as evidence in any proceedings as to the facts therein stated.

Sec. 33. [PUBLIC RECORDS.] All decisions, transcripts, and orders of the commission shall be public records.

Sec. 34. [TRANSCRIBED RECORD TO BE KEPT.] A full and complete record shall be kept of all proceedings at any formal hearing had before the commission or any commissioner or hearing examiner and all testimony shall be taken down by a reporter appointed by the commission. A copy of such transcript shall be furnished on demand to any party to the proceedings upon payment of reasonable costs of reproduction.

Sec. 35. [FRANCHISES CONTINUED.] Any public utility furnishing the utility services enumerated in this act or occupying streets, highways, or other public property within a municipality may be required to obtain a license, permit, right or franchise in accordance with the terms, conditions, and limitations of regulatory acts of the municipality, including the placing of distribution lines and facilities underground, and under such license, permit, right, or franchise, the utility may be obligated by any municipality, home rule or statutory, to pay to the municipality fees to raise revenue or defray increased municipal costs accruing as a result of utility operations, or both, including but not limited to a sum of money based upon gross operating revenues or gross earnings from its operations in such municipality so long as such public utility shall continue to operate in such municipality, unless upon request of the public utility it is expressly released from such obligation at any time by such municipality. All existing licenses, permits, franchises and other rights acquired by any public utility or municipality prior to the passage of this act including the payment of existing franchise fees, shall not be impaired or affected in any respect by the passage of this act, except with respect to matters of rate and service regulation and service area assignments that have been vested to the jurisdiction of the commission by this act. However, in the event that a court of competent jurisdiction determines, or the parties by mutual agreement determine, that an existing license, permit, franchise or other right has been abrogated or impaired by this act, or its execution, the municipality affected shall impose and the public utility shall collect an excise tax on the utility charges which from year to year yields an amount which is reasonably equivalent to that amount of revenue which

then would be due as a fee, charges or other thing or service of value to the municipality under the franchise, license or permit. Such authorization shall be over and above taxing limitations including, but not limited to those of section 477A.01, subdivision 18. Franchises granted pursuant to this section shall be exempt from the provisions of Laws 1973, Chapter 612.

Sec. 36. [ASSIGNED SERVICE AREAS; ELECTRIC UTILITIES.] Subdivision 1. [LEGISLATIVE POLICY.] It is hereby declared to be in the public interest that, in order to encourage the development of coordinated statewide electric service at retail, to eliminate or avoid unnecessary duplication of electric utility facilities, and to promote economical, efficient, and adequate electric service to the public, the state of Minnesota shall be divided into geographic service areas within which a specified electric utility will provide electric service to customers on an exclusive basis.

Sec. 37. [DEFINITIONS.] For the purpose of sections 36 through 43 only, the following definitions shall apply:

Subdivision 1. "Person" means a natural person, a partnership, private corporation, a public corporation, a municipality, an association, a cooperative whether incorporated or not, a joint stock association, a business trust, any political subdivision or agency, or two or more persons having joint or common interest.

Subd. 2. "Customer" means a person contracting for or purchasing electric service at retail from an electric utility.

Subd. 3. "Electric service" means electric service furnished to a customer at retail for ultimate consumption, but does not include wholesale electric energy furnished by an electric utility to another electric utility for resale.

Subd. 4. "Electric line" means lines for conducting electric energy at a design voltage of 25,000 volts phase to phase or less used for distributing electric energy directly to customers at retail.

Subd. 5. "Electric utility" means persons, their lessees, trustees, and receivers, separately or jointly, now or hereafter operating, maintaining or controlling in Minnesota equipment or facilities for providing electric service at retail and which fall within the definition of "public utility" in section 2, subdivision 4, and includes such facilities owned by a municipality.

Subd. 6. "Assigned service area" means the geographical area in which the boundaries are established as provided in section 38 hereof.

Subd. 7. "Municipality" shall mean and include any city, however organized, and any village or borough.

Sec. 38. [ASSIGNED SERVICE AREAS.] Subdivision 1. On or before six months from the effective date of this act, or, when requested in writing by an electric utility and for good cause shown, such further time as the commission may fix by order, each electric utility shall file with the commission a map or maps showing all its electric lines outside of incorporated municipalities as they existed on the effective date of this section. Each electric utility shall also submit in writing a list of all municipalities in which it provides electric service on the effective date of this act. Where two or more electric utilities serve a single municipality, the commission may require each such utility to file with the commission a map showing its electric lines within such municipality.

Subd. 2. On or before 12 months from the effective date of this section, the commission shall after notice and hearing establish the assigned service area or areas of each electric utility and shall prepare or cause to be prepared a map or maps to accurately and clearly show the boundaries of the assigned service area of each electric utility.

Subd. 3. To the extent that it is not inconsistent with the legislative policy stated in subdivision 1 of section 36, the boundaries of each assigned service area, outside of incorporated municipalities, shall be a line equidistant between the electric lines of adjacent electric utilities as they exist on the effective date of this section; provided that these boundaries may be modified by the commission to take account of natural and other physical barriers including, but not limited to, highways, waterways, railways, major bluffs, and ravines and shall be modified to take account of the contracts provided for in subdivision 4; and provided further that at any time after the effective date of the section, the commission may on its own or at the request of an electric utility make changes in the boundaries of the assigned service areas, but only after notice and hearing as provided for in section 17.

Subd. 4. Contracts between electric utilities, which are executed on or before 12 months from the effective date of this section, designating service areas and customers to be served by such electric utilities when approved by the commission shall be valid and enforceable and shall be incorporated into the appropriate assigned service areas. The commission shall approve such a contract if it finds that the contract will eliminate or avoid unnecessary duplication of facilities, will provide adequate electric service to all areas and customers affected and will promote the efficient and economical use and development of the electric systems of the contracting electric utilities.

Subd. 5. Where a single electric utility provides electric service within a municipality on the effective date of this section, that entire municipality shall constitute a part of the assigned service area of the electric utility in question. Where two or more electric utilities provide electric service in a municipality on the

effective date of this section, the boundaries of the assigned service areas shall conform to those contained in municipal franchises with such electric utilities on the effective date of this section. In the absence of such franchises, the boundaries of the assigned service areas within an incorporated municipality shall be a line equidistant between the electric lines of the electric utilities as they exist on the effective date of this section; provided that these boundaries may be modified by the commission to take account of natural and other physical barriers including, but not limited to, major streets or highways, waterways, railways, major bluffs and ravines and shall be modified to take account of the contracts provided for in subdivision 4.

Subd. 6. In those areas where, on the effective date of this section, the existing electric lines of two or more electric utilities are so intertwined that subdivisions 2 through 5 cannot reasonably be applied, the commission shall determine the boundaries of the assigned service areas for the electric utilities involved as will promote the legislative policy in section 36, subdivision 1.

Sec. 39. [EXCLUSIVE SERVICE RIGHTS.] Each electric utility shall have the exclusive right to provide electric service at retail to each and every present and future customer in its assigned service area and no electric utility shall render or extend electric service at retail within the assigned service area of another electric utility unless said electric utility consents thereto in writing except as provided in section 41; provided that any electric utility may extend its facilities through the assigned service area of another electric utility if such an extension is necessary to facilitate such electric utility connecting its facilities or customers within its own assigned service area.

Sec. 40. [EFFECT OF INCORPORATION, ANNEXATION, OR CONSOLIDATION.] After the effective date of this section, the inclusion by incorporation, consolidation, or annexation of any part of the assigned service area of an electric utility within the boundaries of any municipality shall not in any respect impair or affect the rights of such electric utility to continue and extend electric service at retail throughout such parts of its assigned service area unless a municipality which owns and operates an electric utility elects to purchase the facilities and property of such electric utility as provided in section 43 of this act.

Sec. 41. [SERVICE EXTENSIONS IN CERTAIN SITUATIONS.] Subdivision 1. Notwithstanding the establishment of assigned service areas for electric utilities provided for in section 38, customers located outside municipalities and who require electric service with a connected load of 2,000 kilowatts or more shall not be obligated to take electric service from the electric utility having the assigned service area where such customer is located if, after notice and hearing, the commission so determines after consideration of following factors:

- (a) the electric service requirements of the load to be served;
- (b) the availability of an adequate power supply;
- (c) the development or improvement of the electric system of the utility seeking to provide the electric service, including the economic factors relating thereto;
- (d) the proximity of adequate facilities from which electric service of the type required may be delivered;
- (e) the preference of the customer;
- (f) any and all pertinent factors affecting the ability of the utility to furnish adequate electric service to fulfill customers' requirements.

Subd. 2. Notwithstanding the provisions in section 38, any electric utility may extend electric lines for electric service to its own utility property and facilities.

Sec. 42. [HEARINGS; COMPLAINTS.] Upon the filing of an application under section 41 or upon complaint by an affected utility that the provisions of sections 38 through 41 have been violated, the commission shall hold a hearing, upon notice, within 15 days after the filing of such application of complaint, and shall render its decision within 30 days after said hearing.

Sec. 43. [SERVICE EXTENSIONS IN ANNEXED AREAS; MUNICIPAL PURCHASE.] Notwithstanding the provisions of sections 40 through 42 sections 37 and 38 of this act, whenever a municipality which owns and operates an electric utility extends its corporate boundaries through annexation or consolidation, such municipality shall thereafter furnish electric service to the annexed area unless the area is already receiving electric service from an electric utility, in which event, the annexing municipality may purchase the facilities of the electric utility serving the annexed area. The municipality acquiring the facilities shall pay to the utility formerly serving the annexed area the appropriate value of its properties within such area which payment may be by exchange of other electric utility property outside the municipality on an appropriate basis giving due consideration to revenue from and value of the respective properties. In the event the municipality and the electric utility involved are unable to agree as to the terms of the payment or exchange, the municipality or the electric utility may file an application with the commission requesting that the commission determine the appropriate terms for the exchange or sale. After notice and hearing, the commission shall determine appropriate terms for an exchange, or in the event no appropriate properties can be exchanged, the commission shall fix and determine the appropriate value of the property within the annexed area, and the transfer shall be made as directed by the commission. In making that



determination the commission shall consider the original cost of the property, less depreciation, loss of revenue to the utility formerly serving the area, expenses resulting from integration of facilities, and other appropriate factors. Until the determination by the commission, the facilities shall remain in place and service to the public shall be maintained by the owner. However, the electric utility being displaced, serving the annexed area, shall not extend service to any additional points of delivery within the annexed area if the commission, after notice and hearing, with due consideration of any unnecessary duplication of facilities, shall determine that the extension is not in the public interest.

When property of a public utility located within an area annexed to a municipality which owns and operates a public utility is proposed to be acquired by such municipality, ratification by the electors is not required.

Sec. 44. [MUNICIPAL PURCHASE OF PUBLIC UTILITY.] Any public utility operating in a municipality under a license, permit, right or franchise shall be deemed to have consented to the purchase by the municipality, for just compensation, of its property operated in such municipality under such license, permit, right or franchise. The municipality, subject to the provisions of this act, may purchase such property upon notice to the public utility as herein provided. Whenever the commission is notified by the municipality or the public utility affected that the municipality has, pursuant to law, determined to purchase the property of the public utility, and that the parties to the purchase and sale have been unable to agree on the amount to be paid and received therefor, the commission shall set a time and place for a public hearing; after not less than 30 days notice to the parties, upon the matter of just compensation or the matter of the property to be purchased. Within a reasonable time the commission shall, by order, determine the just compensation for the property to be purchased by the municipality. In determining just compensation, the commission shall consider the original cost of the property less depreciation, loss of revenue to the utility, expenses resulting from integration of facilities and other appropriate factors. The order of the commission may be reviewed as hereinafter provided in this act. Commission expenses arising out of the exercise of its jurisdiction under this section shall be assessed to the municipality.

Sec. 45. [MUNICIPAL PROCEDURE; NOTICE; ELECTION.] Any municipality which desires to acquire the property of a public utility as authorized under the provisions of section 37 of this act may determine to do so by resolution of the governing body of such municipality taken after a public hearing of which at least 30 days published notice shall be given as determined by the governing body. Such determination shall become effective when ratified by a majority of the qualified electors voting on the question at a special election to be held for that pur-

pose, not less than 60 nor more than 120 days after the resolution of the governing body of such municipality.

Sec. 46. [ACQUISITION BY EMINENT DOMAIN.] Nothing in this act shall be construed to preclude a municipality from acquiring the property of a public utility by eminent domain proceedings; provided that damages to be paid in eminent domain proceedings shall include the original cost of the property less depreciation, loss of revenue to the utility, expenses resulting from integration of facilities, and other appropriate factors.

Sec. 47. [RELATIONS WITH AFFILIATED INTERESTS.] Subdivision 1. "Affiliated interests" with a public utility means and includes the following:

(a) Every corporation and person owning or holding directly or indirectly five percent or more of the voting securities of such public utility.

(b) Every corporation and person in any chain of successive ownership of five percent or more of voting securities.

(c) Every corporation five percent or more of whose voting securities is owned by any person or corporation owning five percent or more of the voting securities of such public utility or by any person or corporation in any such chain of successive ownership of five percent or more of voting securities.

(d) Every person who is an officer or director of such public utility or of any corporation in any chain of successive ownership of five percent or more of voting securities.

(e) Every corporation operating a public utility or a servicing organization for furnishing supervisory, construction, engineering, accounting, legal and similar services to utilities, which has one or more officers or one or more directors in common with such public utility, and every other corporation which has directors in common with such public utility where the number of such directors is more than one-third of the total number of the utility's directors.

(f) Every corporation or person which the commission may determine as a matter of fact after investigation and hearing is actually exercising any substantial influence over the policies and actions of such public utility even though such influence is not based upon stockholding, stockholders, directors or officers to the extent specified in this section.

(g) Every person or corporation who or which the commission may determine as a matter of fact after investigation and hearing is actually exercising such substantial influence over the policies and actions of such public utility in conjunction with

one or more other corporations or persons with which or whom they are related by ownership or blood relationship or by action in concert that together they are affiliated with such public utility within the meaning of this section even though no one of them alone is so affiliated.

Subd. 2. Provided, however, that in subdivision 1 of this section the term "person" shall not be construed to exclude trustees, lessees, holders of beneficial equitable interest, voluntary associations, receivers and partnerships.

Subd. 3. No contract or arrangement providing for the furnishing of management, supervisory, construction, engineering, accounting, legal, financial or similar services, and no contract or arrangement for the purchase, sale, lease or exchange of any property, right, or thing, or for the furnishing of any service, property, right, or thing, other than those above enumerated, made or entered into after the effective date of this act between a public utility and any affiliated interest as defined in this act, shall be valid or effective unless and until such contract or arrangement has received the written approval of the commission. It shall be the duty of every public utility to file with the commission a verified copy of any such contract or arrangement, or a verified summary of any such unwritten contract or arrangement, and also of all such contracts and arrangements, whether written or unwritten, entered into prior to said date and in force and effect at that time. The commission shall approve such contract or arrangement made or entered into after said date only if it shall clearly appear and be established upon investigation that it is reasonable and consistent with the public interest. No such contract or arrangement shall receive the commission's approval unless satisfactory proof is submitted to the commission of the cost to the affiliated interest of rendering the services or of furnishing the property or service described herein to each public utility. No proof shall be satisfactory within the meaning of the foregoing sentence unless it includes the original (or verified copies) of the relevant cost records and other relevant accounts of the affiliated interest, or such abstract thereof or summary taken therefrom as the commission may deem adequate, properly identified and duly authenticated, provided, however, that the commission may, where reasonable, approve or disapprove such contracts or arrangements without the submission of such cost records or accounts. The burden of proof to establish the reasonableness of any such contract or arrangement shall be on the public utility.

Subd. 4. The provisions of this section requiring the written approval of the commission shall not apply to transactions with affiliated interests where the amount of consideration involved is not in excess of \$10,000 or five percent of the capital equity of the utility whichever is smaller; provided, however, that regularly recurring payments under a general or continuing arrangement which aggregate a greater annual amount shall not be broken down into a series of transactions to come within the

aforesaid exemption. Such transactions shall be valid or effective without commission approval under this section. However, in any proceeding involving the rates or practices of the public utility, the commission may exclude from the accounts of such public utility any payment or compensation made pursuant to such transaction unless the public utility shall establish the reasonableness of such payment or compensation.

Subd. 5. In any proceeding, whether upon the commission's own motion or upon application or complaint, involving the rates or practices of any public utility, the commission may exclude from the accounts of such public utility any payment or compensation to an affiliated interest for any services rendered or property or service furnished, as above described, under existing contracts or arrangements with such affiliated interest unless such public utility shall establish the reasonableness of such payment or compensation.

Subd. 6. The commission shall have continuing supervisory control over the terms and conditions of such contracts and arrangements as are herein described so far as necessary to protect and promote the public interest. The commission shall have the same jurisdiction over the modifications or amendment of contracts or arrangements as are herein described as it has over such original contracts or arrangements. The fact that the commission shall have approved entry into such contracts or arrangements as described herein shall not preclude disallowance or disapproval of payments made pursuant thereto, if upon actual experience under such contract or arrangement it appears that the payments provided for or made were or are unreasonable.

Subd. 7. The provisions of this section shall not apply to cooperative electric associations.

Franchises granted pursuant to this section shall be exempt from the provisions of Laws 1973, Chapter 612.

Sec. 48. [SECURITIES.] Subdivision 1. For the purpose of this section, "security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; assumption of any obligation or liability as a guarantor, endorser, surety, or otherwise in the security of another person; certificate of interest or participation in any profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable shares; investment contract; voting trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining right; title or lease or in payments out of production under such a right, title or lease; or, in general, any interest or instrument commonly known as a security, or any certificate for, receipt for guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

Subd. 2. For the purpose of this section, "capital structure" is the total capitalization of the public utility including, but not

limited to, all outstanding common stock, preferred stock, and the permanent financing of said public utility represented by long term debt, and shall further include retained earnings and paid in surplus in excess of par values.

Subd. 3. It shall be unlawful for any public utility organized under the laws of this state to offer or sell any security or, if organized under the laws of any other state or foreign country, to subject property in this state to an encumbrance for the purpose of securing the payment of any indebtedness unless the capital structure of said public utility shall first be approved by the commission. Approval by the commission shall be by formal written order.

Subd. 4. Upon the application of a public utility for approval of its capital structure prior to the issuance of any security or the encumbrance of any property for the purpose of securing the payment of any indebtedness, the commission may make such inquiry or investigation, hold such hearings, and examine such witnesses, books, papers, documents, or contracts, as in its discretion it may deem necessary. Prior to approval the commission shall ascertain that the amount of securities of each class which any public utility may issue shall bear a reasonable proportion to each other and to the value of the property, due consideration being given to the nature of the business of the public utility, its credit and prospects, the possibility that the value of the property may change from time to time, the effect which such issue shall have upon the management and operation of the public utility, and other considerations which the commission as a matter of fact shall find to be relevant. If the commission shall find that the proposed capital structure is reasonable and proper and in the public interest and will not be detrimental to the interests of the consumers and patrons affected thereby, the commission shall by written order grant its permission for the proposed public financing.

Subd. 5. The requirements of this section are in addition to any other requirements of law and, specifically, the requirements of Chapter 451 of the Laws of Minnesota, 1973, and the rules and regulations promulgated pursuant thereto.

Subd. 6. The provisions of this section shall not apply to cooperative electric associations.

Sec. 49. [ACQUIRING PROPERTY; MERGER.] Subdivision 1. No public utility shall sell, acquire, lease, or rent any plant as an operating unit or system in this state for a total consideration in excess of \$100,000, or merge or consolidate with another public utility operating in this state, without first being authorized so to do by the commission. Upon the filing of an application for the approval and consent of the commission thereto the commission shall investigate the same, with or without public hearing, and in case of a public hearing upon such notice as the commission may require, and if it shall find that the proposed

action is consistent with the public interest it shall give its consent and approval by order in writing. In reaching its determination the commission shall take into consideration the reasonable value of the property, plant, or securities to be acquired or disposed of, or merged and consolidated. The provisions of this section shall not be construed as applicable to the purchase of units of property for replacement or to the addition to the plant of the public utility by construction.

Subd. 2. The provisions of this section shall not apply to cooperative electric associations.

Subd. 3. Mergers and consolidations as enumerated in subdivision 1 hereof shall be exempt from the provisions of Laws 1973, Chapter 331.

Sec. 50. [STOCK PURCHASE.] Subdivision 1. No public utility shall purchase voting stock in another public utility doing business in Minnesota without first having made application to and received the consent of the commission in writing or by order.

Subd. 2. The provisions of this section shall not apply to cooperative electric associations.

Subd. 3. Mergers and consolidations as enumerated in subdivision 1 hereof shall be exempt from the provisions of Laws 1973, Chapter 331.

Sec. 51. [APPEALS.] Subdivision 1. Any party to a proceeding before the commission or any other person, aggrieved by such decision and order and directly affected thereby, shall be entitled to appeal from such decision and order of the commission. Such proceedings shall be instituted by serving a notice of appeal personally or by registered mail upon the commission or one of its members or upon its secretary, and by filing such notice in the office of the clerk of the district court of the county of Ramsey or of the county in which the appellant resides or maintains his principal place of business, all within 30 days after the service of the order and decision of the commission or in cases where a rehearing is requested within 30 days after service of the order finally disposing of the application for such rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The notice shall state the nature of the appellant's interest, the facts showing that the appellant is aggrieved and directly affected by the decision, and the grounds upon which the appellant contends that the decision should be reversed or modified. Copies of the notice shall be served, personally or by registered mail, not later than 30 days after the institution of the appeal, upon all parties who appeared before the commission in the proceeding in which the order sought to be reviewed was made. The commission and all parties to the proceeding before it, shall have the right to par-

ticipate in the appeal. The court, in its discretion, may permit other interested parties to intervene.

Subd. 2. Every person served with a notice of appeal as provided in this section and who desires to participate in the appeal thereby instituted shall serve upon the appellant, within 20 days after the service of the notice upon such person, a notice of appearance stating his position with reference to the affirmance, vacation, or modification of the order or decision under appeal. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within ten days after such service. Service of all subsequent papers or notices in such appeal need be made only upon the appellant and such other persons as have served and filed the notice as herein provided or have been permitted to intervene in said proceeding, as parties thereto, by order of the court.

Subd. 3. Within 30 days after service of the notice of appeal upon the commission, or within such further time as the court may allow, the commission shall transmit to the court the original or a certified copy of the entire record of the proceedings in which the decision under appeal was made, including all pleadings, notices, testimony, exhibits, findings, decisions, orders, and exceptions, therein; but by stipulation of all parties to the appeal the record may be shortened by eliminating any portion thereof. The cost of preparing the transcript of the testimony, objections, rulings thereon, and exceptions, shall be paid by the appellant to the official reporter of the commission. Any party, other than the commission, refusing to stipulate to limit the record may be taxed by the court for the additional costs.

Subd. 4. The appeal shall be conducted by the court without a jury and shall be confined to the record, arguments and brief, except that in cases of alleged irregularities in procedure before the commission testimony thereon may be taken in the court. The court may affirm the decision of the commission or may reverse or modify it.

Subd. 5. Any party, including the commission, may secure a review of the final judgment of the district court by appeal to the supreme court. Such appeal shall be taken in the manner provided by law for appeals from the district court in other civil cases, except that the time for appeal shall be limited to 30 days from the notice of entry of the judgment.

Sec. 52. [SUSPENSION OF COMMISSION ORDERS.] The pendency of proceedings on appeal shall not of itself stay or suspend the operation of the order of the commission, but during the pendency of such proceedings the court in its discretion may stay or suspend, in whole or in part, the operation of the commission's order on such terms as it deems just, and in accor-

dance with the practice of courts exercising equity jurisdiction, but no such stay shall be granted without notice to the parties and opportunity to be heard by the court. Any party shall have the right to secure from the court in which an appeal of an order of the commission is sought an order suspending or staying the operation of an order of the commission, pending an appeal of such order, but no commission order relating to rates or rules and regulations shall be stayed or suspended absent a finding that great or irreparable damage would otherwise result to the party seeking the stay or suspension, and any order staying or suspending a commission order shall specify the nature of the damage.

In case the order of the commission is stayed or suspended, the court shall require a bond with good and sufficient surety, conditioned that the public utility petitioning for review shall answer for all damages caused by the delay in enforcing the order of the commission, and for all compensation for whatever sums or transmission or service any person shall be compelled to pay pending review proceedings in excess of the sum such person or corporation would have been compelled to pay had the commission's order not been stayed or suspended. The court, may, in addition or in lieu of the bond require such other further security for the payment of such excess damages or charges as it may deem proper.

Sec. 53. [ACTIONS BY COMMISSION; ATTORNEY GENERAL TO INSTITUTE.] Whenever the commission shall be of the opinion that any person or public utility is failing or omitting or is about to fail or omit to do anything required of it by this act or by any order of the commission, or is doing anything or about to do anything, or permitting anything or about to permit anything to be done, contrary to or in violation of this act or of any order of the commission, it may direct the attorney general to commence an action or proceeding in the district court of Ramsey County, in the name of the state of Minnesota, for the purpose of having such violations stopped and prevented by injunction. The attorney general shall thereupon begin such action or proceeding by petition to such court alleging the violation or threatened violation complained of, and praying for appropriate relief by way of injunction. It shall thereupon be the duty of the court to specify a time, not exceeding 20 days after the service of the copy of the petition, within which the public utility or person complained of must plead, and in the meantime said public utility or person may for good cause shown be restrained. In case of default, the court shall immediately inquire into the facts and circumstances of the case. Such corporations or persons as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order, or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that an injunction issue or be made permanent as prayed for in the petition, or in such modified or other form as will af-



ford appropriate relief. An appeal upon the record may be taken as in other civil actions.

Sec. 54. [PRIORITY OF ACTION.] All actions and proceedings under this act, and all actions or proceedings to which the commission or the state of Minnesota may be parties, and in which any question arises under this act, or under or concerning any order or decision of the commission, shall be preferred over all other civil causes, except election causes, irrespective of position on the calendar.

Sec. 55. [BURDEN OF PROOF.] In all proceedings before the commission in which the modification or vacation of any order of the commission is sought, the burden of proof shall be on the person seeking such modification or vacation.

Sec. 56. [PENALTIES.] Any person who knowingly and intentionally violates any provision of this act, or who knowingly and intentionally fails, omits, or neglects to obey, observe, or comply with any lawful order, or any part or provision thereof, of the commission is subject to a penalty of not less than \$100 nor more than \$1,000 for each violation.

Sec. 57. [ACTS; OMISSION; FAILURE; CONSTRUCTION THEREOF.] In construing and enforcing the provision of this act relating to penalties, the act, omission, or failure of any officer, agent or employee of any person acting within the scope of his official duties of employment shall in every case be deemed to be also the act, omission, or failure of such person.

Sec. 58. [CONTINUING VIOLATIONS.] Every violation of the provisions of this act or of any lawful order of the commission, or any part or portion thereof by any person, is a separate and distinct offense, and in case of a continuing violation after a first conviction thereof each day's continuance thereof shall be deemed to be a separate and distinct offense.

Sec. 59. [PENALTIES CUMULATIVE.] All penalties accruing under this act shall be cumulative, and a suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or forfeiture or be a bar to any criminal prosecution against any public utility or any officer, director, agent, or employee thereof or any person.

Sec. 60. [ACTIONS TO RECOVER PENALTIES.] Actions to recover penalties under this act shall be brought in the name of the state of Minnesota in the district court of Ramsey County.

Sec. 61. [COST OF EXAMINATION; ASSESSMENT OF EXPENSES; LIMITATIONS; OBJECTIONS.] Subdivision 1. Immediately after the passage and adoption of this act, the commission shall assess to all public utilities subject to the provisions of this act in proportion to their respective gross operating reve-

nues, as hereinafter defined, during the preceding calendar year, the sum of \$300,000. Such assessment shall be paid into the state treasury within 30 days after the bill has been mailed, by registered mail, to the several public utilities, which shall constitute notice of said assessment and demand of payment thereof.

Subd. 2. Whenever the commission, in a proceeding upon its own motion, on complaint, or upon an application to it, shall deem it necessary, in order to carry out the duties imposed by this act, to investigate the books, accounts, practices, and activities of, or make appraisals of the property of any public utility, or to render any engineering or accounting services to any public utility, such public utility shall pay the expenses reasonably attributable to such investigation, appraisal, or service. The commission shall ascertain such expenses, and the department shall render a bill therefor to the public utility, either at the conclusion of the investigation, appraisal, or services, or from time to time during its progress, which bill shall constitute notice of said assessment and demand of payment thereof. The amount of such bills so rendered by the department shall be paid by the public utility into the state treasury within 30 days from the date of rendition. The total amount, in any one calendar year, for which any public utility shall become liable, by reason of costs incurred by the commission within such calendar year, shall not exceed two-fifths of one percent of the gross operating revenue from retail sales of gas, or electric service by such public utility within the state in the last preceding calendar year. Where, pursuant to this subdivision, costs are incurred within any calendar year which are in excess of two-fifths of one percent of such gross operating revenues, the excess costs shall not be chargeable as part of the remainder under subdivision 3 or this section, but shall be paid out of the general appropriation to the department. In the case of public utilities offering more than one public utility service only the gross operating revenues from the public utility service in connection with which the investigation is being conducted shall be considered when determining the limitation set herein.

Subd. 3. The department shall annually, within 90 days after the close of each fiscal year, ascertain the total of its expenditures to the performance of its duties relating to public utilities under this act, and shall deduct therefrom all amounts chargeable to public utilities under subdivision 2 of this section. The remainder shall be assessed by the commission to the several public utilities in proportion to their respective gross operating revenues from retail sales of gas or electric service within the state during the last calendar year. Such assessment shall be paid into the state treasury within 30 days after the bill has been mailed to the several public utilities, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the public utilities, under authority of this subdivision, shall not exceed one-eighth of one percent of the total gross operating revenues of such public util-

ities during such calendar year from retail sales of gas or electric service within the state.

Subd. 4. Within 30 days after the date of the mailing of any bill as provided by subdivisions 2 and 3, the public utility against which said bill has been rendered may file with the commission objections setting out the grounds upon which it is claimed the bill is excessive, erroneous, unlawful or invalid. The commission shall within 60 days hold a hearing and issue an order in accordance with its findings. Such order shall be appealable in the same manner as other final orders of the commission.

Subd. 5. A public utilities account is hereby created in the state treasury. All moneys deposited in the state treasury pursuant to the provisions of this act shall be credited to such account. All moneys in such account are hereby appropriated annually to carry out the provisions of this act. None of the moneys in such account shall cancel but at all times shall be available for purposes herein expressed.

Sec. 62. [INTEREST ON ASSESSMENTS.] The amounts assessed against any public utility not paid after 30 days after the mailing of a notice advising the public utility of the amount assessed against it, shall draw interest at the rate of six percent per annum, and upon failure to pay the same the attorney general shall proceed by action in the name of the state against such public utility to collect the amount due, together with interest and the cost of the suit.

Sec. 63. [ATTORNEY GENERAL TO REPRESENT COMMISSION.] The attorney general of the state shall, upon request of the commission, represent and appear for the commission in all actions and proceedings involving any question under this act, and shall aid in any investigation or hearing had under the provisions hereof. The attorney general shall perform such duties and services in connection with this act and the enforcement thereof as the commission may require. He shall also bring all actions to collect penalties herein provided. Nothing in this section shall prohibit the commission from employing counsel other than the attorney general to represent the public interest in any proceeding.

Sec. 64. Minnesota Statutes 1971, Section 216A.03, Subdivision 1, is amended to read:

216A.03 [COMMISSION.] Subdivision 1. [MEMBERS.] As of (MAY 26, 1967) *January 1, 1975* the public service commission shall consist of (THE THREE MEMBERS ELECTED TO THE MINNESOTA RAILROAD AND WAREHOUSE COMMISSION; AND EACH SHALL SERVE OUT THE TERM FOR WHICH HE WAS ELECTED AS RAILROAD AND WAREHOUSE COMMISSIONER AND SHALL, IN ACCORDANCE WITH APPLICABLE STATUTES, BE ELIGIBLE

FOR RE-ELECTION FOR ONE SIX-YEAR TERM.) *five members, three of whom shall be the members then serving, who shall continue to serve for the balance of their elective or appointive terms. There shall be two additional commissioners appointed by and with the advice and consent of the senate, one for a term expiring December 31, 1975, and one for a term expiring December 31, 1977.* Thereafter the terms of all subsequent members of the commission shall be (SIX) *five* years and until their successors have been appointed and qualified. Each commissioner shall be appointed by the governor by and with the advice and consent of the senate. Not more than (TWO) *three* commissioners shall belong to the same political party. The governor in his selection of commissioners shall give consideration to persons learned in the law or persons who have engaged in the profession of engineering, public accounting or property and utility valuation as well as being representative of the general public.

Sec. 65. [DEPARTMENT TO EMPLOY NECESSARY STAFF.] The department may employ such experts, engineers, statisticians, accountants, inspectors, clerks, attorneys and employees as it deems necessary to carry out the provisions of this act.

Sec. 66. [SEVERABILITY.] If any provision of this act, or any severable provision of a section of this act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the act, or section thereof, and the application of such provision to persons and circumstances other than those as to which it is held invalid, shall not be affected.

Sec. 67. [CONSTRUCTION.] This act is complete in itself and other Minnesota statutes are not to be construed as applicable to the supervision or regulation of public utilities by the commission. All acts and parts of acts in conflict with this act are repealed insofar as they pertain to the regulation of public utilities as defined herein.

Sec. 68. [AUTHORITY PRIOR TO EFFECTIVE DATE OF ACT.] The commission is authorized, upon the passage and adoption of this act, and prior to its effective date, to promulgate rules and regulations as provided herein; to take the steps necessary for the setting up of proper records and forms and the department is authorized to make necessary staff and clerical appointments as provided by law, and to do all things required for the effective and orderly administration of the duties imposed upon the commission pursuant hereto.

Sec. 69. [TITLE.] This act may be cited as the Minnesota public utilities act.

Sec. 70. [EFFECTIVE DATE.] This act shall become effective on January 1, 1975, except that sections 35 through 43, and section 54 shall become effective upon its passage."

Further, amend the title in line 7, after "penalties" by inserting "; increasing the membership of the public service commission; amending Minnesota Statutes 1971, Section 216A.03, Subdivision 1".

With the recommendation that when so amended the bill do pass and be re-referred to the Committee on Taxes.

The report was adopted.

Mr. Parish from the Committee on Judiciary to which was referred:

H. F. No. 2577, A bill for an act relating to courts; appointment of interpreters for handicapped parties to civil proceedings.

Reported the same back with the recommendation that the bill do pass.

The report was adopted.

Mr. Parish from the Committee on Judiciary to which was referred:

H. F. No. 2644, A bill for an act relating to distinctions on the basis of sex; abolishing these distinctions in the law concerning changing of names; amending Minnesota Statutes 1971, Sections 259.10; 259.11; 517.08, Subdivision 3; and 518.27; and Chapter 259, by adding sections.

Reported the same back with the following amendments:

Page 3, line 8, after the first "name" strike the semicolon and insert "*provided further that one party may take the hyphenated name and the other party may retain his family name,*".

Page 3, line 9, after "spouse" strike "*if that name is used in a business capacity*".

Page 3, line 20, after "name." strike "*If the parents retain their*".

Page 3, line 21, strike the line.

Page 3, line 22, strike "*which family name shall be taken by their children.*" and insert "*If the parents retain different names, they shall designate on their application either name to be taken by their children or they may designate a hyphenated name as provided in clause 4 of this section.*".

With the recommendation that when so amended the bill do pass:

The report was adopted.

Mr. Parish from the Committee on Judiciary to which was referred:

H. F. No. 2833, A bill for an act relating to the appointment of a law clerk for the district judge assigned to hold court in the counties of Rice, Steele and Waseca; setting the salary thereof; amending Laws 1967, Chapter 355, Section 1, Subdivision 2.

Reported the same back with the recommendation that the bill do pass.

The report was adopted.

Mr. Parish from the Committee on Judiciary to which was referred:

S. F. No. 1859, A bill for an act relating to courts; prescribing times for general terms of district court, fifth judicial district; amending Minnesota Statutes 1971, Section 484.13.

Reported the same back with the following amendments:

Page 2, line 14, strike "1973" and insert "1974".

With the recommendation that when so amended the bill do pass.

The report was adopted.

Mr. Peterson from the Committee on Local Government to which was referred:

H. F. No. 2717, A bill for an act relating to the village of Island View; authorizing issuance of two additional on-sale licenses for the sale of intoxicating liquor.

Reported the same back with the following amendments:

Page 1, line 7, strike "[VILLAGE" and insert "[CITY".

Page 1, line 10, strike "village" and insert "city".

Page 1, line 15, strike "village" and insert "city".

Further amend the title:

Page 1, line 2, strike "village" and insert "city".

With the recommendation that when so amended the bill do pass and be placed on the Consent Calendar.

The report was adopted.

Mr. Peterson from the Committee on Local Government to which was referred:

H. F. No. 2919, A bill for an act relating to Koochiching county; authorizing the issuance of additional on-sale intoxicating liquor licenses.

Reported the same back with the recommendation that the bill do pass and be placed on the Consent Calendar.

The report was adopted.

Mr. Anderson, I., from the Committee on Rules and Legislative Administration to which was referred:

House Resolution No. 31, A house resolution requesting the United States Secretary of the Treasury to transfer the territory within the state of Minnesota from Customs District No. 34, under the administration of the district office at the customs port of Pembina, North Dakota, to Customs District No. 36, under the administration of the district office at the customs port of Duluth, Minnesota.

Reported the same back with the recommendation that the resolution be adopted.

The report was adopted.

Mr. Pavlak, R., from the Committee on Taxes to which was referred:

H. F. No. 2182, A bill for an act relating to education; prescribing tax levies; and authorizing school districts to levy to offset certain real estate tax delinquencies; amending Minnesota Statutes 1971, Section 275.125, Subdivision 3.

Reported the same back with the following amendments:

Strike everything after the enacting clause and insert in lieu thereof the following:

"Section 1. Minnesota Statutes, 1973 Supplement, Section 275.125, Subdivision 3, is amended to read:

Subd. 3. In addition to the levy authorized by section 275.125, subdivision 2a, a qualifying district may levy additional amounts as follows:

(1) The amounts necessary to make payments for bonds issued and for interest thereon, including the bonds and interest thereon, issued as authorized by clause (7)(C) of this subdivision, and for repayment of debt service loans and capital loans, the amount authorized for capital expenditures pursuant to section 124.04 and the amount authorized for liabilities of dissolved districts pursuant to section 122.45.

(2) For school transportation services, an amount not to exceed the amount raised by a levy of one mill times the adjusted assessed valuation of the taxable property of the district for the preceding year; provided that in 1973 and thereafter a district having boundaries coterminous with the boundaries of a city of the first class may levy an amount not to exceed 20 percent of its costs for transportation and related services for which state aid is authorized for the 1974-1975 school year and thereafter, and provided further that a district may levy under this clause for the annual cash payments to be made for the purchase of busses, but only for that portion of the payments not offset by state transportation aid received on account of depreciation.

(3) For purposes of the 1973 levy, collectible in 1974, any district which qualified for an extra levy under Minnesota Statutes 1971, Section 275.125, Subdivision 3, Clause (4), shall be allowed to levy the same amount per pupil unit allowed by that clause. Provided, however, that a district having boundaries coterminous with the boundaries of a city of the first class which was affected by the limitation of an extra levy not to exceed 1.5 mills times the adjusted assessed valuation of the district shall be allowed to levy 1.9 mills. For purposes of the 1973 levy, collectible in 1974, any district which qualified for an extra levy in 1971, collectible in 1972, under Minnesota Statutes 1971, Section 275.125, Subdivision 3, Clause (3) but did not qualify for an extra levy under Minnesota Statutes 1971, Section 275.125, Subdivision 3, Clause (4) in 1972, collectible in 1973, shall be allowed to levy the amount per pupil unit it was qualified to levy under Minnesota Statutes 1971, Section 275.125, Subdivision 3, Clause (3).

(4) In 1973 only, for a district which was authorized to levy pursuant to Minnesota Statutes 1971, Section 275.125, Subdivision 3, Clause (3), but which was not authorized to levy pursuant to Minnesota Statutes 1971, Section 275.125, Subdivision 3, Clause (4), an amount not to exceed the aggregate amount authorized by Minnesota Statutes 1971, Section 275.125, Subdivision 3, Clause (3).

(5) A district which qualified for a levy under clause (3) above shall be allowed to levy that same amount per pupil unit in 1974 reduced by two and one-half percent. The per pupil amount of the reduction shall be rounded down to the dollar. Provided, however, that a district within a city of the first class which was affected by the limitation of an extra levy not to exceed 1.9 mills times the adjusted assessed valuation of the district shall be allowed to levy the 1.9 mills.



(6) For districts in cities of the first class, maintaining post secondary vocational schools, one-half mills times the adjusted assessed valuation of the taxable property of the district for the preceding year; and for other districts maintaining post secondary vocational schools, three mills times the adjusted assessed valuation of the taxable property of the district for the preceding year, provided that districts formed pursuant to Laws 1967, Chapter 822, and Laws 1969, Chapters 775 and 1060, shall be subject to the levy limitations imposed by those laws, as amended.

(7) (A) In order that the transition from existing patterns of financing public schools to the system prescribed in Extra Session Laws 1971, Chapter 31, Article 20 may be made in an orderly fashion, a district may levy an additional levy under the terms of this section.

(B) If that part of the levy certified by the school district in 1970, received in 1971, plus so much of the levy, allowed under subdivisions 2 and 3, sections 1 to 5 of this act, to be certified in 1971, received in 1972, as will be received between July 1, 1971 and June 20, 1972, and when added to all other state aids, local funds available and net existing local debts, exclusive of bonded debt and existing capital loans will not be sufficient to allow a district to spend an amount per pupil unit sufficient to raise its 1970-1971 adjusted maintenance cost per pupil unit by \$42 it may petition the commissioner of education for authority to levy an additional levy. Before such a levy can be made, the commissioner must authorize such a levy. Such authorization shall specify the amount of the levy, provided that such levy may not exceed .5 mills in a city of the first class or 1.5 mills in any other district times the 1970 adjusted assessed valuation of the district as determined by the equalization aid review committee.

(C) If the additional levy allowed in (B) is insufficient to raise the adjusted maintenance cost of a district to \$42 above its costs in 1970-1971 it may petition the commissioner of education for authority to issue general obligation bonds of an amount sufficient to meet the deficiency. The commissioner must authorize such a bond issue. The authorization shall specify the amount of the bond issue provided that the levy authorization to pay the principal and interest on the bonds may not exceed .5 mills in a district within a city of the first class, or 1.5 mills in any other district, times the 1970 adjusted assessed valuation of the district as determined by the equalization aid review committee. The bonds authorized by this section shall be sold and issued pursuant to the provisions of chapter 475, except as otherwise provided herein. Such bonds shall not be included in computing any debt limitation for a district and no election shall be required for their sale and issuance.

A district may not be authorized an additional levy under both (B) and (C) of this section.

(8) In 1973, and each year thereafter, for a district which has established a community school advisory council pursuant to section 121.88, whether or not the district receives reimbursement from the state pursuant to section 121.89, an amount of money raised by the greater of (A) \$1 per capita, or (B) the number of mills not to exceed the number of mills necessary in 1973 to raise \$1 per capita in 1973 for community services including summer school, nonvocational adult programs, recreation programs, and programs contemplated by sections 121.85 to 121.89.

The population of the district for purposes of this clause is the population determined as provided in section 275.14 or as certified by the department of education from the most recent federal census.

(9) Districts which receive payments which result in deductions from foundation aid pursuant to section 124.212, subdivision 8a, shall reduce the permissible levies authorized by this subdivision by 25 percent in 1973, 50 percent in 1974, 75 percent in 1975, and 100 percent for each year thereafter of that portion of the previous year's payment not deducted from foundation aid on account of the payment, unless such a levy reduction is otherwise required by law. The levy reductions shall be made in the proportions that each permissible levy bears to the sum of the permissible levies.

(10) The commissioner shall certify to the county auditors any errors made in 1971 and 1972 in general and special purpose levy amounts. The county auditor is authorized to adjust the 1973 levy to correct for the errors.

(11) *Any district whose total tax receipts, including homestead credit and delinquent tax receipts for any prior year, collected by the county auditor during the preceding year are less than 95 percent of the amount of the district levy spread by the county auditor for that year as a result of delinquent real estate taxes occurring in that year may make an additional levy equal to the amount by which such net receipts are less than 95 percent of the spread levy which produced such delinquency. The county treasurer shall certify to each district authorized to make such additional levy the amount of the delinquent real estate taxes which resulted from the district levy collected during the preceding year and the same shall be submitted by any district making the additional levy to the commissioner of education and the commissioner of taxation as provided in Minnesota Statutes, Section 275.125, Subdivision 7.*

*Any district which makes the additional levy authorized by this clause shall deduct one-third of the amount of such additional levy from the levy spread by the county auditor in each of the succeeding three years.*

*Any district which makes such an additional levy is authorized to make the levy permitted by this clause in any subsequent year provided that the 95 percent factor shall apply to the amount of the district levy spread by the county auditor exclusive of additions to or deductions from spread levies authorized by this clause.*

*The additions and deductions authorized by this section shall not be adjusted by the county auditor in spreading the levy.*

Sec. 2. Minnesota Statutes, 1973 Supplement, Section 275.51, is amended by adding a subdivision to read:

*Subd. 5. Any governmental subdivision whose total tax receipts, including homestead credit and delinquent tax receipts for any prior year, collected by the county auditor during the preceding year are less than 95 percent of the amount of the governmental subdivision's levy spread by the county auditor for that year as a result of delinquent real estate taxes occurring in that year may make an additional levy equal to the amount by which such net receipts are less than 95 percent of the spread levy which produced such delinquency. The county treasurer shall certify to each governmental subdivision authorized to make such additional levy the amount of the delinquent real estate taxes which resulted from the governmental subdivision's levy collected during the preceding year and the same shall be submitted by any governmental subdivision making the additional levy to the commissioner of taxation.*

*Any governmental subdivision which makes the additional levy authorized by this clause shall deduct one-third of the amount of such additional levy from the levy spread by the county auditor in each of the succeeding three years.*

*Any governmental subdivision which makes such an additional levy is authorized to make the levy permitted by this subdivision in any subsequent year provided that the 95 percent factor shall apply to the amount of the governmental subdivision's levy spread by the county auditor.*

Sec. 3. This act is effective for taxable years commencing after December 31, 1973."

Further amend the title by striking it in its entirety and inserting in lieu thereof the following:

"A bill for an act relating to education; prescribing tax levies; and authorizing school districts to levy to offset certain real estate tax delinquencies; amending Minnesota Statutes, 1973 Supplement, Sections 275.125, Subdivision 3; and 275.51, by adding a subdivision."

With the recommendation that when so amended the bill do pass.

The report was adopted.

Mr. Pavlak, R., from the Committee on Taxes to which was referred:

H. F. No. 2607, A bill for an act relating to taxation; declaration of illegally untaxed cigars as contraband in certain circumstances; providing for confiscation of vehicles, trailers and airplanes used to transport illegally untaxed cigars; amending Minnesota Statutes 1971, Chapter 297, by adding sections.

Reported the same back with the following amendments:

Page 1, line 15, strike "25,000" and insert "5,000".

Page 1, after line 19, insert the following: "*The word distributor as used in this act means a distributor as defined in section 297.31 and licensed under section 297.33 or in the case of persons engaged in the distribution of tobacco products in other states, meets the requirements of a distributor as defined in section 297.31.*".

Page 1, line 22, strike "25,000" and insert "5,000".

Page 2, line 2, strike "25,000" and insert "5,000".

Page 2, line 9, strike "25,000" and insert "5,000".

Page 2, line 12, strike "25,000" and insert "5,000".

Page 2, line 23, strike "25,000" and insert "5,000".

Page 3, line 8, strike "25,000" and insert "5,000".

Page 4, line 15, after "*destroyed*" and before the period, insert "*or (c) cause the forfeited property to be sold at public auction as provided by law*".

Page 5, line 1, after "*subdivision 1*" and before "*shall*", insert "*(c)*".

With the recommendation that when so amended the bill do pass.

The report was adopted.

Mr. Pavlak, R., from the Committee on Taxes to which was referred:

H. F. No. 2926, A bill for an act relating to taxation; prescribing eligibility for rent and property tax credits; amending Min-

nesota Statutes, 1973 Supplement, Sections 290.0601, Subdivisions 6 and 9; and 290.061.

Reported the same back with the recommendation that the bill do pass.

The report was adopted.

#### MOTION FOR RECONSIDERATION

Kelly moved that the vote whereby H. F. No. 604 was not passed on the Calendar on Tuesday, February 5, 1974, be now reconsidered.

A roll call was requested and properly seconded.

#### CALL OF THE HOUSE

On the motion of Faricy and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Adams, J.	Eken	Jude	Moe	Samuelson
Andersen, R.	Enebo	Kahn	Mueller	Sarna
Anderson, G.	Erdahl	Kelly	Munger	Savelkoul
Anderson, I.	Erickson	Kempe	Myrah	Schreiber
Becklin	Faricy	Klaus	Nelson	Schulz
Belisle	Ferderer	Knickerbocker	Newcome	Searle
Bell	Fjoslien	Knoll	Niehaus	Sherwood
Bennett	Forsythe	Kostohryz	Norton	Sieben, H.
Berg	Fudro	Kvam	Ohnstad	Sieben, M.
Berglin	Fugina	Laidig	Ojala	Skaar
Biersdorf	Graba	Larson	Parish	Smith
Braun	Graw	Lemke	Patton	Spanish
Carlson, A.	Growe	Lindstrom, E.	Pavlak, R.	Stangeland
Carlson, B.	Hagedorn	Lindstrom, J.	Pavlak, R. L.	Stanton
Carlson, D.	Hanson	Lombardi	Pehler	Swanson
Carlson, L.	Haugerud	Long	Peterson	Tomlinson
Cassery	Heinitz	Mann	Pieper	Ulland
Cleary	Hook	McArthur	Pleasant	Vanasek
Culhane	Jacobs	McCarron	Prahl	Vento
Cummiskey	Jaros	McCauley	Quirin	Voss
Dahl	Johnson, C.	McEachern	Resner	Wenzel
DeGroat	Johnson, D.	McFarlin	Rice	Wigley
Dieterich	Johnson, J.	McMillan	Ryan	Wohlwend
Dirlam	Johnson, R.	Menke	St. Onge	Wolcott
Eckstein	Jopp	Miller, M.	Salchert	Mr. Speaker

Faricy moved that further proceedings of the roll call be dispensed with and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

The question was taken on the motion of Kelly to reconsider.

Kelly moved that those not voting be excused from voting. The motion did not prevail.

The roll being called, there were yeas 69, and nays 57, as follows:

Those who voted in the affirmative were:

Adams, J.	Dieterich	Jude	Moe	Ryan
Andersen, R.	Enebo	Kahn	Munger	Salchert
Belisle	Faricy	Kempe	Nelson	Sarna
Bell	Ferderer	Klaus	Newcome	Sieben, H.
Bennett	Fudro	Knickerbocker	Norton	Sieben, M.
Berg	Fugina	Knoll	Ojala	Stanton
Berglin	Growe	Kostohryz	Parish	Tomlinson
Carlson, A.	Hanson	Laidig	Pavlak, R.	Ulland
Carlson, D.	Hook	Lindstrom, E.	Pehler	Vanasek
Carlson, L.	Jacobs	Lombardi	Pieper	Vento
Casserly	Jaros	McCarron	Pleasant	Voss
Connors	Johnson, D.	McFarlin	Quirin	Wolcott
Cummiskey	Johnson, J.	McMillan	Resner	Mr. Speaker
Dahl	Johnson, R.	Menke	Rice	

Those who voted in the negative were:

Anderson, G.	Erdahl	Kvam	Niehaus	Sherwood
Anderson, I.	Erickson	Larson	Ohnstad	Skaar
Becklin	Fjoslien	Lemke	Patton	Smith
Biersdorf	Forsythe	Lindstrom, J.	Pavlak, R. L.	Spanish
Braun	Graba	Long	Peterson	Stangeland
Carlson, B.	Graw	Mann	Prahl	Swanson
Cleary	Hagedorn	McArthur	St. Onge	Wenzel
Culhane	Haugerud	McCauley	Samuelson	Wigley
DeGroat	Heinitz	McEachern	Savelkoul	Wohlwend
Dirlam	Johnson, C.	Miller, M.	Schreiber	
Eckstein	Jopp	Mueller	Schulz	
Eken	Kelly	Myrah	Searle	

The motion prevailed.

H. F. No. 604 was reported to the House. The bill was read for the third time.

Faricy moved that H. F. No. 604 be continued on the Calendar until Tuesday, February 12, 1974.

Pleasant moved that H. F. No. 604 be returned to the top of General Orders.

A roll call was requested and properly seconded on the Pleasant motion.

The question was taken on the Pleasant motion and the roll being called, there were yeas 53, and nays 73, as follows:

Those who voted in the affirmative were:

Andersen, R.	Berg	DeGroat	Fugina	Jaros
Anderson, I.	Carlson, A.	Dieterich	Growe	Johnson, J.
Belisle	Connors	Faricy	Haugerud	Johnson, R.
Bell	Cummiskey	Ferderer	Heinitz	Jopp
Bennett	Dahl	Forsythe	Hook	Kahn

Kempe	Larson	McFarlin	Pleasant	Tomlinson
Klaus	Lindstrom, E.	Nelson	Quirin	Ulland
Knickerbocker	Lombardi	Newcome	Ryan	Vento
Knoll	McArthur	Ojala	Sarna	Wolcott
Kostohryz	McCarron	Pavlak, R. L.	Savelkoul	
Laidig	McCauley	Pieper	Schreiber	

Those who voted in the negative were:

Adams, J.	Enebo	Lemke	Parish	Sieben, M.
Anderson, G.	Erdahl	Lindstrom, J.	Patton	Skaar
Becklin	Erickson	Long	Pavlak, R.	Smith
Berglin	Fjoslien	Mann	Pehler	Spanish
Biersdorf	Fudro	McEachern	Peterson	Stangeland
Braun	Graba	McMillan	Prahl	Stanton
Carlson, B.	Graw	Menke	Resner	Swanson
Carlson, D.	Hagedorn	Miller, M.	Rice	Vanasek
Carlson, L.	Hanson	Moe	St. Onge	Voss
Casserly	Jacobs	Mueller	Salchert	Wenzel
Cleary	Johnson, C.	Munger	Samuelson	Wigley
Culhane	Johnson, D.	Myrah	Schulz	Wohlwend
Diriam	Jude	Niehaus	Searle	Mr. Speaker
Eckstein	Kelly	Norton	Sherwood	
Eken	Kvam	Ohnstad	Sieben, H.	

The motion did not prevail.

The question recurred on the Faricy motion that H. F. No. 604 be continued until Tuesday, February 12, 1974. The motion did not prevail.

H. F. No. 604, A bill for an act relating to the legislature; setting the size of the legislature after the next and subsequent apportionments; amending Minnesota Statutes 1971, Section 2.021.

The bill was placed upon its final passage.

The question being taken on the passage of the bill and the roll being called, there were yeas 65, and nays 64, as follows:

Those who voted in the affirmative were:

Adams, J.	Dieterich	Johnson, J.	McMillan	Ryan
Andersen, R.	Enebo	Jude	Menke	Salchert
Belisle	Faricy	Kahn	Moe	Sarna
Bell	Ferderer	Kempe	Nelson	Sieben, H.
Bennett	Forsythe	Klaus	Newcome	Sieben, M.
Berg	Fudro	Knickerbocker	Norton	Stanton
Berglin	Fugina	Knoll	Parish	Tomlinson
Carlson, A.	Grove	Kostohryz	Pavlak, R.	Ulland
Carlson, L.	Hanson	Laidig	Pehler	Vanasek
Casserly	Hook	Lindstrom, E.	Pieper	Vento
Connors	Jacobs	Lombardi	Quirin	Voss
Cummiskey	Jaros	McCarron	Resner	Wolcott
Dahl	Johnson, D.	McFarlin	Rice	Mr. Speaker

Those who voted in the negative were:

Anderson, D.	Eckstein	Kelly	Munger	Schreiber
Anderson, G.	Eken	Kvam	Myra	Schulz
Anderson, I.	Erdahl	Larson	Niehaus	Searle
Becklin	Erickson	Lemke	Ohnstad	Sherwood
Biersdorf	Fjoslien	Lindstrom, J.	Ojala	Skaar
Braun	Graba	Long	Patton	Smith
Carlson, B.	Graw	Mann	Pavlak, R. L.	Spanish
Carlson, D.	Hagedorn	McArthur	Peterson	Stangeland
Cleary	Haugerud	McCauley	Pleasant	Swanson
Clifford	Heinitz	McEachern	Prahl	Wenzel
Culhane	Johnson, C.	Miller, D.	St. Onge	Wigley
DeGroat	Johnson, R.	Miller, M.	Samuelson	Wohlwend
Dirlam	Jopp	Mueller	Savelkoul	

The bill was not passed.

## SECOND READING OF HOUSE BILLS

H. F. Nos. 2710, 2280, 2458, 2799, 2985, 3021, 2577, 2644, 2833, 2717, 2919, 2182, 2607, and 2926 were read for the second time.

## SECOND READING OF SENATE BILLS

S. F. Nos. 951, 980, 283, 534, 1712, and 1859 were read for the second time.

## INTRODUCTION OF BILLS

Johnson, R.; Faricy; Quirin; Adams, S.; and Pavlak, R., introduced:

H. F. No. 3199, A bill for an act relating to the compensation of members of the tax court; appropriating money; amending Minnesota Statutes 1971, Section 271.01, Subdivision 4a.

The bill was read for the first time and referred to the Committee on Appropriations.

Samuelson, Hanson, Forsythe, Resner, and St. Onge introduced:

H. F. No. 3200, A bill for an act relating to the commissioner of public welfare; appropriating money for the daytime activity centers for the mentally retarded.

The bill was read for the first time and referred to the Committee on Appropriations.



Wolcott, LaVoy, Berglin, Knoll, and Carlson, A., introduced:

H. F. No. 3201, A bill for an act relating to special assessments; amending Minnesota Statutes, 1973 Supplement, Section 429.101, Subdivision 1; and Minnesota Statutes 1971, Section 429.101, Subdivision 2.

The bill was read for the first time and referred to the Committee on City Government.

Jacobs and Voss introduced:

H. F. No. 3202, A bill for an act relating to the city of Coon Rapids; authorizing the issuance of on-sale licenses for the sale of intoxicating liquor.

The bill was read for the first time and referred to the Committee on City Government.

Dieterich introduced:

H. F. No. 3203, A bill for an act relating to certain commercial transactions; amending provisions of the uniform commercial code governing secured transactions and related provisions; amending Minnesota Statutes 1971, Chapter 336, by adding sections; and Sections 336.1-105; 336.1-201; 336.2-107; 336.5-116; 336.9-102; 336.9-103; 336.9-104; 336.9-105; 336.9-106; 336.9-203; 336.9-204; 336.9-205; 336.9-301; 336.9-302; 336.9-304; 336.9-305; 336.9-306; 336.9-307; 336.9-308; 336.9-312; 336.9-313; 336.9-318; 336.9-401; 336.9-402; 336.9-403; 336.9-404; 336.9-405; 336.9-406; 336.9-407; 336.9-501; 336.9-502; 336.9-504; and 336.9-505; and repealing Minnesota Statutes 1971, Section 336.9-408.

The bill was read for the first time and referred to the Committee on Commerce and Economic Development.

Carlson, B.; Graba; McCauley; Anderson, D.; and Kelly introduced:

H. F. No. 3204, A bill for an act relating to education; providing state transportation to vocational education classes; amending Minnesota Statutes, 1973 Supplement, Section 124.223.

The bill was read for the first time and referred to the Committee on Education.

Stangeland, Hagedorn, Smith, Kvam, and Lindstrom, J., introduced:

H. F. No. 3205, A bill for an act relating to education; removing contracts required to be submitted to the commissioner from bidding requirements; amending Minnesota Statutes 1971, Section 123.37, Subdivision 1.

The bill was read for the first time and referred to the Committee on Education.

Jaros; Fugina; Munger; Carlson, D.; and Sherwood introduced:

H. F. No. 3206, A bill for an act relating to game and fish; prohibiting the taking of smelt outside of a certain area.

The bill was read for the first time and referred to the Committee on Environmental Preservation and Natural Resources.

Norton and Moe introduced:

H. F. No. 3207, A bill for an act relating to historic sites; designating the boundaries of the historic hill district in Ramsey county; amending Minnesota Statutes, 1973 Supplement, Section 138.73, Subdivision 23.

The bill was read for the first time and referred to the Committee on Environmental Preservation and Natural Resources.

Sieben, M., introduced:

H. F. No. 3208, A bill for an act relating to surface mining of sand and gravel; regulating the reclamation of disturbed lands; providing a penalty.

The bill was read for the first time and referred to the Committee on Environmental Preservation and Natural Resources.

Kostohryz, Newcome, and Belisle introduced:

H. F. No. 3209, A bill for an act relating to county water management; clarifying the jurisdiction of lake conservation districts and counties over certain bodies of water; amending Laws 1973, Chapter 702, Sections 4, Subdivision 2; and 5, Subdivision 1.

The bill was read for the first time and referred to the Committee on Environmental Preservation and Natural Resources.

Johnson, J.; St. Onge; and Hagedorn introduced:

H. F. No. 3210, A bill for an act relating to veterans; adjusted compensation payments to certain wounded veterans; amending Minnesota Statutes, 1973 Supplement, Section 197.972.

The bill was read for the first time and referred to the Committee on General Legislation and Veterans Affairs.

Anderson, G.; Newcome; Tomlinson; Stanton; and Adams, J., introduced:

H. F. No. 3211, A bill for an act relating to elections; restricting advertising of or by candidates for public office.

The bill was read for the first time and referred to the Committee on General Legislation and Veterans Affairs.

Stanton, Vanasek, and Anderson, G., introduced:

H. F. No. 3212, A bill for an act relating to the legislature; requiring the registration of lobbyists; providing a penalty.

The bill was read for the first time and referred to the Committee on General Legislation and Veterans Affairs.

Fugina; Prah!; Ojala; Johnson, D.; and Spanish introduced:

H. F. No. 3213, A bill for an act relating to mine inspection; amending Minnesota Statutes 1971, Section 180.03.

The bill was read for the first time and referred to the Committee on General Legislation and Veterans Affairs.

Swanson, Fudro, Laidig, Patton, and Skaar introduced:

H. F. No. 3214, A bill for an act relating to the game of bingo; associations permitted to conduct the game of bingo; increasing the compensation of persons rendering service during bingo sessions; amending Minnesota Statutes 1971, Section 349.03, Subdivision 1.

The bill was read for the first time and referred to the Committee on General Legislation and Veterans Affairs.

Sieben, M., introduced:

H. F. No. 3215, A bill for an act relating to elections; providing for the terms of officers elected after the adoption of the uniform municipal election day by a municipality; amending Minnesota Statutes 1971, Section 205.20, Subdivisions 3 and 4.

The bill was read for the first time and referred to the Committee on General Legislation and Veterans Affairs.

Pehler, Brinkman, Stangeland, Vento, and Carlson, B. introduced:

H. F. No. 3216, A bill for an act relating to education; changing the time for the annual meeting of boards of independent school districts; amending Minnesota Statutes 1971, Section 123.34, Subdivision 1.

The bill was read for the first time and referred to the Committee on General Legislation and Veterans Affairs.

Brinkman; Quirin; Connors; Carlson, A.; and Moe introduced:

H. F. No. 3217, A bill for an act relating to counties; publication of annual financial statements; providing an exception for the publication of names of county employees; amending Minnesota Statutes 1971, Section 375.17.

The bill was read for the first time and referred to the Committee on Governmental Operations.

Parish, Larson, Patton, and Johnson, R., introduced:

H. F. No. 3218, A bill for an act relating to the public employees retirement association; authorizing the acquisition of real estate by gift, purchase or condemnation for public purposes, and the construction of necessary building and structures thereon; and appropriating moneys therefor.

The bill was read for the first time and referred to the Committee on Governmental Operations.

Wohlwend, Patton, Larson, and Kelly introduced:

H. F. No. 3219, A bill for an act relating to retirement; authorizing short term retirement for certain members of the Minnesota state retirement system; amending Minnesota Statutes 1971, Section 352.115, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Governmental Operations.

Bell; Andersen, R.; Sieben, H.; Menke; and Berglin introduced:

H. F. No. 3220, A bill for an act relating to retirement; withdrawal of share values by members of the unclassified employees retirement program; amending Minnesota Statutes, 1973 Supplement, Section 352D.05, Subdivision 3.

The bill was read for the first time and referred to the Committee on Governmental Operations.

Smith; Samuelson; Rice; Anderson, D.; and Wenzel introduced:

H. F. No. 3221, A bill for an act authorizing the Minnesota higher education facilities authority to construct and finance health care facilities; changing its name and increasing its membership; amending Minnesota Statutes 1971, Sections 136A.25; 136A.28; 136A.36; and Minnesota Statutes, 1973 Supplement, Sections 136A.26; 136A.27; 136A.29, Subdivisions 1, 6, 9, 10, 14, 21, and 22; and 136A.41.

The bill was read for the first time and referred to the Committee on Health and Welfare.

Swanson, Heinitz, Samuelson, Wigley, and Rice introduced:

H. F. No. 3222, A bill for an act relating to health maintenance organizations; regulating the details of operation; amending Minnesota Statutes, 1973 Supplement, Sections 62D.02, Subdivisions 4 and 7; 62D.06, Subdivision 1; 62D.10, Subdivisions 2 and 4; 62D.11, Subdivision 1; 62D.12, Subdivisions 4 and 9; 62D.22, Subdivision 8; and 62D.28, Subdivision 3.

The bill was read for the first time and referred to the Committee on Health and Welfare.

Eken, Voss, Hanson, Forsythe, and Carlson, A., introduced:

H. F. No. 3223, A bill for an act relating to the governor's citizens council on aging; duties of council; amending Minnesota Statutes 1971, Section 256.975, Subdivision 2.

The bill was read for the first time and referred to the Committee on Health and Welfare.

Faricy, Knoll, Ferderer, Ojala, and Hook introduced:

H. F. No. 3224, A bill for an act relating to courts; county and municipal courts; creating a housing court division in the municipal courts of Hennepin and Ramsey county and in the county court of St. Louis county; amending Minnesota Statutes 1971, Sections 487.27, by adding subdivisions; 488.05, Subdivision 1; 488A.01, Subdivision 7; 488A.18, Subdivision 8; Chapters 487, by adding a section; 488A, by adding sections; Minnesota Statutes, 1973 Supplement, Sections 487.17; 488.04, Subdivision 4; 488A.01, Subdivision 5; and 488A.18, Subdivision 6.

The bill was read for the first time and referred to the Committee on Judiciary.

Newcome, by request, introduced:

H. F. No. 3225, A bill for an act relating to courts; salaries of municipal court judges; providing a salary increase for the judge of White Bear Lake municipal court; amending Minnesota Statutes, 1973 Supplement, Section 488.21, Subdivision 2.

The bill was read for the first time and referred to the Committee on Judiciary.

Jopp; Kempe; Miller, M.; Eken; and Smith introduced:

H. F. No. 3226, A bill for an act relating to intoxicating and non-intoxicating liquor; age for licensing, sale, purchase, consumption, possession and furnishing; amending Minnesota Statutes 1971, Sections 340.035, Subdivision 1; 340.355; 340.73, Subdivision 1; 340.731; 340.79; 340.80; and Minnesota Statutes, 1973 Supplement, Sections 340.02, Subdivision 8; 340.119, Subdivision 2; 340.13, Subdivision 12; 340.14, Subdivision 2; 340.403, Subdivision 3; 340.78; and 340.81.

The bill was read for the first time and referred to the Committee on Judiciary.

Faricy; Hanson; Johnson, R.; Norton; and Pavlak, R. L., introduced:

H. F. No. 3227, A bill for an act relating to courts, Ramsey county; amending Minnesota Statutes, 1973 Supplement, Sections 488A.18, Subdivisions 10 and 13; 488A.20, Subdivisions 1, 2, and 6; 488A.22, Subdivision 3; 488A.281; 488A.283; 488A.285, Subdivisions 1 and 2; 488A.286; 488A.30, Subdivisions 1, 2, and 4; Minnesota Statutes 1971, Sections 488A.18, Subdivision 11; 488A.19, Subdivisions 6, 8, and 10; 488A.20, Subdivisions 3 and 7; 488A.21, Subdivision 1; 488A.23, Subdivision 1; 488A.26, Subdivisions 1, 3, 4, and 7; 488A.27, Subdivisions 3 and 7; 488A.30, Subdivision 3; 488A.31, Subdivisions 1 and 5; 488A.34, Subdivisions 2, 3, 4, 6, 9, and 12; repealing Minnesota Statutes 1971, Section 488A.23, Subdivisions 3 and 4.

The bill was read for the first time and referred to the Committee on Judiciary.

Bell, Berglin, Faricy, Berg, and Kelly introduced:

H. F. No. 3228, A bill for an act relating to civil process; providing for personal jurisdiction over nonresidents; amending Minnesota Statutes 1971, Sections 303.13, Subdivision 1; and 543.19.

The bill was read for the first time and referred to the Committee on Judiciary.

Bell, Berg, Kelly, Faricy, and Berglin introduced:

H. F. No. 3229, A bill for an act relating to courts; providing for the borrowing and tolling of statutes of limitation in certain cases; amending Minnesota Statutes 1971, Section 508.79; repealing Minnesota Statutes 1971, Sections 541.13; 541.14; and 541.15, as amended.

The bill was read for the first time and referred to the Committee on Judiciary.

McEachern introduced:

H. F. No. 3230, A bill for an act authorizing the city of Elk River to issue general obligation bonds in the amount of \$260,000 for a municipal library.

The bill was read for the first time and referred to the Committee on Local Government.

Anderson, I., and Prahl introduced:

H. F. No. 3231, A bill for an act relating to Itasca county; government of certain unorganized townships for hospital district purposes.

The bill was read for the first time and referred to the Committee on Local Government.

Pehler, Brinkman, Becklin, Patton, and Dahl introduced:

H. F. No. 3232, A bill for an act relating to taxation; property tax exempt property; amending Minnesota Statutes, 1973 Supplement, Section 272.02, Subdivision 1.

The bill was read for the first time and referred to the Committee on Taxes.

Johnson, D.; Samuelson; Pehler; Anderson, I.; and Stangeland introduced:

H. F. No. 3233, A bill for an act relating to taxation; increasing the levy limit bases of governmental subdivisions to include gross earnings aids; amending Minnesota Statutes, 1973 Supplement, Sections 275.50, Subdivision 5; and 275.51, Subdivision 3.

The bill was read for the first time and referred to the Committee on Taxes.

Johnson, J.; Lindstrom, E.; Heinitz; Hagedorn; and Stangeland introduced:

H. F. No. 3234, A bill for an act proposing an amendment to the Minnesota Constitution; adding an article to limit state and local taxing and spending authority.

The bill was read for the first time and referred to the Committee on Taxes.

Johnson, R.; Adams, S.; Dirlam; Johnson, C.; and Brinkman introduced:

H. F. No. 3235, A bill for an act relating to taxation; reduction of rates of employers excise tax in certain instances; amending Laws 1973, Chapter 650, Article XXVI, Section 1, Subdivision 6.

The bill was read for the first time and referred to the Committee on Taxes.



Hagedorn; Stangeland; Sieben, H.; Johnson, C.; and LaVoy introduced:

H. F. No. 3236, A bill for an act relating to taxation; changing the rate and kind of taxation of certain fuel oil and propane; amending Minnesota Statutes, 1973 Supplement, Section 297A.25, Subdivision 1.

The bill was read for the first time and referred to the Committee on Taxes.

Berglin; Bell; Andersen, R.; Mann; and Schreiber introduced:

H. F. No. 3237, A bill for an act relating to motor vehicles; registration and taxation; pioneer and classic cars; amending Minnesota Statutes 1971, Section 168.10, Subdivision 1.

The bill was read for the first time and referred to the Committee on Transportation.

#### REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Pursuant to Rule 14, Mr. Anderson, I., for the Committee on Rules and Legislative Administration, designated the following bill as a Special Order for Wednesday, February 13, 1974, to be acted upon immediately following the Calendar: H. F. No. 2862.

#### PROGRESS REPORTS ON CONFERENCE COMMITTEES

Pursuant to Joint Rule No. 13, Kahn reported the progress of H. F. No. 835 now in Conference Committee.

Anderson, D., and Long were excused for the remainder of today's session.

#### CONSENT CALENDAR

H. F. No. 2638, A bill for an act relating to the city of International Falls; authorizing issuance of two additional on-sale licenses for the sale of intoxicating liquor.

The bill was read for the third time and placed upon its final passage.

The question being taken on the passage of the bill and the roll being called, there were yeas 109, and nays 12, as follows:

Those who voted in the affirmative were:

Adams, J.	Dieterich	Johnson, R.	Moe	Sarna
Andersen, R.	Dirlam	Jopp	Munger	Schreiber
Anderson, G.	Eckstein	Jude	Myrah	Schulz
Anderson, I.	Eken	Kahn	Nelson	Sieben, H.
Belisle	Enebo	Kelly	Newcome	Sieben, M.
Bell	Faricy	Knickerbocker	Niehaus	Skaar
Bennett	Ferderer	Knoll	Ojala	Smith
Berg	Fjoslien	Kostohryz	Parish	Spanish
Berglin	Forsythe	Laidig	Patton	Stangeland
Biersdorf	Fudro	Lemke	Pavlak, R.	Stanton
Braun	Fugina	Lindstrom, E.	Pavlak, R. L.	Swanson
Carlson, A.	Graba	Lindstrom, J.	Pehler	Tomlinson
Carlson, B.	Graw	Mann	Peterson	Ulland
Carlson, L.	Growe	McArthur	Pieper	Vanasek
Casserly	Hagedorn	McCarron	Prahl	Vento
Cleary	Hanson	McCauley	Quirin	Voss
Clifford	Haugerud	McEachern	Resner	Wenzel
Connors	Heinitz	McFarlin	Rice	Wigley
Culhane	Jacobs	McMillan	Ryan	Wohlwend
Cummiskey	Jaros	Menke	St. Onge	Wolcott
Dahl	Johnson, C.	Miller, D.	Salchert	Mr. Speaker
DeGroat	Johnson, D.	Miller, M.	Samuelson	

Those who voted in the negative were:

Becklin	Erickson	Klaus	Pleasant	Sherwood
Carlson, D.	Hook	Kvam	Searle	
Erdahl	Johnson, J.	Ohnstad		

The bill was passed and its title agreed to.

Wigley was excused at 4:00 p.m.

### GENERAL ORDERS

Pursuant to Rules of the House, the House resolved itself into the Committee of the Whole, with Mr. Sabo in the Chair, for the consideration of bills pending on General Orders of the Day.

Pursuant to Rule 12, a roll call was taken on the following amendment to S. F. No. 1060 offered by Ulland:

The unofficial printed engrossment made by the House, as follows:

Page 3, strike line 36.

Page 4, strike lines 1 and 2.

Further, amend the title, in line 4, after "6;" strike "and by adding a subdivision;"

There were yeas 80, and nays 10.

Those who voted in the affirmative were:

Anderson, G.	Dirlam	Jude	McCauley	Quirin
Anderson, I.	Eckstein	Kelly	McFarlin	St. Onge
Belisle	Enebo	Kempe	McMillan	Savelkoul
Bennett	Erickson	Klaus	Miller, M.	Schulz
Berg	Faricy	Knickerbocker	Myrah	Searle
Biersdorf	Fjoslien	Knoll	Nelson	Sherwood
Braun	Graba	Kostohryz	Newcome	Skaar
Carlson, A.	Graw	Kvam	Ohnstad	Spanish
Carlson, D.	Hagedorn	Laidig	Ojala	Stangeland
Carlson, L.	Hanson	Larson	Patton	Stanton
Cleary	Haugerud	Lemke	Pavlak, R. L.	Ulland
Clifford	Heinitz	Lindstrom, E.	Pehler	Vanasek
Connors	Johnson, D.	Lindstrom, J.	Peterson	Vento
Culhane	Johnson, J.	Lombardi	Pieper	Wenzel
Cummiskey	Johnson, R.	Mann	Pleasant	Wohlwend
DeGroat	Jopp	McArthur	Prahl	Mr. Speaker

Those who voted in the negative were:

Berglin	Fugina	Kahn	Pavlak, R.	Tomlinson
Carlson, B.	Growe	Menke	Sieben, H.	Voss

The amendment was adopted.

The Speaker resumed the Chair, whereupon the following proceedings of the Committee were reported to the House:

H. F. No. 2236 upon which it recommended progress until Monday, February 18, 1974.

H. F. No. 1810 upon which it recommended progress until Wednesday, February 13, 1974, retaining its place on General Orders.

S. F. No. 1840 upon which it recommended progress until Monday, February 18, 1974, retaining its place on General Orders.

H. F. No. 2024 upon which it recommended progress until Tuesday, February 19, 1974, retaining its place on General Orders.

H. F. No. 1539 upon which it recommended progress with the following amendments:

The printed bill, as follows:

Offered by Fugina:

Strike everything after the enacting clause and insert in lieu thereof:

"Section 1. [LOCAL GOVERNMENT ELECTIONS; ALLEY SYSTEM.] Subdivision 1. The governing body of each

city and independent or special school district and the town board of each town may designate each seat on the board or other governing body, whether occupied or not, by a separate letter of the alphabet. Each designated seat shall be deemed a separate office for elections thereafter. Any incumbent running for election or reelection shall be a candidate for that office only of which he was an incumbent. Each person desiring to have his name placed on the primary ballot shall state in his affidavit of candidacy which designated seat he is a candidate for. Except as provided by law for cities of the first class the names of the candidates for each seat shall be rotated on the ballots to avoid any appearance of preference for incumbents. Incumbency shall not be indicated on the ballots. Except as herein provided the laws relating to elections shall continue to apply.

Sec. 2. This act shall not apply to any governmental unit unless approved by its governing body. For the purposes of this act the governing body of a town is the town board.

Sec. 3. This act is effective the day following final enactment.”.

Offered by Dirlam:

Line 14 of the Fugina amendment, after “primary” insert “or general”.

H. F. No. 2027 upon which it recommended to pass with the following amendment offered by Ojala:

The printed bill, as follows:

Page 1, line 1, after “Subdivision 1.” strike the rest of line 1 and all of lines 2, 3, and 4 and insert in lieu thereof the following language:

“It is the policy of the Legislature that neither the labeling nor the advertising of wild rice shall falsely represent its origin, and that every package, wrap or container of wild rice which is harvested, processed or sold at retail in this state shall be labeled and advertised as ‘Natural Wild Rice’ only if it has been obtained from uncultivated areas, that if it is cultivated it shall be labeled and advertised only as ‘Cultivated Wild Rice’, or ‘Domestically Grown Wild Rice’, that mixtures of cultivated and naturally grown wild rice or wild rice of unknown origin shall be labeled or represented only as ‘Mixed Wild Rice’.”.

S. F. No. 1060 upon which it recommended progress with the following amendments:

The unofficial printed engrossment made by the House, as follows:

Offered by Growe:

Page 2, line 17, after "a" strike "*highway*" and insert "*roadway*".

Offered by Ulland:

Page 3, strike line 36.

Page 4, strike lines 1 and 2.

Further, amend the title, in line 4, after "6;" strike "and by adding a subdivision;"

Offered by Growe:

Page 2, line 28, after "No" restore the stricken language.

Page 2, line 29, restore the stricken language and strike "*operator shall carry another*".

Page 2, line 30, strike "*person on said bicycle*".

On the motion of Mr. Anderson, I., the report of the Committee of the Whole was adopted.

## MOTIONS AND RESOLUTIONS

House Resolution No. 31 was reported to the House.

### HOUSE RESOLUTION NO. 31

A house resolution requesting the United States Secretary of the Treasury to transfer the territory within the state of Minnesota from Customs District No. 34, under the administration of the district office at the customs port of Pembina, North Dakota, to Customs District No. 36, under the administration of the district office at the customs port of Duluth, Minnesota.

*Whereas*, Customs District No. 34 includes the territory of all of the states of North Dakota and South Dakota and the Minnesota counties of Kittson, Roseau, Lake of the Woods, Marshall, Polk, Beltrami, Red Lake and Pennington, including the Minnesota customs ports of Noyes, Lancaster, Pine Creek, Roseau, Warroad and Baudette, all of which is under the administration of the district office at the customs port of Pembina, North Dakota; and

*Whereas*, the customs port of Pembina, North Dakota, which includes the headquarters administrative office for Customs District No. 34, is in direct competition with the customs port of

Noyes, Minnesota, for the traffic moving on Manitoba Highway No. 75, which extends from the Winnipeg metropolitan and Manitoba industrial areas to the United States border and which traffic may either pass through the port of Pembina, North Dakota into or out of the state of North Dakota via Interstate Highway No. 29, or may pass through the port of Noyes, Minnesota into or out of the state of Minnesota via United States Highway No. 75; and

*Whereas*, the traffic moving on Manitoba Highway No. 75 consists of people looking for fishing, hunting, skiing and other playground resorts as well as other types of tourism, and businessmen and farmers from Canada trying to buy industrial and agricultural products of all descriptions that are manufactured, grown and produced and sold in various parts of Minnesota and North Dakota, and the transportation of such products via large trucks; it is obvious that any such traffic gained by the state of North Dakota can only be a benefit to the economy of the state of North Dakota at a corresponding loss to the economy of the state of Minnesota; and

*Whereas*, under the administration of the District No. 34 Office at the customs port of Pembina, North Dakota, and as a result of North Dakota political interests, through a process extending over many years, the customs port of Noyes has been downgraded in its services and facilities and at the same time the services and facilities have been upgraded at the customs port of Pembina, and during such years little has been done to improve the services and facilities at the other Minnesota customs ports of Lancaster, Pine Creek, Roseau, Warroad and Baudette; and

*Whereas*, the district director of Customs District No. 34 at Pembina has publicly disclosed that his office has experienced many problems and difficulties in covering the vast territory comprising his district, and it is obvious that the Minnesota territory contained in his district has suffered as a result; and

*Whereas*, the District No. 36 office at the customs port of Duluth, Minnesota, is better equipped and has the disposition to effect fair and adequate administration over the said Minnesota territory, and such administration would enhance the chances of the state of Minnesota to compete fairly with the state of North Dakota for the said business in the Winnipeg Metropolitan and Manitoba industrial areas; now, therefore,

*Be It Resolved*, that the United States Secretary of the Treasury be requested to transfer the territory within the state of Minnesota comprising the counties of Kittson, Roseau, Lake of the Woods, Marshall, Polk, Red Lake and Pennington, and the customs ports of Noyes, Lancaster, Pine Creek, Roseau, Warroad and Baudette, from Customs District No. 34 under the administration of the district office at the customs port of Pembina,

North Dakota, into Customs District No. 36 under the administration of the district office at the customs port of Duluth, Minnesota.

Braun moved that House Resolution No. 31 be now adopted.

The motion prevailed and House Resolution No. 31 was adopted.

Wohlwend moved that H. F. No. 2706 be recalled from the Committee on Taxes and be re-referred to the Committee on Local Government. The motion prevailed.

Becklin moved that the names of Connors and Ohnstad be added as authors on H. F. No. 2912. The motion prevailed.

Jacobs moved that his name be stricken as an author on H. F. No. 2775. The motion prevailed.

Adams, J., moved that the name of McArthur be shown as chief author and Adams, J., be shown as fifth author on H. F. No. 2884. The motion prevailed.

Samuelson moved that the name of Johnson, D., be added as an author on H. F. No. 2954. The motion prevailed.

Faricy moved that the name of Enebo be added as an author on H. F. No. 3162. The motion prevailed.

Ferderer moved that the names of Salehert, Fudro, and Lombardi be added as authors on H. F. No. 2356. The motion prevailed.

Resner moved that the name of Flakne be stricken as an author on H. F. No. 1866. The motion prevailed.

Resner moved that the name of Swanson be added as an author on H. F. No. 1866. The motion prevailed.

Stanton moved that the names of Kvam and Jude be added as authors on H. F. No. 3212. The motion prevailed.

#### ADJOURNMENT

Mr. Anderson, I., moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:00 p.m., Tuesday, February 12, 1974.

EDWARD A. BURDICK, Chief Clerk, House of Representatives



