

## STATE OF MINNESOTA

## SEVENTY-FOURTH SESSION - 1985

## FORTY-FOURTH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, APRIL 24, 1985

The House of Representatives convened at 2:00 p.m. and was called to order by David M. Jennings, Speaker of the House.

Prayer was offered by Father John Parkos, Church of St. Joseph, West St. Paul, Minnesota.

The roll was called and the following members were present:

Anderson, G.	Ellingson	Kvam	Pappas	Skoglund
Anderson, R.	Erickson	Levi	Pauly	Solberg
Backlund	Fjoslien	Lieder	Peterson	Sparby
Battaglia	Forsythe	Long	Piepho	Stanius
Beard	Frederick	Marsh	Piper	Staten
Becklin	Frederickson	McDonald	Poppenhagen	Sviggum
Begich	Frerichs	McEachern	Price	Thiede
Bennett	Greenfield	McKasy	Quinn	Thorson
Bishop	Gruenes	McLaughlin	Quist	Tjornhom
Blatz	Gutknecht	McPherson	Redalen	Tomlinson
Boerboom	Halberg	Metzen	Rees	Tompkins
Boo	Hartinger	Miller	Rest	Tunheim
Brandl	Hartle	Minne	Rice	Uphus
Brinkman	Haukoos	Munger	Richter	Valan
Brown	Heap	Murphy	Riveness	Valento
Burger	Himle	Nelson, D.	Rodosovich	Vanasek
Carlson, D.	Jacobs	Nelson, K.	Rose	Vellenga
Carlson, J.	Jaros	Neuenschwander	Sarna	Voss
Carlson, L.	Johnson	Norton	Schafer	Waltman
Clark	Kahn	O'Connor	Scheid	Welle
Clausnitzer	Kalis	Ogren	Schoenfeld	Wenzel
Cohen	Kelly	Olson, S.	Schreiber	Wynia
Dempsey	Kiffmeyer	Olson, E.	Seaberg	Zaffke
DenOuden	Knickerbocker	Onnen	Segal	Spk. Jennings, D.
Dimler	Knuth	Osthoff	Shaver	
Dyke	Kostohryz	Otis	Sherman	
Elioff	Krueger	Ozment	Simoneau	

A quorum was present.

Omann was excused.

Jennings, L., was excused until 3:35 p.m.

The Chief Clerk proceeded to read the Journals of the preceding days. Kelly moved that further reading of the Journals

be dispensed with and that the Journals be approved as corrected by the Chief Clerk. The motion prevailed.

#### REPORTS OF CHIEF CLERK

Pursuant to Rules of the House, printed copies of H. F. Nos. 584, 594, 693, 743, 806, 834, 911, 1018, 1309, 1497, 1503, 495, 922, 934, 942, 984, 1151, 1205, 1227, 1282, 1317, 346, 592, 860, 912, 1405, 1468, 851, 1029, 1128, 1460, 1498, 1568, 1589, 384, 568, 1541 and 368 and S. F. Nos. 1231, 43, 279, 448, 542 and 623 have been placed in the members' files.

S. F. No. 597 and H. F. No. 693, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Frederick moved that S. F. No. 597 be substituted for H. F. No. 693 and that the House File be indefinitely postponed. The motion prevailed.

#### CALL OF THE HOUSE

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

Backlund	Frederick	Levi	Piper	Thiede
Beard	Frederickson	Lieder	Poppenhagen	Thorson
Becklin	Gruenes	Long	Quinn	Tompkins
Bennett	Gutknecht	McDonald	Rees	Tunheim
Burger	Hartinger	McKasy	Richter	Uphus
Carlson, J.	Hartle	McLaughlin	Riveness	Valan
Carlson, L.	Haukoos	McPherson	Rodosovich	Vellenga
Clausnitzer	Heap	Metzen	Rosc	Waltman
Cohen	Jacobs	Miller	Schafer	Wenzel
DenOuden	Johnson	Murphy	Seaberg	Zaffke
Dyke	Kalis	Nelson, D.	Sherman	Spk. Jennings, D.
Elioff	Kelly	Olson, E.	Simoneau	
Erickson	Kiffmeyer	Otis	Solberg	
Fjoslien	Knuth	Ozment	Stanis	
Forsythe	Kostohryz	Peterson	Sviggum	

Levi 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.

#### PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR  
SAINT PAUL 55155

44th Day]

WEDNESDAY, APRIL 24, 1985

2585

April 19, 1985

The Honorable David M. Jennings  
Speaker of the House  
The State of Minnesota

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State the following House Files:

H. F. No. 85, relating to the town of Santiago; authorizing the establishment of a detached banking facility.

H. F. No. 422, relating to the city of West Saint Paul; changing the municipal election day and extending the terms of certain elected officials.

H. F. No. 796, relating to Ramsey county; exempting county highways from seasonal load restrictions unless posted by the county authority; proposing coding for new law in Minnesota Statutes, chapter 383A.

H. F. No. 991, relating to local government; regulating certain municipal dissolutions and annexations; amending Minnesota Statutes 1984, sections 412.091; 414.033, by adding subdivisions; and 414.061, by adding a subdivision.

Sincerely,

RUDY PERPICH  
Governor

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

April 19, 1985

The Honorable David M. Jennings  
Speaker of the House of Representatives

The Honorable Jerome M. Hughes  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1985 Session of the State Legislature have been received from the office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S.F. No.</i>	<i>H.F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Date Approved 1985</i>	<i>Date Filed 1985</i>
177		24	April 19	April 19
635		25	April 19	April 19
679		26	April 19	April 19
	85	27	April 19	April 19
	422	28	April 19	April 19
	796	29	April 19	April 19
	991	30	April 19	April 19

Sincerely,

JOAN ANDERSON GROWE  
Secretary of State

## REPORTS OF STANDING COMMITTEES

Rose from the Committee on Environment and Natural Resources to which was referred :

H. F. No. 442, A bill for an act relating to drainage; recodifying the drainage law with some modifications; appropriating money; imposing penalties; proposing coding for new law as Minnesota Statutes, chapter 106A; repealing Minnesota Statutes 1984, chapter 106.

Reported the same back with the following amendments :

Delete everything after the enacting clause and insert :

### "DRAINAGE

#### Section 1. [106A.005] [DEFINITIONS.]

*Subdivision 1. [APPLICABILITY.] The definitions in this section apply to this chapter.*

*Subd. 2. [AFFECTED.] "Affected" means benefited or damaged by a drainage system.*

*Subd. 3. [AUDITOR.] "Auditor" means the auditor of the county where the petition for a drainage system was properly filed.*

Subd. 4. [BOARD.] *"Board" means the board of commissioners of the county where the drainage system is located.*

Subd. 5. [COMMISSIONER.] *"Commissioner" means the commissioner of natural resources.*

Subd. 6. [DIRECTOR.] *"Director" means the director of the division of waters in the department of natural resources.*

Subd. 7. [DISMISSAL OF PROCEEDINGS.] *"Dismissal of proceedings" means that the petition and proceedings related to the petition are dismissed.*

Subd. 8. [DITCH.] *"Ditch" means an open channel to conduct the flow of water.*

Subd. 9. [DRAINAGE AUTHORITY.] *"Drainage authority" means the board or joint county drainage authority having jurisdiction over a drainage system.*

Subd. 10. [DRAINAGE LIEN.] *"Drainage lien" means a recorded lien against property for drainage proceedings and construction costs and interest on the lien as provided under this chapter.*

Subd. 11. [DRAINAGE SYSTEM.] *"Drainage system" means a ditch and tile system to drain property, including laterals, improvements, and improvements of outlets, that is proposed to, established by, or constructed by a drainage authority. "Drainage system" includes the improvement of a natural waterway used in the construction of a drainage system, and any part of a flood control plan proposed by the United States or its agencies in the drainage system.*

Subd. 12. [ENGINEER.] *"Engineer" means the county highway engineer of a county where affected property is located or a professional engineer registered under state law.*

Subd. 13. [ESTABLISHED.] *"Established" means the drainage authority has made the final order to construct the drainage system.*

Subd. 14. [LATERAL.] *"Lateral" means any drainage construction by branch or extension, or a system of branches and extensions, that connects property with an established drainage system.*

Subd. 15. [MUNICIPALITY.] *"Municipality" means a statutory or home rule charter city or a town having urban powers under section 368.01, subdivision 1 or 1a.*

**Subd. 16. [NOTICE BY MAIL.]** *"Notice by mail" means a notice mailed and addressed to each person entitled to receive the notice, if the address is known to the auditor or can be determined by the county treasurer of the county where the affected property is located.*

**Subd. 17. [PERSON.]** *"Person" means an individual, firm, partnership, association, or private corporation.*

**Subd. 18. [POLITICAL SUBDIVISIONS.]** *"Political subdivisions" means statutory and home rule charter cities, counties, towns, school districts, and other political subdivisions.*

**Subd. 19. [PROCEEDING.]** *"Proceeding" means a procedure under this chapter for or related to drainage that begins with filing a petition and ends by dismissal or establishment of a drainage system.*

**Subd. 20. [PROPERTY.]** *"Property" means real property.*

**Subd. 21. [PUBLICATION.]** *"Publication" means a notice published at least once a week for three successive weeks in a legal newspaper in general circulation in each county affected by the notice.*

**Subd. 22. [PUBLIC HEALTH.]** *"Public health" includes an act or thing that tends to improve the general sanitary condition of the community by drainage, relieving low wetland or stagnant and unhealthful conditions, or preventing the overflow of any property that produces or tends to produce unhealthful conditions.*

**Subd. 23. [PUBLIC WATERS.]** *"Public waters" has the meaning given in section 105.37, subdivision 14.*

**Subd. 24. [PUBLIC WELFARE OR PUBLIC BENEFIT.]** *"Public welfare" or "public benefit" includes an act or thing that tends to improve or benefit the general public, either as a whole or as to any particular community or part, including works contemplated by this chapter, that drain or protect roads from overflow, protect property from overflow, or reclaim and render property suitable for cultivation that is normally wet and needing drainage or subject to overflow.*

**Subd. 25. [RESIDENT OWNER.]** *"Resident owner" means an owner of property or buyer under a contract for deed who resides in the state.*

**Subd. 26. [ROAD.]** *"Road" means any road used by the public for transportation purposes.*

## GENERAL DRAINAGE PROVISIONS

## Sec. 2. [106A.011] [DRAINAGE AUTHORITY POWERS.]

*Subdivision 1. [GENERALLY.] The drainage authority may make orders to:*

- (1) construct and maintain drainage systems;*
- (2) deepen, widen, straighten, or change the channel or bed of a natural waterway that is part of the drainage system or is located at the outlet of a drainage system;*
- (3) extend a drainage system into or through a municipality for a suitable outlet; and*
- (4) construct necessary dikes, dams, and control structures and power appliances, pumps, and pumping machinery as provided by law.*

*Subd. 2. [DRAINAGE OF WATERBASINS AND WATERCOURSES.] A drainage authority may not drain a water body or begin work or activity regulated by section 105.42 in a watercourse until the commissioner determines that the water body or watercourse is not public waters. If a water body or watercourse is determined to be public waters, the drainage proceedings are subject to section 105.391, subdivision 3, relating to replacing public waters and the water bank program.*

*Subd. 3. [PERMISSION OF COMMISSIONER FOR WORK IN PUBLIC WATERS; APPLICATION.] (a) The drainage authority must receive permission from the commissioner to:*

- (1) remove, construct, or alter a dam affecting public waters;*
- (2) establish, raise, or lower the level of public waters; or*
- (3) drain any portion of a public water.*

*(b) The petitioners for a proposed drainage system or the drainage authority may apply to the commissioner for permission to do work in public waters or for the determination of public waters status of a water body or watercourse.*

*Subd. 4. [FLOOD CONTROL.] The drainage authority may construct necessary dams, structures, and improvements and maintain them to impound and release flood water to prevent damage. The dams, structures, and improvements may be constructed with or without a drainage system. For a water body or watercourse that is not public waters the drainage authority may:*

(1) lower, or establish the height of water in the water body or watercourse to control flood waters;

(2) build structures and improvements to maintain a water body or watercourse for flood control or other public purposes; and

(3) construct dikes or dams in a water body to maintain water at the height designated by the drainage authority and to drain part of the water body.

**Sec. 3. [106A.015] [CONSIDERATIONS BEFORE DRAINAGE WORK IS DONE.]**

*Subdivision 1. [ENVIRONMENTAL AND LAND USE CRITERIA.] Before establishing a drainage system the drainage authority must consider:*

(1) private and public benefits and costs of the proposed drainage system;

(2) the present and anticipated agricultural land acreage availability and use in the drainage system;

(3) the present and anticipated land use within the drainage system;

(4) flooding characteristics of property in the drainage system;

(5) the waters to be drained and alternative measures to conserve, allocate, and develop the waters;

(6) the effect on water quality of constructing the proposed drainage system;

(7) fish and wildlife resources affected by the proposed drainage system;

(8) shallow groundwater availability, distribution, and use in the drainage system; and

(9) the overall environmental impact of all the above criteria.

**Subd. 2. [DETERMINING PUBLIC UTILITY, BENEFIT, OR WELFARE.]** *In any proceeding to establish a drainage system, or in the construction of or other work affecting a public drainage system under any law, the drainage authority or other authority having jurisdiction of the proceeding must give proper consideration to conservation of soil, water, forests, wild animals,*



*and related natural resources, and to other public interests affected, together with other material matters as provided by law in determining whether the project will be of public utility, benefit, or welfare.*

**Sec. 4. [106A.021] [DITCHES MUST BE PLANTED WITH PERMANENT GRASS.]**

*Subdivision 1. [SPOIL BANKS MUST BE SPREAD AND GRASS PLANTED.] In any proceeding to establish, construct, improve, or do any work affecting a public drainage system under any law that appoints viewers to assess benefits and damages, the authority having jurisdiction of the proceeding shall order spoil banks to be spread consistent with the plan and function of the drainage system. The authority shall order that permanent grass, other than a noxious weed, be planted on the banks and on a strip 16-1/2 feet in width or to the crown of the leveled spoil bank, whichever is the greater, on each side of the top edge of the channel of the ditch. The acreage and additional property required for the planting must be acquired by the authority having jurisdiction.*

*Subd. 2. [RESEEDING AND HARVESTING GRASS.] The authority having jurisdiction over the repair and maintenance of the drainage system shall supervise all necessary reseeding. The permanent grass must be maintained in the same manner as other drainage system repairs. Harvest of the grass from the grass strip in a manner not harmful to the grass or the drainage system is the privilege of the fee owner or assigns. The county drainage inspector shall establish regulations for the fee owner and assigns to harvest the grass.*

*Subd. 3. [AGRICULTURAL PRACTICES PROHIBITED.] Agricultural practices, other than those required for the maintenance of a permanent growth of grass, are not permitted on any portion of the property acquired for planting.*

**Sec. 5. [106A.025] [PROCEDURE FOR DRAINAGE PROJECT THAT AFFECTS STATE LAND OR WATER AREA USED FOR CONSERVATION.]**

*Subdivision 1. [AREAS SUBJECT TO THIS SECTION.] If a land or water area owned by the state and held or used to protect or propagate wild animals, provide hunting or fishing for the public, or for any other purpose relating to the conservation, development, or use of soil, water, forests, wild animals, or related natural resources will be affected by any public project or proceeding for drainage under any law, all procedures relating to the project or proceeding are subject to this section, if applicable.*

*Subd. 2. [CONDITIONS TO TAKE OR DAMAGE STATE LAND AND WATER AREAS.] (a) Any part of the state land or water area may be taken or damaged for a public project after payment of just compensation as provided by law and under the provisions of this subdivision.*

*(b) The authority having jurisdiction of the drainage project or proceeding shall first find and determine that there is public necessity for the taking or damage that is greater than the public interest in the purposes for which the affected land and water areas are held or used by the state.*

*(c) In determining the compensation to be paid for the taking or damage, the authority must give proper consideration to the value of the land and water area for the purposes it is held or used by the state and other material elements of value.*

*(d) Public waters may not be taken, damaged, or impaired except as otherwise expressly authorized by law, and a provision of any other law for the protection or conservation of public waters may not be abridged or superseded by this subdivision.*

*Subd. 3. [CONSIDERATIONS IN DETERMINING BENEFITS.] In determining benefits to the state land or water area in any proceeding to levy assessments or offset benefits against damages, proper consideration must be given to the value of the area for the purpose it is held or used by the state, with other material elements of value.*

*Subd. 4. [AMOUNTS PAID TO STATE.] Any amounts paid to the state for taking or damaging the state land or water area in a proceeding must be credited to the proper account for acquisition, development, or maintenance of the areas, and the amount is appropriated to the commissioner for those purposes to remain available until expended.*

*Subd. 5. [MONEY TO PAY ASSESSMENTS.] Assessments for benefits made against the state land or water area in a proceeding must be paid out of money appropriated and available to pay assessments as provided by law.*

**Sec. 6. [106A.031] [CONNECTION WITH DRAINS IN ADJOINING STATES.]**

*Subdivision 1. [PROCEDURE.] If it is necessary to construct a drainage system at or near the boundary between this state and another state or country and the work cannot be done in a proper manner without extending the drainage system into the adjoining state or country, the drainage authority may join with the board or tribunal of the adjoining state or country having jurisdiction to plan and construct public drainage systems.*

*The drainage authority in this state may enter into contracts or arrangements with the board or tribunal of the adjoining state or country to construct the drainage system. The proceeding and construction related to property in this state and, as applicable, the drainage authority in relation to the joint drainage work, are governed by this chapter.*

Subd. 2. [PAYMENT OF COSTS.] *The adjoining county or district in another state or country must pay its proper share of the necessary costs of the construction of any drainage work including damages. If the benefits to property in the adjoining state or country are not sufficient to pay all the costs of construction of the drainage system in that state or country, including damages, the drainage authority may authorize or direct the affected counties to contribute sufficient funds to complete the construction of the drainage system in the adjoining state or country, if the construction will be of sufficient benefit to the affected property in this state to warrant the contribution.*

Sec. 7. [106A.035] [DEFECTIVE NOTICE.]

*If notice is required under this chapter and proper notice has been given to some parties but the notice is defective or not given to other parties, the drainage authority has jurisdiction of all parties that received proper notice. The proceedings may be continued by order of the drainage authority for the time necessary to publish, post, or mail a new notice. The new notice needs only be given to those not properly notified by the first notice.*

Sec. 8. [106A.041.] [PERSONAL SERVICE IN LIEU OF OTHER METHODS OF NOTICE.]

*If notice is to be given under this chapter, personal service at least ten days before the date of hearing may be given in lieu of the manner provided. The notice must be served in the manner provided for the service of summons in a civil action in district court.*

Sec. 9. [106A.045] [FAILURE OF DRAINAGE AUTHORITY TO ATTEND HEARINGS.]

*If an order has been made and notice for a hearing given under this chapter, and the drainage authority does not appear at the time and place specified for any reason, the auditor shall continue the hearing to a date set by the auditor. The auditor shall notify the drainage authority of the continuance and the date of hearing. The jurisdiction is continued until the date set by the auditor.*

Sec. 10. [106A.051] [DEFECTIVE PROCEEDINGS.]

(a) *A party may not take advantage of an error in a drainage proceeding or an informality, error, or defect appearing in the record of the proceeding or construction, unless the party complaining is directly affected. The modification of the benefits or damages to any property, or the enjoining of collection of any assessment, does not affect any other property or the collection of any assessment on other property.*

(b) *If a drainage system has been established and a contract awarded in good faith, without collusion, and at a reasonable price:*

(1) *a defect or lack of notice in awarding, making, or executing the contract does not affect the enforcement of an assessment; and*

(2) *if the contract is performed in good faith in whole or in part, a defect does not invalidate the contract.*

**Sec. 11. [106A.055] [REIMBURSEMENT OF COST OF FORMER SURVEYS WHEN USED LATER.]**

*If after a proceeding has begun a survey has been made and a proceeding to establish a drainage system has been dismissed or the drainage system has not been established, and all or a part of the former survey is used by the engineer for a drainage proceeding in the same area, the amount saved in the subsequent proceedings must be paid to the proper parties according to this section. If the parties who paid the expense of the former survey make a petition, the drainage authority shall:*

(1) *determine the amount of benefit that was derived by the subsequent proceedings from the former survey;*

(2) *order the amount of the benefit to be paid to the proper parties; and*

(3) *charge the amount paid as a cost of the subsequent drainage proceeding.*

**Sec. 12. [106A.061] [RIGHT OF ENTRY.]**

*In proceedings under this chapter, the engineer, the engineer's assistants, the viewers, and the viewers' assistants may enter any property to make a survey, locate a drain, examine the property, or estimate the benefits and damages.*

**Sec. 13. [106A.065] [DRAINAGE INSPECTORS.]**

*In counties where constructed drainage systems have an aggregate cost of more than \$50,000, the board shall appoint a compe-*

*tent person as county drainage inspector. The inspector may be the county highway engineer. The inspector shall examine the drainage systems designated by the board. The board shall specify the appointment period and compensation.*

**Sec. 14. [106A.071] [COUNTY ATTORNEY.]**

*The county attorney shall represent the county in all drainage proceedings and related matters without special compensation. A county attorney, the county attorney's assistant, or any attorney associated with the county attorney in business, may not otherwise appear in any drainage proceeding for any interested person.*

**Sec. 15. [106A.075] [OBSTRUCTION OF DRAINAGE SYSTEM.]**

**Subdivision 1. [NOTIFICATION TO RESPONSIBLE PARTY.]** *If the board determines that a drainage system has been obstructed, including by the installation of bridges or culverts of insufficient hydraulic capacity, the board shall notify the person or public authority responsible for the obstruction as soon as possible and direct the responsible party to remove the obstruction or show the board why the obstruction should not be removed. The board must set a time and location in the notice for the responsible person to appear before the board.*

**Subd. 2. [OBSTRUCTION ON PRIVATE PROPERTY.]** *If the obstruction is on private property, the owner is responsible for the obstruction unless the owner proves otherwise. The owner must be notified by certified mail at least ten days before the hearing.*

**Subd. 3. [OBSTRUCTION HEARING.]** *The board shall hear all interested parties and if the board determines that the drainage system has been obstructed by a person or public authority, the board shall order the obstruction removed by the responsible party within a reasonable time set in the order. If the obstruction is not removed by the prescribed time, the board shall have the obstruction removed and the auditor shall make a statement of the removal cost. The statement must be filed in the county recorder's office as a lien on the property where the obstruction is located or against the responsible party. The lien must be enforced and collected as liens for drainage repairs under this chapter, except that a lien may not be filed against private property if the board determines that the owner of the property is not responsible for the obstruction. The lien may be enforced against the responsible party by civil action.*

**Sec. 16. [106A.081] [CRIMES RELATED TO DRAINAGE SYSTEMS; PENALTIES.]**

*Subdivision 1. [UNAUTHORIZED DRAIN OUTLETING INTO DRAINAGE SYSTEM.] A person may not cause or construct a drain that outlets into a lawfully constructed drainage system except as provided in this chapter.*

*Subd. 2. [OBSTRUCTION OR DAMAGE OF A DRAINAGE SYSTEM.] A person may not willfully obstruct or damage a drainage system.*

*Subd. 3. [ALTERING ENGINEER'S MARKING OR STAKES.] A person may not willfully change the location or alter markings of stakes set by the engineer in a drainage system.*

*Subd. 4. [PENALTY.] Violation of this section is a misdemeanor.*

#### **Sec. 17. [106A.085] [ENFORCEMENT.]**

*Subdivision 1. [WARRANTS AND ARRESTS.] The commissioner, director of the fish and game division, game refuge patrolmen, and conservation officers may execute and serve warrants, and arrest persons detected in actual violation of sections 1 to 92 as provided in section 97.50, subdivision 1.*

*Subd. 2. [PROSECUTION.] The county attorney shall prosecute all criminal actions arising under this chapter.*

#### **Sec. 18. [106A.091] [APPEALS.]**

*Subdivision 1. [GROUNDS FOR APPEAL.] A party may appeal to the district court from a recorded order of a drainage authority made in a drainage proceeding that determines:*

- (1) the amount of benefits;*
- (2) the amount of damages;*
- (3) fees or expenses allowed; or*
- (4) whether the environmental and land use requirements and criteria of section 3, subdivision 1, are met.*

*Subd. 2. [PROCEDURE FOR APPEALS RELATED TO BENEFITS AND DAMAGES.] (a) A person who appeals the amount of benefits or damages may include benefits and damages affecting property not owned by the appellant. Notice of the appeal must be served to the auditor and to the owner or occupant of property included in the appeal or to the attorney representing the property owner in the proceedings.*

*(b) The appellant must file a notice of appeal with the auditor within 30 days after the order to be appealed is filed. The*

*notice must state the particular benefits or damages appealed and the basis for the appeal. Within 30 days after the notice is filed, the auditor must file the original notice with the clerk of the district court.*

**Subd. 3. [PROCEDURE FOR APPEAL RELATED TO ALLOWANCE OF FEES OR EXPENSES.]** *An appeal related to the allowance of fees or expenses may be to the district court of any county where the affected property is located. The appeal must be made within 30 days after the order allowing or disallowing the claim and is governed as applicable by the provisions of subdivision 4.*

**Subd. 4. [APPEAL TRIAL.]** (a) *The issues in the appeal must be tried by a jury at the next term of the district court after the appeal is filed held within the county where the drainage proceeding was pending.*

(b) *If the appellant requests it, the trial must be held at the next term of the district court of the county where the affected property is located. The clerk of the district court where the appeal is first filed shall make, certify, and file with the clerk of the district court of the county where the trial is transferred, a transcript of the papers and documents on file in the clerk's office in the proceedings related to the matters of the appeal. After the final determination of the appeal, the clerk of the district court that tried the appeal shall certify and return the verdict to the district court of the county where the drainage proceedings were filed.*

(c) *The appeal shall take precedence over all other civil court matters. If there is more than one appeal to be tried in one county, the court may, on its own motion or the motion of an interested party, consolidate two or more appeals and try them together, but the rights of the appellants must be determined separately. If the appellant does not prevail, the cost of the trial must be paid by the appellant.*

(d) *The clerk of the district court where the appeal is filed shall file a certified copy of the final determination of the appeal with the auditor of the affected counties.*

**Subd. 5. [EFFECT OF DETERMINATION.]** *For all appeals, the amount awarded by the jury as a determination of the issue appealed shall replace the amount that was appealed.*

**Sec. 19. [106A.095] [APPEAL FROM ORDERS DISMISSING OR ESTABLISHING DRAINAGE SYSTEMS.]**

**Subdivision 1. [NOTICE OF APPEAL.]** *A party may appeal an order made by the board that dismisses drainage proceedings or establishes or refuses to establish a drainage system*

*to the district court of the county where the drainage proceedings are pending. The appellant must serve notice of the appeal to the auditor within 30 days after the order is filed. After notice of the appeal is served, the appeal may be brought to trial by the appellant or the drainage authority after notifying the other party at least ten days before the trial date.*

*Subd. 2. [TRIAL.] The appeal must be tried by the court without a jury. The court shall examine the entire drainage proceeding and related matters and receive evidence to determine whether the findings made by the board can be sustained. At the trial the findings made by the board are prima facie evidence of the matters stated in the findings, and the board's order is prima facie reasonable. If the court finds that the order appealed is lawful and reasonable, it shall be affirmed. If the court finds that the order appealed is arbitrary, unlawful, or not supported by the evidence, it shall make an order, justified by the court record, to take the place of the appealed order, or remand the order to the board for further proceedings. After the appeal has been determined by the court, the board shall proceed in conformity with the court order.*

*Subd. 3. [DETERMINATION OF BENEFITS AND DAMAGES AFTER COURT ORDER.] If the order establishing a drainage system is appealed, the trial of appeals related to benefits or damages in the drainage proceeding must be stayed until the establishment appeal is determined. If the order establishing the drainage system is affirmed, appeals related to benefits and damages must then be tried.*

*Subd. 4. [PROCEDURE IF APPEAL ORDER ESTABLISHES DRAINAGE SYSTEM.] If an order refusing to establish a drainage system is appealed, and the court, by order, establishes the drainage system, the auditor shall give notice by publication of the filed order. The notice is sufficient if it refers to the drainage system by number or other descriptive designation, states the meaning of the order, and states the date the court order was filed. A person may appeal the establishment order to the district court as provided in this section.*

*Subd. 5. [APPEAL OF APPELLATE ORDER.] A party aggrieved by a final order or judgment rendered on appeal to the district court may appeal as in other civil cases. The appeal must be made and perfected within 30 days after the filing of the order or entry of judgment.*

## **Sec. 20. [106A.101] [DRAINAGE PROCEEDING AND CONSTRUCTION RECORDS.]**

*Subdivision 1. [DOCUMENTS ARE PUBLIC RECORDS.] All maps, plats, charts, drawings, plans, specifications, and other documents that have been filed, received in evidence, or used in*



*connection with a drainage proceeding or construction are subject to the provisions on public records in section 15.17.*

**Subd. 2. [RECORD REQUIREMENTS.]** *All maps, plats, profiles, plans, and specifications prepared and used in relation to a proceeding must:*

- (1) be uniform;*
- (2) have each sheet bound and marked to identify the proceeding by the drainage system number;*
- (3) show the name of the person preparing the sheet;*
- (4) show the date the sheet was prepared; and*
- (5) conform to rules and standards prescribed by the director of the division of waters.*

**Subd. 3. [INDEX OF PROCEEDINGS AND RECORDS.]** *The auditor shall keep all orders, exhibits, maps, charts, profiles, plats, plans, specifications, and records of the proceedings. These records may not be removed except when the board makes a written order to remove them. The auditor shall keep an accurate index of the proceedings and related documents in a bound book.*

**Subd. 4. [ENGINEER'S DOCUMENTS.]** *All original plats, profiles, records, and field books made by the engineer during the proceedings or the construction of a drainage system are public records and the property of the drainage authority. These public records must be filed with the auditor under the direction of the drainage authority when construction is completed or when the engineer stops acting for the drainage system, whichever is earlier.*

**Subd. 5. [FILING AND STORAGE FACILITIES.]** *County boards shall provide the auditor with necessary filing and storage facilities to protect the files and records of all proceedings. The county boards may provide for the copying and filing of the documents and records of proceedings by photographic devices as provided for public records under section 15.17. In the event of loss of the originals, the photographic copies are originals after authentication by the auditor.*

**Subd. 6. [RECORDS ARE PRIMA FACIE EVIDENCE.]** *The record of proceedings under this chapter and of orders made by the drainage authority or the district court in the proceedings, or a certified copy of a record or order, is prima facie evidence of the facts stated in the record or order and of the regularity of all proceedings prior to the making of the order.*

**PROCEDURE TO ESTABLISH DRAINAGE SYSTEMS****Sec. 21. [106A.201] [NEW DRAINAGE SYSTEMS.]**

*Subdivision 1. [PROCEDURE.] To establish a new drainage system under this chapter, the petitioners and drainage authority must proceed according to this section and the provisions applicable to establishment of drainage systems.*

*Subd. 2. [FILING PETITION AND BOND.] A petition for a new drainage system and a bond must be filed with the auditor. If a drainage system is within two or more counties, the petition must be filed with the auditor of the county with the greatest area of property that the proposed drainage system passes over.*

*Subd. 3. [SIGNATURES ON PETITION.] The petition must be signed by a majority of the resident owners of the property that the proposed drainage system described in the petition passes over, or by the property owners of at least 60 percent of the area that the proposed drainage system passes over, excluding areas in and holders of easements for electric or telephone transmission and distribution lines. The petition may be signed by the commissioner of transportation or by a political subdivision, when property affected by or assessed for the proposed drainage system is in their jurisdiction. The signature of each entity counts as one signature on the petition.*

*Subd. 4. [PETITION REQUIREMENTS.] The petition must:*

*(1) describe the property where the proposed drainage system passes over;*

*(2) describe the starting point, the general course, and the terminus of the proposed drainage system;*

*(3) state why the proposed drainage system is necessary;*

*(4) state that the proposed drainage system will benefit and be useful to the public and will promote public health; and*

*(5) state that the petitioners will pay all costs of the proceedings, if the proceedings are dismissed or the contract for the construction of the proposed drainage system is not awarded.*

*Subd. 5. [WITHDRAWAL OF A PETITIONER.] After a petition has been filed, a petitioner may not withdraw from the petition except with the written consent of all other petitioners on the filed petition.*

**Sec. 22. [106A.205] [PETITIONERS' BOND.]**

*One or more petitioners must file a bond with the petition for at least \$10,000 that is payable to the county where the petition is filed, or for a petition for a proposed joint county drainage system that is payable to all of the counties named in the petition. The bond must have adequate surety and be approved by the auditor. The bond must be conditioned to pay the costs incurred if the proceedings are dismissed or a contract is not awarded to construct the proposed drainage system in the petition.*

**Sec. 23. [106A.211] [EXPENSES NOT TO EXCEED BOND.]**

*The costs incurred before the proposed drainage system is established may not exceed the amount of the petitioners' bond. A claim for expenses greater than the amount of the bond may not be paid unless an additional bond is filed. If the drainage authority determines that the cost of the proceeding will be greater than the petitioners' bond before the proposed drainage system is established, the drainage authority must require an additional bond to cover all costs to be filed within a prescribed time. The proceeding must be stopped until the additional bond prescribed by the drainage authority is filed. If the additional bond is not filed within the time prescribed, the proceeding may be dismissed.*

**Sec. 24. [106A.215] [IMPROVEMENT OF DRAINAGE SYSTEM.]**

*Subdivision 1. [PROCEDURE.] The procedure in this section must be used to improve an established and constructed drainage system by tiling, enlarging, or extending.*

*Subd. 2. [DEFINITION.] In this section "improvement" means the tiling, enlarging, extending, straightening, or deepening of an established and constructed drainage system including construction of ditches to reline or replace tile and construction of tile to replace a ditch.*

*Subd. 3. [LIMIT OF EXTENSION.] An improvement may only extend a drainage system downstream to a more adequate outlet and the extension may not exceed one mile.*

*Subd. 4. [PETITION.] (a) To start an improvement proceeding, a petition must be signed by:*

*(1) at least 26 percent of the resident owners of the property affected by the proposed improvement;*

*(2) at least 26 percent of the resident owners of property that the proposed improvement passes over;*

(3) *the owners of at least 26 percent of the property area affected by the proposed improvement; or*

(4) *the owners of at least 26 percent of the property area that the proposed improvement passes over.*

(b) *The petition must be filed with the auditor or, for a drainage system in more than one county, with the auditor of the county having the largest area of property the improvement is located on.*

(c) *The provisions of section 21, subdivision 3, regarding signatures of public officials apply to this subdivision.*

(d) *The petition must:*

(1) *designate the drainage system proposed to be improved by number or another description that identifies the drainage system;*

(2) *state that the drainage system has insufficient capacity or needs enlarging or extending to furnish sufficient capacity or a better outlet;*

(3) *describe the starting point, general course, and terminus of any extension;*

(4) *state that the proposed improvement will be of public utility and promote the public health; and*

(5) *contain an agreement by the petitioners that they will pay all costs and expenses that may be incurred if the improvement proceedings are dismissed.*

Subd. 5. [SUBSEQUENT PROCEEDINGS.] *When a petition and the bond required by section 22 are filed, the auditor shall present the petition to the board at its next meeting or, for a joint county drainage system, to the joint county drainage authority within ten days after the petition is filed. The drainage authority shall appoint an engineer to examine the drainage system and make an improvement report. The improvement proceedings must proceed under this chapter as provided for the original proceedings for the establishment of a drainage system. The benefits and damages determined must be as a result of the proposed improvement. Assessments for the repair of the improvement must be based on the benefits determined for the improvement.*

Subd. 6. [PETITION FOR SEPARABLE PART OF THE DRAINAGE SYSTEM NEEDING REPAIR.] (a) *If the existing drainage system needs repair and the petition for the improvement is for a separable part only of the existing drainage*

system, the engineer may include in the detailed survey report a statement showing the proportionate estimated cost of the proposed improvement required to repair the separable part of the existing system and the estimated proportionate cost of the added work required for the improvement. The notice of hearing on the detailed survey report must be given by publication and mailing to all persons owning property affected by the existing drainage system. The hearing may be held at the same time and location as the establishment hearing for the improvement.

(b) At the hearing, if the drainage authority determines that only a separable portion of the existing drainage system will be improved and that the portion needs repair, the drainage authority shall determine and assess, by order, the proportionate cost of the improvement that would be required to repair the separable portion of the drainage system to be improved. The order must direct that:

(1) the repair portion is allocated as repairs and assessed against all property benefited by the entire drainage system, as provided by section 86; and

(2) the balance of the cost of the improvement is assessed in addition to the repair assessment against the property benefited by the improvement.

## Sec. 25. [106A.221] [IMPROVEMENT OF OUTLETS.]

*Subdivision 1. [CONDITIONS FOR IMPROVEMENT OF OUTLETS.]* If a public or private, proposed or existing drainage system has waters draining into an existing drainage system, watercourse, or body of water, and the construction or proposed construction of the drainage system causes an overflow of the existing drainage system, watercourse, or body of water on adjoining property, an affected county or the owners of the overflowed property may start outlet improvement proceedings under this section.

*Subd. 2. [PETITION.]* (a) A petition must be signed by the board of an affected county, by at least 26 percent of the resident owners of adjoining overflowed property, or by the owners of at least 26 percent of the area of the overflowed property. The petition must:

(1) describe the property that has been or is likely to be overflowed;

(2) state in general terms by number or otherwise the drainage systems that have caused or are likely to cause the overflow;

(3) describe the location of the overflowed drainage system, watercourse, or body of water and the outlet;

(4) *show the necessity of the improvement by enlarging the system or controlling the waters by off-take ditches, additional outlets, or otherwise;*

(5) *show that the outlet improvement will protect the adjoining property from overflow;*

(6) *state that the improvement will be of public benefit and utility and improve the public health; and*

(7) *state that the petitioners will pay all costs incurred if the proceedings are dismissed or a contract for the construction outlet improvement is not awarded.*

(b) *The petitioners, except for a petition made by the board, shall give the bond required by section 22.*

*Subd. 3. [FILING OF PETITION.] The petition shall be filed with the county auditor. If the board makes the petition, it must be addressed to the drainage authority and filed with the auditor. If the improvement and the overflowed property are located in more than one county, the petition must be filed with the joint county drainage authority.*

*Subd. 4. [JURISDICTION OF BOARD AND DISTRICT COURT.] After the petition is filed, the board or joint county drainage authority where the petition is filed, has jurisdiction of the petition, the improvement, the affected property, and all proceedings for the establishment and construction of the outlet improvement and the assessment of property benefited by the outlet improvement, as provided for establishment and construction of a drainage system under this chapter.*

*Subd. 5. [PRELIMINARY SURVEY REPORT REQUIREMENTS.] In the preliminary survey report, the engineer shall show the existing or proposed drainage systems that cause the overflow, the property drained or to be drained by the drainage system, and the names of affected property owners.*

*Subd. 6. [BENEFITED PROPERTY TO BE DETERMINED BY VIEWERS.] If, after the preliminary survey report hearing, a detailed survey is ordered and viewers appointed, the viewers shall determine and report the benefits to all property from the outlet improvement including property drained or to be drained by the existing or proposed drainage system.*

**Sec. 26. [106A.225] [LATERALS.]**

*Subdivision 1. [PETITION.] (a) Persons that own property in the vicinity of an existing drainage system may petition for a lateral that connects their property with the drainage sys-*

*tem. The petition must be signed by at least 26 percent of the resident owners of the property or by the owners of at least 26 percent of the area of the property traversed by the lateral. The petition must be filed with the auditor, or for property in more than one county, the petition must be filed with the auditor of the county with the largest property area traversed by the lateral. The petition must:*

*(1) describe in general terms the starting point, general course, and terminus of the proposed lateral;*

*(2) describe the property traversed by the lateral;*

*(3) state the necessity to construct the lateral;*

*(4) state that, if constructed, the lateral will be of public benefit and utility and promote the public health;*

*(5) request that the lateral be constructed and connected with the drainage system; and*

*(6) provide that the petitioners will pay all costs incurred if the proceedings are dismissed or if a contract for the construction of the lateral is not awarded.*

*(b) The petitioners shall give the bond required by section 22.*

*Subd. 2. [ESTABLISHMENT PROCEDURE.] After the petition is filed, the procedure to establish and construct the lateral is the same as that provided in this chapter to establish a new drainage system.*

*Subd. 3. [AUTHORITY NECESSARY FOR PROPERTY NOT ASSESSED.] A lateral may not be constructed to drain property that is not assessed benefits for the existing public drainage system until express authority for the use of the existing system as an outlet for the lateral has been obtained under section 52.*

**Sec. 27. [106A.231] [DISMISSAL OF PROCEEDINGS BY PETITIONERS.]**

*A proceeding under this chapter may be dismissed by a majority of the petitioners if they own at least 60 percent of the area owned by all of the petitioners as described in the petition. The proceeding may be dismissed at any time before the proposed drainage system is established after payment of the cost of the proceeding. The drainage authority shall determine the cost of the proceeding. After the proceeding is dismissed any other*

*action on the proposed drainage system must begin with a new petition.*

**Sec. 28. [106A.235] [DRAINAGE SYSTEM IN TWO OR MORE COUNTIES.]**

*Subdivision 1. [DESIGNATION.] A petition for a proposed drainage system in two or more counties must be designated as a joint county drainage system with a number assigned by the auditor of the county with the largest area of property in the drainage system.*

*Subd. 2. [JOINT COUNTY DRAINAGE AUTHORITY.] The board where a petition for a proposed joint county drainage system is filed shall notify the board of each county where property is affected by the drainage system and request the boards to meet jointly and consider the petition. The boards shall select five of their members at the meeting to be the drainage authority. At least one member must be from each board. The drainage authority shall be known as the joint county drainage authority with a joint county drainage system number. A vacancy in the membership of the joint county drainage authority must be filled by joint action of the boards.*

*Subd. 3. [TRANSFER OF DRAINAGE SYSTEMS TO WATERSHED DISTRICTS NOT AFFECTED.] This section does not affect the transfer of a drainage system to the board of managers of a watershed district under section 112.65.*

**Sec. 29. [106A.241] [ENGINEER.]**

*Subdivision 1. [APPOINTMENT.] Within 30 days after filing the petition and bond, the drainage authority shall, by order, appoint an engineer to make a preliminary survey within a prescribed time. The engineer is the engineer for the drainage system throughout the proceeding and construction unless otherwise ordered. Each appointed engineer must file an oath and bond. The engineer may be removed by the drainage authority at any time. If the engineer position is vacant, the drainage authority shall appoint another engineer as soon as possible.*

*Subd. 2. [OATH; BOND.] An appointed engineer must subscribe to an oath to faithfully perform the assigned duties in the best manner possible and file a bond with the auditor. Within ten days after being appointed, the drainage authority shall set an amount of at least \$5,000 for the bond. The bond must have adequate surety and be payable to the county where the petition is filed, or for a proposed joint county drainage system to all counties in the petition. The bond must be conditioned to pay any person or the drainage authority for damages and injuries resulting from negligence of the engineer while the engineer is*



*acting in the proceedings or construction, and provide that the engineer will diligently and honestly perform the engineer's duties. The bond is subject to approval by the auditor. The aggregate liability of the surety for all damages may not exceed the amount of the bond.*

**Subd. 3. [ASSISTANTS; COMPENSATION.]** *The engineer may appoint assistant engineers and hire help necessary to complete the engineer's duties. The engineer is responsible for the assistant engineers and may remove them. The compensation of the engineer, assistant engineers, and other employees is provided by section 76.*

**Subd. 4. [ENGINEER'S REPORTS.]** *The engineer shall make an expense report every two weeks after the beginning of the engineer's work until the construction contract is awarded. The report must show costs incurred by the engineer and expenses incurred under the engineer's direction relating to the proceeding, and include the names of the engineer, engineer assistants, and employees and the time each was employed, and every item of expense incurred by the engineer. The engineer must file this report with the auditor as soon as possible and may not incur expenses for the proceeding greater than the petitioners' bond.*

**Subd. 5. [CONSULTING ENGINEER.]** *After the engineer is appointed and before construction of the drainage system is finished, the drainage authority may employ an engineer as a consulting engineer for the proceeding and construction. A consulting engineer shall advise the engineer and drainage authority on engineering matters and problems that may arise related to the proceeding and construction of the drainage system. The drainage authority shall determine the compensation for the consulting engineer.*

**Sec. 30. [106A.245] [PRELIMINARY SURVEY AND PRELIMINARY SURVEY REPORT.]**

**Subdivision 1. [SURVEY.]** *The engineer shall proceed promptly to:*

(1) *examine the petition and order;*

(2) *make a preliminary survey of the area likely to be affected by the proposed drainage system to enable the engineer to determine whether the proposed drainage system is necessary and feasible with reference to the environmental and land use criteria in section 3, subdivision 1;*

(3) *examine and gather information related to determining whether the proposed drainage system substantially affects areas that are public waters; and*

(4) if the proposed drainage system requires construction of an open channel, examine the nature and capacity of the outlet and any necessary extension.

**Subd. 2. [LIMITATION OF SURVEY.]** *The engineer shall restrict the preliminary survey to the drainage area described in the petition, except that to secure an outlet the engineer may run levels necessary to determine the distance for the proper fall. The preliminary survey must consider the impact of the proposed drainage system on the environmental and land use criteria in section 3, subdivision 1. The drainage authority may have other areas surveyed after:*

(1) giving notice by mail of a hearing to survey additional areas, to be held at least ten days after the notice is mailed, to the petitioners and persons liable on the petitioners' bond;

(2) holding the hearing;

(3) obtaining consent of the persons liable on the petitioners' bond; and

(4) ordering the additional area surveyed by the engineer.

**Subd. 3. [ADOPTION OF FEDERAL PROJECT.]** *The engineer may approve and include as a part of the report, a project of the United States relating to drainage or flood control that is within the proposed drainage system area, and may accept data, plats, plans, or information relating to the project furnished by United States engineers. The engineer does not need to make the preliminary survey if the material furnished by the United States is sufficient for the engineer to make the preliminary survey report.*

**Subd. 4. [PRELIMINARY SURVEY REPORT.]** *The engineer shall report the proposed drainage system plan or recommend a different practical plan. The report must give sufficient information, in detail, to inform the drainage authority on issues related to feasibility, and show changes necessary to make the proposed plan practicable and feasible including extensions, laterals, and other work. If the engineer finds the proposed drainage system in the petition is feasible and complies with the environmental and land use criteria in section 3, subdivision 1, the engineer shall include in the preliminary survey report a preliminary plan of the proposed system showing the proposed ditches, tile, laterals, and other improvements, the outlet of the system, the watershed of the drainage system, and the property likely to be affected and its known owners. The plan must show:*

(1) the elevation of the outlet and the controlling elevations of the property likely to be affected referenced to standard sea level datum, if practical;

(2) *the probable size and character of the ditches and laterals necessary to make the plan practicable and feasible;*

(3) *the character of the outlet and whether it is sufficient;*

(4) *the probable cost of the drains and improvements shown on the plan;*

(5) *all other information and data necessary to disclose the practicability, necessity, and feasibility of the proposed drainage system;*

(6) *consideration of the project under the environmental and land use criteria in section 3, subdivision 1, of the proposed drainage system; and*

(7) *other information as ordered by the drainage authority.*

**Sec. 31. [106A.251] [FILING PRELIMINARY SURVEY REPORT.]**

*The engineer shall file the completed preliminary survey report in duplicate with the auditor. The auditor shall send one copy of the report to the director. If the proposed drainage system involves a joint county drainage system, a copy of the report must be filed with the auditor of each affected county.*

**Sec. 32. [106A.255] [COMMISSIONER'S PRELIMINARY ADVISORY REPORT.]**

*The commissioner shall make a preliminary advisory report to the drainage authority with an opinion about the adequacy of the preliminary survey report. The commissioner shall state any additional investigation and evaluation that should be done under the public waters determination in section 105.37, and the environmental and land use criteria in section 3, subdivision 1, and cite specific portions of the preliminary survey report that are inadequate. The commissioner shall file an initial preliminary advisory report with the auditor before the date of the preliminary hearing. The commissioner may request additional time for review and evaluation of the preliminary survey report if additional time is necessary for proper evaluation. A request for additional time for filing the commissioner's preliminary advisory report may not be made more than five days after the date of the notice by the auditor that a date is to be set for the preliminary hearing. An extension of time may not exceed two weeks after the date of the request.*

**Sec. 33. [106A.261] [PRELIMINARY HEARING.]**

*Subdivision 1. [NOTICE.] When the preliminary survey report is filed, the auditor shall promptly notify the drainage authority. The drainage authority in consultation with the auditor shall set a time, by order, not more than 30 days after the date of the order, for a hearing on the preliminary survey report. At least ten days before the hearing, the drainage authority after consulting with the auditor shall give notice by mail of the time and location of the hearing to the petitioners, owners of property, and political subdivisions likely to be affected by the proposed drainage system in the preliminary survey report.*

*Subd. 2. [HEARING.] The engineer shall attend the preliminary hearing and provide necessary information. The petitioners and all other interested parties may appear and be heard. The commissioner's advisory report on the preliminary plan must be publicly read and included in the record of proceedings.*

*Subd. 3. [SUFFICIENCY OF PETITION.] (a) The drainage authority shall first examine the petition and determine if it meets the legal requirements.*

*(b) If the petition is not signed by the requisite number of owners of property described in the petition, the hearing shall be adjourned and the petition referred back to the petitioners. The petitioners, by unanimous action, may amend the petition. They may obtain signatures of additional property owners as added petitioners.*

*(c) If the petition does not meet legal requirements other than the requisite number of property owners in paragraph (b), the proceedings must be dismissed and the hearing adjourned.*

*Subd. 4. [DISMISSAL.] (a) The drainage authority shall dismiss the proceedings if it determines that:*

*(1) the proposed drainage system is not feasible;*

*(2) the adverse environmental impact is greater than the public benefit and utility after considering the environmental and land use criteria in section 3, subdivision 1, and the engineer has not reported a plan to make the proposed drainage system feasible and acceptable;*

*(3) the proposed drainage system is not of public benefit or utility; or*

*(4) the outlet is not adequate.*

*(b) If the proceedings are dismissed, any other action on the proposed drainage system must begin with a new petition.*

**Subd. 5. [FINDINGS AND ORDER.]** (a) *The drainage authority shall state, by order, its findings and any changes that must be made in the proposed drainage system from those outlined in the petition, including changes necessary to minimize or mitigate adverse impact on the environment, if it determines that:*

(1) *the proposed drainage system outlined in the petition, or modified and recommended by the engineer, is feasible;*

(2) *there is necessity for the proposed drainage system;*

(3) *the proposed drainage system will be of public benefit and promote the public health, after considering the environmental and land use criteria in section 3, subdivision 1; and*

(4) *the outlet is adequate.*

(b) *Changes may be stated by describing them in general terms or filing a map that outlines the changes in the proposed drainage system with the order. The order and accompanying documents must be filed with the auditor.*

**Subd. 6. [OUTLET IS EXISTING DRAINAGE SYSTEM.]** *If the outlet is an existing drainage system, the drainage authority may determine that the outlet is adequate and obtain permission to use the existing drainage system as an outlet. The drainage authority shall assign a number to the proposed drainage system and proceed under section 52 to act in behalf of the proposed drainage system.*

**Subd. 7. [EFFECT OF FINDINGS.]** (a) *For all further proceedings, the order modifies the petition and the order must be considered with the petition.*

(b) *The findings and order of the drainage authority at the preliminary hearing are conclusive only for the signatures and legal requirements of the petition, the nature and extent of the proposed plan, and the need for a detailed survey, and only for the persons or parties shown by the preliminary survey report as likely to be affected by the proposed drainage system. All questions related to the practicability and necessity of the proposed drainage system are subject to additional investigation and consideration at the final hearing.*

**Sec. 34. [106A.265] [ORDER FOR DETAILED SURVEY AND DETAILED SURVEY REPORT.]**

**Subdivision 1. [ORDER.]** *When the preliminary hearing order is filed with the auditor, the drainage authority shall order the engineer to make a detailed survey with plans and specifica-*

tions for the proposed drainage system and submit a detailed survey report to the drainage authority as soon as possible.

Subd. 2. [WAIVER.] *The drainage authority may waive the order for and the detailed survey if it determines that adequate data, plans, and specifications have been furnished by a United States engineer.*

Sec. 35. [106A.271] [DETAILED SURVEY.]

Subdivision 1. [SURVEY AND EXAMINATION.] *When an order for a detailed survey is filed, the engineer shall proceed to survey the lines of the proposed drainage system in the preliminary hearing order, and survey and examine affected property.*

Subd. 2. [SURVEY REQUIREMENTS.] *All drainage lines must be surveyed in 100 foot stations and elevations must be based on standard sea level datum, if practical. Bench marks must be established on permanent objects along the drainage line, not more than one mile apart. Field notes made by the engineer must be entered in bound field books and preserved by the engineer until they are filed with the auditor.*

Sec. 36. [106A.275] [ENGINEER'S VARIANCE FROM DRAINAGE AUTHORITY ORDER.]

(a) *In planning a proposed drainage system, the engineer may vary from the starting point and the line and plan described by the preliminary hearing order if necessary to drain the property likely to be assessed in the proposed drainage system.*

(b) *The engineer may:*

(1) *survey and recommend the location of additional necessary ditches;*

(2) *where better results will be accomplished and more desirable outlets secured, provide for the extension of the outlet; and*

(3) *provide for different parts of the drainage to flow in different directions with more than one outlet.*

(c) *The open ditches do not have to connect if they drain the area to be affected in the petition. The variance must be reported with similar information in the detailed survey report.*

Sec. 37. [106A.281] [SOIL SURVEY.]

*The engineer shall make a soil survey if: (1) the drainage authority orders a soil survey; (2) the commissioner requests a*

soil survey; or (3) the engineer determines a soil survey is necessary. The soil survey must show the nature and character of the soil in the proposed drainage area and include the engineer's findings from the soil survey. The report on the soil survey must be included in the detailed survey report or reported and filed separately before the final hearing.

Sec. 38. [106A.285] [DETAILED SURVEY REPORT.]

*Subdivision 1. [REPORT AND INFORMATION REQUIRED.] The engineer shall prepare a detailed survey report that includes the data and information in this section.*

*Subd. 2. [MAP.] A complete map of the proposed drainage system must be drawn to scale, showing:*

*(1) the terminus and course of each drain and whether it is ditch or tile, and the location of other proposed drainage works;*

*(2) the location and situation of the outlet;*

*(3) the watershed of the proposed drainage system and the sub-watershed of main branches, if any, with the location of existing highway bridges and culverts;*

*(4) all property affected, with the names of the known owners;*

*(5) public roads and railways affected;*

*(6) the outline of any lake basin, wetland, or public water body affected; and*

*(7) other physical characteristics of the watershed necessary to understand the proposed drainage system.*

*Subd. 3. [PROFILE OF DRAINAGE LINES.] A profile of all proposed drainage lines must be presented showing, graphically, the elevation of the ground and gradient at each 100 foot station, and the station number at each section line and at each property line. The profile must show information necessary to understand it, including, in the case of an open ditch, the bottom width and side slope and, in the case of a tiled ditch, the size of tile.*

*Subd. 4. [BRIDGE AND CULVERT PLANS.] Plans for private bridges and culverts to be constructed by and as a part of the proposed drainage system and plans for other works to be constructed for the proposed drainage system must be presented. A list must be made that shows the required minimum hydraulic capacity of bridges and culverts at railways and highways that*

cross ditches, and at other prospective ditch crossings where bridges and culverts are not specified to be constructed as part of the proposed drainage system. Plans and estimates of the cost of highway bridges and culverts must be prepared for the viewers to determine benefits and damages.

**Subd. 5. [TABULAR STATEMENT OF EXCAVATION, CONSTRUCTION, AND COST.]** *A tabular statement must be prepared showing:*

(1) *the number of cubic yards of excavation, linear feet of tile, and average depth on each tile line;*

(2) *the bridges, culverts, and works to be constructed under the plans for the system; and*

(3) *the estimated unit cost of each item, a summary of the total cost, and an estimate of the total cost of completing the proposed drainage system that includes supervision and other costs.*

**Subd. 6. [RIGHT-OF-WAY ACREAGE.]** *The acreage must be shown that will be taken for ditch right-of-way on each government lot, 40 acre tract, or fraction of a lot or tract under separate ownership.*

**Subd. 7. [DRAIN TILE SPECIFICATIONS.]** *Specifications for drain tile must be given that comply with the requirements of the American Society for Testing Materials standard specifications for drain tile, except where the engineer requires tile of a special, higher quality for certain tile depths or soil conditions.*

**Subd. 8. [SOIL SURVEY REPORT.]** *If required under section 37, the report on the soil survey must be included in the detailed survey report or reported and filed separately before the final hearing.*

**Subd. 9. [RECOMMENDATION FOR DIVISION OF WORK.]** *If construction of the proposed drainage system would be more economical, the engineer may recommend: (1) that the work be divided into sections and contracted separately; (2) that the ditch and tile work or tile and labor on the system be contracted separately, or (3) the time and manner for the work to be completed.*

**Subd. 10. [OTHER INFORMATION ON PRACTICABILITY AND NECESSITY OF DRAINAGE SYSTEM.]** *Other data and information to inform the drainage authority of the practicability and necessity of the proposed drainage system must be made available including a comprehensive examination and*



*the recommendation by the engineer regarding the environmental and land use criteria in section 3, subdivision 1.*

**Subd. 11. [OUTLET IN ANOTHER STATE.]** *If an outlet is only practical in an adjoining state, the engineer shall describe the right-of-way needed and the cost of obtaining the right-of-way and constructing the outlet.*

**Subd. 12. [COMPLETION.]** *The engineer shall prepare the detailed survey and complete the detailed survey report, in duplicate, as specified in this section.*

**Sec. 39. [106A.291] [FILING DETAILED SURVEY REPORT.]**

*The engineer must file the detailed survey report with the auditor where the proceedings are pending and the auditor must deliver a copy of the detailed survey report to the commissioner. The engineer must also file copies of the detailed survey report with the auditors of any affected counties.*

**Sec. 40. [106A.295] [REVISION OF ENGINEER'S DETAILED SURVEY REPORT AFTER ACCEPTANCE.]**

*After the final acceptance of the proposed drainage system, the engineer shall revise the plan, profiles, and designs of structures to show the project as actually constructed on the original tracings. The engineer shall file the revised detailed survey report with the auditor. The auditor shall forward the original or a copy to the director as a permanent record.*

**Sec. 41. [106A.301] [COMMISSIONER'S FINAL ADVISORY REPORT.]**

*(a) The commissioner shall examine the detailed survey report and within 30 days of receipt make a final advisory report to the drainage authority. The final advisory report must state whether the commissioner:*

*(1) finds the detailed survey report is incomplete and not in accordance with the provisions of this chapter, specifying the incomplete or nonconforming provisions;*

*(2) approves the detailed survey report as an acceptable plan to drain the property affected;*

*(3) does not approve the plan and recommendations for changes;*

*(4) finds the proposed drainage system is not of public benefit or utility under the environmental and land use criteria*

*in section 8, subdivision 1, specifying the facts and evidence supporting the findings; or*

*(5) finds a soil survey is needed, and, if it is, makes a request to the engineer to make a soil survey.*

*(b) The commissioner shall direct the final advisory report to the drainage authority and file it with the auditor.*

#### **Sec. 42. [106A.305] [VIEWERS' APPOINTMENT AND QUALIFICATION.]**

*Subdivision 1. [APPOINTMENT.] When the order for a detailed survey is made, the drainage authority shall, by order, appoint viewers consisting of three disinterested resident property owners of the counties affected by the proposed drainage system.*

*Subd. 2. [AUDITOR'S ORDER FOR FIRST MEETING.] Within five days after the detailed survey report is filed, the auditor shall, by order, designate the time and location for the first meeting of the viewers, and issue a copy to the viewers of the auditor's order and a certified copy of the order appointing the viewers.*

*Subd. 3. [FIRST MEETING.] At the first meeting and before beginning their duties, the viewers shall subscribe to an oath to faithfully perform their duties. If an appointed viewer does not qualify for any reason, the auditor shall designate another qualified person to take the disqualified viewer's place.*

#### **Sec. 43. [106A.311] [VIEWERS' DUTIES.]**

*The viewers, with or without the engineer, shall determine the benefits and damages to all property affected by the proposed drainage system and make a viewers' report.*

#### **Sec. 44. [106A.315] [ASSESSMENT OF DRAINAGE BENEFITS AND DAMAGES.]**

*Subdivision 1. [STATE LAND.] Property owned by the state must have benefits and damages reported in the same manner as taxable lands subject to the provisions relating to conservation areas in section 3, subdivision 2.*

*Subd. 2. [GOVERNMENT PROPERTY.] The viewers shall report the benefits and damages to the state, counties, and municipalities from the proposed drainage system.*

*Subd. 3. [PUBLIC ROADS.] If a public road or street is benefited or damaged, the state, county, or political subdivision*

*that is the governmental unit with the legal duty of maintaining the road or street, must be assessed benefits or damages to the road or street, except that benefits and damages for bridges and culverts must be assessed to the governmental unit that has the legal duty to construct and maintain the bridge or culvert under section 60.*

**Subd. 4. [RAILWAY AND OTHER UTILITIES.]** *The viewers shall report the benefits and damages to railways and other utilities, including benefits and damages to property used for railway or other utility purposes.*

**Subd. 5. [EXTENT OF BENEFITS.]** *The viewers shall determine the amount of benefits to all property benefited, whether the property is benefited immediately by the construction of the proposed drainage system or the proposed drainage system can become an outlet for drainage, makes an outlet more accessible, or otherwise directly benefits the property.*

**Subd. 6. [BENEFITS FOR PROPOSED DRAINAGE SYSTEM AS OUTLET.]** *(a) If the proposed drainage system furnishes an outlet to an existing drainage system and benefits the property drained by the existing system, the viewers shall equitably determine and assess:*

*(1) the benefits of the proposed drainage system to each tract or lot drained by the existing drainage system;*

*(2) a single amount as an outlet benefit to the existing drainage system; or*

*(3) benefits on a watershed acre basis.*

*(b) Assessments that conform with the provisions in this subdivision are valid. If a single sum is assessed as an outlet benefit, the lien for the assessment must be prorated on all property benefited by the existing drainage system in proportion to the benefits determined in the existing drainage system proceeding.*

#### **Sec. 45. [106A.321] [VIEWERS' REPORT.]**

**Subdivision 1. [REQUIREMENTS.]** *The viewers' report must show, in tabular form, for each lot, 40 acre tract, and fraction of a lot or tract under separate ownership that is benefited or damaged:*

*(1) a description of the lot or tract, under separate ownership, that is benefited or damaged;*

*(2) the names of the owners as they appear on the current tax records of the county;*

- (3) *the number of acres in each tract or lot;*
- (4) *the number and value of acres added to a tract or lot by the proposed drainage of meandered lakes;*
- (5) *the damage, if any, to riparian rights; and*
- (6) *the amount that each tract or lot will be benefited or damaged.*

*Subd. 2. [DISAGREEMENT OF VIEWERS.] If the viewers are unable to agree, each viewer shall separately state findings on the disagreed issue. A majority of the viewers may perform the required duties under this chapter.*

*Subd. 3. [FILING.] When the viewers complete their duties, they shall file the viewers' report with the auditor of each affected county. A detailed statement must be filed with the viewers' report showing the actual time the viewers were engaged and the costs incurred. The viewers shall perform their duties and complete the viewers' report as soon as possible after their first meeting.*

#### **Sec. 46. [106A.325] [FINAL HEARING.]**

*Subdivision 1. [TIME.] Promptly after the filing of the viewers' report and the commissioner's final advisory report, the drainage authority after consulting with the auditor shall set a time and location for the final hearing on the petition, the detailed survey report, and the viewers' report. The hearing must be set 25 to 50 days after the date of the final hearing notice.*

*Subd. 2. [NOTICE.] (a) The final hearing notice must state:*

- (1) *that the petition is pending;*
- (2) *that the detailed survey report is filed;*
- (3) *that the viewers' report is filed;*
- (4) *the time and place set for the final hearing;*
- (5) *a brief description of the proposed drainage system, giving in general terms the starting point, terminus, and general course of the main ditch and branches;*
- (6) *a description of property benefited and damaged, and the names of the owners of the property; and*

(7) *the municipal and other corporations affected by the proposed drainage system as shown by the detailed survey report and viewers' report.*

(b) *Names may be listed in a narrative form and property affected may be separately listed in narrative form by governmental sections or otherwise.*

(c) *For a joint county proceeding, separate notice may be prepared for each county affected, showing the portion of the proposed drainage system and the names and descriptions of affected property in the county.*

*Subd. 3. [METHOD OF NOTICE.] The auditor shall notify the drainage authority, auditors of affected counties, and all interested persons of the time and location of the final hearing by publication, posting, and mail. A printed copy of the final hearing notice for each affected county must be posted at least three weeks before the date of the final hearing at the front door of the courthouse in each county. Within one week after the first publication of the notice, the auditor shall give notice by mail of the time and location of the final hearing to the commissioner, all property owners, and others affected by the proposed drainage system and listed in the detailed survey report and the viewers' report.*

*Subd. 4. [DEFECTIVE NOTICE.] If the final hearing notice is not given or is not legally given, the auditor shall properly publish, post, and mail the notice or provide the notice under the provisions to cure defective notice in section 7.*

#### **Sec. 47. [106A.331] [JURISDICTION OF PROPERTY BY DRAINAGE AUTHORITY.]**

*After the final hearing notice is given, the drainage authority has jurisdiction of all property described in the detailed survey report and viewers' report, of the persons and municipalities named in the reports, and of persons having an interest in a mortgage, lien, or encumbrance against property described in the reports.*

#### **Sec. 48. [106A.335] [PROCEEDINGS AT THE FINAL HEARING.]**

*Subdivision 1. [CONSIDERATION OF PETITION AND REPORTS.] At the time and location for the final hearing specified in the notice, or after the hearing adjourns, the drainage authority shall consider the petition for the drainage system, with all matters pertaining to the detailed survey report, the viewers' report, and the commissioner's final advisory report. The drainage authority shall hear and consider the testimony presented by all interested parties. The engineer or the engineer's*

assistant and at least one viewer shall be present. The director may appear and be heard. If the director does not appear personally, the final advisory report shall be read during the hearing. The final hearing may be adjourned and reconvened as is necessary.

**Subd. 2. [CHANGES IN DRAINAGE PLAN.]** *If the drainage authority determines that the general plan reported by the engineer may be improved by changes, or that the viewers have made an inequitable assessment of benefits or damages to any property, the drainage authority may amend the detailed survey report or the viewers' report, and make necessary and proper findings in relation to the reports. The drainage authority may resubmit matters to the engineer or to the viewers for immediate consideration. The engineer or viewers shall proceed promptly to reconsider the resubmitted matters and shall make and file the amended findings and reports. The amended reports are a part of the original reports.*

**Subd. 3. [REEXAMINATION.]** *If the drainage authority determines that property not included in the notice should be included and assessed or that the engineer or viewers, or both, should reexamine the proposed drainage system or the property benefited or damaged by the system, the drainage authority may resubmit the reports to the engineer and viewers. If a report is resubmitted the final hearing may be continued as is necessary to make the reexamination and reexamination report. If the reexamination report includes property not included in the original report, the drainage authority may, by order, adjourn the hearing and direct the auditor to serve or publish, post, and mail a final hearing notice with reference to all property not included in the previous notice. The jurisdiction of the drainage authority continues in the property given proper notice, and new or additional notice is not required for that property.*

**Sec. 49. [106A.341] [DRAINAGE AUTHORITY FINAL ORDER.]**

**Subdivision 1. [DISMISSAL OF PROCEEDINGS.]** *The drainage authority must dismiss the proceedings and petition, by order, if it determines that:*

*(1) the benefits of the proposed drainage system are less than the total cost, including damages awarded;*

*(2) the proposed drainage system will not be of public benefit and utility; or*

*(3) the proposed drainage system is not practicable after considering the environmental and land use criteria in section 3, subdivision 1.*

**Subd. 2. [ESTABLISHMENT OF PROPOSED DRAINAGE SYSTEM.]** (a) *The drainage authority shall establish, by order, a proposed drainage system if it determines that:*

(1) *the detailed survey report and viewers' report have been made and other proceedings have been completed under this chapter;*

(2) *the reports made or amended are complete and correct;*

(3) *the damages and benefits have been properly determined;*

(4) *the estimated benefits are greater than the total estimated cost, including damages;*

(5) *the proposed drainage system will be of public utility and benefit, and will promote the public health; and*

(6) *the proposed drainage system is practicable.*

(b) *The order must contain the drainage authority's findings, adopt and confirm the viewers' report as made or amended, and establish the proposed drainage system as reported and amended.*

**Sec. 50. [106A.345] [APPORTIONMENT OF COST FOR JOINT COUNTY DRAINAGE SYSTEMS.]**

*For joint county proceedings, the auditor where the petition is filed shall file a certified copy of the viewers' report with the auditor of each affected county within 20 days after the date of the final order establishing the system. When the final order to establish the drainage system is made, the drainage authority shall determine and order the percentage of the cost of the drainage system to be paid by each affected county. The cost shall be in proportion to the benefits received, unless there is a contrary reason. An auditor of an affected county may petition the drainage authority after the final order is made to determine and order the percentage of costs to be paid by the affected counties. The drainage authority shall hold a hearing five days after giving written notice to the auditor of each affected county. After giving the notice to the auditors of the affected counties, the drainage authority may, at any time that it is necessary, modify an order or make an additional order to allocate the cost among the affected counties.*

**Sec. 51. [106A.351] [REDETERMINATION OF BENEFITS.]**

**Subdivision 1. [CONDITIONS TO REDETERMINE BENEFITS; APPOINTMENT OF VIEWERS.]** *If the drainage au-*

*thority determines that the original benefits determined in a drainage proceeding do not reflect reasonable present day land values or that the benefited areas have changed, or if more than 50 percent of the property owners benefited by a drainage system petition for correction of an error that was made at the time of the proceedings that established the drainage system, the drainage authority may appoint three viewers to redetermine and report the benefits and the benefited areas.*

**Subd. 2. [HEARING AND PROCEDURE.]** *The drainage authority shall hold a hearing on the report and confirm the benefits and benefited areas. The redetermination of benefits shall proceed as provided for viewers and the viewers' report in sections 43 to 45, and for the final hearing under sections 46, 48, and 49.*

**Subd. 3. [REDETERMINED BENEFITS REPLACE ORIGINAL BENEFITS.]** *The redetermined benefits and benefited areas must be used in place of the original benefits and benefited areas in all subsequent proceedings relating to the drainage system.*

**Subd. 4. [APPEAL.]** *A person aggrieved by the redetermination of benefits and benefited areas may appeal from the order confirming the benefits and benefited areas under section 18.*

## OUTLETS FOR DRAINAGE SYSTEMS

**Sec. 52. [106A.401] [USE OF DRAINAGE SYSTEM AS AN OUTLET.]**

**Subdivision 1. [COMMISSIONER MUST RECOGNIZE DRAINAGE OUTLET PROCEEDINGS WHEN PURCHASING WETLANDS.]** *If the commissioner purchases wetlands under section 97.481, the commissioner must recognize that when a majority of landowners or owners of a majority of the land in the watershed, petition for a drainage outlet, the state should not interfere with or unnecessarily delay the drainage proceedings if the proceedings are conducted according to this chapter.*

**Subd. 2. [EXPRESS AUTHORITY NECESSARY.]** *After the construction of a drainage system, a public or private drainage system that drains property not assessed for benefits for the established drainage system may not be constructed to use the established drainage system as an outlet without: (1) obtaining express authority from the drainage authority, or (2) for a drainage system that is located entirely within one county and the property for the outlet is located in another county, express authority must be obtained from the district court where the drainage system is located. This section is applicable to the con-*



*struction of a public or private drainage system that outlets water into an established drainage system regardless of actual physical connection.*

*Subd. 3. [PETITION.] A person who needs authority to use an established drainage system as an outlet must petition the drainage authority. When the petition is filed, the drainage authority in consultation with the auditor shall set a time and location for a hearing on the petition and shall give notice by mail and notice by publication of the hearing. The auditor must be paid a fee of \$5 plus 30 cents for each notice mailed in excess of ten.*

*Subd. 4. [HEARING.] At the hearing the drainage authority shall consider the capacity of the outlet drainage system. If express authority is given to use the drainage system as an outlet, the drainage authority shall state, by order, the terms and conditions for use of the established drainage system as an outlet and shall set the amount to be paid as an outlet fee. The order must describe the property to be benefited by the drainage system and must state the amount of benefits to the property for the outlet. The property benefited is liable for assessments levied after that time in the drainage system, on the basis of the benefits as if the benefits had been determined in the order establishing the drainage system.*

*Subd. 5. [PRIVATE DRAINAGE SYSTEM MAY NOT BE CONSTRUCTED WITHOUT PAYMENT OF OUTLET FEE.] A private drainage system may not be constructed to use the established drainage system as an outlet until the outlet fee, set by order, is paid by the petitioner to the county treasurer where petitioner's property is located.*

*Subd. 6. [PAYMENT OF OUTLET FEE.] The outlet fee for a proposed drainage system is a part of the cost of the proposed drainage system and is to be paid by assessment against the property benefited by the proposed drainage system, under section 67, and credited to the established drainage system account.*

**Sec. 53. [106A.405] [OUTLETS IN ADJOINING STATES.]**

*In any drainage proceeding, at the hearing on the detailed survey report and viewers' report, if the drainage authority determines that a proper outlet for the drainage system does not exist, except through property in an adjoining state, the drainage authority may adjourn the hearing. If the hearing is adjourned the drainage authority shall require the auditor or, for a joint county drainage system, the auditors of affected counties to procure an option to acquire the needed right-of-way at an expense not exceeding the estimated cost specified in the detailed survey report.*

*The order establishing the drainage system may not be made until the option is procured. If the option is procured and the drainage system established, the option shall be exercised and the cost of the right-of-way shall be paid as a part of the cost of the drainage system.*

**Sec. 54. [106A.411] [DRAINAGE SYSTEM AS OUTLET FOR MUNICIPALITY.]**

*Subdivision 1. [PETITION.] A municipality may use a drainage system as an outlet for its municipal drainage system or the overflow from the system under the provisions of this section. The municipality must petition to the drainage authority to use the drainage system. The petition must:*

*(1) show the necessity for the use of the drainage system as an outlet;*

*(2) show that the use of the drainage will be of public benefit and utility and promote the public health;*

*(3) be accompanied by a plat showing the location of the drainage system and the location of the municipal drainage system; and*

*(4) be accompanied by specifications showing the plan of connection from the municipal drainage system to the drainage system.*

**Subd. 2. [APPROVAL BY POLLUTION CONTROL AGENCY.]** *The plan for connecting the municipal drainage system to the drainage system must be approved by the pollution control agency.*

**Subd. 3. [FILING; NOTICE.]** *(a) If proceedings to establish the drainage system to be used as an outlet are pending, the petition must be filed with the auditor. The municipal drainage system petition must be presented to the drainage authority at the final hearing to consider the detailed survey report and viewers' report. Notice of the municipal drainage system petition must be included in the final hearing notice.*

*(b) If the drainage system to be used as an outlet is established, the municipal drainage system petition must be filed with the auditor. When the petition is filed, the drainage authority in consultation with the auditor shall, by order, set a time and place for hearing on the petition. Notice of the hearing must be given by publication and by mailed notice to the auditor of each affected county.*

**Subd. 4. [HEARING AND ORDER.]** *(a) At the hearing the drainage authority may receive all evidence of interested*

parties for or against the granting of the petition. The drainage authority, by order, may authorize the municipality to use the drainage system as an outlet, subject to the conditions that are necessary and proper to protect the rights of the parties and safeguard the interests of the general public, if the drainage authority determines:

(1) that a necessity exists for the use of the drainage system as an outlet for the municipal drainage system or the overflow from the system;

(2) that use of the drainage system will be of public utility and promote the public health; and

(3) that the proposed connection conforms to the requirements of the pollution control agency and provides for the construction and use of proper disposal works.

(b) The drainage authority must, by order, make the municipality a party to the drainage proceedings and determine the benefits from using the drainage system as an outlet.

Subd. 5. [BENEFITS AND ASSESSMENTS IF DRAINAGE SYSTEM IS ESTABLISHED.] If the drainage system is established, the drainage authority must determine the amount the municipality must pay for the privilege of using the drainage system as an outlet. The amount must be paid to the affected counties and credited to the account of the drainage system used as an outlet. The municipality is liable for all subsequent liens and assessments for the repair and maintenance of the drainage system in proportion to the benefits, as though the benefits were determined in the order establishing the drainage system.

## CONSTRUCTION OF DRAINAGE SYSTEM

### Sec. 55. [106A.501] [CONTRACT AND BOND.]

Subdivision 1. [PREPARATION.] The county attorney, the engineer, and the attorney for the petitioners shall prepare the contract and bond. The contract and bond must include the provisions required by this chapter and section 574.26 for bonds given by contractors for public works and must be conditioned as provided by section 574.26 for the better security of the contracting counties and parties performing labor and furnishing material in performance of the contract. The prepared contract and bond must be attached and provided to the contractor for execution.

Subd. 2. [CONTRACTOR'S BOND.] The contractor shall file a bond with the auditor for an amount not less than 75 percent of the contract price of the work. The bond must have adequate surety and be approved by the auditor. The bond must pro-

*vide that the surety for the bond is liable for all damages resulting from a failure to perform work under the contract, whether the work is resold or not, and that any person or political subdivision showing damages from the failure to perform work under the contract may maintain an action against the bond in their own names. Actions may be successive in favor of all persons injured, but the aggregate liability of the surety for all the damages may not exceed the amount of the bond. The surety is liable for the tile work guaranteed by the contractor. The contractor is considered a public officer and the bond an official bond within the meaning of section 574.24 construing the official bonds of public officers as security to all persons and providing for actions on the bonds by a party that is damaged.*

*Subd. 3. [CONTRACT.] The contract must contain a specific description of the work to be done, either expressly or by reference to the plans and specifications, and must provide that the work must be done and completed as provided in the plans and specifications and subject to the inspection and approval of the engineer. The contract must provide that time is of the essence of the contract, and that if there is a failure to perform the work according to the terms of the contract within the time given in the original contract or as extended, the contractors shall forfeit and pay counties an amount stated in the contract as liquidated damages. The amount must be fixed by the auditor for each day that the failure of performance continues.*

*Subd. 4. [CONTRACT PROVISIONS FOR CHANGES DURING CONSTRUCTION.] The contract must give the engineer the right, with the consent of the drainage authority, to modify the detailed survey report, plans, and specifications as the work proceeds and as circumstances require. The contract must provide that the increased cost resulting from the changes will be paid by the drainage authority to the contractor at a rate not greater than the amount for similar work in the contract. A change may not be made that will substantially impair the usefulness of any part of the drainage system, substantially alter its original character, or increase its total cost by more than ten percent of the total original contract price. A change may not be made that will cause the cost to exceed the total estimated benefits found by the drainage authority, or that will cause any detrimental effects to the public interest under section 3, subdivision 1.*

*Subd. 5. [CONTRACT WITH FEDERAL UNIT.] If any portion of the work is to be done by the United States or an agency of the United States, a bond or contract is not necessary for that portion of the work, except that a contract must be made if the United States or its agencies require a contract with the local governmental units. The contract must contain the terms, conditions, provisions, and guaranties required by the United States or its agencies to proceed with the work.*

*Subd. 6. [GUARANTY OF TILE WORK.] If tile is used to construct any part of the drainage system, a majority of the persons affected may file a written request with the auditor to contract the tile work separately. The request must be filed before advertising for the sale of the work has begun. If the request is properly made, the tile work must be contracted separately. The contractor must guarantee the tile work under the contract for three years after its completion against any fault or negligence on the part of the contractor. The advertisement for bids must include this requirement.*

*Subd. 7. [MODIFICATION OF CONTRACT BY AGREEMENT.] This chapter does not prevent the persons with property affected by the construction of a drainage system from uniting in a written agreement with the contractor and the surety of the contractor's bond to modify the contract as to the manner or time when any portion of the drainage system is constructed, if the modification is recommended, in writing, by the engineer and approved by the drainage authority.*

**Sec. 56. [106A.505] [AWARDING THE CONSTRUCTION CONTRACT.]**

*Subdivision 1. [AUDITORS AND DRAINAGE AUTHORITY TO PROCEED.] Thirty days after the order establishing a drainage system is filed, the auditor and the drainage authority or, for a joint county drainage system, a majority of the auditors of the affected counties shall proceed to award the contract to construct the drainage system.*

*Subd. 2. [PENDING APPEAL OF BENEFITS AND DAMAGES.] If an appeal regarding the determination of benefits and damages is made within 30 days after the order establishing the drainage system has been filed, a contract may not be awarded until the appeal has been determined, unless the drainage authority orders the contract awarded. The auditor of an affected county or an interested person may request the drainage authority to make the order. If the request is not made by an affected auditor, the auditors of affected counties must be given notice five days before the hearing on the request.*

*Subd. 3. [NOTICE OF CONTRACT AWARDING.] The auditor of an affected county shall give notice of the awarding of the contract by publication in a newspaper in the county. The notice must state the time and location for awarding the contract. For a joint county drainage system the auditors shall award the contract at the office of the auditor where the proceedings are pending. If the estimated cost of construction is more than \$3,000, the auditor must also place a notice in a drainage construction trade paper. The trade paper notice must state:*

- (1) *the time and location for awarding the contract;*
- (2) *the approximate amount of work and its estimated cost;*
- (3) *that bids may be for the work as one job, or in sections, or separately, for bridges, ditches and open work, tile, or tile construction work, if required or advisable;*
- (4) *that each bid must be accompanied by a certified check or a bond furnished by an approved surety corporation payable to the auditors of affected counties for ten percent of the bid, as security that the bidder will enter into a contract and give a bond as required by section 55; and*
- (5) *that the drainage authority reserves the right to reject any and all bids.*

**Subd. 4. [ENGINEER SHALL ATTEND AWARDING OF CONTRACT.]** *The engineer shall attend the meeting to award the contract. A bid may not be accepted without the engineer's approval of compliance with plans and specifications.*

**Subd. 5. [HOW CONTRACT MAY BE AWARDED.]** *The contract may be awarded in one job, in sections, or separately for labor and material and must be let to the lowest responsible bidder.*

**Subd. 6. [BIDS EXCEEDING 30 PERCENT OF ESTIMATED COST NOT ACCEPTED.]** *Bids that in the aggregate exceed the total estimated cost of construction by more than 30 percent may not be accepted.*

**Subd. 7. [AFFECTED COUNTIES CONTRACT THROUGH AUDITOR.]** *The chairman of the drainage authority and the auditor of each affected county shall contract, in the names of their respective counties, to construct the drainage system in the time and manner and according to the plans and specifications and the contract provisions in this chapter.*

**Subd. 8. [WORK DONE BY FEDERAL GOVERNMENT.]** *If any of the drainage work is to be done by the United States or its agencies, a notice of awarding that contract does not need to be published and a contract for that construction is not necessary. Affected municipalities may contract or arrange with the United States or its agencies for cooperation or assistance in constructing, maintaining, and operating the drainage system, for control of waters in the district, or for making a survey and investigation or reports on the drainage system. The municipalities may provide required guaranty and protection to the United States or its agencies.*

**Sec. 57. [106A.511] [PROCEDURE FOR EXCESSIVE BIDS OR COSTS.]**

*Subdivision 1. [CONDITIONS TO USE PROCEDURE IN THIS SECTION.] The procedure in this section may be used if after a drainage system is established:*

*(1) the only bids received are for more than 30 percent in excess of the engineer's estimated cost, or in excess of the benefits, less damages and other costs; or*

*(2) a contract is awarded, but due to unavoidable delays not caused by the contractor, the contract cannot be completed for an amount equal to or less than the benefits, less damages and other costs.*

**Subd. 2. [PETITION AFTER COST ESTIMATE ERROR OR CHANGE TO LOWER COST.]** *Persons interested in the drainage system may petition the drainage authority if they determine that the engineer made an error in the estimate of the drainage system cost or that the plans and specifications could be changed in a manner materially affecting the cost of the drainage system without interfering with the efficiency. The petition must state the determinations and request that the detailed survey report and viewers' report be referred back to the engineer and to the viewers for additional consideration.*

**Subd. 3. [PETITION AFTER EXCESSIVE COST DUE TO INFLATION.]** *(a) A person may petition the drainage authority for an order to reconsider the detailed survey report and viewers' report if the person determines:*

*(1) that bids were received only for a price more than 30 percent in excess of the detailed survey report estimate because inflation increased the construction cost between the time of the detailed survey cost estimate and the time of awarding the contract; or*

*(2) that after the contract was awarded there was unavoidable delay not caused by the contractor, and between the time of awarding the contract and completion of construction inflation increased construction costs resulting in the contract not being completed for an amount equal to or less than the assessed benefits.*

*(b) The person may request in the petition that the drainage authority reconsider the original cost estimate in the detailed survey report and viewers' report and adjust the cost estimate consistent with the increased construction cost.*

**Subd. 4. [HEARING ORDERED AFTER RECEIPT OF PETITION.]** *After receiving a petition, the drainage au-*

*thority shall order a hearing. The order must designate the time and place of the hearing and direct the auditor to give notice by publication.*

*Subd. 5. [HEARING ON COST PETITION.] (a) At the hearing the drainage authority shall consider the petition and hear all interested parties.*

*(b) The drainage authority may, by order, authorize the engineer to amend the detailed survey report, if the drainage authority determines that:*

*(1) the detailed survey report cost estimate was erroneous and should be corrected;*

*(2) the plans and specifications could be changed in a manner materially affecting the cost of the drainage system without interfering with the efficiency; and*

*(3) with the correction or modification a contract could be awarded within the 30 percent limitation and equal to or less than benefits.*

*(c) If the drainage authority determines that the amended changes affect the amount of benefits or damages to any property or that the benefits should be reexamined because of inflated land values or inflated construction costs, it shall refer the viewers' report to the viewers to reexamine the benefits and damages.*

*(d) The drainage authority may, by order, direct the engineer and viewers to amend their detailed survey report and viewers' report to consider the inflationary cost increases if the drainage authority determines that:*

*(1) bids were not received; or*

*(2) because of inflationary construction cost increases, construction under the awarded contract cannot be completed for 30 percent or less over the detailed survey cost estimate or in excess of the benefits, less damages and other costs.*

*(e) The drainage authority may continue the hearing to give the engineer or viewers additional time to amend the reports. The jurisdiction of the drainage authority continues at the adjourned hearing.*

*(f) The drainage authority has full authority to consider the amended reports and make findings and orders. A party may appeal to the district court under section 18, subdivision 1.*



## Sec. 58. [106A.515] [DAMAGES, PAYMENT.]

*The board of each county where the damaged property is located must order the awarded damages to be paid, less any assessment against the property, before the property is entered for construction of the drainage system. If a county or a municipality that is awarded damages requests it, the assessment may not be deducted. If there is an appeal, the damages may not be paid until the final determination. If it is not clear who is entitled to the damages, the board may pay the damages to the clerk of the district court of the county. The court shall direct the clerk, by order, to pay the parties entitled to the damages.*

## Sec. 59. [106A.521] [SUPERVISION OF CONSTRUCTION.]

*The drainage authority shall require the engineer to supervise and inspect the construction under contract. The drainage authority shall cause the contracts under this chapter to be performed properly.*

## Sec. 60. [106A.525] [CONSTRUCTION AND MAINTENANCE OF BRIDGES AND CULVERTS.]

*Subdivision 1. [HYDRAULIC CAPACITY.] A public or private bridge or culvert may not be constructed or maintained across or in a drainage system with less hydraulic capacity than specified in the detailed survey report, except with the written approval of the director of the division of waters. If the detailed survey report does not specify the hydraulic capacity, a public or private bridge or culvert in or across a drainage system ditch may not be constructed without the director's approval of the hydraulic capacity.*

*Subd. 2. [ROAD AUTHORITY RESPONSIBLE FOR CONSTRUCTION.] Bridges and culverts on public roads required by the construction or improvement of a drainage system must be constructed and maintained by the road authority responsible for keeping the road in repair, except as provided in this section.*

*Subd. 3. [NOTICE; CHANGING COST.] The auditor shall notify the state and each railroad company, corporation, or political subdivision that they are to construct a required bridge or culvert on a road or right-of-way under its jurisdiction, within a reasonable time in the notice. If the work is not done within the prescribed time, the drainage authority may order the bridge or culvert constructed as part of the drainage system construction. The cost must be deducted from the damages awarded to the corporation or collected from it as an assessment for benefits. If the detailed survey report or viewers' report shows that the construction of the bridge or culvert is necessary, the drainage authority may, by order, retain an amount to secure the con-*

struction of the bridge or culvert from amounts to be paid to a railroad, corporation, or political subdivision.

**Subd. 4. [CONSTRUCTION ON LINE BETWEEN TWO CITIES PAID EQUALLY.]** *The costs of constructing a bridge or culvert that is required by construction of a drainage system on a public road that is not a state trunk highway on the line between two statutory or home rule charter cities, whether in the same county or not, must be paid jointly, in equal shares, by the cities. The cities shall pay jointly, in equal shares, for the cost of maintaining the bridge or culvert.*

**Subd. 5. [CONSTRUCTION ON TOWN AND COUNTY LINES.]** *The cost of constructing and maintaining bridges and culverts on a town or county road across a drainage system ditch constructed along the boundary line between towns or counties, with excavated material deposited on the boundary line or within 33 feet of the line, must be paid equally by the town or county where the bridge or culvert is located and the other town or county adjoining the boundary.*

**Sec. 61. [106A.531] [INSPECTION OF DRAINAGE CONSTRUCTION AND PARTIAL PAYMENTS.]**

**Subdivision 1. [INSPECTION AND REPORT.]** *The engineer shall inspect and require the work as it is being completed to be done in accordance with the plans, specifications, and contract for construction. Each month during the work, the engineer shall report to the drainage authority, in writing, showing the work completed since the previous report and all materials furnished under the contract.*

**Subd. 2. [PRELIMINARY CERTIFICATE.]** *The engineer shall issue with the monthly report a preliminary certificate for work done and approved or materials delivered. The certificate must contain the station numbers of the work covered by the certificate and the total value of all work done and the materials furnished according to the contract. For each ditch section, the certificate must show the actual volume, in cubic yards, of the excavation completed. For joint county drainage systems the certificate must also show the percentage of the total value to be paid by each county in the proportion fixed by the drainage authority order. Each certificate must show that a loss will not occur as a result of a partial payment. A duplicate of the certificate must be delivered to the auditor of each affected county.*

**Subd. 3. [PARTIAL PAYMENT.]** *The affected counties must pay the contractor, based on the certificate, 90 percent of the total value of work done and approved and 90 percent of the total value of material furnished and delivered. The materials may only be delivered as required in the course of construction and authorized by the engineer.*

**Sec. 62. [106A.535] [PARTIAL PAYMENT OF RETAINED CONTRACT AMOUNTS.]**

*Subdivision 1. [PETITION FOR PARTIAL PAYMENT OF RETAINED VALUE.] If a single contract exceeds \$50,000, and the contract, exclusive of materials furnished and not installed, is one-half or more complete and the contractor is not in default, the contractor may file a verified petition with the auditor stating these facts and requesting that an order be made to pay 40 percent of the retained value of work and material.*

*Subd. 2. [NOTICE OF HEARING.] When the petition is filed, the auditor shall set a time and location for a hearing on the petition before the drainage authority. At least five days before the date of hearing, the auditor shall give notice by mail of the date and location of hearing to the engineer, the attorney for the petitioners, the surety of the contractor's bond, and auditors of the affected counties.*

*Subd. 3. [HEARING.] At the hearing the drainage authority shall hear all parties interested. If the drainage authority determines that the facts in the petition are correct, the work has been performed in a satisfactory manner, and a portion of the retained percentage may be released without endangering the interests of affected counties, the drainage authority shall state the findings and may order not more than 40 percent of the retained value of work and material to be paid.*

**Sec. 63. [106A.541] [EXTENSION OF TIME ON CONTRACTS.]**

*The auditors of affected counties may extend the time for the performance of a contract as provided in this section. The contractor may apply, in writing, for an extension of the contract. Notice of the application must be given to: (1) the engineer and the attorney for the petitioners; and (2) for a joint county drainage system, to the auditors of the affected counties. The auditors may grant an extension if sufficient reasons are shown. The extension does not affect a claim for liquidated damages that may arise after the original time expires and before an extension or a claim that may arise after the time for the extension expires.*

**Sec. 64. [106A.545] [REDUCTION OF CONTRACTOR'S BOND.]**

*Subdivision 1. [APPLICATION TO DRAINAGE AUTHORITY.] The contractor, at the end of each season's work and before the contract is completed, may make a verified application to the drainage authority to reduce the contractor's bond and file the application with the auditor. The application must state:*

- (1) *the work certified as completed by the engineer;*
- (2) *the certified work's value;*
- (3) *the amount of money received by the contractor and the amount retained;*
- (4) *the amount unpaid by the contractor for labor or material furnished on the contract; and*
- (5) *a request for an order to reduce the amount of the contractor's bond.*

*The application must be filed with the auditor.*

*Subd. 2. [NOTICE FOR HEARING.] When an application is filed, the auditor, by order, shall set the time and location for a hearing on the application. Ten days before the hearing, notice of the hearing must be published in each affected county and notice by mail given to the engineer, the attorney for the petitioners, and the auditor of each affected county. The contractor must pay the cost of the hearing notice by publication.*

*Subd. 3. [HEARING; REDUCTION OF BOND.] The drainage authority may, by order, reduce the contractor's bond if it determines that the contractor is not in default and that a loss will not result from reducing the bond. The bond may be reduced to an amount sufficient to protect the affected counties from loss and damage, but the reduction:*

- (1) *may not be more than 35 percent of the amount already paid to the contractor;*
- (2) *may not affect the remaining amount of the bond;*
- (3) *does not affect liability incurred on the bond before the reduction; and*
- (4) *does not affect a provision for a three-year guaranty of tile work.*

**Sec. 65. [106A.551] [CONTRACTOR'S DEFAULT.]**

*Subdivision 1. [NOTICE.] If a contractor defaults in the performance of the contract, the auditor shall mail a notice of the default to the contractor, the surety of the contractor's bond, the engineer, and the auditors of the affected counties. The notice must specify the default and state that if the default is not promptly removed and the contract completed, the unfinished portion of the contract will be awarded to another contractor.*

**Subd. 2. [COMPLETION OF CONTRACT BY SURETY.]** *If the surety of the contractor's bond promptly proceeds with the completion of the contract, the affected auditors may grant an extension of time. If the contract is completed by the surety, the balance due on the contract must be paid to the surety, less damages incurred by the affected counties from the default.*

**Subd. 3. [AWARDING OF CONTRACT; RECOVERY ON BOND.]** *If the surety of the contractor's bond does not undertake the completion of the contract or does not complete the contract within the time specified or extended, auditors of the affected counties shall advertise for bids to complete the contract in the manner provided in the original awarding of contracts. The successful bidder shall comply with contract and bond provisions for the original contract. The drainage authority may recover the increased amounts paid to a subsequent contractor after reselling the work, and damages incurred by affected counties, from the first contractor's bond.*

**Sec. 66. [106A.555] [ACCEPTANCE OF CONTRACT.]**

**Subdivision 1. [ENGINEER'S REPORT AND NOTICE.]** *When a contract is completed, the engineer shall make a report to the drainage authority showing the contract price, the amount paid on certificates, the unpaid balance, and the work that is completed under the contract. When the report is filed, the auditor shall set a time and location for a hearing on the report. The auditor shall give notice of the hearing by publication or notice by mail at least ten days before the hearing to the owners of affected property. The notice must state that the report is filed, the time and location for the hearing, and that a party objecting to the acceptance of the contract may appear and be heard.*

**Subd. 2. [HEARING.]** *At the hearing the drainage authority may, by order, direct payment of the balance due if it determines that the contract has been completed in accordance with the plans and specifications. If good cause is shown, the drainage authority may waive any part of the liquidated damages accruing under the contract. When the order is filed, the auditor shall draw a warrant on the treasurer of the county for the balance due on the contract. For a joint county drainage system the auditor shall make an order to the auditors of the affected counties to pay for their proportionate shares of the balance due on the contract. After receiving the order, the auditor of each affected county shall draw a warrant on the treasurer of the county for the amount specified in the order.*

**FUNDING, COLLECTION, AND PAYMENT  
OF DRAINAGE SYSTEM COSTS**

**Sec. 67. [106A.601] [DRAINAGE LIEN STATEMENT.]**

**Subdivision 1. [DETERMINATION OF PROPERTY LIABILITY.]** *When the contract for the construction of a drainage system is awarded, the auditor of an affected county shall make a statement showing the total cost of the drainage system with the estimated cost of all items required to complete the work. The cost must be prorated to each tract of property affected in direct proportion to the benefits. The cost, less any damages, is the amount of liability for each tract for the drainage system. The property liability must be shown in the tabular statement opposite the property owner's name and description of each tract of property. The amount of liability on a tract of property for establishment and construction of a drainage system may not exceed the benefits determined in the proceedings that accrue to the tract.*

**Subd. 2. [DRAINAGE LIEN STATEMENT.]** *The auditor of each affected county shall make a lien statement in tabular form showing:*

(1) *the names of the property owners, corporate entities, or political subdivisions of the county benefited or damaged by the construction of the drainage system in the viewers' report as approved by the final order for establishment;*

(2) *the description of the property in the viewers' report, and the total number of acres in each tract according to the county tax lists;*

(3) *the number of acres benefited or damaged in each tract shown in the viewers' report;*

(4) *the amount of benefits and damages to each tract of property as stated in the viewers' report and confirmed by the final order that established the drainage system unless the order is appealed and a different amount is set; and*

(5) *the amount each tract of property will be liable for and must pay into the county treasury for the establishment and construction of the drainage system.*

**Subd. 3. [SUPPLEMENTAL DRAINAGE LIEN STATEMENT.]** *If any items of the cost of the drainage system have been omitted from the original drainage lien statement, a supplemental drainage lien statement with the omitted items must be made and recorded in the same manner provided for a drainage lien statement. The total amount of the original drainage lien and any supplemental drainage liens may not exceed the benefits.*

**Subd. 4. [RECORDING DRAINAGE LIEN STATEMENT.]** *The drainage lien statement and supplemental drainage lien statements must be certified by the auditor and recorded by the county recorder of the county where the tract is located. The*

*county recorder's fees for recording must be paid on allowance by the board. The drainage lien statement and any supplemental drainage lien statements, after recording, must be returned and preserved by the auditor.*

**Sec. 68. [106A.605] [EFFECT OF FILED DRAINAGE LIEN.]**

*The amount recorded on the drainage lien statement and supplemental drainage lien statement that each tract of property will be liable for, and the interest allowed on that amount, is a drainage lien on the property. The drainage lien is a first and paramount lien until fully paid, and has priority over all mortgages, charges, encumbrances, and other liens unless the board subordinates the drainage lien to easements of record. The recording of the drainage lien statement or a supplemental drainage lien statement is notice to all parties of the existence of the drainage lien.*

**Sec. 69. [106A.611] [PAYMENT OF DRAINAGE LIENS AND INTEREST.]**

**Subdivision 1. [PAYMENT OF DRAINAGE LIEN PRINCIPAL.]** (a) *Drainage liens against property benefited under this chapter are payable to the treasurer of the county in 20 or less equal annual installments. The first installment of the principal is due on or before November 1 after the drainage lien statement is recorded, and each subsequent installment is due on or before November 1 of each year afterwards until the principal is paid.*

(b) *The drainage authority may, by order, direct the drainage lien to be paid by 1/15 of the principal on or before five years from November 1 after the lien statement is recorded, and 1/15 on or before November 1 of each year afterwards until the principal is paid.*

(c) *The drainage authority may order that the drainage lien must be paid by one or two installments, notwithstanding paragraphs (a) and (b), if the principal amount of a lien against a lot or tract of property or against a county or municipality is less than \$50.*

**Subd. 2. [INTEREST.]** (a) *Interest is an additional drainage lien on all property until paid. The interest rate on the drainage lien principal must be set by the board, but may not exceed seven percent per year from the date the drainage lien statement is recorded.*

(b) *Before the tax lists for the year are given to the county treasurer, the auditor shall compute the interest on the unpaid balance of the drainage lien at the rate set by the board. The*

*amount of interest must be computed on the entire unpaid principal from the date the drainage lien was recorded to August 15 of the next calendar year, and afterwards from August 15 to August 15 of each year.*

*(c) Interest is due and payable after November 1 of each year the drainage lien principal or interest is due and unpaid.*

**Subd. 3. [COLLECTION OF PAYMENTS.]** *Interest and any installment due must be entered on the tax lists for the year. The installment and interest must be collected in the same manner as real estate taxes for that year by collecting one-half of the total of the installment and interest with and as a part of the real estate taxes on or before May 15 and one-half on or before October 15 of the next year.*

**Subd. 4. [PREPAYMENT OF INTEREST.]** *Interest may be paid at any time, computed to the date of payment, except that after the interest is entered on the tax lists for the year, it is due as entered, without a reduction for prepayment.*

**Subd. 5. [PAYMENT OF DRAINAGE LIENS WITH BONDS.]** *The board may direct the county treasurer to accept any outstanding bond that is a legal obligation of the county under this chapter issued on account of a drainage lien in payment of drainage liens under the provisions of this chapter. The bonds must be accepted at their par value plus accrued interest.*

**Subd. 6. [DRAINAGE LIEN RECORD.]** *The auditor shall keep a drainage lien record for each drainage system showing the amount of the drainage lien remaining unpaid against each tract of property.*

**Subd. 7. [COLLECTION AND ENFORCEMENT OF DRAINAGE LIENS.]** *The provisions of law that exist relating to the collection of real estate taxes are adopted to enforce payment of drainage liens. If there is a default, a penalty may not be added to an installment of principal and interest, but each defaulted payment, principal, and interest draws interest from the date of default until paid at seven percent per year.*

**Sec. 70. [106A.615] [ENFORCEMENT OF ASSESSMENTS.]**

**Subdivision 1. [MUNICIPALITIES.]** *Assessments filed for benefits to a municipality are a liability of the municipality and are due and payable with interest in installments on November 1 of each year as provided in section 69. If the installments and interest are not paid on or before November 1, the amount due with interest added as provided in section 69 must be extended by the county auditor against all property in the municipality that is liable to taxation. A levy must be made and the amount*



*due must be paid and collected in the same manner and time as other taxes.*

**Subd. 2. [COUNTY OR STATE-AID ROAD.]** *If a public road benefited is a county or state-aid road, the assessment filed is against the county and must be paid out of the road and bridge fund of the county.*

**Subd. 3. [STATE TRUNK HIGHWAY.]** *An assessment against the state for benefits to trunk highways is chargeable to and payable out of the trunk highway fund. The commissioner of transportation shall pay assessments from the trunk highway fund after receipt of a certified copy of the assessment against the state for benefits to a trunk highway.*

**Subd. 4. [ASSESSMENT FOR VACATED TOWN ROADS.]** *If a town is assessed for benefits to a town road in a drainage system proceeding under this chapter and the town road is later vacated by the town board under section 164.07, the town board may petition the drainage authority to cancel the assessment. The drainage authority may cancel the assessment if it finds that the town road for which benefits are assessed has been vacated under section 164.07.*

**Subd. 5. [STATE PROPERTY.]** *State property, including rural credit property, is assessable for benefits received. The assessment must be paid by the state from funds appropriated and available for drainage assessments after the state officer having jurisdiction over the assessed property certifies the assessment to the commissioner of finance.*

**Subd. 6. [ASSESSMENTS ON WILDLIFE LANDS TO BE PAID FROM WILDLIFE ACQUISITION FUND.]** *An assessment against state land acquired for wildlife habitat shall be paid from the wildlife acquisition fund as provided in section 97.484.*

**Subd. 7. [RAILROAD AND UTILITY PROPERTY.]** *Property owned by a railroad or other utility corporation benefited by a drainage system is liable for the assessments of benefits on the property as other taxable property. From the date the drainage lien is recorded, the amount of the assessment with interest is a lien against all property of the corporation within the county. Upon default the assessment may be collected by civil action or the drainage lien may be foreclosed by action in the same manner as provided by law for the foreclosure of mortgage liens. The county where the drainage lien is filed has the right of action against the corporation to enforce and collect the assessment.*

## **Sec. 71. [106A.621] [SATISFACTION OF LIENS.]**

*When a drainage lien with the accumulated interest is fully paid, the auditor shall issue a certificate of payment with the*

*auditor's official seal and record the certificate with the county recorder. The recorded certificate releases and discharges the drainage lien. The auditor may collect 25 cents for each description in the certificate. The auditor's fee and the fee of the county recorder must be paid from the account for the drainage system.*

**Sec. 72. [106A.625] [SUBDIVISION BY PLATTING MUST HAVE LIENS APPORTIONED.]**

*A tract of property with a drainage lien that is subdivided by platting is not complete and the plat may not be recorded until the drainage liens against the tracts are apportioned and the apportionment filed with the county recorder of the county where the tract is located.*

**Sec. 73. [106A.631] [APPORTIONMENT OF LIENS.]**

*Subdivision 1. [PETITION.] A person who has an interest in property that has a drainage lien attached to it may petition the drainage authority to apportion the lien among specified portions of the tract if the payments of principal and interest on the property are not in default.*

*Subd. 2. [NOTICE.] When the petition is filed, the drainage authority shall, by order, set a time and location for a hearing on the petition. The drainage authority shall give notice of the hearing by personal service to the auditor, the occupants of the tract, and on all parties having an interest in the tract as shown by the records in the county recorder's office. The service must be made at least ten days before the hearing. If personal service cannot be made to all interested persons, notice may be given by publication. The petitioner shall pay the costs for service or publication.*

*Subd. 3. [HEARING.] The drainage authority shall hear all related evidence and, by order, apportion the lien. A certified copy of the order must be recorded in the county recorder's office and filed with the auditor.*

**Sec. 74. [106A.635] [DRAINAGE BOND ISSUES.]**

*Subdivision 1. [AUTHORITY.] After the contract for the construction of a drainage system is awarded, the board of an affected county may issue the bonds of the county in an amount necessary to pay the cost of establishing and constructing the drainage system.*

*Subd. 2. [SINGLE ISSUE FOR TWO OR MORE DRAINAGE SYSTEMS.] The board may include two or more drainage systems in a single drainage bond issue. The total amount of*

*the drainage bond issue may not exceed the total cost, including expenses, to be assessed to pay for the drainage systems. The total cost to be assessed must be determined or estimated by the board when the drainage bonds are issued.*

**Subd. 3. [SECURITY AND SOURCE OF PAYMENT.]** *The drainage bonds must be issued in accordance with chapter 475 and must pledge the full faith, credit, and resources of the county for the prompt payment of the principal and interest of the drainage bonds. The drainage bonds are primarily payable from the funds of the drainage systems financed by the bonds or from the common drainage bond redemption fund of the county. The common drainage bond redemption fund may be created by resolution of the county board as a debt redemption fund for the payment of drainage bonds issued under this chapter.*

**Subd. 4. [PAYMENT PERIOD AND INTEREST ON DRAINAGE BONDS.]** *(a) The board shall determine, by resolution:*

*(1) the time of payment for the drainage bonds not exceeding 23 years from their date;*

*(2) the rates of interest for the drainage bonds, with the net average rate of interest over the term of the bonds not to exceed seven percent per year; and*

*(3) whether the drainage bonds are payable annually or semi-annually.*

*(b) The board shall determine the years and amounts of principal maturities that are necessary by the anticipated collections of the drainage systems assessments, without regard to any limitations on the maturities imposed by section 475.54.*

**Subd. 5. [TEMPORARY DRAINAGE BONDS MATURING IN TWO YEARS OR LESS.]** *The board may issue and sell temporary drainage bonds under this subdivision maturing not more than two years after their date of issue, instead of bonds under subdivision 4. The county shall issue and sell definitive drainage bonds before the maturity of bonds issued under this subdivision and use the proceeds to pay for the temporary drainage bonds and interest to the extent that the temporary bonds are not paid for by assessments collected or other available funds. The holders of temporary drainage bonds and the taxpayers of the county have and may enforce by mandamus or other appropriate proceedings:*

*(1) all rights respecting the levy and collection of assessments sufficient to pay the cost of drainage proceedings and construction financed by the temporary drainage bonds that are granted by law to holders of other drainage bonds, except the*

*right to require levies to be collected before the temporary drainage bonds mature; and*

(2) *the right to require the offering of definitive drainage bonds for sale, or to require the issuance of definitive drainage bonds in exchange for the temporary drainage bonds, on a par for par basis, bearing interest at the rate of seven percent per year if the definitive drainage bonds have not been sold and delivered before the maturity of the temporary drainage bonds.*

Subd. 6. [DEFINITIVE DRAINAGE BONDS.] *The definitive drainage bonds issued in exchange for an issue of temporary drainage bonds must be numbered and mature serially at times and in amounts to allow the principal and interest to be paid when due by the collection of assessments levied for the drainage systems financed by the temporary bond issue. The definitive bonds are subject to redemption and prepayment on any interest payment date by each definitive bondholder who has registered their name and address with the county treasurer; these bondholders must be notified by mail 30 days before the interest payment date. The definitive bonds must be delivered in order of their serial numbers, lowest numbers first, to the holders of the temporary drainage bonds in order of the serial numbers of the bonds held by them.*

Subd. 7. [SALE OF DEFINITIVE DRAINAGE BONDS.] *The board must sell and negotiate the definitive drainage bonds for at least their par value. The definitive bonds must be sold at public sale after advertised notice under chapter 475.*

Subd. 8. [COUNTY INVESTMENT, PURCHASE, AND SELLING OF TEMPORARY DRAINAGE BONDS.] (a) *Funds of the issuing county may be invested in temporary drainage bonds under sections 471.56 and 475.66, except that the temporary drainage bonds may be:*

(1) *purchased by the county when the temporary drainage bonds are initially issued;*

(2) *purchased only out of funds that the board determines will not be required for other purposes before the temporary drainage bonds mature; and*

(3) *resold before the temporary drainage bonds mature only if there is an unforeseen emergency.*

(b) *If a temporary drainage bond purchase is made from money held in a sinking fund for other bonds of the county, the holders of the other bonds may enforce the county's obligation to sell definitive bonds at or before the maturity of the temporary drainage bonds, or exchange the other bonds, in the same manner as holders of the temporary drainage bonds.*

**Subd. 9. [DELIVERY OF BONDS AS DRAINAGE WORK PROCEEDS.]** *The board may provide in the contract for the sale of drainage bonds, temporary drainage bonds, and definitive drainage bonds, that the bonds are delivered as the drainage work proceeds and the money is needed, and that interest is paid only from the date of delivery.*

**Subd. 10. [BOND RECITAL.]** *Each drainage bond, temporary drainage bond, and definitive drainage bond must contain a recital that it is issued by authority of and in strict accordance with this chapter. The recital is conclusive in favor of the holders of the bonds as against the county, that the drainage system has been properly established, that property within the county is subject to assessment for benefits in an amount not less than the amount of the bonds, and that all proceedings and construction relative to the drainage systems financed by the bonds have been or will be made according to law.*

**Subd. 11. [HOW BONDS MAY BE PAID.]** *The board may pay drainage bonds, temporary drainage bonds, and definitive drainage bonds issued under this chapter from any available funds in the county treasury if the money in the common drainage bond redemption fund or in the drainage fund for the issued bonds is insufficient. The county treasury funds that money is transferred from must be reimbursed, with interest at a rate of seven percent per year for the time the money is actually needed, from assessments on the drainage systems or from the sale of drainage funding bonds.*

**Sec. 75. [106A.641] [DRAINAGE FUNDING BONDS.]**

**Subdivision 1. [AUTHORITY.]** *The board may issue drainage funding bonds under the conditions and terms in this section.*

**Subd. 2. [CONDITIONS FOR ISSUANCE.]** *Drainage funding bonds may be issued if:*

(1) *money in a drainage system account or in the common drainage bond redemption fund will not be sufficient to pay the principal and interest of the drainage bonds payable from the funds and becoming due within one year afterwards; or*

(2) *the county has paid any of the principal or interest on any of its drainage bonds from county funds other than the fund from which the bonds are payable, or by the issuance of county warrants issued and outstanding.*

**Subd. 3. [AUDITOR'S CERTIFICATE.]** (a) *Before drainage funding bonds are authorized or issued under this section, the county auditor shall first sign and seal a certificate and present the certificate to the board. The board shall enter the cer-*

*tificate in its records. The certificate must state in detail, for each of the several drainage systems:*

*(1) the amount that will be required to pay an existing shortage under subdivision 2; and*

*(2) the probable amount that will be required to pay the principal and interest of the county's outstanding drainage bonds that become due within one year afterwards.*

*(b) The certificate is conclusive evidence that the county has authority to issue bonds under the provisions of this section in an amount that does not exceed the aggregate amount specified in the auditor's certificate.*

*Subd. 4. [ISSUANCE OF BONDS.] When the auditor's certificate is entered in the board's records, the board may issue and sell, from time to time, county drainage funding bonds for the same drainage purposes as the funds listed in the certificate were used. The bonds must be designated drainage funding bonds. The board shall authorize issuance of the drainage funding bonds by resolution. The drainage funding bonds must be sold, issued, bear interest, and obligate the county as provided in section 74 for drainage bonds. The drainage funding bonds must mature serially in annual installments that are payable within 15 years.*

*Subd. 5. [APPLICATION OF BOND PROCEEDS.] The proceeds of drainage funding bonds that are paid into the treasury must be applied to the purpose for which they are issued.*

*Subd. 6. [COUNTY BOND OBLIGATION.] Drainage funding bonds are general obligations of the county but are not included in determining the county's net indebtedness under any law.*

**Sec. 76. [106A.645] [ALLOWANCE AND PAYMENT OF FEES AND EXPENSES.]**

*Subdivision 1. [FEES AND EXPENSES.] The fees and expenses in this section are allowed and must be paid for services provided under this chapter.*

*Subd. 2. [ENGINEER, ENGINEER'S ASSISTANTS, AND OTHER EMPLOYEES.] The compensation of the engineer, the engineer's assistants, and other employees is on a per diem basis and must be set by order of the drainage authority. The order setting compensation must provide for payment of the actual and necessary expenses of the engineer, the engineer's assistants, and other employees, including the cost of the engineer's bond.*

**Subd. 3. [VIEWERS.]** *Each viewer may be paid for every necessary day the viewer is engaged on a per diem basis and for the viewer's actual and necessary expenses. The compensation must be set by the drainage authority.*

**Subd. 4. [BOARD MEMBERS.]** *Each member of the board may be paid a per diem under section 375.055, subdivision 1, and actual and necessary expenses incurred while actually employed in drainage proceedings or construction, or in the inspection of any drainage system if the board member is appointed to a committee for that purpose.*

**Subd. 5. [AUDITOR, ATTORNEY FOR THE PETITIONERS, AND OTHER COUNTY OFFICIALS.]** *The county auditor and the attorney for the petitioners must each be paid reasonable compensation for services actually provided as determined by the drainage authority. The fees and compensation of all county officials in drainage proceedings and construction are in addition to other fees and compensation allowed by law.*

**Subd. 6. [PETITIONERS' BOND.]** *The cost of the petitioners' bond must be allowed and paid.*

**Subd. 7. [PAYMENT.]** *The fees and expenses provided for in this chapter for a drainage system in one county must be audited, allowed, and paid by order of the board or for a drainage system in more than one county must be audited, allowed, and paid by order of the drainage authority after ten days' written notice to each affected county. The notice must be given by the auditor to the auditors of affected counties. The notice must state the time and location of the hearing and that all bills on file with the auditor at the date of the notice must be presented for hearing and allowance.*

**Sec. 77. [106A.651] [DRAINAGE SYSTEM ACCOUNT.]**

**Subdivision 1. [FUNDS FOR DRAINAGE SYSTEM COSTS.]** *The board shall provide funds to pay the costs of drainage systems.*

**Subd. 2. [DRAINAGE SYSTEM ACCOUNT.]** *The auditor shall keep a separate account for each drainage system. The account must be credited with all money from the sale of bonds and bond premiums and all money received from interest, liens, assessments, and other sources for the drainage system. The account must be debited with every item of expense made for the drainage system.*

**Subd. 3. [INVESTMENT OF SURPLUS FUNDS.]** *If a drainage system account or the common drainage bond redemption fund has a surplus over the amount required for payment of obligations presently due and payable from the account or*

*fund, the board may invest any part of the surplus in bonds or certificates of indebtedness of the United States or of the state.*

**Subd. 4. [DORMANT DRAINAGE SYSTEM ACCOUNT TRANSFERRED TO GENERAL REVENUE FUND.]** *If a surplus has existed in a drainage system account for a period of 20 years or more and there have not been any expenditures from the account during the period, the board, by a unanimous resolution, may transfer the surplus remaining in the drainage system account to the county general revenue fund of the county.*

**Sec. 78. [106A.655] [PAYMENT OF DRAINAGE SYSTEM COSTS.]**

**Subdivision 1. [PAYMENT MADE FROM DRAINAGE SYSTEM ACCOUNT.]** *The costs for a drainage system proceeding and construction must be paid from the drainage system account by drawing on the account.*

**Subd. 2. [INSUFFICIENT FUNDS; TRANSFER FROM OTHER ACCOUNTS.]** *If money is not available in the drainage system account on which the warrant is drawn, the board may, by unanimous resolution, transfer funds from any other drainage system account under its jurisdiction or from the county general revenue fund to the drainage system account. If the board transfers money from another account or fund to a drainage system account, the money plus interest must be reimbursed from the proceeds of the drainage system that received the transfer. The interest must be computed for the time the money is actually needed at the same rate per year charged on drainage liens and assessments.*

**Subd. 3. [WARRANT ON ACCOUNT WITH INSUFFICIENT FUNDS; INTEREST ON WARRANT.]** *If a warrant is issued by the auditor under this chapter and there is not enough money in the drainage system account to pay the warrant when it is presented, the county treasurer shall endorse the warrant "Not paid for want of funds," with the date and sign the endorsement. Interest on the warrant must be at the rate of six percent per year and paid annually from available funds until the warrant is called in and paid by the treasurer. Interest may not be paid on a warrant after money is available to the treasurer to pay the warrants. The warrant is a general obligation of the county issuing the warrant.*

**Sec. 79. [106A.661] [ESTABLISHMENT OF DRAINAGE SYSTEM ACCOUNTS BY STATE AUDITOR.]**

**Subdivision 1. [STATE AUDITOR MUST ESTABLISH ACCOUNTS UPON APPLICATION.]** *A county may apply, by resolution, to the state auditor to examine the accounts and records of any or all drainage systems in the county. The auditor*



*must establish a system of accounts for each drainage system applied for in the county.*

*Subd. 2. [PAYMENT OF EXPENSES.] The compensation and travel and hotel expenses of the examining accountant must be audited, allowed, and paid into the state treasury by the board. The money must be credited to the revolving fund of the state auditor. The county auditor shall apportion the expenses among the drainage systems in the county.*

## PROCEDURE TO REPAIR DRAINAGE SYSTEMS

### Sec. 80. [106A.701] [REPAIRS.]

*Subdivision 1. [DEFINITION.] The term "repair," as used in this section, means to restore all or a part of a drainage system as nearly as practicable to the same condition as when originally constructed or subsequently improved, including re-sloping of ditches and leveling of waste banks if necessary to prevent further deterioration, and routine operations that may be required to remove obstructions and maintain the efficiency of the drainage system.*

*Subd. 2. [REPAIR OF TOWN DITCHES.] The town board has the power of a drainage authority to repair a town drainage system located within the town.*

*Subd. 3. [BRIDGES AND CULVERTS.] (a) Highway bridges and culverts constructed on a drainage system established on or after March 25, 1947, must be maintained by the road authority charged with the duty of maintenance under section 60.*

*(b) Private bridges or culverts constructed as a part of a drainage system established by proceedings that began on or after March 25, 1947, must be maintained by the drainage authority as part of the drainage system. Private bridges or culverts constructed as a part of a drainage system established by proceedings that began before March 25, 1947, may be maintained, repaired, or rebuilt and any portion paid for as part of the drainage system by the drainage authority.*

*(c) For a repair of a drainage system that has had redetermination of benefits under section 51, the drainage authority may repair or rebuild existing bridges or culverts on town and home rule charter and statutory city roads constructed as part of the drainage system and any portion of the cost may be paid by the drainage system.*

### Sec. 81. [106A.705] [REPAIR PROCEDURE.]

*Subdivision 1. [INSPECTION.] After the construction of a drainage system has been completed, the drainage authority*

*shall maintain the drainage system that is located in its jurisdiction and provide the repairs necessary to make the drainage system efficient. The drainage authority shall have the drainage system inspected annually by an inspection committee of the drainage authority or a drainage inspector appointed by the drainage authority.*

**Subd. 2. [DRAINAGE INSPECTOR REPORT.]** *For each drainage system that the board designates and requires the drainage inspector to examine, the drainage inspector shall make a drainage inspection report in writing to the board after examining a drainage system, designating portions that need repair and the location and nature of the repair. The board shall consider the drainage inspection report at its next meeting and may repair all or any part of the drainage system as provided under this chapter.*

**Subd. 3. [INSPECTION REPORT TO DRAINAGE AUTHORITY.]** *If the inspection committee or drainage inspector reports, in writing, to the drainage authority that repairs are necessary on a drainage system and the report is approved by the drainage authority, the repairs must be made under this section.*

**Subd. 4. [REPAIRS LESS THAN \$20,000.]** *If the drainage authority finds that the estimated cost of repairs and maintenance of one drainage system for one year will be less than \$20,000, it may have the repair work done by hired labor and equipment without advertising for bids or entering into a contract for the repair work.*

**Subd. 5. [ANNUAL REPAIR ASSESSMENT LEVY LIMITS.]** *The drainage authority may give notice of and hold a hearing on the repair levy before ordering the levy of an assessment for repairs. In one calendar year the drainage authority may not levy an assessment for repairs or maintenance on one drainage system for more than 20 percent of the benefits of the drainage system or \$20,000, except for a repair made after a disaster under subdivision 6 or under the petition procedure.*

**Subd. 6. [REPAIR AND CONSTRUCTION AFTER DISASTER.]** *The drainage authority may repair and reconstruct the drainage system without advertising for bids and without regard to the \$20,000 limitation if:*

*(1) a drainage system is destroyed or impaired by floods, natural disaster, or unforeseen circumstances;*

*(2) the area where the drainage system is located has been declared a disaster area by the President of the United States and federal funds are available for repair or reconstruction; and*

(3) *the public interests would be damaged by repair or reconstruction being delayed.*

Sec. 82. [106A.711] [COST APPORTIONMENT FOR JOINT COUNTY DRAINAGE SYSTEMS.]

*Subdivision 1. [REPAIR COST STATEMENT.] For a joint county drainage system the auditor of a county that has made repairs may present a repair cost statement at the end of each year, or other convenient period after completion, to each affected county. The repair cost statement must show the nature and cost of the repairs to the drainage systems and must be based on the original apportionment of cost following the establishment of the drainage system. If a board approves the repair costs, the statement must be paid to the county submitting the statement.*

*Subd. 2. [REPAIR COST STATEMENT NOT PAID.] (a) If a county does not pay the repair cost statement, the board of an affected county may petition the joint county drainage authority. The petition must:*

*(1) show the nature and necessity of the repairs made to the drainage system in the county during the period;*

*(2) show the cost of the repairs; and*

*(3) request the drainage authority to apportion the costs, by order, among the affected counties.*

*(b) When the petition is filed, the drainage authority shall, by order, set a time and location for a hearing to apportion the costs, and direct the auditor to give notice of the hearing to each affected county by publication and notice by mail to its auditor. At or before the hearing, the auditor of each affected county, except the petitioner, shall file with the drainage authority a statement showing:*

*(1) all repairs made to the drainage system in that county, not previously reimbursed;*

*(2) the nature and necessity of the repairs; and*

*(3) the cost of the repairs.*

*(c) The drainage authority has jurisdiction over the affected counties and shall hear all interested parties. The drainage authority shall determine which repairs were necessary and reasonable and proper costs. For the allowed repairs the drainage authority shall balance the accounts among the affected counties, by charging each county with its proportionate share of the cost of all repairs made and crediting each county with the amount*

*paid for the repairs. The drainage authority shall order a just reimbursement among the affected counties. A certified copy of the order must be filed by the auditor with the auditors of affected counties, and the boards shall make the required reimbursement.*

**Sec. 83. [106A.715] [PROCEDURE FOR REPAIR BY PETITION.]**

*Subdivision 1. [REPAIR PETITION.] An individual or an entity interested in or affected by a drainage system may file a petition to repair the drainage system. The petition must state that the drainage system needs repair. The auditor shall present the petition to the board at its next meeting or, for a joint county drainage system, to the drainage authority within ten days after the petition is filed.*

*Subd. 2. [ENGINEER AND REPAIR REPORT.] If the drainage authority determines that the drainage system needs repair, the drainage authority shall appoint an engineer to examine the drainage system and make a repair report. The report must show the necessary repairs, the estimated cost of the repairs, and all details, plans, and specifications necessary to prepare and award a contract for the repairs. The drainage authority may give notice and order a hearing on the petition before appointing the engineer.*

*Subd. 3. [NOTICE OF HEARING.] When the repair report is filed, the auditor shall promptly notify the drainage authority. The drainage authority in consultation with the auditor shall set a time, by order, not more than 30 days after the date of the order for a hearing on the repair report. At least ten days before the hearing, the auditor shall give notice by mail of the time and location of the hearing to the petitioners, owners of property, and political subdivisions likely to be affected by the repair in the repair report.*

*Subd. 4. [HEARING ON REPAIR REPORT.] (a) The drainage authority shall make findings and order the repair to be made if:*

*(1) the drainage authority determines from the repair report and the evidence presented that the repairs recommended are necessary for the best interests of the affected property owners; or*

*(2) the repair petition is signed by the owners of at least 26 percent of the property area affected by and assessed for the original construction of the drainage system, and the drainage authority determines that the drainage system is in need of repair so that it no longer serves its original purpose and the cost*

*of the repair will not exceed the total benefits determined in the original drainage system proceeding.*

*(b) The order must direct the auditor and the chairman of the board or, for a joint county drainage system, the auditors of the affected counties to proceed and prepare and award a contract for the repair of the drainage system. The contract must be for the repair in the repair report and as determined necessary by the drainage authority, and be prepared in the manner provided in this chapter for the original drainage system construction.*

**Subd. 5. [APPORTIONMENT OF REPAIR COST FOR JOINT COUNTY DRAINAGE SYSTEM.]** *For the repair of a joint county drainage system, the drainage authority shall, by order, apportion the repair cost among affected counties in the same manner required in the original construction of the drainage system.*

**Subd. 6. [REPAIR BY RESLOPING DITCHES, LEVELING WASTE BANKS, AND REMOVING TREES.]** *(a) For a drainage system that is to be repaired by resloping ditches, leveling waste banks, or removing trees, before ordering the repair, the drainage authority must examine the drainage system and appoint viewers to assess and report on damages and benefits if it determines:*

*(1) that the resloping, leveling, and tree removal will require the taking of any property not contemplated and included in the original proceeding for the establishment of the drainage system; and*

*(2) that any waste bank leveling will directly benefit property where the bank leveling is specified.*

*(b) The viewers shall assess and report damages and benefits as provided by sections 44 and 45 and the drainage authority shall hear and determine the damages and benefits as provided in sections 46, 48, and 49. Damages must be paid as provided by section 44 as a part of the cost of the repair, and benefits must be added to the benefits previously determined as the basis for the pro rata assessment for the repair of the drainage system for the repair proceeding only.*

**Sec. 84. [106A.721] [REPLACEMENT AND HYDRAULIC CAPACITY OF BRIDGES AND CULVERTS.]**

**Subdivision 1. [REPORT ON HYDRAULIC CAPACITY.]** *If the engineer determines in a drainage system repair that because of added property under section 88 or otherwise, a bridge constructed or replaced or culvert installed or replaced as a*

*part of a drainage system provides inadequate hydraulic capacity for the efficient operation of the drainage system to serve its original purpose, the engineer shall make a hydraulic capacity report to the drainage authority. The hydraulic capacity report must include plans and specifications for the recommended replacement bridges and culverts, the necessary details to make and award a contract, and the estimated cost.*

**Subd. 2. [NOTICE.]** *When the hydraulic capacity report is filed, the auditor shall promptly notify the drainage authority. The drainage authority in consultation with the auditor shall, by order, set a time not more than 30 days after the date of the order, for a hearing on the report. At least ten days before the hearing, the auditor shall give notice by mail of the time and location of the hearing to the petitioners, owners of property, and political subdivisions likely to be affected by the repair in the repair report. The notice may be given in conjunction with and as a part of the repair report notice, but the notice must specifically state that increasing the hydraulic capacity will be considered by the drainage authority at the hearing.*

**Subd. 3. [REPORT HEARING.]** *At the hearing on the hydraulic capacity report, the drainage authority shall hear all interested parties. If the drainage authority finds that existing bridges and culverts provide insufficient hydraulic capacity for the efficient operation of the drainage system as originally constructed or subsequently improved, the drainage authority shall make findings accordingly, and may order that the hydraulic capacity be increased by constructing bridges or installing culverts of a sufficient capacity. The drainage authority shall determine and include in the order the type and plans for the replacement bridges or culverts. The order must direct the state, political subdivision, railroad company, or other entity to construct bridges or culverts required by the order for its road right-of-way within a reasonable time stated in the order. The auditor shall notify the state, political subdivision, railroad company, or other entity to construct the bridges and culverts in accordance with the order.*

**Subd. 4. [CONSTRUCTION NOT COMPLETED WITHIN SPECIFIED TIME.]** *If the work is not done within the time specified, the board may order the bridges and culverts built and the cost collected as an assessment for benefits.*

**Subd. 5. [REQUEST FOR CULVERT OR BRIDGE TO BE INSTALLED AS PART OF REPAIR.]** *If a political subdivision, railroad company, or other entity, at the hearing or when notified to construct a bridge or install a culvert, requests that the bridge or culvert be installed as part of the repair of the drainage system, the drainage authority may, by order, direct the cost of the construction and installation assessed and collected from the political subdivision, railroad company, or other entity in the manner provided by section 86.*

## Sec. 85. [106A.725] [COST OF REPAIR.]

*All fees and costs incurred for proceedings relating to the repair of a drainage system, including inspections, engineering, viewing, and publications, are costs of the repair and must be assessed against the property and entities benefited.*

## Sec. 86. [106A.731] [ASSESSMENT; BONDS.]

**Subdivision 1. [APPORTIONMENT OF ASSESSMENTS.]**  
*If there is not enough money in the drainage system account to make a repair, the board shall apportion and assess the costs of the repairs pro rata on all property and entities that have been assessed benefits for the drainage system.*

**Subd. 2. [NUMBER OF INSTALLMENTS.]** *The assessments may be paid in annual installments specified in the assessment order. If the assessments are not more than 50 percent of the original cost of the drainage system, the installments may not exceed ten. If the assessments are greater than 50 percent of the original cost of the drainage system, the board may order the assessments to be paid in 15 or less installments.*

**Subd. 3. [INTEREST ON ASSESSMENTS.]** *If the order provides for payment in installments, interest on unpaid assessments from the date of the order for assessments must be set by the board in the order. The interest rate may not exceed seven percent per year and must be collected with each installment.*

**Subd. 4. [COLLECTION OF ASSESSMENTS.]** *If the assessment is not payable in installments, a lien does not need to be filed, and the assessment, plus interest from the date of the order to August 15 of the next calendar year, must be entered on the tax lists for the year. The assessment and interest are due and payable with and as a part of the real estate taxes for the year. If an assessment is levied and payable in installments, the auditor shall file for the record in the county recorder's office an additional tabular statement in substance as provided in section 67, and all the provisions of sections 68, 69, and 70 relating to collection and payment must apply to the assessment. Upon the filing of the tabular statement, the installment and interest are due and payable and must be entered on the tax lists and collected in the same manner as the original lien.*

**Subd. 5. [CONDITIONS TO SELL BONDS FOR REPAIR.]**  
*If a contract for drainage system repair has been entered into under this chapter or the repair has been ordered to be constructed by hired labor and equipment, and the board has ordered the assessments to be paid in installments, the board may issue and sell bonds, as provided by section 74.*

**Subd. 6. [REPAIR OF STATE DRAINAGE SYSTEM WHEN NO BENEFITS WERE ASSESSED.]** *For the repair*

*of a drainage system established by the state where benefits were not assessed to the property, the drainage authority shall proceed to appoint viewers to determine the benefits resulting from the repair and collect assessments for the repair as provided in this chapter.*

**Sec. 87. [106A.735] [DRAINAGE SYSTEM REPAIR FUND.]**

**Subdivision 1. [AUTHORITY AND LIMITS OF FUND.]** *To create a repair fund for a drainage system to be used only for repairs, the drainage authority may apportion and assess an amount against all property and entities assessed for benefits in proceedings for establishment of the drainage system, including property not originally assessed and subsequently found to be benefited according to law. The fund may not exceed 20 percent of the assessed benefits of the drainage system or \$40,000, whichever is greater. If the account in a fund for a drainage system exceeds the larger of 20 percent of the assessed benefits of the drainage system or \$40,000, assessments for the fund may not be made until the account is less than the larger of 20 percent of the assessed benefits or \$40,000. Assessments must be made pro rata according to the determined benefits. Assessments may be made payable, by order, in equal annual installments. The auditor shall file a tabular statement as provided in section 86, subdivision 4, with the county recorder. Assessments must be collected as provided in section 86.*

**Subd. 2. [TRANSFER OF DRAINAGE SYSTEM.]** *If a drainage system within the county has been taken over by a watershed district under section 112.65, subdivision 1, or if responsibility for repair and maintenance of the drainage system has been assumed by any other governing body, the board may transfer any remaining surplus of the drainage system repair fund to the repair fund of the watershed district or to the appropriate fund of any existing governing body having responsibility for repair and maintenance of the drainage system.*

**Sec. 88. [106A.741] [INCLUSION OF PROPERTY THAT HAS NOT BEEN ASSESSED BENEFITS.]**

**Subdivision 1. [CONSIDERATION BY ENGINEER.]** *In a proceeding to repair a drainage system, if the engineer determines or is made aware that property that was not assessed for benefits for construction of the drainage system has been drained into the drainage system or has otherwise benefited from the drainage system, the engineer shall submit a map with the repair report. The map must show all public and private main ditches and drains that drain into the drainage system, all property affected or otherwise benefited by the drainage system, and the names of the property owners to the extent practicable. The property owners must be notified of the hearing on the re-*



*pair report at least ten days before the hearing. The auditor must give notice of the time and location of the hearing by mail.*

**Subd. 2. [APPOINTMENT OF VIEWERS.]** *At the hearing on the repair report, if the drainage authority determines that property not assessed for benefits for the construction of the drainage system has been benefited by the drainage system, the drainage authority shall appoint viewers as provided by section 42 before the repair contract is awarded. The viewers shall determine the benefits to all property and entities benefited by the original construction of the drainage system and not assessed for benefits arising from its construction. The viewers shall make a viewers' repair report to the drainage authority as provided by section 44. When the viewers' repair report is filed, the auditor shall give notice of a hearing as required by section 46 and the drainage authority has jurisdiction of each tract of property described in the viewers' report as provided in section 47.*

**Subd. 3. [VIEWERS' REPAIR REPORT HEARING.]** *At the hearing on the viewers' repair report, the drainage authority shall hear all interested parties and determine the benefits to property and entities benefited by the original construction of the drainage system and not assessed for benefits.*

**Subd. 4. [APPEAL OF ASSESSMENT ORDER.]** *A person may appeal from the order determining the assessments as provided by section 18.*

**Subd. 5. [PROPERTY BENEFITED IN HEARING ORDER INCLUDED IN FUTURE PROCEEDINGS.]** *For the repair of a drainage system and in all future proceedings relating to the repair, cleaning, improvement, or alteration of the drainage system, the property benefited in the viewers' report hearing is part of the property benefited by the drainage system and must be assessed in the same manner provided for the assessment of the property originally assessed for and included in the drainage system.*

**Sec. 89. [106A.745] [COST OF REPAIR EXCEEDING BENEFITS.]**

*If the cost of the repair of a drainage system exceeds the benefits determined in the original proceedings for the establishment of the drainage system, the requirements of section 24 for improvements of drainage systems apply if:*

- (1) the repair will result in the drainage of 100 or more acres of public waters in Anoka county;*
- (2) the public waters have existed for 15 or more years;*

(3) *the drainage system has not been substantially repaired for more than 25 years; and*

(4) *the physical repair was not started before July 1, 1980.*

## CONSOLIDATION, DIVISION, AND ABANDONMENT OF DRAINAGE SYSTEMS

### Sec. 90. [106A.801] [CONSOLIDATION OR DIVISION OF DRAINAGE SYSTEMS.]

*Subdivision 1. [AUTHORITY TO CONSOLIDATE OR DIVIDE.] After the benefited area of a drainage system has been redetermined by the drainage authority under section 51 or in connection with drainage proceedings, the drainage authority may divide one system into two or more separate systems, consolidate two or more systems, transfer part of one system to another, or attach a part of a system that has been abandoned as provided in section 91 or 92 to another system to provide for the efficient administration of the system consistent with the redetermination of the benefited area.*

*Subd. 2. [INITIATION OF ACTION.] The consolidation or division may be initiated by the drainage authority on its own motion or by any party interested in or affected by the drainage system filing a petition. If the system is under the jurisdiction of a drainage authority, the petition must be filed with the auditor. If the system is under the jurisdiction of a watershed board, the petition must be filed with the secretary of the board.*

*Subd. 3. [HEARING.] (a) When a drainage authority or watershed board directs by resolution or a petition is filed, the drainage authority in consultation with the auditor or secretary shall set a time and location for a hearing. The auditor or secretary shall give notice by publication to all persons interested in the drainage system. The drainage authority may consolidate or divide drainage systems, by order, if it determines that the division of one system into two or more separate systems, the consolidation of two or more systems, the transfer of part of one system to another, or the attachment of a previously abandoned part of a system to another system:*

*(1) is consistent with the redetermination of the benefited areas of the drainage system;*

*(2) would provide for the efficient administration of the drainage system; and*

*(3) would be fair and equitable.*

*(b) An order to consolidate or divide drainage systems does not release property from a drainage lien or assessment filed*

*for costs incurred on account of a drainage system before the date of the order.*

**Sec. 91. [106A.805] [REMOVAL OF PROPERTY FROM AND PARTIAL ABANDONMENT OF A DRAINAGE SYSTEM.]**

*Subdivision 1. [PETITION.] After the construction of a drainage system, the owner of benefited property may petition the drainage authority to remove property from the drainage system or abandon any part of the drainage system that is not of public benefit and utility and does not serve a substantial useful purpose to property remaining in the system if:*

*(1) waters are diverted from property assessed for benefits so that the drainage from the property does not use or affect the drainage system; or*

*(2) a dam authorized by law is constructed in the drainage system so that the property above the dam cannot use or receive benefits from the drainage system.*

*Subd. 2. [FILING.] If the drainage system is under the jurisdiction of a drainage authority, the petition must be filed with the auditor. If the system is under the jurisdiction of a watershed district, the petition must be filed with the secretary of the district.*

*Subd. 3. [HEARING.] (a) When the petition is filed, the drainage authority in consultation with the auditor or the secretary shall set a time and location for a hearing on the partial abandonment petition and shall give notice by publication of the hearing to all persons interested in the drainage system.*

*(b) At the hearing, the drainage authority shall make findings and shall direct, by order, that the petitioners' property is removed from the drainage system if the drainage authority determines:*

*(1) that the waters from the petitioners' property have been diverted from the drainage system, or that a dam has been lawfully constructed and the property cannot use the drainage system;*

*(2) that the property is not benefited by the drainage system and does not use or affect the drainage system; and*

*(3) that removing the property from the drainage system will not prejudice the property owners and property remaining in the system.*

(c) *The drainage authority shall make findings and direct, by order, that part of the drainage system be abandoned if the drainage authority determines that part of the drainage system does not serve a substantial useful purpose to any property remaining in the system and is not of a substantial public benefit and utility.*

**Subd. 4. [EFFECT OF REMOVING PROPERTY FROM DRAINAGE SYSTEM.]** *The property that has been removed from the drainage system is not affected by the drainage system at any later proceeding for the repair or improvement of the drainage system and a drainage lien or assessment for repairs or improvements may not be made against the property that has been removed on or after the date of the order.*

**Subd. 5. [LIENS AND ASSESSMENTS ON PROPERTY REMOVED OR ABANDONED.]** *An order under this section does not release the property from a drainage lien filed on account of the drainage system before the date of the order. An order under this section does not release the property from any assessment or a drainage lien filed on or after the date of the order for costs incurred on account of the drainage system before the date of the order.*

**Sec. 92. [106A.811] [ABANDONMENT OF DRAINAGE SYSTEM.]**

**Subdivision 1. [DRAINAGE LIEN PAYMENT PERIOD MUST EXPIRE.]** *After the period originally fixed or subsequently extended to pay the assessment of the drainage liens expires, a drainage system may be abandoned as provided in this section.*

**Subd. 2. [PETITIONERS.]** *A petition must be signed by at least 51 percent of the resident property owners assessed for the construction of the drainage system or by the owners of not less than 51 percent of the area of the property assessed for the drainage system. For the purpose of the petition, the county is the resident owner of all tax forfeited property held by the state and assessed benefits for the drainage system, and the board may execute the petition for the county as a resident owner.*

**Subd. 3. [PETITION.]** *The petition must designate the drainage system proposed to be abandoned and show that the drainage system is not of public benefit and utility because the agricultural property that used the drainage system has been generally abandoned or because the drainage system has ceased to function and its restoration is not practical.*

**Subd. 4. [FILING PETITION; JURISDICTION.]** *If all property assessed for benefits in the drainage system is in one*

county, the petition must be filed with the auditor unless the petition is signed by the board, in which case the petition must be made to the district court of the county and filed with the clerk of court. If property assessed for benefits is in two or more counties, the petition must be filed with the auditor. When the petition is filed, the drainage authority in consultation with the auditor, or the clerk with the approval of the court, shall set a time and location for a hearing on the petition. The auditor or clerk shall give notice by publication of the time and location of the abandonment hearing to all persons interested. The drainage authority or the district court where the petition is properly filed has jurisdiction of the petition.

**Subd. 5. [ABANDONMENT HEARING.]** (a) *At the hearing, the drainage authority or court shall examine the petition and determine whether it is sufficient and shall hear all interested parties.*

(b) *If a property owner assessed benefits for the drainage system appears and makes a written objection to the abandonment of the drainage system, the drainage authority or court shall appoint three disinterested persons as viewers to examine the property and report to the drainage authority or court. The hearing must be adjourned to make the examination and report. The viewers, if appointed, shall proceed to examine the property of the objecting owner and report as soon as possible to the drainage authority or court with the description and situation of the property and whether the drainage system drains or otherwise affects the property.*

(c) *At the adjourned hearing, the drainage authority or court shall consider the viewers' report and all evidence offered, and:*

(1) *if the drainage authority determines that the drainage system serves any useful purpose to any property or the general public, the petition for abandonment must be denied; or*

(2) *if the drainage authority determines that the drainage system does not serve any useful purpose to any affected property and is not of public benefit and utility, the drainage authority or court shall make findings and shall, by order, abandon the drainage system.*

**Subd. 6. [EFFECT OF ABANDONMENT.]** *After abandonment of a drainage system, a repair petition for the drainage system may not be accepted and the responsibility of the drainage authority for the maintenance of the drainage system ends.*

**Sec. 93.** Minnesota Statutes 1984, section 40.072, subdivision 3, is amended to read:

Subd. 3. [PRELIMINARY PROGRAM PLANS; APPLICATION FOR FEDERAL OR OTHER AID; COOPERATION WITH OTHER AGENCIES; REPORT AND RECOMMENDATIONS TO THE COUNTY BOARD; ADOPTION OF IMPROVEMENT WORK PLAN.] After adoption of the resolution recommending the improvement work unit and program as provided in subdivision 2, with amendments thereto, if any, the board or boards, when the board or boards of county commissioners by resolution so directs, may make or cause to be made such further surveys and studies as may be necessary and thereupon make or cause to be made a preliminary general plan for carrying out the program for the improvement work unit as set forth in the resolution or any part thereof, with cost estimates therefor. The board or boards, at the direction of the county board or boards, may make application for federal aid, state aid, or aid available from any other source for the works embraced in the program or any part thereof under Public Law 566 or any act amendatory thereof or supplementary thereto or any other applicable federal or state law, and may take all steps necessary to determine whether such aid will be available and the amount thereof. The board may consider how the cost of the works of improvement or any part thereof above prospective federal or other aid may be met from the funds of the district or from the proceeds of assessments on benefited property or otherwise, and make estimates therefor. If the cooperation or joint action of any adjacent soil and water conservation district or any other public agency is desirable for any purpose under the program or in connection therewith, the board, at the direction of the county board or boards, may negotiate with the authorities concerned for such cooperation or joint action as authorized in this chapter, and acts amendatory thereof, or as otherwise provided by law. Upon completion of the foregoing steps as far as necessary, the board or boards may make and file a report, summarizing its findings thereon and its recommendations for further action on the program or any part thereof. The board or boards shall make the plan together with the preliminary general plan for the improvement work unit available to the county board or boards and to all other public agencies and persons concerned, and may give such publicity thereto as the district board deems advisable. The report shall contain substantially the same engineering information required by section 112.49, subdivisions 1 and 2. The board or boards shall transmit a copy of the report and preliminary plan to any regional development agency created by Minnesota law for the region in which each project is located, and in those cases where the plan involves a project for which a permit is required from the commissioner of natural resources under chapter 105, or for which proceedings will be instituted under (CHAPTER 106) *sections 1 to 92*, to the commissioner of natural resources and to the water resources board. The water resources board shall review the report and plan and, if it concludes that the plan is inconsistent with systematic administration of state water policy, shall report its conclusion to the board or boards and the commissioner of natural resources within 60 days after receiving the report and plan. Thereafter the

board or boards may modify and retransmit the report and preliminary plan to the water resources board, or may request a hearing on the report and plan before the water resources board. The water resources board shall hear the matter in the same manner, and follow the same procedures, as provided in sections 105.76 to 105.79, for the hearing of cases where it consents to intervention proceedings. Except where the water resources board concludes that the report and plan are inconsistent with state water policy, the district board or boards, with the approval of the county board or boards, may adopt and sponsor the improvement work unit and a program of work for the unit.

Sec. 94. Minnesota Statutes 1984, section 40.072, subdivision 4, is amended to read:

Subd. 4. [ACTION ON WORK PROJECT PURSUANT TO REPORT; PETITION AND HEARING.] The county board or boards, acting jointly under section 471.59, may take action on a project within the improvement work unit for construction or installation of works of improvement or part thereof pursuant to the recommendations in the report only upon a petition for a project signed by at least 25 percent of the owners of the land over which the proposed improvement work passes or upon which it is located, or by the owners of at least 30 percent of the area of such land, describing such land and requesting the county board or joint county board to hold a hearing on the practicability and desirability of carrying out the project in accordance with the preliminary plan and the recommendations in the report of the district board or boards. If the report specifies that any part of the cost of the project is to be paid from the proceeds of assessments on benefited property, one or more of the petitioners, upon the filing of the petition and before any action is taken thereon, shall file a bond to the county or counties acting jointly conditioned as provided by section (106.041) 22 in the case of a county drainage system, to be approved by the chairman of the board. The county board or joint county board shall set a time and place for the hearing on the petition, and cause notice thereof to be given as provided in section (106.101) 33, subdivision 1. If upon the hearing the county board or joint county board finds that the carrying out of the project as requested in the petition will be feasible, in accordance with the recommendations of the report, and in furtherance of the objectives and purposes therein set forth, and that the estimated cost will not exceed the funds which may reasonably be expected to be available for payment thereof, the county board or joint county board may adopt a resolution so determining and directing further action on the project as hereinafter provided. By such resolution the county board or joint county board shall determine the amount to be paid from the respective sources of available or potentially available funds, including federal aid, district funds, assessments on benefited property, and other funds, if any. The amount payable from district funds may be commensurate with but shall not exceed the value of the general

public benefit of the project to the district as determined by the board or boards.

Sec. 95. Minnesota Statutes 1984, section 40.072, subdivision 5, is amended to read:

Subd. 5. [ACTION ON PROJECT WITHOUT ASSESSMENTS.] If no part of the project cost is to be paid from assessments on benefited property, the county board or joint county board may proceed with complete surveys and detailed plans and specifications and make its order establishing the project. The order shall contain findings substantially conforming to those required by section (106.201) 49, *subdivision 2*. Notice summarizing the findings and order shall be served upon those persons entitled to receive notice of a county drainage project pursuant to section (106.171) 46, in the manner therein provided unless such notice is waived in writing by each person entitled to receive such notice. The waiver of notice shall be filed with the county auditor. Unless an appeal is taken within 30 days after the notice is given, the county board or joint county board may proceed to acquire necessary rights or property, procure materials, let contracts, and take any other steps appropriate to complete the project. The county board or joint county board may delegate its duties and powers under this subdivision to the district board or joint district board provided that the district board or joint district board shall not exercise the power of eminent domain.

Sec. 96. Minnesota Statutes 1984, section 40.072, subdivision 6, is amended to read:

Subd. 6. [ACTION ON PROJECT WITH ASSESSMENTS.] If any part of the cost of the project is to be paid from the proceeds of assessments on benefited property, viewers shall be appointed as provided in section (106.141) 42, and shall report as required by sections (106.151 AND 106.161) 43, 44, and 45. The board or joint board of county commissioners shall direct the petitioners or, with its consent, the board or joint board of supervisors, to provide such engineering services as may be necessary to produce final plans adequate for the construction of the proposed improvement. The county board or joint county board shall then give notice of and conduct a final hearing substantially in accordance with sections (106.171) 46 to (106.191) 49 inclusive, as in the case of a county drainage proceeding, so far as these sections are consistent with this chapter, and acts amendatory thereof. If it is determined that the total benefits to property are not as much as the amount payable from the proceeds of assessments as specified in the report of the board or boards under subdivision 3, the petition shall be dismissed and further action on the project discontinued except as hereinafter provided, unless the county board or joint county board shall determine that the deficiency may be met by increasing the



amount payable from district funds or other funds, subject to the limitations hereinbefore prescribed, in which case further action for completion of the project may be taken as herein provided. If it is determined that the total benefits to property are as much as or more than the amount payable from the proceeds of assessments as specified in the report and that the other applicable requirements of law have been complied with, the county board or joint county board shall by order containing such findings establish the project as reported or amended and adopt and confirm the viewers' report as made or amended. If the total amount of benefits to be assessed upon property pursuant to the viewers' report as so adopted and confirmed is greater than the amount specified as payable from such assessments in the report of the board or boards under subdivision 3, the county board or joint county board may reduce the amounts payable from other sources of funds accordingly in such proportions as it may determine. Further action shall be taken thereon as provided in (CHAPTER 106) *sections 1 to 92*, so far as appropriate, except that each tract of land affected shall be assessed for the full amount of benefits, less damages, if any, as shown by the viewers' report as adopted and confirmed, unless the total amount of such benefits, less damages, exceeds the total actual cost of the project to be paid from the proceeds of assessments, in which case such cost shall be prorated for assessment purposes as provided in section (106.341) 67. Upon filing of the viewers' report as provided in this section the county board of each county affected shall provide funds to meet its proportionate share of the total cost of the improvement, as shown by the report and order of the county board or joint county board, and for such purposes is authorized to issue bonds of the county in such amount as may be necessary in the manner provided in section (106.411) 74.

The provision of section (106.411) 74 requiring the county board to let a contract for construction before issuing bonds shall not be applicable to bonds issued to provide the funds required to be furnished by this section.

The county board or joint county board, pursuant to agreement with the district board or boards, may by resolution direct the district to undertake, construct, install, maintain, and operate the work of improvement upon terms mutually agreed upon. However, if it is necessary to acquire property by eminent domain, the county, or the counties acting jointly, shall exercise the power of eminent domain and shall convey the property to the district or districts pursuant to the agreement.

If, pursuant to an agreement, the responsibility for a work of improvement is vested in a district or districts, the respective county treasurers shall transmit the proceeds of all related assessments or bond issues, when collected, to the treasurer of the district, who shall credit the same to the proper funds under the direction of the district board.

Sec. 97. Minnesota Statutes 1984, section 40.072, subdivision 9, is amended to read:

Subd. 9. [REPAIR.] The term "repair" used in this section means restoring the project works of improvement or any part thereof as nearly as practicable to the same condition as when originally constructed or subsequently improved.

After the construction of a project has been completed and accepted by the board of the county or district having authority over the project, the board shall maintain the same or such part thereof as lies within its jurisdiction and provide the repairs required to render it efficient to answer its purpose. This board shall have, exercise, and perform the powers and duties of the (COUNTY BOARD) *drainage authority* under (SECTION 106.471) *sections 80 to 89*, except as follows. If this board is a board of a soil and water conservation district, the financing of repairs which require assessments and bond issues shall be the responsibility of the county board or joint county board in a manner similar to that provided for the financing of the cost of original construction of the project and as provided in (SECTION 106.471) *sections 80 to 89*, so far as appropriate.

Sec. 98. Minnesota Statutes 1984, section 40.073, is amended to read:

40.073 [APPEALS.]

Any person aggrieved by an order of the board or joint board of county commissioners in any proceedings undertaken pursuant to section 40.072, subdivisions 5 or 6, may appeal to the district court upon the grounds and in the manner provided by (SECTION 106.631) *sections 18 and 19*, for a county drainage proceeding. Notices required by (SECTION 106.631) *sections 18 and 19*, to be filed with the county auditor shall also be filed with the board or joint board of supervisors. No appeal shall be permitted from an order of the board or joint board of county commissioners or the board or joint board of supervisors made pursuant to section 40.072, subdivisions 5 or 6 which dismisses a petition or refuses to establish a project.

Sec. 99. Minnesota Statutes 1984, section 38.43, subdivision 2, is amended to read:

Subd. 2. [BENEFITS; ASSESSMENT; LIEN.] If any clearing or other improvement of land made by any town or city benefits any person, or benefits some and damages others, then the amount of both such benefits and damages shall be ascertained in the same manner as provided by law with respect to damages in condemnation proceedings by right of eminent domain. All provisions of law relating to the determination of the amount of damages in condemnation proceedings shall apply to

the determination of the value of benefits under this section, as far as practicable. Any benefits so found shall be assessed against, and be a lien upon, the real property so benefited and shall be noted upon the public records and collected upon the same terms and in substantially the same manner as now provided by law for the collection of ditch and drainage assessments pursuant to (CHAPTER 106) *sections 1 to 92*.

Sec. 100. Minnesota Statutes 1984, section 97.484, is amended to read:

97.484 [ASSESSMENTS TO BE PAID FROM FUND.]

Any assessments against the State of Minnesota under the provisions of sections (106.381, OR 106.671 AND 106.672) *3, subdivision 2; 5; 44, subdivision 1; or section 70*, shall be paid from moneys in the Wildlife Acquisition Fund herein created on all such lands or properties heretofore or hereafter acquired for wildlife habitat.

Sec. 101. Minnesota Statutes 1984, section 97.50, subdivision 1, is amended to read:

Subdivision 1. [POWERS.] The commissioner, director, game refuge patrolmen, and conservation officers are authorized to:

(1) execute and serve all warrants and processes issued by any court having jurisdiction under any law relating to wild animals, wild rice, use of water, conservation, protection or control of public waters, state-owned dams or other works affecting public waters or water pollution, in the same manner as a constable or sheriff;

(2) arrest, without a warrant, any person detected in the actual violation of any provisions of chapters 84, 97 to 102, 105 and (106) *sections 1 to 92*, and section 609.68; and

(3) take the person before any court in the county in which the offense was committed and make proper complaint.

When a person who is arrested for any violation of the provisions of law listed in clause (2), which is punishable as a misdemeanor, is not taken into custody and immediately taken before a court, the arresting officer shall prepare, in quadruplicate, written notice to appear before a court. The notice shall be in the form and has the effect of a summons and complaint. It shall contain the name and address of the person arrested, the offense charged, and the time and the place he is to appear before the court. This place must be before a court which has

jurisdiction within the county in which the offense is alleged to have been committed.

In order to secure release, without being taken into custody and immediately taken before the court, the arrested person must give his written promise to appear before the court by signing, in quadruplicate, the written notice prepared by the arresting officer. The officer shall retain the original of the notice and deliver the copy marked "SUMMONS" to the person arrested. The officer shall then release the person from custody.

On or before the return day, the officer shall return the notice or summons to the court before whom it is returnable. If the person summoned fails to appear on the return day, the court shall issue a warrant for his arrest. Upon his or her arrest, proceedings shall be had as in other cases.

Sec. 102. Minnesota Statutes 1984, section 105.42, subdivision 1, is amended to read:

Subdivision 1. It shall be unlawful for the state, any person, partnership, association, private or public corporation, county, municipality or other political subdivision of the state, to construct, reconstruct, remove, abandon, transfer ownership, or make any change in any reservoir, dam or waterway obstruction on any public water; or in any manner, to change or diminish the course, current or cross-section of any public waters, wholly or partly within the state, by any means, including but not limited to, filling, excavating, or placing of any materials in or on the beds of public waters, without a written permit from the commissioner previously obtained. Application for such permit shall be in writing to the commissioner on forms prescribed by him. No permit shall be required for work in altered natural watercourses which are part of drainage systems established pursuant to (CHAPTERS 106 AND) *sections 1 to 92 and chapter 112* when the work in the waters is undertaken pursuant to those chapters.

This section does not apply to any public drainage system lawfully established under the provisions of (CHAPTER 106) *sections 1 to 92* which does not substantially affect any public waters.

The commissioner, subject to the approval of the county board, shall have power to grant permits under such terms and conditions as he shall prescribe, to establish, construct, maintain and control wharfs, docks, piers, levees, breakwaters, basins, canals and hangars in or adjacent to public waters of the state except within the corporate limits of cities.

Sec. 103. Minnesota Statutes 1984, section 105.471, is amended to read:

105.471 [VENUE OF ACTIONS AGAINST COMMISSIONER; DRAINAGE AND CLASSIFICATION OF PUBLIC WATERS.]

Notwithstanding any other law to the contrary, any action for declaratory judgment that is commenced under chapter 555 by or against the commissioner to determine the validity of the commissioner's final decision regarding the classification of any waters of the state as public waters pursuant to sections 105.38 to 105.391, or the drainage of waterbasins or watercourses as provided in (SECTION 106.021) *sections 2 and 3, subdivision 1*, shall be venued in the county where the water, watercourse or waterbasin is located, if the water, watercourse or waterbasin is located in one county, or in the judicial district where the majority of the water, watercourse or waterbasin is located, if the water, watercourse or waterbasin is located in more than one county.

Sec. 104. Minnesota Statutes 1984, section 105.74, is amended to read:

105.74 [ADDITIONAL DUTIES OF BOARD.]

In addition to duties elsewhere prescribed, the board has the function defined in sections 105.72 to 105.79 when the decision of the agency in a proceeding involves a question of water policy in one or more of the areas of water conservation, water pollution, preservation and management of wildlife, drainage, soil conservation, public recreation, forest management, and municipal planning under any of the following: Sections 84.57, 97.48, subdivision 13, 105.41, 105.42, 105.43, 105.44, 105.64, (106.021, 106.671) 2, 3, 115.04, 115.05, and chapter 110.

Sec. 105. Minnesota Statutes 1984, section 105.81, is amended to read:

105.81 [PETITION; BOND; INVESTIGATION; REPORT; HEARING; ORDER.]

For the purpose of conserving and making more adequate use of our water resources, any person, public or municipal corporation, governmental subdivision, the state or any of its departments or agencies, the commissioner of natural resources and the United States or any of its agencies, may petition the county board in the case of a system lying wholly within one county or the district court in the case of a drainage system affecting two or more counties for the installation of dams or other control works in said ditches to impound or divert waters for any beneficial use. Said petition shall contain the location of the installation, plans and specifications for the proposed structure, and a map of the areas likely to be affected by the impoundment or

diversion. The petitioner shall agree to be responsible for the cost of installation and construction of the structure. Upon filing of the petition, the petitioners shall file a bond as provided in sections (106.041 AND 106.051) 22 and 23. No bond shall be required if the petition is filed by the state, any of its departments or agencies, the commissioner of natural resources, the United States or any of its agencies, and cities. Said petition shall also be accompanied by a permit from the commissioner of natural resources as required in sections 105.41 and 105.42.

On receipt of the petition, bond, and permit, if required, the board or court shall appoint an engineer to investigate the effect of the proposed installation and file a report of his findings. Upon filing of the engineer's report, notice shall be given and a public hearing held as provided in section (106.101) 33. If at this hearing it appears from the engineer's report and other evidence presented that such installation will be of a public or private benefit and that it will not impair the utility of the ditch or deprive affected land owners of the benefit thereof, the board or court shall issue a permit authorizing its installation. Before the petitioner shall install or construct any impoundment or diversion, he shall obtain such rights-of-way and flowage easements from all owners of land to be affected thereby.

The order of the court modifying the ditch system shall provide that all construction and subsequent maintenance and repairs of the ditch modification shall be done and performed by the petitioner without any cost to the owners of lands and properties previously within the drainage system.

Sec. 106. Minnesota Statutes 1984, section 111.09, subdivision 2, is amended to read:

Subd. 2. [CHIEF ENGINEER, ATTORNEY.] The board may employ a chief engineer and an attorney, and such other engineers and attorneys or agents or assistants as are needful and necessary and shall provide for their compensation. All such expenses shall be, as far as practicable, as a part of the costs of each improvement upon which such engineer and attorney perform services, and as far as applicable shall be governed by section (106.431) 76.

Sec. 107. Minnesota Statutes 1984, section 111.11, is amended to read:

#### 111.11 [ESTABLISHMENT OF DISTRICT; CLASSES.]

After the organization of the board of directors of any drainage and conservancy district organized under the provisions of sections 111.02 to 111.42 and upon filing with the clerk of the board a petition signed by not less than 25 freeholders of the district (but in no event shall more than 25 percent of the owners of

the property affected be required), or by the board of county commissioners of any county, or the council of any city likely to be affected by the proposed improvement therein, asking for the construction within the limits of the conservancy district of any of the improvements authorized by the provisions of sections 111.02 to 111.42 relative to drainage, regulation, control, or conservation of the waters of any lake, pond, marsh, or body of water, river, stream, watercourse, ditch, or drain within the district which may cover the whole or any part of the improvement contemplated when the district was organized, therein describing the need of the proposed improvement, the extent thereof, and describing in general terms the bodies of water, streams, or watercourses proposed to be improved, or reservoirs or other improvements constructed; and, if the construction of a ditch or drain as a part of the proposed improvement contemplated, a description of the starting point, the general course and termination thereof shall be given therein, or if the contemplated improvements require that any ditch or drain established and constructed under any law of this state, or any portion thereof, be utilized for the protection of fires in areas subject to destruction or damage by fire or for irrigation, all as specified, a description of such ditch and drain, or the portions thereof so required, and a general description of such areas, protection whereof from fire is sought, or irrigation is sought, setting forth the reasons and necessity for such improvements and that the same, if constructed, will benefit public health and general welfare of the inhabitants in that vicinity, and the petition is to be accompanied by a bond signed by the petitioners, or any number of them, or other parties in their behalf, in such sum as the board of directors of such district may specify and such as it shall approve, conditioned for payment of all costs or expenses in connection with such improvements in the event the petition, as therein set forth or subsequently modified, is not granted; it shall be the duty of the board of directors of the district to cause to be made, at the earliest possible date, by its engineer, all necessary surveys, maps, plats, profiles, and plans covering the proposed improvements so as to fully inform the board as to the merits and practicability of proposed improvements, and, in making the surveys, plats, profiles, and report, the engineer shall, so far as practicable, conform to the requirements of General Statutes 1923, Section 6678, and the board shall have authority to correct, change, or modify the proposed improvements, as outlined in the petition, and if the report of the engineer is favorable to the construction of the improvements, and is approved by the board of directors, the board shall, with the least possible delay, appoint three disinterested citizens of the state to act as viewers, and the viewers so selected shall, after subscribing an oath to faithfully and impartially perform their duties, proceed to personally inspect and examine all lands, highways, and other property likely to be affected by the improvements, or that may be used or taken for the construction or maintenance thereof and shall, in the performance of their duties so far as practicable comply with the provisions of sections (106.141 AND 106.151) 42 to 45 and make and file with the clerk

of the board with such plans and specifications a detailed statement showing the actual benefits and damages that will result to individuals, property, or corporations from the construction of the improvements, and a list of lands and other property, including highways and corporations, that will be actually benefited or damaged, and the amount thereof, and include lands, roads, corporations, and other property receiving actual benefits by way of drainage or control of flood waters, or by regulation, conservation, and application of waters for fire protection and irrigation, as hereinbefore authorized, and lands or water powers further down the valley and include all lands to which a drainage outlet is supplied by such improvement by way of increased facilities for drainage or control of flood waters or protection from fire or for irrigation, and all such property and corporations shall be assessable for the cost of the proposed improvement in proportion to the actual benefits received, as finally determined by the court; provided, the board of directors of the district may elect to levy no assessment under this section upon water powers, but collect for such improvement as otherwise provided in sections 111.02 to 111.42. General Statutes 1923, Sections 6681 and 6682, so far as applicable, shall apply to and govern the work of the viewers under sections 111.02 to 111.42. In any case where fire protection is part of the relief prayed for in the petition and the utilization of any existing ditch or drain, or any portion thereof, is alleged to be necessary thereto, the petition for such improvements, before being presented to the board of directors, shall be signed by not less than 50 percent of the resident freeholders (but in no event shall more than 25 signers be required) whose lands are affected by the ditch or drain, or portion thereof, to be utilized, and approved by resolution of the board of county commissioners of each county wherein the same is located.

Sec. 108. Minnesota Statutes 1984, section 111.13, is amended to read:

111.13 [MODIFICATIONS, APPROVAL OR REJECTION.]

At the time and place specified in the notice, the court shall hear all parties interested for and against the granting of the petition and confirming the reports, and may order and direct the modification of the plans and specifications and the assessments of benefits and damages and amend or change the list of property reported as assessable for the construction and maintenance thereof, or may recommit the same to the engineer or viewers, or both, for changes. If upon full hearing the court shall find that the improvement will be conducive to the public health and promote the general welfare and cause the protection and reclamation of wet or overflowed lands or the control of flood waters in streams, channels, and reservoirs, or aid in the prevention of fires in the areas, or any purpose authorized by sections 111.02 to 111.42, in the drainage and conservancy district and that the benefits resulting therefrom will be greater than the costs of the construction and damages, and a sum equal



to 15 percent of the cost of the construction, exclusive of damages, for maintenance, then the court shall make its findings accordingly and order and direct the construction of the improvement and confirm the report of the engineer and the findings and report of the board or the viewers with reference to benefits and damages and lands assessable, and may, by this order, authorize the board of the district to construct the whole or any part of the improvement petitioned for or to let contracts for the improvement ordered as a whole or for different parts thereof separately. All persons, parties, or corporations affected by the order shall have the right to appeal on questions of benefits and damages in the manner now provided for appeals in the case of judicial ditches, pursuant to provisions of (SECTION 106.631) *sections 18 and 19.*

If any ditch or drain, or any portion thereof, mentioned in the petition and reports is proper to be utilized for any of the objects or purposes of sections 111.02 to 111.42, the court shall include in its findings all matters in respect thereto and in and by the order fix and limit the use and application of the same therefor, taking care not to destroy the ditch, or any part thereof, so used for the purposes for which it was established. Upon the entry of the order, the board of directors of the district shall have and exercise all the authority thereover theretofore vested in any public corporation or administrative body as to such ditch or drain, or portion thereof, and be charged with all the duties of any such public corporation or administrative body as to the upkeep, repair, and maintenance of any such ditch, or the part thereof taken under sections 111.02 to 111.42.

Sec. 109. Minnesota Statutes 1984, section 111.30, is amended to read:

#### 111.30 [APPORTIONMENT OF COSTS.]

At the time set for hearing on the report and petition of the board of directors of any district and the report of the engineer asking for the establishment of any improvement under the provisions of sections 111.02 to 111.42, or at any time subsequent thereto, upon five days' notice, in writing, to the auditor of each county containing property affected by such improvement, the court shall apportion the amount of the total costs of the construction of the improvements among the counties affected in proportion to the benefits received and shall fix and determine the amount to be paid by each and, upon similar notice to the auditor, the judge of the district court may, at any time, modify his order as justice may require, or make additional orders covering additional expense. The word "expense", as used in this section, shall be construed to mean every item of cost of the improvement from its inception to its completion and all fees and expenses paid or incurred, including all damages awarded; and, upon the filing of the order, or a certified copy thereof, with the auditor of each county affected, together with a list of all

property in the county affected and a statement of all benefits and damages affecting the same, and such other information as the court, by order, may direct, it shall be the duty of the county board of each county to provide the necessary funds to meet the proportionate share of the cost of the improvement, as specified in the order, in the same manner as now provided in the case of judicial ditch proceedings, under section (106.411) 74. Immediately, or at the earliest date possible following the letting of contracts for the construction of the improvement by the board of directors of the district, it shall cause to be made and filed, with its clerk and with the auditor of each county affected, a statement showing the total cost of the improvement, including expenses as nearly as they can be ascertained, and the proportionate amount that the property within each county affected shall be required to pay on the basis fixed by the order of the court, together with a list of all property benefited within such county; and thereupon it shall become the duty of the auditor of each county to cause to be made and recorded the tabular statement and lien against the property benefited within the county the amount to be paid by the property in the county, in accordance with the provisions of sections (106.341, 106.351, AND 106.361) 67 and 68; and it shall be the duty of the county commissioners of each county to provide funds to meet the proportionate share of the total cost of the improvement, as shown by the report of the board of the drainage and conservancy district and the order of the court, and the county board is authorized to exercise all rights and authority in so doing now granted to the board of county commissioners under the provisions of sections (106.341 AND 106.411) 67, subdivisions 1 and 2; and 74 and other provisions relating to county and judicial ditch proceedings. It shall be the duty of the respective county auditors and county treasurers to levy and collect the amount shown in the tabular statement and lien, as provided in sections (106.371) 69 and (106.381) 70. All moneys received by the treasurer of any county from the sale of bonds, assessments, or otherwise for the benefit of the district shall be by him accounted for and paid over to the treasurer of the district.

Sec. 110. Minnesota Statutes 1984, section 111.31, is amended to read:

#### 111.31 [ASSESSMENTS.]

Upon the filing by the board of directors of a drainage and conservancy district with the auditor of any county of a statement as provided in section 111.30, giving a list of the property and corporations benefited or damaged or otherwise affected by any proposed improvement, it shall be the duty of the auditor to assess the amount specified in such list against the lands and municipalities or other corporations as therein specified in accordance with the provisions of section (106.381) 70, he shall proceed to levy and collect the sums specified in the lists against the property and corporations in accordance with the provisions thereof and, in the event the sum so reported shall become a

direct charge against the county, it may be paid by such county out of its road and bridge fund, or otherwise, as the county commissioners may direct, and may be paid in whole or in installments as may be specified by the board of county commissioners of the county. No assessment shall be levied against any property or corporation benefited under the provisions of sections 111.02 to 111.42 in excess of the amounts of benefits received as fixed by the order of the court directing the construction of the improvement or subsequently determined on appeal.

Sec. 111. Minnesota Statutes 1984, section 111.36, is amended to read:

#### 111.36 [NEGLECT OF AFFAIRS.]

The provisions of section (106.641) 16 relating to the obstruction or injury of work shall apply to any and all improvements made or authorized under the provisions of sections 111.02 to 111.42, and any other provision contained in the laws of this state relating to judicial or county ditches providing for punishment for damages committed to or interfering with such work shall apply to all improvements made under the provisions of sections 111.02 to 111.42.

Sec. 112. Minnesota Statutes 1984, section 111.78, is amended to read:

#### 111.78 [LIENS TO BEAR INTEREST.]

The amount that each tract of land, public or private, shall be liable for on account of the construction of works authorized in sections 111.65 to 111.80 shall bear interest from the date of the filing of the auditor's statement in the office of the county recorder at the legal rate until paid.

Such liens may be paid to the county treasurer at any time after the recording of the auditor's statement in the office of the county recorder.

When payment of the full amount of the liens with interest shall at any time be made the county auditor, upon presentation of a receipt from the county treasurer to that effect, shall issue under his hand a certificate of such payment and the same when recorded in the office of the county recorder shall release and discharge the lien of record.

On or before November 15 next following the filing by the auditor of such statement, he shall enter on the tax lists of the county the amount of the lien against each tract of land, all of which shall be payable as directed by the court on such tract, which shall be subject to and be collected with like penalties as all other taxes.

The auditor of the county wherein the proceedings are held is hereby authorized, upon order of the court, to issue warrants of the county to pay the official costs of such proceedings and when the costs are assessed against the lands in more than one county such costs are to be determined and apportioned between the counties affected in proportion to the benefits assessed against the lands and property in such county. The issued warrants are to draw interest at the legal rate, subject to their payment as provided under section (106.451) 78.

Sec. 113. Minnesota Statutes 1984, section 112.431, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] (a) For the purpose of this section the terms defined in this subdivision have the meanings ascribed to them.

(b) "Drainage system" means a ditch as defined by section (106.011, SUBDIVISION 17) 1, *subdivision 11*.

(c) "Watershed district" means any watershed district established pursuant to the provisions of chapter 112, wholly or partially in a metropolitan county.

(d) "Metropolitan county" means any one of the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington.

(e) "Metropolitan area" means the combined area of the metropolitan counties.

Sec. 114. Minnesota Statutes 1984, section 112.48, subdivision 1, is amended to read:

Subdivision 1. After the overall plan of the district has been prescribed by the board, as provided in section 112.46, a petition may be filed with the managers for any project within the district conforming in general with the plan. The petition must be signed:

(1) By not less than 25 percent of the resident freeholders, or by the owners of more than 25 percent of the land within the limits of the area proposed to be improved unless the project consists of the establishment of a drainage system as defined in (CHAPTER 106) *sections 1 to 92* or the improvement of an existing drainage system;

(2) By a majority of the resident owners of the land over which the proposed project passes or is located, or by the owners of at least 60 percent of the area of the land, if the project con-

sists of the establishment of a drainage system as defined in (CHAPTER 106) *sections 1 to 92*;

(3) By not less than 26 percent of the resident owners of the property affected by the proposed project or over which the proposed project passes or by the owners of not less than 26 percent of the area affected or over which the proposed project passes if the project consists of the improvement of an existing drainage system as defined in (CHAPTER 106) *sections 1 to 92*;

(4) By a county board of any county affected; or

(5) By the governing body of any city lying wholly or partly within the area proposed to be improved; provided that if the proposed project affects lands exclusively within a city, the petition shall originate from the governing body of the city.

For the purpose of this subdivision, holders of easements for electric or telephone transmission or distribution lines are not considered freeholders or owners.

The petition shall contain the following:

(a) A description of the proposed project, and the purpose to be accomplished;

(b) A description of the lands over which the proposed project passes or is located;

(c) A general description of the part of the district which will be affected, if less than the entire district;

(d) The need and necessity for the proposed improvement;

(e) That the proposed project will be conducive to public health, convenience, and welfare;

(f) A statement that the petitioners will pay all costs and expenses which may be incurred in case the proceedings are dismissed or for any reason no construction contract is let for the project.

Sec. 115. Minnesota Statutes 1984, section 112.50, is amended to read:

#### 112.50 [APPRAISALS.]

Subdivision 1. Upon the filing of the engineer's report the managers shall, with the least possible delay, appoint three disinterested resident freeholders of the state to act as appraisers.

These appraisers shall subscribe an oath to faithfully and impartially perform their duties, and with or without the engineer, shall determine the benefits or damages to all lands and properties affected by the proposed project or improvement, including lands owned by the state of Minnesota or any department thereof, highways, and other property likely to be affected by the proposed improvement or that may be used or taken for the construction or maintenance thereof. Benefits and damages to lands owned by the state of Minnesota or any department thereof held and used for the purposes described in (SECTION 106.672) *sections 5 and 44, subdivision 1*, shall be determined subject to the provisions thereof, so far as applicable. Each appraiser may be paid on a per diem basis for every day necessarily engaged in the performance of his duties and for his actual and necessary expenses. The compensation shall be fixed by the managers, to be paid by the district and included in the cost of improvement. The managers of the watershed districts may in their discretion use the following procedure for the purpose of determining benefits and damages. Upon the filing of the engineer's report the managers with the assistance of the engineer shall determine the benefits or damages to all lands and properties affected by the proposed project or improvement, including lands owned by the state of Minnesota or any department thereof, highways, and other property likely to be affected by the proposed improvement or that may be used or taken from the construction or maintenance thereof. Benefits and damages to lands owned by the state of Minnesota or any department thereof held and used for the purposes described in (SECTION 106.672) *sections 5 and 44, subdivision 1* shall be determined subject to the provisions thereof, so far as applicable. The managers shall also determine the amount to be paid and generally assessed by the watershed district for the basic water management portion of the improvement projects.

Sec. 116. Minnesota Statutes 1984, section 112.501, subdivision 1, is amended to read:

Subdivision 1. Where the proposed improvement, includes or prays for the construction or improvement of any ditch, stream, river, or watercourse, or any structures for the control or alleviation of damages from flood waters, the appraisers shall be governed by (SECTION 106.151) *sections 43 to 45*.

Sec. 117. Minnesota Statutes 1984, section 112.541, is amended to read:

112.541 [PROCEDURE WHEN CONTRACT IS NOT LET.]

If after the receipt of the bids, no bids are received except for a price more than 30 percent in excess of the engineers estimate as contained in his report, or for a price in excess of the benefits,

less damages and other costs, the managers shall follow the procedure described in section (106.241) 57.

Sec. 118. Minnesota Statutes 1984, section 112.59, is amended to read:

112.59 [CONTROL OF CONTRACTS.]

In all cases where contracts are let by the managers, they shall have full control of all matters pertaining thereto. If a contractor fails to complete the improvement within the time or in the manner specified in the contract, the managers may extend the time for completion or may refuse an extension of time or may cancel the contract and readvertise and relet the contract. They may require the surety for the contractor to complete the improvement or proceed to have the contract otherwise completed at the expense of the contractor and his surety. They may take such other action with reference thereto that the occasion may require in the interest of the district. The provisions of (CHAPTER 106) *sections 1 to 92*, so far as pertinent, apply to and govern the relations between the engineer and the contractor, including the examination and report of the engineer and the amount and time of payment. The managers shall keep an accurate account of all expenses incurred, which shall include the compensation of the engineer and his assistants, the compensation and expenses of the appraisers as provided in section 112.50, the compensation of petitioners' attorney, the cost of petitioners' bond, the fees of all county officials necessitated by the improvement which shall be in addition to all fees otherwise allowed by law, and the time and expenses of all employees of the district, including the expenses of the managers while engaged in any improvement. The fees and expenses provided for herein shall be audited, allowed and paid upon the order of the managers and shall be charged to and be treated as a part of the cost of the improvement.

Sec. 119. Minnesota Statutes 1984, section 112.60, subdivision 1, is amended to read:

Subdivision 1. Upon the filing by the managers with the auditor of any county of a statement listing the property and corporations benefited or damaged or otherwise affected by any improvement as found by the appraisers and approved by the managers, he shall assess the amount specified in such list against the lands and municipalities or other corporations as therein specified in accordance with the pertinent provisions of (CHAPTER 106) *sections 1 to 92*.

Sec. 120. Minnesota Statutes 1984, section 112.60, subdivision 2, is amended to read:

Subd. 2. Upon filing of the statement as provided in subdivision 1 the county board of each county affected shall provide

funds to meet its proportionate share of the total cost of the improvements, as shown by the report and order of the managers of the district, and for such purposes is authorized to issue bonds of the county in such amount as may be necessary in the manner provided by section (106.411) 74. In the event an improvement is to be constructed under the provisions of section 112.69, the provisions of section (106.411) 74 requiring the county board to let a contract for construction before issuing bonds shall not be applicable to bonds issued to provide the funds required to be furnished by this section.

Sec. 121. Minnesota Statutes 1984, section 112.60, subdivision 3, is amended to read:

Subd. 3. The respective county auditors and county treasurers shall levy and collect the amount shown in the tabular statement and lien as provided in sections (106.341) 67 to (106.401) 73. All moneys received by the treasurer of any county from the sale of bonds, assessments, or otherwise, for the benefit of the district shall be by him accounted for and paid over to the treasurer of the district.

Sec. 122. Minnesota Statutes 1984, section 112.64, subdivision 2, is amended to read:

Subd. 2. For the purpose of creating a maintenance fund for normal and routine maintenance of a project, the board of managers is authorized to apportion and assess the amount of the fund against all the parcels of land and municipal corporations previously assessed for benefits in proceedings for the construction of the project. The assessment shall be made pro rata according to benefits determined. No assessment for the benefit of the maintenance fund shall be made when the fund exceeds 20 percent of the original cost of construction of the project. Upon receiving the assessment order from the board of managers, the auditors of the counties affected shall file for record in the office of the county recorder for the county a tabular lien statement covering the assessment. The assessment shall be collected as provided in the order in the same manner as provided in section (106.471) 86. Before ordering the levy of an assessment for the benefit of the maintenance fund, the board of managers, in its discretion, may give notice of a hearing on the matter.

Sec. 123. Minnesota Statutes 1984, section 112.64, subdivision 3, is amended to read:

Subd. 3. If the engineer certifies to the board of managers, in his annual report or otherwise, that an improvement of the district is in such a state of disrepair that it cannot be restored by normal and routine maintenance to the same condition as when originally constructed or subsequently improved, or that a



ditch or channel must be widened or deepened, or that any improvement of the district must be altered or improved, in order to attain the level of operating efficiency contemplated at the time of the original construction, the board of managers, before ordering any repairs other than normal and routine maintenance, shall order the engineer to prepare and submit to the board of managers technical and cost specifications on the work necessary to restore, or improve the improvement to the desired level of operating efficiency. Upon receiving the engineer's report, the board of managers shall set a date for hearing on the report and give notice of the hearing in the same manner as in the original proceeding on the construction of the improvement. If upon hearing the board of managers finds that the repair or improvement is in compliance with the provisions, is necessary to accomplish the purposes of this chapter, and that the cost of the repair or improvement will not exceed its benefits, they may order the repair or improvement and assess the cost against the benefited properties. The cost shall be apportioned and assessed pro rata upon all lands and property that were assessed for the construction of the improvement. No single levy for repair shall exceed the amount of benefits originally determined. The board of managers shall file a copy of the order for levy with the auditor of each county which contains affected properties. The auditor shall extend the levy against affected properties as in proceedings for the levy, assessment and collection of taxes levied in drainage proceedings conducted under (CHAPTER 106) *sections 1 to 92*.

Sec. 124. Minnesota Statutes 1984, section 112.65, subdivision 1, is amended to read:

Subdivision 1. The managers of a district shall take over when directed by the district court or county board any judicial or county drainage system within the district, together with the right to repair and maintain the same. Such transfer may be initiated by the district court or county board, or such transfer may be initiated by a petition from any person having an interest in the drainage system or by the managers. No such transfer shall be made until the district court or county board has held a hearing thereon. Due notice of the proposed transfer together with the time and place of hearing shall be given by two weeks published notice in a legal newspaper of general circulation in the area involved. All interested persons may appear and be heard. Following the hearing, the district court or county board shall make its order directing that the managers of a district take over the affected judicial or county drainage system, unless it appears that the take over would not be in the public welfare or public interest and would not serve the purpose of this chapter. When the transfer is directed all proceedings for repair and maintenance shall thereafter conform to the provisions of (CHAPTER 106) *sections 1 to 92*.

Sec. 125. Minnesota Statutes 1984, section 161.28, subdivision 1, is amended to read:

Subdivision 1. [PETITION.] Upon the filing of a petition by the commissioner with the appropriate county auditor setting forth that it would be advantageous or desirable in the construction or maintenance of a trunk highway to make a minor alteration or change in a public drainage system directly affecting a trunk highway and that the alteration or change will not affect the functioning or efficiency of the public drainage system, the auditor shall fix a time and place for hearing and give notice of the hearing by publication, as defined in section (106.171) 46. Upon the filing of the petition the commissioner shall also file a plan showing in detail the alteration or change petitioned for. If upon the hearing it appears to the county board or joint county ditch authority that the alteration or change in the public drainage system will not affect or impair the efficiency of the drainage system, the board or authority shall make its order allowing the commissioner to make the alteration or change petitioned for. Upon the making of the order by the county board or the joint county ditch authority, the commissioner may proceed at the sole cost and expense of the state to make the alterations or changes as may be in the order allowed, damages, if any, for any additional lands necessary for the change or alteration being first duly paid or secured. Upon completion of the alteration or change the commissioner shall file with the appropriate auditor a map drawn to scale showing the change or alteration made and shall also file a profile of all lines of the alteration or change in the ditch showing graphically the elevation of the ground and gradient, whether open or tiled, the size of tile, and the bottom width and side slope of open ditch sections, and such other information as may appear necessary for understanding. Upon the completion of the alteration or change herein provided for, the ditch shall thereafter include such alteration or change as a part of it with the same force and effect as though it had been originally so constructed and established.

Sec. 126. Minnesota Statutes 1984, section 163.17, is amended to read:

**163.17 [DRAINAGE SYSTEMS AFFECTING HIGHWAYS; ALTERATIONS.]**

Upon the filing of a resolution by the county board of any county with the county auditor, in the case of a public ditch system lying wholly within a county, or with the clerk of the district court having jurisdiction over said ditch in the case of a ditch system affecting two or more counties, therein setting forth that it would be advantageous or desirable in the construction or maintenance of a highway under the jurisdiction of the county to make a minor alteration or change in a public ditch system directly affecting the highway, and that the alteration or change will not affect the functioning or efficiency of the ditch system, it shall be the duty of the auditor, or the clerk with the approval of the judge, to fix a time and place for hearing thereon and to give notice of hearing by publication as defined by section

(106.011) 1, subdivision (2) 21. Upon the filing of the resolution, the board shall also cause to be filed a plan showing in detail the alteration or change therein described. If upon the hearing it shall appear to the county board or district court that the alteration or change in the public ditch system will not affect or impair the efficiency of the ditch system, the board or court shall make its order authorizing the county to cause the alteration or change to be made. Upon the making of the order by the county board or the court, the county board may proceed at the sole cost and expense of the county to make the alterations or changes as may be in the order allowed; damages, if any, occasioned thereby being first duly paid or secured by the county. Upon completion of the alteration or change, the county board shall cause to be filed with the auditor or clerk, a map and profile drawn to scale showing thereon the change or alteration made. If the map and profile be filed with the clerk, duplicates thereof shall also be filed with the auditor of each county affected. Upon the completion of the alteration or change herein provided for, the ditch shall thereafter include the alteration or change as part thereof with the same force and effect as though it had been originally so constructed and established.

Sec. 127. Minnesota Statutes 1984, section 357.021, subdivision 2, is amended to read:

Subd. 2. [FEE AMOUNTS.] The fees to be charged and collected by the clerk of district court shall be as follows:

(1) In every civil action or proceeding in said court, the plaintiff, petitioner, or other moving party shall pay, when the first paper on his part is filed in said action, a fee of \$20, except that in an action for marriage dissolution, the fee is \$55.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper on his or their part is filed in said action, a fee of \$15.

The party requesting a trial by jury shall pay \$15.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under (CHAPTER 106) *sections 1 to 92*, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding \$5 and \$3.50 for an uncertified copy.

- (3) Issuing a subpoena \$1 for each name.
- (4) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, \$5.
- (5) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, \$5.
- (6) Filing and entering a satisfaction of judgment, partial satisfaction or assignment of judgment, \$5.
- (7) Certificate as to existence or non-existence of judgments docketed, \$1 for each name certified to and \$1 for each judgment certified to.
- (8) Filing and indexing trade name; or recording notary commission; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians or optometrists, \$5.
- (9) For the filing of each partial, final, or annual account in all trusteeships, \$10.
- (10) All other services required by law for which no fee is provided such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

Sec. 128. Minnesota Statutes 1984, section 375.471, is amended to read:

**375.471 [LAND CONSERVATION AND UTILIZATION; FEDERAL AID.]**

The county boards of the several counties which have been designated as a resource conservation and development project area under 7 USCA, Sec. 1011(e) and acts amendatory thereof, may enter into agreements as necessary with the secretary of agriculture of the United States and other agencies of the federal government for the program of land conservation and land utilization authorized by 7 USCA, Sec. 1010 and acts amendatory thereof, to accept assistance for the program under 7 USCA, Sec. 1011 and acts amendatory thereof, to engage in works of improvement as necessary for the purpose of the acts and to cooperate with the secretary of agriculture and federal agencies so that residents of this state obtain the benefits and advantages available to them and intended by congress to be available by the acts. The county boards shall comply with the requirements of federal law and any rules and regulations promulgated under it and with appropriate state laws to accomplish the purposes intended by this section. If a proceeding is instituted by petition

for an improvement under this section, it may be conducted by a board in the same manner provided for the establishment of a drainage system under (CHAPTER 106) *sections 1 to 92*. A majority of the landowners as defined in section (106.031) *21, subdivision 3*, shall be required for a valid petition. They may also proceed under authority provided by other law.

Sec. 129. Minnesota Statutes 1984, section 471.345, subdivision 3, is amended to read:

Subd. 3. [CONTRACTS OVER \$15,000.] If the amount of the contract is estimated to exceed \$15,000, sealed bids shall be solicited by public notice in the manner and subject to the requirements of the law governing contracts by the particular municipality or class thereof provided that with regard to repairs and maintenance of ditches, bids shall not be required if the estimated amount of the contract does not exceed the amount specified in section (106.471, SUBDIVISION 2) *81, subdivisions 4, 5, and 6*.

Sec. 130. Minnesota Statutes 1984, section 473.877, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] Any agreement under section 471.59 to jointly or cooperatively manage or plan for the management of surface water in a watershed delineated pursuant to subdivision 2, as required by sections 473.875 to 473.883, may provide, in addition to other provisions authorized by section 471.59, for a joint board having:

(a) the authority to prepare, adopt, and implement a plan for the watershed meeting the requirements of section 473.878;

(b) the authority to review and approve local water management plans as provided in section 473.879;

(c) the authority of a watershed district under chapter 112 to regulate the use and development of land in the watershed when one or more of the following conditions exists: (1) the local government unit exercising planning and zoning authority over the land under sections 366.10 to 366.19, 394.21 to 394.37, or 462.351 to 462.364, does not have a local water management plan approved and adopted in accordance with the requirements of section 473.879 or has not adopted the implementation program described in the plan; (2) an application to the local government unit for a permit for the use and development of land requires an amendment to or variance from the adopted local water management plan or implementation program of the local unit; (3) the local government unit has authorized the organization to require permits for the use and development of land;

(d) the authority of a watershed district under section 112.65 to accept the transfer of drainage systems in the watershed, to

repair, improve, and maintain the transferred drainage systems, and to construct all new drainage systems and improvements of existing drainage systems in the watershed, provided that projects may be carried out under the powers granted in chapter (106,) 112 (,) or 473 and sections 1 to 92 and that proceedings of the board with respect to the systems must be in conformance with the watershed plan adopted under section 473.878; and

(e) other powers necessary to exercise the authority under clauses (a) to (c), including the power to enter into contracts for the performance of functions with governmental units or persons.

Sec. 131. Minnesota Statutes 1984, section 473.878, subdivision 4, is amended to read:

Subd. 4. [CONTENTS.] The plan shall:

(a) Describe the existing physical environment, land use, and development in the area and the environment, land use, and development proposed in existing local and metropolitan comprehensive plans;

(b) Present information on the hydrologic system and its components, including any drainage systems previously constructed under (CHAPTER 106) sections 1 to 92, and existing and potential problems related thereto;

(c) State objectives and policies, including management principles, alternatives and modifications, water quality, and protection of natural characteristics;

(d) Set forth a management plan, including the hydrologic and water quality conditions that will be sought and significant opportunities for improvement;

(e) Describe the effect of the plan on existing drainage systems;

(f) Describe conflicts between the watershed plan and existing plans of local government units;

(g) Set forth an implementation program consistent with the management plan, which includes a capital improvement program and standards and schedules for amending the comprehensive plans and official controls of local government units in the watershed to bring about conformance with the watershed plan; and

(h) Set out a procedure for amending the plan.

## Sec. 132. [EFFECT OF CHANGES IN THIS ACT.]

*The legislature intends this act to be a clarification and re-organization of the drainage law. The changes that have been made are not intended to alter the drainage law and shall not be construed by a court or other authority to alter the meaning of the law.*

## Sec. 133. [REPEALER.]

*Minnesota Statutes 1984, sections 106.011; 106.015; 106.021; 106.031; 106.041; 106.051; 106.061; 106.071; 106.081; 106.091; 106.101; 106.111; 106.121; 106.131; 106.141; 106.151; 106.161; 106.171; 106.181; 106.191; 106.201; 106.211; 106.221; 106.231; 106.241; 106.251; 106.261; 106.271; 106.281; 106.291; 106.301; 106.311; 106.321; 106.331; 106.341; 106.351; 106.361; 106.371; 106.381; 106.383; 106.391; 106.401; 106.411; 106.421; 106.431; 106.441; 106.451; 106.461; 106.465; 106.471; 106.481; 106.491; 106.501; 106.511; 106.521; 106.531; 106.541; 106.551; 106.561; 106.571; 106.581; 106.591; 106.601; 106.611; 106.621; 106.631; 106.641; 106.651; 106.652; 106.661; 106.671; 106.672; 106.673; and 109.38 are repealed."*

Delete the title and insert:

"A bill for an act relating to drainage; recodifying the drainage law; amending Minnesota Statutes 1984, sections 40.072, subdivisions 3, 4, 5, 6, and 9; 40.073; 88.43, subdivision 2; 97.484; 97.50, subdivision 1; 105.42, subdivision 1; 105.471; 105.74; 105.81; 111.09, subdivision 2; 111.11; 111.13; 111.30; 111.31; 111.36; 111.78; 112.431, subdivision 2; 112.48, subdivision 1; 112.50; 112.501, subdivision 1; 112.541; 112.59; 112.60, subdivisions 1, 2, and 3; 112.64, subdivisions 2 and 3; 112.65, subdivision 1; 161.28, subdivision 1; 163.17; 357.021, subdivision 2; 375.471; 471.345, subdivision 3; 473.877, subdivision 1; and 473.878, subdivision 4; proposing coding for new law as Minnesota Statutes, chapter 106A; repealing Minnesota Statutes 1984, chapter 106 and section 109.38."

With the recommendation that when so amended the bill pass.

The report was adopted.

Knickerbocker from the Committee on Governmental Operations to which was referred:

H. F. No. 492, A bill for an act relating to state departments and agencies; requiring agencies to provide services and materials in languages other than English; proposing coding for new law as Minnesota Statutes, chapter 15B.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

**"Section 1. [15B.01] [COMMUNICATIONS SERVICES.]**

**Subdivision 1. [STATE AGENCIES; BILINGUAL EMPLOYEES.]** *Every state agency that is directly involved in furnishing information or rendering services to the public and that serves a substantial number of non-English-speaking people shall employ enough qualified bilingual persons in public contact positions to ensure provision of information and services in the language spoken by a substantial number of non-English-speaking people.*

*The commissioner of administration shall determine the application of this section to each state agency, in consultation with the council on affairs of Spanish-speaking people, groups representing other non-English-speaking people, and the head of the agency. In determining what constitutes a substantial number of non-English-speaking people, the commissioner shall consider:*

- (1) the number of people served by the agency;*
- (2) the number of non-English-speaking people served by the agency;*
- (3) the frequency with which non-English-speaking people are served by the agency; and*
- (4) the extent to which information or services rendered by the agency affect legal rights, privileges, or duties.*

**Subd. 2. [LOCAL AGENCIES; BILINGUAL EMPLOYEES.]** *Every local public agency that is directly involved in furnishing information or rendering services to the public and that serves a substantial number of non-English-speaking people shall employ enough qualified bilingual persons in public contact positions, or enough interpreters to assist those in these positions, to ensure provision of information and services in the language spoken by a substantial number of non-English-speaking people. The local agency shall determine what constitutes a substantial number of non-English-speaking people and enough qualified bilingual persons. In making these determinations, the local agency shall consider the criteria listed in subdivision 1, clauses (1) to (4).*

**Sec. 2. [15B.02] [TRANSLATIONS OF MATERIALS EXPLAINING AGENCY SERVICES.]**

*Every state agency that serves a substantial number of non-English-speaking people and that provides materials in English explaining services is encouraged to provide equivalent materials in any non-English language spoken by a substantial number*



*of the people served by the agency. An agency should give highest priority to providing in a non-English language materials that notify people of legal rights, duties, or privileges they are entitled to, and the steps they must take to obtain or maintain those rights, duties, or privileges. When notice of the availability of material explaining services available is given, orally or in writing, it should be given in English and the non-English language into which any material has been translated.*

**Sec. 3. [15B.03] [HELP WITH LETTERS AND FORMS.]**

**Subdivision 1. [TRANSLATED WRITTEN MATERIALS.]**  
*A state agency is encouraged to provide its local offices with written materials in the appropriate foreign language when:*

*(1) the local office or facility serves a substantial number of non-English-speaking people;*

*(2) written materials such as forms, applications, questionnaires, letters, or notices are used to ask or order a person to provide information or to give a person information; and*

*(3) the information asked for or given could affect the person's rights, duties, or privileges with regard to the agency's services or benefits.*

**Sec. 4. [15B.04] [LIMITATIONS.]**

**Subdivision 1. [OBTAINING BILINGUAL EMPLOYEES.]**  
*A state or local agency may not dismiss an employee or increase its complement to carry out the purposes of sections 1 to 3. A local or public agency need only implement sections 1 to 3 by filling employee public contact positions made vacant by retirement or normal attrition.*

**Subd. 2. [SCHOOLS AND EDUCATION; NOT AFFECTED.]** *Sections 1 to 3 do not apply to school districts, boards of education, or the office of a superintendent of schools.*

**Subd. 3. [FEDERAL LAW AND CIVIL SERVICE.]** *Sections 1 to 3 shall be implemented to the extent permissible under federal law, civil service laws governing state and local agencies, and collective bargaining agreements.*

**Sec. 5. [15B.05] [NO CAUSE OF ACTION.]**

*No cause of action exists against any local agency for failure to comply with sections 1 to 4."*

With the recommendation that when so amended the bill pass.

The report was adopted.

Onnen from the Committee on Health and Human Services to which was referred:

H. F. No. 769, A bill for an act relating to human services; making certain changes in the reimbursement procedures for nursing homes; providing for an interim payment rate for newly constructed or expanded nursing homes; requiring medicare certification; creating an appeals board for appraised value disputes; amending Minnesota Statutes 1984, sections 256B.431, subdivisions 2b, 3, and 4; and 256B.50.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

**"Section 1. [144.0722] [RESIDENT REIMBURSEMENT CLASSIFICATIONS; PROCEDURES FOR RECONSIDERATION.]**

*Subdivision 1. [RESIDENT REIMBURSEMENT CLASSIFICATIONS.] The commissioner of health shall establish resident reimbursement classifications based upon the assessments of residents of nursing homes and boarding care homes conducted under sections 144.072 and 144.0721, or under rules established by the commissioner of human services under sections 256B.41 to 256B.48. The reimbursement classifications established by the commissioner must conform to the rules established by the commissioner of human services.*

*Subd. 2. [NOTICE OF RESIDENT REIMBURSEMENT CLASSIFICATION.] The commissioner of health shall notify each resident, and the nursing home or boarding care home in which the resident resides, of the reimbursement classification established under subdivision 1. The notice shall inform the resident of the classification that was assigned, the opportunity to review the documentation supporting the classification, the opportunity to obtain clarification from the department, and the opportunity to request a reconsideration of the classification. The notice of resident classification shall be sent by first-class mail. The individual resident notices may be sent to the residents' nursing home or boarding care home for distribution to the resident.*

*Subd. 3. [REQUEST FOR RECONSIDERATION.] The resident or the nursing home or boarding care home may request that the commissioner reconsider the assigned reimbursement classification. The request for reconsideration must be submitted, in writing, to the commissioner within ten days of the receipt of the notice of resident classification. The request for reconsideration must include the following: (1) the name of the resident; (2) the name and address of the facility in which the resident resides; (3) the reasons for the reconsideration; (4)*

*the requested classification changes; and (5) documentation supporting the requested classification. The documentation accompanying the reconsideration request is limited to documentation establishing that the needs of the resident at the time of the assessment resulting in the disputed classification justify a change of classification.*

*Subd. 4. [RECONSIDERATION.] The department's reconsideration must be made by individuals not involved in reviewing the assessment that established the disputed classification. The reconsideration must be based upon the initial assessment and upon the information provided to the department under subdivision 3. If necessary for evaluating the reconsideration request, the department may conduct on-site reviews. In its discretion, the department may review the reimbursement classifications assigned to all residents in the facility. Within 15 working days of receiving the request for reconsideration, the department shall affirm or modify the original resident classification. The original classification shall be modified if the department determines that the assessment resulting in that classification did not accurately reflect the needs of the resident at the time of the assessment. The resident and the nursing home or boarding care home shall be notified within five working days after the decision is made. The department's decision under this subdivision is the final administrative decision of the agency.*

**Sec. 2.** Minnesota Statutes 1984, section 144.50, subdivision 2, is amended to read:

*Subd. 2. Hospital, sanatorium or other institution for the hospitalization or care of human beings, within the meaning of sections 144.50 to 144.56 shall mean any institution, place, building, or agency, in which any accommodation is maintained, furnished, or offered for: the hospitalization of the sick or injured; the provision of care in a swing bed authorized under section 144.562; elective outpatient surgery for preexamined, prediagnosed low risk patients; emergency medical services offered 24 hours a day, seven days a week, in an ambulatory or outpatient setting in a facility not a part of a licensed hospital; or the institutional care of human beings. Nothing in sections 144.50 to 144.56 shall apply to a clinic, a physician's office or to hotels or other similar places that furnish only board and room, or either, to their guests.*

**Sec. 3. [144.562] [SWING BED APPROVAL; ISSUANCE OF LICENSE CONDITIONS; VIOLATIONS.]**

*Subdivision 1. [DEFINITION.] For the purposes of this section, "swing bed" means a hospital bed licensed under sections 144.50 to 144.56 which has been granted a license condition under this section for the purpose of receiving reimbursement under the federal medicare program under United States Code, title 42,*

*section 1395(tt). Nothing in this section shall preclude the use of any licensed hospital bed by any other payor.*

*Subd. 2. [ELIGIBILITY FOR LICENSE CONDITION.] A hospital is not eligible to receive a license condition for swing beds unless (1) it has a licensed bed capacity of less than 50 beds defined in the federal medicare regulations, Code of Federal Regulations, title 42, section 405.1041, or (2) it is staffed for and operating less than 50 licensed beds, and (3) it is located in a rural area as defined in the federal medicare regulations, Code of Federal Regulations, title 42, section 405.1041, and (4) it agrees to utilize no more than four hospital beds as swing beds at any one time, except that up to three additional beds may be utilized as swing beds by a hospital if there are no medicare certified skilled nursing facility beds available in a health care facility within 25 miles of that hospital.*

*Subd. 3. [APPROVAL OF LICENSE CONDITION.] The department of health shall approve a license condition for swing beds if the hospital meets all of the criteria of this subdivision:*

*(a) The hospital must meet the eligibility criteria in subdivision 2.*

*(b) The hospital must be in compliance with the federal medicare conditions of participation for swing beds under Code of Federal Regulations, title 42, section 405.1041.*

*(c) The hospital must agree, in writing, to limit the length of stay of a patient receiving services in a swing bed to not more than 40 days or the duration of medicare reimbursement unless the department of health approves a greater length of stay in an emergency situation. For the purpose of determining whether an emergency situation exists, the department shall require the hospital to provide documentation that continued services in the swing bed are required by the patient, that no nursing home beds are available within 25 miles from the patient's home or in some more remote facility of the patient's choice which can provide the appropriate level of services required by the patient, and that other alternative services are not available to meet the needs of the patient. If the department approves a length of stay beyond 40 days or the duration of medicare reimbursement, the hospital shall develop a plan providing for the discharge of the patient upon the availability of a nursing home bed or other services which meet the needs of the patient. Permission to extend a patient's length of stay must be requested by the hospital at least ten days prior to end of the maximum length of stay.*

*(d) The hospital must agree, in writing, to limit admission to a swing bed only to patients who have been hospitalized and not yet discharged from the facility.*

(e) *The hospital must agree, in writing, to report statistical data on the utilization of the swing beds on forms supplied by the department. The data must include the number of swing beds; the number of admissions to and discharges from swing beds, medicare reimbursed patient days, total patient days, and other information required by the commissioner to assess the utilization of swing beds.*

**Subd. 4. [ISSUANCE OF LICENSE CONDITION; RENEWALS.]** *The department of health shall issue a license condition to a hospital that complies with subdivisions 2 and 3. The license condition shall be granted when the license is first issued, when it is renewed, or during the course of the hospital's licensure year. The condition shall be valid for the hospital's licensure year. The license condition can be renewed at the time of the hospital's license renewal provided that the hospital is in compliance with subdivisions 2 and 3.*

**Subd. 5. [INSPECTIONS.]** *Notwithstanding section 144.55, subdivision 4, the department of health may conduct inspections of any hospital granted a condition under this section for the purpose of assessing compliance with this section.*

**Subd. 6. [VIOLATIONS; ISSUANCE OF CORRECTION ORDERS AND FINES; SUSPENSION, REVOCATION, OR NONRENEWAL OF THE LICENSE CONDITION.]** *Notwithstanding section 144.55, subdivision 4, if the hospital fails to comply with subdivision 2 or 3, the department of health shall issue a correction order and penalty assessment under section 144.653 or may suspend, revoke, or refuse to renew the license condition under section 144.55, subdivision 6. The penalty assessment for a violation of subdivision 2 or 3 is \$500.*

**Subd. 7. [EFFECTIVE DATE.]** *Hospitals participating in the federal medicare swing bed program as of the effective date of this section shall comply with this section by January 1, 1986, or at the time of the renewal of the medicare swing bed approval, whichever is earlier.*

**Sec. 4.** Minnesota Statutes 1984, section 144A.01, subdivision 5, is amended to read:

**Subd. 5.** "Nursing home" means a facility or that part of a facility which provides nursing care to five or more persons. "Nursing home" does not include a facility or that part of a facility which is a hospital, a hospital with swing bed approval as defined in section 144.562, clinic, doctor's office, diagnostic or treatment center, or a residential facility licensed pursuant to sections 245.781 to 245.821 or 252.28.

**Sec. 5.** Minnesota Statutes 1984, section 144A.071, subdivision 1, is amended to read:

Subdivision 1. [FINDINGS.] The legislature finds that medical assistance expenditures are increasing at a much faster rate than the state's ability to pay them; that reimbursement for nursing home care and ancillary services comprises over half of medical assistance costs, and, therefore, controlling expenditures for nursing home care is essential to prudent management of the state's budget; that construction of new nursing homes (,) and the addition of more nursing home beds to the state's long-term care resources (, AND INCREASED CONVERSION OF BEDS TO SKILLED NURSING FACILITY BED STATUS) inhibits the ability to control expenditures; that Minnesota already leads the nation in nursing home expenditures per capita, has the fifth highest number of beds per capita elderly, and that private paying individuals and medical assistance recipients have equivalent access to nursing home care; and that in the absence of a moratorium the increased numbers of nursing homes and nursing home beds will consume resources that would otherwise be available to develop a comprehensive long-term care system that includes a continuum of care. Unless action is taken, this expansion of bed capacity (AND CHANGES OF BEDS TO A HIGHER CLASSIFICATION OF CARE ARE) is likely to accelerate with the repeal of the certificate of need program effective March 15, 1984. The legislature also finds that Minnesota's dependence on institutional care for elderly persons is due in part to the dearth of alternative services in the home and community. *The legislature also finds that further increases in the number of licensed nursing home beds, especially in nursing homes not certified for participation in the medical assistance program, is contrary to public policy, because: (1) nursing home residents with limited resources may exhaust their resources more rapidly in these facilities, creating the need for a transfer to a certified nursing home, with the concomitant risk of transfer trauma; (2) a continuing increase in the number of nursing home beds will foster continuing reliance on institutional care to meet the long-term care needs of residents of the state; (3) a further expansion of nursing home beds will diminish incentives to develop more appropriate and cost-effective alternative services and divert community resources that would otherwise be available to fund alternative services; (4) through corporate reorganization resulting in the separation of certified and licensed beds, a nursing home may evade the provisions of section 256B.48, subdivision 1, clause (a); and (5) it is in the best interests of the state to ensure that the long-term care system is designed to protect the private resources of individuals as well as to use state resources most effectively and efficiently.*

The legislature declares that a moratorium on *the licensure and medical assistance certification of new nursing home beds (AND ON CHANGES IN CERTIFICATION TO A HIGHER LEVEL OF CARE)* is necessary to control nursing home expenditure growth and enable the state to meet the needs of its

elderly by providing high quality services in the most appropriate manner along a continuum of care.

Sec. 6. Minnesota Statutes 1984, section 144A.071, subdivision 2, is amended to read:

Subd. 2. [MORATORIUM.] (NOTWITHSTANDING THE PROVISIONS OF THE CERTIFICATE OF NEED ACT, SECTIONS 145.832 TO 145.845, OR ANY OTHER LAW TO THE CONTRARY,) The commissioner of health, in coordination with the commissioner of human services, shall deny each request by a nursing home or boarding care home, except an intermediate care facility for the mentally retarded, for addition of new certified beds (OR FOR A CHANGE OR CHANGES IN THE CERTIFICATION STATUS OF EXISTING BEDS) except as provided in subdivision 3. The total number of certified beds in the state (IN THE SKILLED LEVEL AND IN THE INTERMEDIATE LEVELS OF CARE) shall remain at or decrease from the number of beds certified (AT EACH LEVEL OF CARE) on May 23, 1983, except as allowed under subdivision 3. "Certified bed" means a nursing home bed or a boarding care bed certified by the commissioner of health for the purposes of the medical assistance program, under United States Code, title 42, sections 1396 et seq.

The commissioner of human services, in coordination with the commissioner of health, shall deny any request to issue a license under sections 245.781 to 245.812 and 252.28 to a nursing home or boarding care home, if that license would result in an increase in the medical assistance reimbursement amount. *The commissioner of health shall deny each request for licensure of nursing home beds except as provided in subdivision 3.*

Sec. 7. Minnesota Statutes 1984, section 144A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a new certified bed or (CHANGE IN THE CERTIFICATION STATUS OF AN EXISTING BED) *the addition of a new licensed nursing home bed*, under the following conditions:

(a) To replace a bed decertified after May 23, 1983 or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the

nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

(b) To certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

(c) To certify beds in a new nursing home that is needed in order to meet the special dietary needs of its residents, if: the nursing home proves to the commissioner's satisfaction that the needs of its residents cannot otherwise be met; elements of the special diet are not available through most food distributors; and proper preparation of the special diet requires incurring various operating expenses, including extra food preparation or serving items, not incurred to a similar extent by most nursing homes; (OR)

(d) (WHEN THE CHANGE IN CERTIFICATION STATUS RESULTS IN A DECREASE IN THE REIMBURSEMENT AMOUNT.) *To license a new nursing home bed in a facility which meets one of the exceptions contained in clauses (a) to (d);*

(e) *To license nursing home beds in a facility which*

(1) *has submitted either a completed licensure application or a written request for licensure to the commissioner before March 1, 1985, and*

(2) *has had plans for phased-in construction approved by the commissioner and has received written authorization to begin construction on a phased-in basis from the commissioner, or has commenced any required construction, as defined in clause (b) before May 1, 1985. For the purpose of this clause, "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the provisions of the nursing home licensure rules; or*



*(f) To certify or license new beds in a new facility that is to be operated by the department of veterans affairs or where the costs of constructing and operating the new beds are to be reimbursed by the department of veterans affairs or the federal veterans administration.*

Sec. 8. Minnesota Statutes 1984, section 256B.02, subdivision 8, is amended to read:

Subd. 8. [MEDICAL ASSISTANCE; MEDICAL CARE.] "Medical assistance" or "medical care" means payment of part or all of the cost of the following care and services for eligible individuals whose income and resources are insufficient to meet all of this cost:

(1) Inpatient hospital services. A second medical opinion is required prior to reimbursement for elective surgeries. The commissioner shall publish in the State Register a proposed list of elective surgeries that require a second medical opinion prior to reimbursement. The list is not subject to the requirements of sections 14.01 to 14.70. The commissioner's decision whether a second medical opinion is required, made in accordance with rules governing that decision, is not subject to administrative appeal;

(2) Skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 256B.50, subdivision 1, for mentally retarded individuals residing in intermediate care facilities for the mentally retarded. *Medical assistance must not be used to pay the costs of nursing care provided to a patient in a swing bed as defined in section 144.562;*

(3) Physicians' services;

(4) Outpatient hospital or nonprofit community health clinic services or physician-directed clinic services. The physician-directed clinic staff shall include at least two physicians, one of whom is on the premises whenever the clinic is open, and all services shall be provided under the direct supervision of the physician who is on the premises. Hospital outpatient departments are subject to the same limitations and reimbursements as other enrolled vendors for all services, except initial triage, emergency services, and services not provided or immediately available in clinics, physicians' offices, or by other enrolled providers. "Emergency services" means those medical services required for the immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death or are necessary to alleviate severe pain. Neither the hospital, its employees, nor any physician or dentist, shall be liable in any action arising out of a determination not to render emergency services

or care if reasonable care is exercised in determining the condition of the person, or in determining the appropriateness of the facilities, or the qualifications and availability of personnel to render these services consistent with this section;

(5) Community mental health center services, as defined in rules adopted by the commissioner pursuant to section 256B.04, subdivision 2, and provided by a community mental health center as defined in section 245.62, subdivision 2;

(6) Home health care services;

(7) Private duty nursing services;

(8) Physical therapy and related services;

(9) Dental services, excluding cast metal restorations;

(10) Laboratory and x-ray services;

(11) The following if prescribed by a licensed practitioner: drugs, eyeglasses, dentures, and prosthetic devices. The commissioner shall designate a formulary committee which shall advise the commissioner on the names of drugs for which payment shall be made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two year terms and shall serve without compensation. The commissioner may establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the Administrative Procedure Act, but the formulary committee shall review and comment on the formulary contents. Prior authorization may be required by the commissioner, with the consent of the drug formulary committee, before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over the counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, prenatal vitamins, and vitamins for children under the age of seven; or any other over the counter drug identified by the commissioner, in consultation with the appropriate professional consultants under contract with or

employed by the state agency, as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the Administrative Procedure Act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow milk, and soy formula, or any other childhood or adult diseases, conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Separate payment shall not be made for nutritional products for residents of long-term care facilities; payment for dietary requirements is a component of the per diem rate paid to these facilities. Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and his determination shall not be subject to chapter 14, the Administrative Procedure Act. The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

The basis for determining the amount of payment shall be the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. Establishment of this fee shall not be subject to the requirements of the Administrative Procedure Act. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written" on the prescription as required by section 151.21, subdivision 2.

Notwithstanding the above provisions, implementation of any change in the fixed dispensing fee which has not been subject to the Administrative Procedure Act shall be limited to not more than 180 days, unless, during that time, the commissioner shall have initiated rulemaking through the Administrative Procedure Act;

(12) Diagnostic, screening, and preventive services;

(13) Health care pre-payment plan premiums and insurance premiums if paid directly to a vendor and supplementary medical insurance benefits under Title XVIII of the Social Security Act;

(14) Abortion services, but only if one of the following conditions is met:

(a) The abortion is a medical necessity. "Medical necessity" means (1) the signed written statement of two physicians indicating the abortion is medically necessary to prevent the death

of the mother, and (2) the patient has given her consent to the abortion in writing unless the patient is physically or legally incapable of providing informed consent to the procedure, in which case consent will be given as otherwise provided by law;

(b) The pregnancy is the result of criminal sexual conduct as defined in section 609.342, clauses (c), (d), (e)(i), and (f), and the incident is reported within 48 hours after the incident occurs to a valid law enforcement agency for investigation, unless the victim is physically unable to report the criminal sexual conduct, in which case the report shall be made within 48 hours after the victim becomes physically able to report the criminal sexual conduct; or

(c) The pregnancy is the result of incest, but only if the incident and relative are reported to a valid law enforcement agency for investigation prior to the abortion;

(15) Transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this clause, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory;

(16) To the extent authorized by rule of the state agency, costs of bus or taxicab transportation incurred by any ambulatory eligible person for obtaining nonemergency medical care;

(17) Personal care attendant services provided by an individual, not a relative, who is qualified to provide the services, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse. Payments to personal care attendants shall be adjusted annually to reflect changes in the cost of living or of providing services by the average annual adjustment granted to vendors such as nursing homes and home health agencies; and

(18) Any other medical or remedial care licensed and recognized under state law unless otherwise prohibited by law.

Sec. 9. Minnesota Statutes 1984, section 256B.091, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] It is the purpose of this section to prevent inappropriate nursing home or boarding care home placement by establishing a program of preadmission screening teams for all (MEDICAL ASSISTANCE RECIPIENTS AND ANY INDIVIDUAL WHO WOULD BECOME ELIGIBLE FOR MEDICAL ASSISTANCE WITHIN 180

DAYS OF) *applicants seeking admission to a licensed nursing home or boarding care home participating in the medical assistance program.* Further, it is the purpose of this section and the program to gain further information about how to contain costs associated with inappropriate nursing home or boarding care home admissions. The commissioners of human services and health shall seek to maximize use of available federal and state funds and establish the broadest program possible within the appropriation available.

Sec. 10. Minnesota Statutes 1984, section 256B.091, subdivision 2, is amended to read:

Subd. 2. [SCREENING TEAMS; ESTABLISHMENT.] Each county agency designated by the commissioner of human services to participate in the program shall contract with the local board of health organized under section 145.911 to 145.922 or other public or nonprofit agency to establish a screening team to assess (,) *the health and social needs of all applicants* prior to admission to a nursing home or a boarding care home licensed under section 144A.02 or sections 144.50 to 144.56, that is certified for medical assistance as a skilled nursing facility, intermediate care facility level I, or intermediate care facility level II (, THE HEALTH AND SOCIAL NEEDS OF MEDICAL ASSISTANCE RECIPIENTS AND INDIVIDUALS WHO WOULD BECOME ELIGIBLE FOR MEDICAL ASSISTANCE WITHIN 180 DAYS OF NURSING HOME OR BOARDING CARE HOME ADMISSION). Each local screening team shall be composed of a public health nurse from the local public health nursing service and a social worker from the local community welfare agency. Each screening team shall have a physician available for consultation and shall utilize individuals' attending physicians' physical assessment forms, if any, in assessing needs. The individual's physician shall be included on the screening team if the physician chooses to participate. If the individual is being discharged from an acute care facility, a discharge planner from that facility may be present, at the facility's request, during the screening team's assessment of the individual and may participate in discussions but not in making the screening team's recommendations under subdivision 3, clause (e). If the assessment procedure or screening team recommendation results in a delay of the individual's discharge from the acute care facility, the facility shall not be denied medical assistance reimbursement or incur any other financial or regulatory penalty of the medical assistance program that would otherwise be caused by the individual's extended length of stay; 50 percent of the cost of this reimbursement or financial or regulatory penalty shall be paid by the state and 50 percent shall be paid by the county. Other personnel as deemed appropriate by the county agency may be included on the team. The county agency may contract with an acute care facility to have the facility's discharge planners perform the functions of a screening team with regard to individuals discharged from the facility and in those cases the discharge planners may participate in making recommendations

under subdivision 3, clause (e). No member of a screening team shall have a direct or indirect financial or self-serving interest in a nursing home or noninstitutional referral such that it would not be possible for the member to consider each case objectively.

Sec. 11. Minnesota Statutes 1984, section 256B.091, subdivision 4, is amended to read:

Subd. 4. [SCREENING OF PERSONS.] Prior to nursing home or boarding care home admission, screening teams shall assess the needs of all (PERSONS RECEIVING MEDICAL ASSISTANCE AND OF ALL PERSONS WHO WOULD BE ELIGIBLE FOR MEDICAL ASSISTANCE WITHIN 180 DAYS OF ADMISSION TO A NURSING HOME OR BOARDING CARE HOME) *applicants*, except (1) patients transferred from other nursing homes (OR); (2) patients who, having entered acute care facilities from nursing homes, are returning to nursing home care; or (3) *persons entering a facility described in section 256B.431, subdivision 4, paragraph (b).* (ANY OTHER INTERESTED PERSON MAY) *The cost for screening persons who are receiving medical assistance or would be eligible for medical assistance within 90 days of nursing home or boarding care home admission will be paid by state, federal, and county funds. Other persons will be assessed by a screening team upon payment of a fee (BASED UPON A SLIDING FEE SCALE) approved by the commissioner.*

Sec. 12. Minnesota Statutes 1984, section 256B.091, subdivision 5, is amended to read:

Subd. 5. [APPEALS.] Appeals from the screening team's (DETERMINATION) *recommendation* shall be made pursuant to the procedures set forth in section 256.045, subdivisions 2 and 3. An appeal shall be automatic if the individual's physician does not agree with the recommendation of the screening team.

Sec. 13. Minnesota Statutes 1984, section 256B.091, subdivision 8, is amended to read:

Subd. 8. [ALTERNATIVE CARE GRANTS.] The commissioner shall provide grants to counties participating in the program to pay costs of providing alternative care to individuals screened under subdivision 4. Payment is available under this subdivision only for individuals (1) for whom the screening team would recommend nursing home admission if alternative care were not available; (2) who are receiving medical assistance or who would be eligible for medical assistance within 180 days of admission to a nursing home; (AND) (3) who need services that are not available at that time in the county through other public assistance; and (4) *who are age 65 or older.*

Grants may be used for payment of costs of providing services such as, but not limited to, foster care for elderly persons, day

care whether or not offered through a nursing home, nutritional counseling, or medical social services, which services are provided by a licensed health care provider, a home health service eligible for reimbursement under Titles XVIII and XIX of the federal Social Security Act, or by persons employed by or contracted with by the county board or the local welfare agency. The county agency shall ensure that a plan of care is established for each individual in accordance with subdivision 3, clause (e)(2). The plan shall include any services prescribed by the individual's attending physician as necessary and follow up services as necessary. The county agency shall provide documentation to the commissioner verifying that the individual's alternative care is not available at that time through any other public assistance or service program and shall provide documentation in each individual's plan of care that the most cost effective alternatives available have been offered to the individual. Grants to counties under this subdivision are subject to audit by the commissioner for fiscal and utilization control.

The commissioner shall establish a sliding fee schedule for requiring payment for the cost of providing services under this subdivision to persons who are eligible for the services but who are not yet eligible for medical assistance. The sliding fee schedule is not subject to chapter 14 but the commissioner shall publish the schedule and any later changes in the State Register and allow a period of 20 working days from the publication date for interested persons to comment before adopting the sliding fee schedule in final forms.

The commissioner shall apply for a waiver for federal financial participation to expand the availability of services under this subdivision. The commissioner shall provide grants to counties from the nonfederal share, unless the commissioner obtains a federal waiver for medical assistance payments, of medical assistance appropriations. A county agency may use grant money to supplement but not supplant services available through other public assistance or service programs and shall not use grant money to establish new programs for which public money is available through sources other than grants provided under this subdivision. A county agency shall not use grant money to provide care under this subdivision to an individual if the anticipated cost of providing this care would exceed the average payment, as determined by the commissioner, for the level of nursing home care that the recipient would receive if placed in a nursing home. The nonfederal share may be used to pay up to 90 percent of the start-up and service delivery costs of providing care under this subdivision. Each county agency that receives a grant shall pay ten percent of the costs.

The commissioner shall promulgate emergency rules in accordance with sections 14.29 to 14.36, to establish required documentation and reporting of care delivered.

Sec. 14. Minnesota Statutes 1984, section 256B.431, subdivision 2b, is amended to read:

Subd. 2b. [OPERATING COSTS, AFTER JULY 1, 1985.]

(a) For rate years beginning on or after July 1, 1985, the commissioner shall establish procedures for determining per diem reimbursement for operating costs.

(b) The commissioner shall contract with an econometric firm with recognized expertise in and access to national economic change indices that can be applied to the appropriate cost categories when determining the operating cost payment rate.

(c) The commissioner shall analyze and evaluate each nursing home's cost report of allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective.

(d) The commissioner shall establish limits on actual allowable historical operating cost per diems based on cost reports of allowable operating costs for the reporting year that begins October 1, 1983, taking into consideration relevant factors including resident needs, geographic location, (AGE,) size of the nursing home, and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing home. The limits established by the commissioner shall not be less, in the aggregate, than the 60th percentile of total actual allowable historical operating cost per diems for each group of nursing homes established under subdivision 1 based on cost reports of allowable operating costs in the previous reporting year. The limits established under this paragraph remain in effect until the commissioner establishes a new base period. Until the new base period is established, the commissioner shall adjust the limits annually using the appropriate economic change indices established in paragraph (e). In determining allowable historical operating cost per diems for purposes of setting limits and nursing home payment rates, the commissioner shall divide the allowable historical operating costs by the actual number of resident days, except that where a nursing home is occupied at less than 90 percent of licensed capacity days, the commissioner may establish procedures to adjust the computation of the per diem to an imputed occupancy level at or below 90 percent. The commissioner shall establish efficiency incentives as appropriate. The commissioner may establish efficiency incentives for different operating cost categories. The commissioner shall consider establishing efficiency incentives in care related cost categories. The commissioner may combine one or more operating cost categories and may use different methods for calculating payment rates for each operating cost category or combination of operating cost categories.



(e) The commissioner shall establish a composite index or indices by determining the appropriate economic change indicators to be applied to specific operating cost categories or combination of operating cost categories.

(f) Each nursing home shall receive an operating cost payment rate equal to the sum of the nursing home's operating cost payment rates for each operating cost category. The operating cost payment rate for an operating cost category shall be the lesser of the nursing home's historical operating cost in the category increased by the appropriate index established in paragraph (e) for the operating cost category plus an efficiency incentive established pursuant to paragraph (d) or the limit for the operating cost category increased by the same index. If a nursing home's actual historic operating costs are greater than the prospective payment rate for that rate year, there shall be no retroactive cost settle-up. In establishing payment rates for one or more operating cost categories, the commissioner may establish separate rates for different classes of residents based on their relative care needs.

(g) The commissioner shall include the reported actual real estate tax liability of each proprietary nursing home as an operating cost of that nursing home. The commissioner shall include a reported actual special assessment for each nursing home as an operating cost of that nursing home. Total real estate tax liability and actual special assessments paid for each nursing home (1) shall be divided by actual resident days in order to compute the operating cost payment rate for this operating cost category, (2) shall not be used to compute the 60th percentile or other operating cost limits established by the commissioner, and (3) shall not be increased by the composite index or indices established pursuant to paragraph (e).

Sec. 15. Minnesota Statutes 1984, section 256B.431, subdivision 3, is amended to read:

Subd. 3. [PROPERTY-RELATED COSTS, 1983-1985.] (a) For rate years beginning July 1, 1983 and July 1, 1984, property-related costs shall be reimbursed to each nursing home at the level recognized in the most recent cost report received by December 31, 1982 and audited by March 1, 1983, and may be subsequently adjusted to reflect the cost recognized in the final rate for that cost report, adjusted for rate limitations in effect before the effective date of this section. Property-related costs include: depreciation, interest, earnings or investment allowance, lease, or rental payments. No adjustments shall be made as a result of sales or reorganizations of provider entities.

(b) Adjustments for the cost of repairs, replacements, renewals, betterments, or improvements to existing buildings, and building service equipment shall be allowed if:

- (1) The cost incurred is reasonable, necessary, and ordinary;
- (2) The net cost is greater than \$5,000. "Net cost" means the actual cost, minus proceeds from insurance, salvage, or disposal;
- (3) The nursing home's property-related costs per diem is equal to or less than the average property-related costs per diem within its group; and
- (4) The adjustment is shown in depreciation schedules submitted to and approved by the commissioner.

(c) Annual per diem shall be computed by dividing total property-related costs by 96 percent of the nursing home's licensed capacity days for nursing homes with more than 60 beds and 94 percent of the nursing home's licensed capacity days for nursing homes with 60 or fewer beds. For a nursing home whose residents' average length of stay is 180 days or less, the commissioner may waive the 96 or 94 percent factor and divide the nursing home's property-related costs by the actual resident days to compute the nursing home's annual property-related per diem. The commissioner shall promulgate emergency and permanent rules to recapture excess depreciation upon sale of a nursing home.

((D)) *Subd. 3a.* [PROPERTY-RELATED COSTS AFTER JULY 1, 1985.] (a) For rate years beginning on or after July 1, 1985, the commissioner, by permanent rule, shall reimburse nursing home providers that are vendors in the medical assistance program for the rental use of (THEIR PROPERTY. THE "RENT" IS THE AMOUNT OF PERIODIC PAYMENT WHICH A RENTER MIGHT EXPECT TO PAY FOR THE RIGHT TO THE AGREED USE OF THE REAL ESTATE AND THE DEPRECIABLE EQUIPMENT AS IT EXISTS) *real estate and depreciable equipment.* "Real estate" means land improvements, buildings, and attached fixtures used directly for resident care. "Depreciable equipment" means the standard moveable resident care equipment and support service equipment generally used in long-term care facilities.

((E)) (b) In developing the method for determining payment rates for the rental use of nursing homes, the commissioner shall consider factors designed to:

- (1) simplify the administrative procedures for determining payment rates for property-related costs;
- (2) minimize discretionary or appealable decisions;
- (3) eliminate any incentives to sell nursing homes;

(4) recognize legitimate costs of preserving and replacing property;

(5) recognize the existing costs of outstanding indebtedness allowable under the statutes and rules in effect on May 1, 1983;

(6) address the current value of, if used directly for patient care, land improvements, buildings, attached fixtures, and equipment;

(7) establish an investment per bed limitation;

(8) reward efficient management of capital assets;

(9) provide equitable treatment of facilities;

(10) consider a variable rate; and

(11) phase in implementation of the rental reimbursement method.

((F)) (c) No later than January 1, 1984, the commissioner shall report to the legislature on any further action necessary or desirable in order to implement the purposes and provisions of this subdivision.

Sec. 16. Minnesota Statutes 1984, section 256B.431, subdivision 4, is amended to read:

Subd. 4. [SPECIAL RATES.] (a) *For the rate years beginning July 1, 1983 and July 1, 1984, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property-related costs calculated pursuant to the statutes and rules in effect on May 1, 1983 and for operating costs negotiated by the commissioner based upon the 60th percentile established for the appropriate group under subdivision 2, paragraph (b) to be effective from the first day a medical assistance recipient resides in the home or for the added beds. For newly constructed nursing homes which are not included in the calculation of the 60th percentile for any group, subdivision 2(f), the commissioner shall establish by rule procedures for determining interim operating cost payment rates and interim property-related cost payment rates. The interim payment rate shall not be in effect for more than 17 months. The commissioner shall establish, by emergency and permanent rules, procedures for determining the interim rate and for making a retroactive cost settle-up after the first year of operation; the cost settled operating cost per diem shall not exceed 110 percent of the 60th percentile established for the appropriate group. Until procedures determining operating cost payment rates according to mix of resident needs are estab-*

lished, the commissioner shall establish by rule procedures for determining payment rates for nursing homes which provide care under a lesser care level than the level for which the nursing home is certified.

*(b) For the rate years beginning on or after July 1, 1985, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property related costs, operating costs, and real estate taxes and special assessments calculated pursuant to rules promulgated by the commissioner.*

*(c) For rate years beginning on or after July 1, 1983, the commissioner may exclude from a provision of 12 MCAR S 2.050 any facility that is licensed by the commissioner of health only as a boarding care home, is certified by the commissioner of health as an intermediate care facility, is licensed by the commissioner of human services under 12 MCAR S 2.036, and has less than five percent of its licensed boarding care capacity reimbursed by the medical assistance program. Until a permanent rule to establish the payment rates for facilities meeting these criteria is promulgated, the commissioner shall establish the medical assistance payment rate as follows:*

(1) The desk audited payment rate in effect on June 30, 1983, remains in effect until the end of the facility's fiscal year. The commissioner shall not allow any amendments to the cost report on which this desk audited payment rate is based.

(2) For each fiscal year beginning between July 1, 1983, and June 30, 1985, the facility's payment rate shall be established by increasing the desk audited operating cost payment rate determined in clause (1) at an annual rate of five percent.

(3) For fiscal years beginning on or after July 1, 1985, the facility's payment rate shall be established by increasing the facility's payment rate in the facility's prior fiscal year by the increase indicated by the consumer price index for Minneapolis and St. Paul.

(4) For the purpose of establishing payment rates under this paragraph, the facility's rate and reporting years coincide with the facility's fiscal year.

A facility that meets the criteria of this paragraph shall submit annual cost reports on forms prescribed by the commissioner.

Sec. 17. Minnesota Statutes 1984, section 256B.50, is amended to read:

256B.50 [APPEALS.]

*Subdivision 1. [SCOPE.] A nursing home may appeal a decision arising from the application of standards or methods pursuant to sections 256B.41 and 256B.47 if the appeal, if successful, would result in a change to the nursing home's payment rate, or appraised value. The appeal procedures also apply to appeals of payment rates calculated under 12 MCAR S 2.049 filed with the commissioner on or after May 1, 1984. This section does not apply to a request from a resident or nursing home for re-consideration of the classification of a resident under section 144.0722. To appeal, the nursing home shall notify the commissioner in writing of its intent to appeal within 30 days and submit a written appeal request within 60 days of receiving notice of the payment rate determination or decision. The appeal request shall specify each disputed item, the reason for the dispute, an estimate of the dollar amount involved for each disputed item, the computation that the nursing home believes is correct, the authority in statute or rule upon which the nursing home relies for each disputed item, the name and address of the person or firm with whom contacts may be made regarding the appeal, and other information required by the commissioner.*

*Except as provided in subdivision 2, the appeal shall be heard by an administrative law judge according to sections 14.48 to 14.56, or upon agreement by both parties according to a modified appeals procedure established by the commissioner and the administrative law judge. In any proceeding under this section, the appealing party must demonstrate by a preponderance of the evidence that the commissioner's determination is incorrect. Regardless of any rate appeal, the rate established shall be the rate paid and shall remain in effect until final resolution of the appeal or subsequent desk or field audit adjustment, notwithstanding any provision of law or rule to the contrary. To challenge the validity of rules established by the commissioner pursuant to sections 256B.41, 256B.421, 256B.431, 256B.47, 256B.48, 256B.50, and 256B.502, a nursing home shall comply with section 14.44.*

*Subd. 2. [APPRAISED VALUE; APPEALS BOARD.] (a) Appeals concerning the appraised value of a nursing home's real estate shall be heard by a three-person appeal board appointed by the commissioner. The real estate as defined in section 256B.431, subdivision 3, must be appraised using the depreciated replacement cost method.*

*(b) Members of the appeals board shall be appointed by the commissioner from the list of appraisers approved for state contracts by the department of administration. In making the selection, the commissioner shall assure that each member is experienced in the use of the depreciated replacement cost method and is free of any personal, political, or economic conflict of interest that may impair the member's ability to function in a fair and objective manner.*

*(c) The appeals board shall appoint one of its members to act as chief representative and shall examine witnesses where*

*deemed necessary to make a complete record. Facts to be considered by the board are limited to those in existence at the time of the appraisal being appealed. The board shall issue a written report regarding each appeal to the commissioner within 30 days following the close of the record. The report must contain findings of fact, conclusions, and a recommended disposition based on a majority decision of the board. A copy of the report must be served upon all parties.*

*(d) The commissioner shall issue an order adopting, rejecting, or modifying the appeal board's recommendation within 30 days of receipt of the report. A copy of the decision must be served upon all parties.*

*(e) Within 30 days of receipt of the commissioner's order, the appealing party may appeal to the Minnesota court of appeals. The court's decision is limited to a determination of the appraised value of the real estate and must not include costs assessed against either party.*

**Sec. 18. [256B.72] [RECOVERY OF THE FEDERAL SHARE.]**

*Notwithstanding any laws or rules to the contrary and regardless of whether any appeal has been filed, when it has been determined that an overpayment has been made by the state to any medical assistance vendor and that the federal share of the overpayment amount is due and owing to the federal government pursuant to federal law and regulations, the state shall recover from the medical assistance vendor the federal share of the determined overpayment amount using the same schedule of payments required by the federal government.*

**Sec. 19. Minnesota Statutes 1984, section 474.01, subdivision 7a, is amended to read:**

**Subd. 7a.** No municipality or redevelopment agency shall undertake any project authorized by sections 474.01 to 474.13, except a project referred to in section 474.02, subdivision 1f, unless its governing body finds that the project furthers the purposes stated in this section, nor until the commissioner of energy and economic development has approved the project, on the basis of preliminary information which the commissioner may require, as tending to further the purposes and policies of sections 474.01 to 474.13. *The commissioner may not approve any projects relating to health care facilities except as permitted under subdivision 9.* Approval shall not be deemed to be an approval by the commissioner of energy and economic development or the state of the feasibility of the project or the terms of the revenue agreement to be executed or the bonds to be issued therefor, and the commissioner shall state this in communicating approval.

Sec. 20. Minnesota Statutes 1984, section 474.01, subdivision 9, is amended to read:

Subd. 9. [HEALTH CARE FACILITIES.] The welfare of the state further requires the provision of necessary health care facilities, to the end that adequate health care services be made available to residents of the state at reasonable cost. *However, some projects relating to nursing homes may be inconsistent with established state policies and detrimental to the welfare of the state. The commissioner of energy and economic development shall forward to the commissioner of human services and the commissioner of health for review all applications for projects relating to nursing homes licensed by the department of health under chapter 144A. This review process does not apply to projects approved by the housing finance agency involving residences for the elderly, the costs of which will not be reimbursed under the medical assistance program. The commissioner of human services and the commissioner of health must return the applications to the commissioner of energy and economic development with a recommendation within 30 days of receipt. The commissioner of energy and economic development may not approve an application unless the project has been determined by both the commissioner of human services and the commissioner of health to be consistent with policies of the state as reflected in a statute or rule. The following projects may not be approved:*

(1) *projects that will result in an increase in the number of nursing home or boarding care beds in the state;*

(2) *projects involving refinancing, unless the refinancing will result in a reduction in debt service charges that will be reflected in charges to patients and third party payors; and*

(3) *projects that are inconsistent with the established policies of the state as reflected in a statute or rule.*

Sec. 21. [EFFECTIVE DATE.]

*Sections 1 to 8 and 14 to 20 are effective the day following final enactment. Sections 9 to 13 are effective July 1, 1985."*

Delete the title and insert:

**"A bill for an act relating to human services; creating a procedure for reconsideration of a resident's case mix classification; establishing approval procedures and requirements for hospital swing beds; restricting licensure of new nursing home beds; expanding the preadmission screening program; revising statutes relating to nursing home reimbursement; creating an appeal process for nursing home appraisals; recovering the federal share of overpayments from medical vendors; requiring review by the commissioners of human services and health of proposals**

for revenue bond financing of health facility projects; amending Minnesota Statutes 1984, sections 144.50, subdivision 2; 144A.01, subdivision 5; 144A.071, subdivisions 1, 2, and 3; 256B.02, subdivision 8; 256B.091, subdivisions 1, 2, 4, 5, and 8; 256B.431, subdivisions 2b, 3, and 4; 256B.50; and 474.01, subdivisions 7a and 9; proposing coding for new law in Minnesota Statutes, chapters 144 and 256B."

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

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 807, A bill for an act relating to Hubbard county; authorizing county appropriations to the county agricultural society and an annual levy for that purpose; requiring a reverse referendum under certain circumstances.

Reported the same back with the following amendments:

Page 1, line 10, delete "\$18,000" and insert "\$20,000"

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

The report was adopted.

Schreiber from the Committee on Taxes to which was referred:

H. F. No. 849, A bill for an act relating to water pollution control; establishing a state financial assistance program for the abatement of combined sewer overflow; reauthorizing the state independent grants program; appropriating money; amending Minnesota Statutes 1984, sections 116.16, subdivision 1; 116.18, subdivisions 1 and 3a; proposing coding for new law in Minnesota Statutes, chapter 116; repealing Minnesota Statutes 1984, section 116.18, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 116.16, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] A Minnesota state water pollution control fund is created as a separate bookkeeping account



in the general books of account of the state, to record receipts of the proceeds of state bonds and other money appropriated to the fund and disbursements of money appropriated or loaned from the fund to agencies and subdivisions of the state for the acquisition and betterment of public land, buildings, and improvements of a capital nature needed for the prevention, control, and abatement of water pollution in accordance with the long range state policy, plan, and program established in sections 115.41 to 115.63, and in accordance with standards adopted pursuant to law by the Minnesota pollution control agency. It is determined that state financial assistance for the construction of water pollution prevention and abatement facilities for municipal disposal systems and combined sewer overflow is a public purpose and a proper function of state government, in that the state is trustee of the waters of the state and such financial assistance is necessary to protect the purity of state waters, and to protect the public health of the citizens of the state, which is endangered whenever pollution enters state waters at one point and flows to other points in the state.

Sec. 2. Minnesota Statutes 1984, section 116.16, is amended by adding a subdivision to read:

*Subd. 3a. [RECEIPTS.] The revenues required to be deposited in the fund by section 7 must be apportioned as provided in this subdivision.*

*(a) The amount required for loans for combined sewer overflow abatement under section 3, subdivision 5, must be credited annually to a separate account. These amounts are appropriated annually to the agency for expenditure under section 3.*

*(b) The remaining amount must be spent by the agency, upon appropriation by the legislature, for water pollution control under sections 116.16 to 116.18.*

Sec. 3. [116.162] [FINANCIAL ASSISTANCE FOR COMBINED SEWER OVERFLOW.]

*Subdivision 1. [DEFINITIONS.] (a) Except as otherwise provided in this section, the terms used in this section have the meanings given in section 116.16, subdivision 2.*

*(b) "Combined sewer" means a sewer that is designed and intended to serve as a sanitary sewer and a storm sewer, or as an industrial sewer and a storm sewer.*

*(c) "Combined sewer overflow" means a discharge of a combination of storm and sanitary wastewater or storm and industrial wastewater directly or indirectly into the waters of the state, occurring when the volume of wastewater flow exceeds the conveyance or storage capacity of a combined sewer system.*

(d) "Combined sewer overflow abatement plan" means the plan approved by the agency which constitutes the basis for a combined sewer overflow construction schedule contained in a permit, stipulation agreement, consent decree, or order issued by the agency subsequent to the effective date of this section.

(e) "Rainleader" means any structure or device, excluding catch basins on public property, constructed to direct or convey storm water, snow melt, or surface water from private or public property into a public sanitary or combined sewer.

Subd. 2. [LOAN PROGRAM; PURPOSE.] The pollution control agency shall administer a state loan program to assist eligible recipients to abate combined sewer overflow to the Mississippi River between the confluence of the Rum River and the confluence of the St. Croix River.

Subd. 3. [ELIGIBLE RECIPIENTS.] Any statutory or home rule charter city that has separated less than 75 percent of its combined sewers on the effective date of this section is eligible for assistance under the program, if the city has a permit, stipulation agreement, consent decree, or order issued by the agency requiring construction to abate combined sewer overflow and if the city adopts an approved plan to abate combined sewer overflow within a specified period, not exceeding 15 years.

Subd. 4. [ELIGIBLE COSTS.] The eligible cost of a loan applicant under this section includes the costs listed in section 116.16, subdivision 2, paragraph (6), as determined by the agency, using as guidelines the regulations promulgated by the United States environmental protection agency under the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1314, et seq., except that the eligible cost includes any costs incurred by electric, gas, and telephone companies for relocations or alterations and any easements necessary for implementing the combined sewer overflow abatement plan and does not include:

- (a) the preparation of combined sewer overflow abatement plans,
- (b) acquisition of interests in real property other than easements,
- (c) storm water treatment facilities,
- (d) costs for a rainleader disconnection program,
- (e) costs incurred before the effective date of this section, and
- (f) costs incurred after the effective date of this section but without prior written approval of the agency.

*Subd. 5. [LOANS.] During the period commencing January 1, 1986, and ending 15 years after the date of the first loan to an eligible recipient, the agency shall award annually to an eligible recipient a loan for the eligible costs in that year that are not paid by federal grants and that are not required by this subdivision to be paid by the recipient. The recipient is required to pay 50 percent of the difference between the eligible costs in that year and the amount of federal grant money received by the recipient in that year for combined sewer overflow projects.*

*Subd. 6. [LOAN CONDITIONS; ADMINISTRATION.] A recipient of loans under this section shall construct the combined sewer overflow abatement facilities in accordance with the construction schedule contained in the permit, stipulation agreement, consent decree, or order issued by the agency. As a condition of receiving a loan, the recipient shall implement a rainleader disconnection program approved by the agency. The deadlines for submittal of facilities plans, plans and specifications, and other documents to the agency for a loan are governed by the construction schedule contained in the permit, stipulation agreement, consent decree, or order issued by the agency requiring combined sewer overflow abatement construction.*

*Subd. 7. [LOAN REPAYMENT.] A recipient of loans under this section shall repay the loans in annual installments over a period commencing 15 years after the date when the recipient received the first loan and ending no more than 15 years after the date when the recipient makes the first repayment. The minimum repayment required each year during the repayment period is:*

*(a) the principal amount of the loan received in the annual installment 15 years before, plus*

*(b) interest at six percent on that principal amount, less*

*(c) an amount equal to the interest on the portion of the principal due in that year that the agency determines was required to pay the costs attributable to the difference between the construction schedule contained in the permit, stipulation agreement, consent decree, or order issued by the agency and the construction schedule that the recipient would otherwise have followed to complete combined sewer overflow abatement construction.*

*The deduction of interest under clause (c) may not be less than 62.5 percent of the interest due each year. The amounts repaid must be deposited in the general fund for use under sections 116.16 to 116.18.*

*Subd. 8. [RULES.] By October 31, 1985, the agency shall promulgate emergency rules for the administration of the loan*

*program established by this section. By October 31, 1986, the agency shall promulgate permanent rules. The emergency and permanent rules must contain as a minimum:*

- (a) procedures for application;*
- (b) criteria for eligibility of combined sewer overflow abatement projects;*
- (c) conditions for use of the loans;*
- (d) procedures for the administration of the loans; and*
- (e) other matters that the agency finds necessary for the proper administration of the program.*

Sec. 4. Minnesota Statutes 1984, section 116.18, subdivision 1, is amended to read:

Subdivision 1. [APPROPRIATION FROM THE FUND.] (THE SUM OF \$167,000,000,) \$..... or so much thereof as may be necessary, is appropriated from the Minnesota state water pollution control fund in the state treasury to the pollution control agency, for the period commencing on July 23, 1971 and ending June 30, (1985) 1987, to be granted and disbursed to municipalities and agencies of the state in aid of the construction of projects conforming to section 116.16, in accordance with the rules, priorities, and criteria therein described.

Sec. 5. Minnesota Statutes 1984, section 116.18, subdivision 3a, is amended to read:

Subd. 3a. [STATE INDEPENDENT GRANTS PROGRAM.] (a) The agency may award independent grants for projects for 50 percent or, if the agency requires advanced treatment, 65 percent of the eligible cost of construction. The agency may award independent grants for up to an additional 15 percent or, if the agency requires advanced treatment, up to an additional ten percent of the eligible cost of construction to municipalities for which the construction would otherwise impose significant financial hardship; the amounts of the additional grants shall be based on per connection capital cost, median household income, and per capita adjusted assessed valuation. These grants may be awarded in separate steps for planning and design in addition to actual construction. Not more than 20 percent of the total amount of grants awarded under this subdivision in any single fiscal year may be awarded for projects for the control of combined sewer overflow as defined by federal regulation. Until December 31, 1990, not more than 20 percent of the total amount of grants awarded under this subdivision in any single fiscal year may be awarded to a single grantee.

(b) Up to ten percent of the money to be awarded as grants under this subdivision in any single fiscal year shall be set aside for municipalities having substantial economic development projects that cannot come to fruition without municipal wastewater treatment improvements. The agency shall forward its municipal needs list to the commissioner of energy and economic development at the beginning of each fiscal year, and the commissioner shall review the list and identify those municipalities having substantial economic development projects. After the first 90 percent of the total available money is allocated to municipalities in accordance with agency priorities, the set-aside shall be used by the agency to award grants to remaining municipalities that have been identified.

(c) Grants may also be awarded under this subdivision to reimburse municipalities willing to proceed with projects and (APPLY TO) be reimbursed in (THE) a subsequent year conditioned upon appropriation of sufficient money under subdivision 1 for that year. The maximum amount of the reimbursement the agency may commit in any single fiscal year is equal to the amount newly appropriated under subdivision 1 for that year.

Sec. 6. Minnesota Statutes 1984, section 297.02, is amended by adding a subdivision to read:

*Subd. 1a. [POLLUTION CONTROL RATES.] In addition to the tax imposed by subdivision 1, a tax is imposed on the sale of cigarettes in this state or having cigarettes in possession in this state with intent to sell and upon any person engaged in business as a distributor, at the following rates, subject to the discount provided in section 297.03:*

*(1) on cigarettes weighing not more than three pounds per thousand, three mills on each cigarette; and*

*(2) on cigarettes weighing more than three pounds per thousand, six mills on each cigarette.*

Sec. 7. Minnesota Statutes 1984, section 297.13, is amended by adding a subdivision to read:

*Subd. 9. [POLLUTION CONTROL FUND.] Notwithstanding the provisions of subdivision 1, the commissioner of revenue shall deposit in the water pollution control fund the revenues received from the tax imposed by section 6 and no portion of the revenues are subject to the provisions of subdivision 1.*

Sec. 8. Minnesota Statutes 1984, section 297.22, subdivision 1, is amended to read:

Subdivision 1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this state, and upon such consumers, at the (FOLLOWING) rates (:)

((1) ON CIGARETTES WEIGHING NOT MORE THAN THREE POUNDS PER THOUSAND, NINE MILLS ON EACH SUCH CIGARETTE;)

((2) ON CIGARETTES WEIGHING MORE THAN THREE POUNDS PER THOUSAND, 18 MILLS ON EACH SUCH CIGARETTE) *specified in section 297.02.*

#### Sec. 9. [MUNICIPAL POWERS.]

*Subdivision 1. [PURPOSE.] Notwithstanding any provision of any statute or home rule charter to the contrary, for the purpose of abating combined sewer overflow and of providing funds to pay all or any portion of the costs of the abatement, a recipient of loans under section 2 may exercise the authority provided in this section.*

*Subd. 2. [GENERAL.] A recipient may acquire any real or personal property by purchase, lease, condemnation, gift, or grant, and it may construct, enlarge, improve, replace, repair, maintain and operate a public sewer system, including storm sewers, sanitary sewers and facilities for separating storm sewers from combined storm and sanitary sewers. To accomplish these purposes, a recipient may exercise all of the powers granted any municipality by Minnesota Statutes, chapters 115, 117, 412, 429, 435, 444, 471 and 475.*

*Subd. 3. [DEBT.] A recipient may incur indebtedness and may issue and sell bonds or other obligations pledging the full faith and credit of the city to its payment for storm and sanitary sewers and systems without submitting the question of the issuance of the bonds to the electors. Except as provided in this section, the bonds must be issued and sold according to the provisions of chapter 475.*

*Subd. 4. [PROPERTY TAX.] In addition and supplemental to the foregoing grant of authority, the governing body may establish a special taxing district or districts within the corporate limits of the city, and may levy and collect ad valorem taxes on some or all of the real or personal property within the city. The taxes must be collected by the county of Ramsey and paid over to the city as are other taxes. The taxes are not restricted by any other tax levy limitations imposed upon the city by any other law or charter provision.*

*Subd. 5. [ASSESSMENTS.] The governing body of the city may divide the city into drainage districts or areas, and may levy and collect assessments based on benefit to property, whether the benefit be direct or indirect, and the assessments so levied may be based upon the existing or highest and best land usage, square footage, front footage or area. The assessments may be levied in accordance with the procedures set forth in the city's home rule charter or chapter 429, as the council determines. The*

*assessments may be levied and collected from all property whether public or private, and in the case of public property the agency of government responsible for the property shall provide the necessary funds in their budget appropriations.*

*Subd. 6. [PRIVATE FINANCE.] The governing body of the city may use private financing methods, such as private construction and ownership and city lease, or sale and leaseback financing of city sewer and water utility assets to secure revenue bond financing.*

Sec. 10. [COMPLEMENT.]

*The complement of the agency is increased by . . . positions.*

Sec. 11. [REPEALER.]

*Minnesota Statutes 1984, section 116.18, subdivision 2, is repealed.*

Sec. 12. [EFFECTIVE DATE.]

*Sections 6 to 8 are effective July 1, 1985."*

Renumber the sections in sequence

Amend the title as follows :

Page 1, line 5, after the semicolon insert "increasing the cigarette tax rates ;"

Page 1, line 7, after "1" insert ", and by adding a subdivision"

Page 1, line 7, after the second semicolon insert "297.02, by adding a subdivision; 297.13, by adding a subdivision; 297.22, subdivision 1 ;"

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

The report was adopted.

Bennett from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 913, A bill for an act relating to employment; abolishing the department of economic security; creating a new department of jobs and training; transferring responsibilities of the department of economic security to the department of jobs and training and the department of human services; trans-

ferring certain employment and training functions of the department of human services and the department of administration to the department of jobs and training; providing for biennial statewide plans for jobs and training and apprenticeships; providing for coordination of state and federal jobs programs; establishing community investment programs; granting rule-making authority; changing formulas for paying local agencies for general assistance grants to recipients subject to work requirements; removing a sunset provision from the Minnesota emergency employment development act; amending Minnesota Statutes 1984, sections 86.33, by adding subdivisions; 116L.03, subdivision 7; 116L.04, by adding a subdivision; 129A.02, subdivision 2; 129A.03; 129A.04; 178.03, by adding a subdivision; 245.87; 248.07; 248.08; 256.01, subdivision 4; 256.736; 256C.24; 256C.25; 256C.26; 256D.02, subdivision 13; 256D.03, subdivision 2; 256D.09, subdivision 3, and by adding a subdivision; 256D.111, subdivision 2; 268.31; 268.32; 268.33; 268.34; 268.35; 268.36; 268.673, subdivisions 1 and 3; 268.683, subdivision 3; and 268.685; 268.82; proposing coding for new law as Minnesota Statutes, chapter 268A; repealing Minnesota Statutes 1984, sections 129A.02, subdivision 4; 245.84, subdivision 2; 256.737; 256D.02, subdivision 8a; 256D.111, subdivision 1a; 256D.112; 268.011; 268.012; 268.013; 268.12, subdivisions 1 and 1a; 268.683, subdivision 2; 268.684; 268.686; 268.80 and 268.81.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 86.33, is amended by adding a subdivision to read:

*Subd. 2. [PROJECT COORDINATION.] Prior to submitting projects to the governor, the commissioner of natural resources shall consult with the commissioner of jobs and training and shall develop a biennial plan which establishes: a priority for unemployed individuals who are economically disadvantaged as defined in Public Law 97-800; the ways in which participants will be assisted in gaining ongoing employment or training upon completing the projects; and how specific projects are coordinated with other publicly authorized or subsidized programs.*

Sec. 2. Minnesota Statutes 1984, section 86.33, is amended by adding a subdivision to read:

*Subd. 3. [REPORTING.] The commissioner of natural resources shall cooperate with the commissioner of jobs and training in developing and implementing any evaluation and reporting systems for jobs and training programs.*

Sec. 3. Minnesota Statutes 1984, section 116L.03, subdivision 7, is amended to read:



Subd. 7. [OFFICES.] The commissioner of (ADMINISTRATION) *jobs and training* shall provide office space for the board within the capitol area complex.

Sec. 4. Minnesota Statutes 1984, section 116L.04, is amended by adding a subdivision to read:

*Subd. 3. [BIENNIAL PLANS.] The board shall prepare a biennial plan which shall be available to the commissioner of jobs and training for use in developing a biennial statewide jobs and training plan.*

Sec. 5. Minnesota Statutes 1984, section 129A.02, subdivision 2, is amended to read:

Subd. 2. [COMMISSIONER.] The commissioner is the chief executive officer of the department of *jobs and training* and is the successor to the powers and duties of the former assistant commissioner of vocational rehabilitation. (THE COMMISSIONER SHALL BE APPOINTED BY THE GOVERNOR AND SERVE UNDER THE PROVISIONS OF SECTION 15.06. THE COMMISSIONER SHALL BE A PERSON HAVING SUBSTANTIAL EXPERIENCE IN THE ADMINISTRATION AND FINANCING OF VOCATIONAL REHABILITATION PROGRAMS.)

Sec. 6. Minnesota Statutes 1984, section 136.63, is amended by adding a subdivision to read:

*Subd. 1b. Before prescribing any program involving training in semi-professional and technical fields or adult education, the board shall consult with the commissioner of jobs and training and shall develop a biennial plan.*

Sec. 7. Minnesota Statutes 1984, section 136C.06, is amended to read:

**136C.06 [SOLE STATE AGENCY.]**

The state board of vocational technical education is the sole state agency to receive and disburse federal funds authorized by the Vocational Education Act of 1963, as amended in the education amendments of 1976, Public Law Number 94-482, and Code of Federal Regulations, title 34, part 400. The state board shall develop and submit the state plan for vocational technical education. The state board shall develop the state plan according to terms of agreement with the state board of education. *Before developing and submitting the state plan, the state board shall consult with the commissioner of jobs and training and shall develop a biennial plan.*

Sec. 8. Minnesota Statutes 1984, section 178.03, is amended by adding a subdivision to read:

*Subd. 5. [COORDINATION AND PLANNING.] The commissioner of labor and industry and the commissioner of jobs and training, in conjunction with the apprenticeship advisory council and the apprenticeship committees, shall develop a biennial plan for preparing, recruiting, and the successful participation of economically disadvantaged, chronically unemployed, minority, and female individuals in apprenticeship programs.*

Sec. 9. Minnesota Statutes 1984, section 248.07, is amended to read:

**248.07 [COMMISSIONER OF (HUMAN SERVICES) JOBS AND TRAINING, DUTIES.]**

**Subdivision 1. [COOPERATION.]** It shall be the duty of the commissioner of (HUMAN SERVICES) *jobs and training* to cooperate with state and local boards and agencies, both public and private, in preventing loss of sight, in alleviating the condition of blind persons and persons of failing sight, in extending and improving the education, advisement, training, placement, and conservation of the blind, and in promoting their personal, economic, social, and civic well being.

**Subd. 2. [STATISTICS.]** The commissioner of (HUMAN SERVICES) *jobs and training* shall collect statistics of the blind, including their present physical and mental condition, causes of blindness, capacity for education and industrial training, and any further information looking toward the improvement of their condition that may be desired.

**Subd. 3. [SPECIAL ATTENTION.]** The commissioner of (HUMAN SERVICES) *jobs and training* shall give special attention to the cases of handicapped youth who are eligible to attend the Minnesota Braille and sight-saving school, the Minnesota school for the deaf, or the public school classes for handicapped children, but are not in attendance thereat, or are not receiving adequate instruction elsewhere. The commissioner shall report all such cases to the school district of the individual's residence and to the state board of education.

**Subd. 4. [VOCATIONAL TRAINING.]** The commissioner of (HUMAN SERVICES) *jobs and training* shall endeavor to secure for the adult blind of the state and youths of legal working age such vocational training, labor, and employment as may be adapted to their respective capacity, and shall so far as may be feasible aid such persons in securing any provisions which may be made by the school for the blind or other state agencies for the betterment of their lot. When vocational training under the divi-

sion of vocational rehabilitation is secured, such aid may take the form of payments for the maintenance of persons in training, under rules to be adopted by the commissioner of human services. Any person who shall be entitled to training under this subdivision shall have the right to choose from available programs such training as in his opinion would be suitable and practical for him.

Subd. 5. [AIDS.] The commissioner of (HUMAN SERVICES) *jobs and training* shall further be empowered to aid the blind: (1) By home instruction and training; (2) by assisting them in securing tools, appliances, and supplies; (3) by aid in marketing the products of their labors; (4) by care and relief for blind persons who are not capable of self-support; and, (5) in any other practicable means of alleviating their condition.

Subd. 7. [BLIND, VENDING STANDS AND MACHINES ON GOVERNMENTAL PROPERTY.] For the rehabilitation of blind persons the commissioner of (HUMAN SERVICES) *jobs and training* shall have exclusive authority to establish and to operate vending stands and vending machines in all buildings and properties owned or rented exclusively by any department of the state of Minnesota except the department of natural resources properties operated directly by the Division of State Parks and not subject to private leasing. The merchandise to be dispensed by such vending stands and machines may include soft drinks, (except 3.2 beer), milk, food, candies, tobacco, souvenirs, notions and related items. Such vending stands and vending machines herein authorized shall be operated on the same basis as other vending stands for the blind established and supervised by the commissioner of human services. The commissioner of (HUMAN SERVICES) *jobs and training* may waive this authority to displace any present private individual concessionaire in any state-owned or rented building or property. With the consent of the governing body of a governmental subdivision of the state, the commissioner may establish and supervise vending stands and vending machines for the blind in any building or property exclusively owned or rented by the governmental subdivision.

Subd. 8. [USE OF REVOLVING FUND, LICENSES FOR OPERATION OF VENDING MACHINES.] The revolving fund created by Laws 1947, Chapter 535, Section 5, is continued as provided in this subdivision and shall be known as the revolving fund for vocational rehabilitation of the blind. It shall be used for the purchase of equipment and supplies for establishing and operating of vending stands by blind persons. All income, receipts, earnings, and federal grants due to the operation thereof shall also be paid into the fund. All equipment, supplies, and expenses for setting up these stands shall be paid for from the fund. Authority is hereby given to the commissioner of (HUMAN SERVICES) *jobs and training* to use the moneys available in the revolving fund for the establishment, operation and supervision of vending stands by blind persons for the following

purposes: (1) purchase, upkeep and replacement of equipment; (2) purchase of initial and replacement stock of supplies and merchandise; (3) expenses incidental to the setting up of new stands and improvement of old stands; (4) purchase of general liability insurance as deemed advisable for any vending stand by the commissioner; (5) reimbursement to individual blind vending operators for reasonable travel and maintenance expenses incurred in attending supervisory meetings as called by the commissioner of (HUMAN SERVICES) *jobs and training*; (6) purchase of fringe benefits for blind vending operators and their employees such as group health insurance, retirement program, vacation or sick leave assistance provided that the purchase of any fringe benefit is approved by a majority vote of blind vending operators licensed pursuant to this subdivision after the commissioner provides to each blind vending operator information on all matters relevant to the fringe benefits. Fringe benefits shall be paid only from assessments of operators for specific benefits, gifts to the fund for fringe benefit purposes, and vending income which is not assignable to an individual stand.

The commissioner shall issue each license for the operation of a vending stand or vending machine for an indefinite period but he may terminate any license in the manner provided. In granting licenses for new or vacated stands preference on the basis of seniority of experience in operating stands under the control of the commissioner shall be given to capable operators who are deemed competent to handle the enterprise under consideration. Application of this preference shall not prohibit the commissioner from selecting an operator from the community in which the stand is located.

Subd. 9. [TRAINING OF SELECTED APPLICANTS.] Each applicant selected by the commissioner for a license to operate a vending stand or vending machine shall be given training in the operation and conduct of such vending stand or vending machine.

Subd. 10. [REVOCATION OF LICENSES; HEARING.] The commissioner shall not revoke any license except for good cause shown. An opportunity for a fair hearing shall be afforded any operator within 30 days after revocation of license.

Subd. 11. [POLICY CHANGES; NOTICE AND HEARING.] Any major changes in policies made by the commissioner in the conduct of this program will be preceded by a public hearing. Each operator shall be given 30 days notice of such hearing.

Subd. 12. [REIMBURSEMENT OUT OF STATE DISTRIBUTION OF BRAILLE AND TALKING BOOKS.] The commissioner of (HUMAN SERVICES) *jobs and training* shall obtain reimbursement from other states for the estimated cost of handling of Braille books and talking books for the blind dis-

tributed by the department of human services to users in such other states and may contract with the appropriate authorities of such states to effect such reimbursement. All money received hereunder shall be paid to the state treasurer and placed in the general fund.

Subd. 13. [REHABILITATION FACILITIES.] From the funds appropriated for vocational rehabilitation of the blind and matching federal funds available for the purpose, the commissioner of (HUMAN SERVICES) *jobs and training* may make grants, upon such terms as he may determine, to public or non-profit organizations for the establishment, maintenance or improvement of rehabilitation facilities or sheltered workshops for the blind.

Subd. 14. [TRAINING OF WORKERS FOR REHABILITATION OF BLIND.] From funds provided by the state or the United States for the rehabilitation of blind persons, the commissioner of (HUMAN SERVICES) *jobs and training* may make provision for:

(1) Specialized supplementary training of professional workers employed by services for the blind, which shall consist of selected courses of study designed to improve worker techniques in providing assistance with adjustment to blindness, guidance, training and vocational placement services to blind children and adults;

(2) The employment of student trainees enrolled in graduate school programs. Such trainees to be employed on a one-third time basis during the regular school term and on a full time basis during the extra school term. Student trainees shall not be counted against the regular staff complement and shall not exceed eight in number employed concurrently.

Subd. 14a. [RULES.] The commissioner of (HUMAN SERVICES) *jobs and training* shall, no later than February 1, 1985, adopt rules to set standards for the provision of rehabilitative services to blind and visually handicapped persons. The rules shall, at a minimum, contain program definitions and set standards for basic eligibility, including financial need eligibility and definitions of legal blindness.

The rules shall provide for the development of formal rehabilitation plans for eligible clients and shall govern the provision of direct rehabilitative services to clients, including placement in training programs, and providing tools and equipment. In addition, the rules shall set standards for appeals filed under subdivision 15, and include specific requirements for timely responses by the agency.

Subd. 15. [APPEALS FROM AGENCY ACTION.] An applicant for or recipient of rehabilitation service who is dis-

satisfied with an agency's action with regard to the furnishing or denial of services may:

(1) File a request for an administrative review and redetermination of that action to be made by a member or members of the supervisory staff of the state agency.

(2) When an individual is dissatisfied with the findings of this administrative review, he shall be granted an opportunity for a fair hearing before the state administrator or his designee.

(3) If further appeal is deemed necessary by the applicant or recipient, his grievance shall be considered and relief if any recommended by an appeal committee. The committee shall be composed of one person nominated by the applicant or recipient, one person nominated by the agency, and a third person nominated jointly by the applicant or recipient and the agency. If the third person cannot be mutually agreed upon within ten days of the applicant's or recipient's request for a committee hearing, the judge of the district court in the applicant's or recipient's county of residence shall make the third appointment.

Sec. 10. Minnesota Statutes 1984, section 248.08, is amended to read:

**248.08 [PAYMENTS BY COMMISSIONER OF (HUMAN SERVICES) *JOBS AND TRAINING.*]**

The commissioner of (HUMAN SERVICES) *jobs and training* is hereby authorized to defray the necessary expenses of the work from the appropriation for the current expenses of the commissioner of (HUMAN SERVICES) *jobs and training*; provided, that in any county of this state now or hereafter having a population of over 150,000, and an assessed valuation of over \$200,000,000, including money and credits, the county board is hereby authorized to defray part or all of the necessary expenses of maintaining the work within the county from the general revenue fund of the county, not exceeding the total sum of \$3,600, in any one calendar year; and, in carrying on this work, may appoint and employ an assistant to the regular field agent for the blind in the county, who shall work under the direction of the agent in the county. The portion of the salary of the field agent, and of any assistant to be paid by the county, shall be fixed by the county board at its first meeting in January in each year; and such salary of the field agent and assistant shall be paid in the same manner as the salary of other county officers and employees are paid. All necessary expenses of the agent and assistant in carrying on this work in the county, not paid by the commissioner of (HUMAN SERVICES) *jobs and training*, shall be paid by the county board as other claims against the county are paid.

Sec. 11. Minnesota Statutes 1984, section 256.736, is amended to read:

**256.736 [(WORK INCENTIVE) EMPLOYMENT AND TRAINING PROGRAM.]**

Subdivision 1. [CREATION.] There is hereby established a program to help appropriate recipients of aid to families with dependent children become self-supporting members of society.

Subd. 2. [DUTIES OF THE COMMISSIONER OF (ECONOMIC SECURITY) JOBS AND TRAINING.] The commissioner of (ECONOMIC SECURITY) *jobs and training* shall develop a training and employment program for each appropriate relative and dependent child receiving aid to families with dependent children, with the objective of assuring, to the maximum extent possible, that the relative and child will enter the labor force, accept reasonable employment, and become (SELF-SUFFICIENT) *economically independent*.

*The commissioner of jobs and training shall administer, on behalf of the commissioner of human services, those aspects of the aid to families with dependent children program, excluding categorical and financial eligibility, which directly relate to:*

- (1) *recipients' participation in jobs and training programs;*
- (2) *requirements for and conditions of participating in jobs and training programs;*
- (3) *the design and administration of such programs; and*
- (4) *the direction of county welfare agencies in carrying out responsibilities related to employment and training programs.*

*The commissioner of jobs and training and the commissioner of human services are authorized to implement those programs and authorities, including demonstration projects which are authorized under federal regulations to increase services or federal reimbursement available for providing employment and training services for recipients of aid to families with dependent children.*

Subd. 3. [OPERATION OF PROGRAM.] To determine who shall be designated as an appropriate individual for certification to the commissioner (OF ECONOMIC SECURITY), the commissioner of (HUMAN SERVICES) *jobs and training* shall provide, *by rule*, standards for county welfare agencies and human services boards consistent with the standards promulgated by the secretary of health and human services. County welfare agencies shall certify appropriate individuals to the commissioner of (ECONOMIC SECURITY) *jobs and training* and shall require that every individual, as a condition of receiving aid to

families with dependent children, register for employment services, training, and employment, unless such individual is:

(1) a child who is under age 16, a child age 16 or 17 who is attending elementary or secondary school or a secondary level vocational or technical school full time, or a full-time student age 18 who is attending a secondary school or a secondary level vocational or technical program and who is expected to complete the school or program before reaching age 19;

(2) a person who is ill, incapacitated or of advanced age;

(3) a person so remote from a work incentive project that his effective participation is precluded;

(4) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(5) a parent or other caretaker relative of a child under the age of six who personally provides full-time care for the child;

(6) a parent or other caretaker if another adult relative in the house is registered and has not, without good cause, failed or refused to participate or accept employment; (OR)

(7) *a pregnant woman in the last trimester of pregnancy; or*

(8) a parent who is not the principal earner if the parent who is the principal earner is not exempt under clauses (1) to ((6)) (7).

Any individual referred to in (CLAUSE) *clauses (5) to (8)* shall be advised of the option to register for employment services, training *services*, and employment if the individual so desires, and shall be informed of the child care *and other services* (, IF ANY,) which will be available if the individual decides to register.

If, after planning with a recipient, a decision is made that the recipient must register for employment services, training, and employment, the county welfare department shall give notice in writing to the recipient stating that he or she must register with the commissioner of (ECONOMIC SECURITY) *jobs and training* for participation in a work incentive program and that the recipient has a right to a fair hearing under section 256.045 with respect to the appropriateness of the registration.

Subd. 4. [CONDITIONS OF CERTIFICATION.] The commissioner of human services shall:

(1) Arrange for or provide any relative or child certified to the commissioner of (ECONOMIC SECURITY) *jobs and train-*



*ing pursuant to this section with child-care services, transportation, and other necessary family services;*

(2) Pay ten percent of the cost of (PROGRAMS OF TRAINING AND EMPLOYMENT ESTABLISHED BY THE COMMISSIONER OF ECONOMIC SECURITY FOR PERSONS CERTIFIED HEREUNDER) *the work incentive program and of other costs that are required by federal regulation for jobs and training programs for applicants for or recipients of the aid to families with dependent children program;*

(3) Provide that in determining a recipient's needs any monthly incentive training payment made to the recipient by the department of (ECONOMIC SECURITY) *jobs and training* is disregarded and the additional expenses attributable to (HIS) participation in a program are taken into account in grant determination *to the extent permitted by federal regulations;* and

(4) Provide that when it has been certified by the commissioner of (ECONOMIC SECURITY) *jobs and training*, certification to be binding upon the commissioner of human services, that a relative or child certified under the (WORK INCENTIVE) *employment and training* program to the commissioner of economic security has been found by the commissioner, after a hearing conducted in the manner prescribed by section 268.10, subdivision 3, with the right of review in accordance with the provisions of section 268.10, subdivision 8, to have refused without good cause to participate under a work incentive program or to have refused without good cause to accept a bona fide offer of public or other employment, the county welfare departments shall provide that:

(a) If the relative makes the refusal, the relative's needs shall not be taken into account in making the grant determination, and aid for any dependent child in the family will be made in the form of *protective or vendor payments except that when protective payments are made, the local agency may continue payments to the relative if a protective payee cannot reasonably be found.*

(b) Aid with respect to a dependent child will be denied if a child who makes the refusal is the only child receiving aid in the family.

(c) If there is more than one child receiving aid in the family, aid for the child who makes the refusal will be denied and his or her needs will not be taken into account in making the grant determination.

(d) If the assistance unit's eligibility is based on the *non-exempt* principal earner's unemployment and the principal earner fails or refuses without good cause to participate or to ac-

cept or continue employment, the entire assistance unit is ineligible for benefits under sections 256.72 to 256.87, if the family is subject to requirements of the work incentive program. Otherwise, the nonexempt principal wage earner's failure or refusal to participate or to accept employment will result only in that person's needs not being taken into account in making the grant determination.

Subd. 5. [EXTENSION OF (WORK INCENTIVE) EMPLOYMENT AND TRAINING OPPORTUNITIES.] The commissioner of human services shall cooperate with the commissioner of (ECONOMIC SECURITY) jobs and training to (PROMOTE) extend the availability of training and employment opportunities on a state wide basis.

Subd. 6. [PROTECTION FROM GARNISHMENT.] Earnings of a recipient while participating in full or part-time employment or training shall be protected from garnishment. This protection shall extend for a period of six months from the date of termination of a recipient's grant of assistance.

Subd. 7. [(COMPLIANCE WITH FEDERAL CHANGES) RULEMAKING.] The commissioner of human services (IS) and the commissioner of jobs and training are authorized to promulgate such coordinated rules (AND REGULATIONS) as are necessary to qualify for any federal funds available under this section and to carry out the provisions of this section.

Subd. 8. The commissioner of human services shall amend the state plan for aid to families with dependent children to provide as special needs payments funds for the costs of day care, transportation, tuition, and items associated with education or seeking employment to the extent allowed under federal regulations and state appropriations.

Subd. 9. [CHANGES IN STATE PLAN AND RULES; WAIVERS.] The commissioner of human services shall make changes in the state plan and rules or seek any waivers or demonstration authority necessary to minimize barriers to participation in the jobs and training programs or to employment. Changes shall be sought in at least the following areas: allowances, child care, work expenses, the amount and duration of earnings incentives, medical care coverage, limitations on the hours of employment, and administrative standards and procedures. The commissioner shall implement each change as soon as possible.

Sec. 12. Minnesota Statutes 1984, section 256.737, is amended to read:

256.737 [COMMUNITY WORK EXPERIENCE PROGRAM.]

In order that persons receiving aid under this chapter may be assisted in achieving self-sufficiency by enhancing their employability through meaningful work experience and training and the development of job search skills, the commissioner of (HUMAN SERVICES MAY CONTINUE THE PILOT) *jobs and training shall, at the request of any county, establish community work experience (DEMONSTRATION) programs (THAT WERE APPROVED BY JANUARY 1, 1984. NO NEW PILOT COMMUNITY WORK EXPERIENCE DEMONSTRATION PROGRAMS MAY BE ESTABLISHED).* The commissioner shall: (a) assist counties in the design, implementation, and evaluation of these (DEMONSTRATION) programs; (b) promulgate, in accordance with chapter 14, emergency rules necessary for the implementation of this section, except that the time restrictions of section 14.35 shall not apply and the rules may be in effect until the termination of the demonstration programs; and (c) seek any federal waivers necessary for proper implementation of this section in accordance with federal law. The commissioner shall prohibit use of participants in the programs to do work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, 1983. The exclusive bargaining representative shall be notified no less than 14 days in advance of any placement by the community work experience program. Concurrence with respect to job duties of persons placed under the community work experience program shall be obtained from the appropriate exclusive bargaining representative. The appropriate oversight committee shall be given monthly lists of all job placements under a community work experience program.

(PROJECTS SHALL END NO LATER THAN JUNE 30, 1985, AND A PRELIMINARY REPORT SHALL BE MADE TO THE LEGISLATURE BY FEBRUARY 15, 1985, ON THE FEASIBILITY OF PERMANENT IMPLEMENTATION AND ON THE COST EFFECTIVENESS OF EACH OF THE DEMONSTRATION PROGRAMS.)

Sec. 13. Minnesota Statutes 1984, section 256C.24, is amended to read:

#### 256C.24 [REGIONAL SERVICE CENTERS.]

Subdivision 1. [LOCATION.] The commissioner of (ECONOMIC SECURITY) *human services* shall establish up to eight regional service centers for hearing impaired persons. The centers shall be co-located with existing vocational rehabilitation field offices and be distributed regionally to provide access for hearing impaired persons in all parts of the state. The center shall maintain a current registry of those persons having or suspected of having a hearing impairment who live in that region. A special task of the registry is to assure that referrals and follow-up services are completed with respect to persons in the register.

Subd. 2. [RESPONSIBILITIES.] The regional service center shall:

(a) Serve as the central entry point for hearing impaired persons in need of human services and make referrals to the services needed;

(b) Employ staff trained to work with hearing impaired persons;

(c) Provide to all hearing impaired persons interpreter services which are necessary to help them obtain human services;

(d) Serve as the regional interpreter referral center for hearing impaired persons and human services agencies;

(e) Loan equipment and resource materials to hearing impaired persons; and

(f) Cooperate with the department of (HUMAN SERVICES) *jobs and training* to provide access for hearing impaired persons to services provided by state, county and regional human services agencies.

Subd. 3. [ADVISORY COMMITTEE.] The commissioner of (ECONOMIC SECURITY, IN CONSULTATION WITH THE COMMISSIONER OF) human services shall appoint an advisory committee of eight persons for each regional service center. Members shall include four persons who are hearing impaired persons or who are the parents of a hearing impaired child and four representatives of county and regional human services, including representatives of private service providers. Members shall serve without payment by the state of per diem or expense. The commissioner of (ECONOMIC SECURITY) *human services* shall designate one member as chairperson. The (COMMISSIONERS OF ECONOMIC SECURITY AND) *commissioner of human services* shall assign staff to serve as ex officio members of the committee.

Sec. 14. Minnesota Statutes 1984, section 256C.25, is amended to read:

256C.25 [INTERPRETER SERVICES.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of (ECONOMIC SECURITY) *human services* shall supervise the development and implementation of a statewide interpreter referral service. The commissioner of (ECONOMIC SECURITY) *human services* shall contract with appropriate organizations to provide this centralized service.

Subd. 2. [DUTIES.] The central interpreter referral service shall:

(a) Establish and maintain a statewide directory of interpreters who have received appropriate training and certification;

(b) Provide technical assistance to the regional service centers in implementing the interpreter referral service; and

(c) Assess the present and projected supply and demand for interpreting services statewide.

Sec. 15. Minnesota Statutes 1984, section 256C.26, is amended to read:

**256C.26 [EMPLOYMENT SERVICES.]**

The commissioner of (ECONOMIC SECURITY) *jobs and training* shall (DEVELOP AND IMPLEMENT A) *include in the biennial plan under section 39, subdivision 3, clause (12), a method to deal with the underemployment of hearing impaired persons. The plan shall provide for training regarding the nature of hearing handicaps for department staff who consult with prospective employers or who provide job placement services.*

Sec. 16. Minnesota Statutes 1984, section 256D.02, subdivision 13, is amended to read:

Subd. 13. "Suitable employment" means an appropriate income producing job including, but not limited to, all (PUBLIC) *publicly subsidized jobs procured through the (WORK EQUITY PROGRAM) Minnesota emergency employment development act in sections 268.671 to 268.686, community work experience programs under section 256.737, or other programs administered by or coordinated with the commisisoner of jobs and training.*

Sec. 17. Minnesota Statutes 1984, section 256D.05, subdivision 1, is amended to read:

Subdivision 1. [STANDARDS.] Each person or family whose income and resources are less than the standard of assistance established by the commissioner shall be eligible for and entitled to general assistance, *subject to the limitation of this section*; provided that no individual shall be eligible for general assistance if the individual is eligible for any of the following federally aided assistance programs: emergency assistance, aid to families with dependent children, or any successor to the above. *For the biennium beginning July 1, 1985, an individual who is otherwise eligible for assistance and who is neither exempt from employment under section 256D.111 nor participating in a grant*

*diversion program under section 256D.09, subdivision 3 shall be eligible to receive general assistance benefits for a maximum of eight months in any consecutive 24-month period, as follows: An individual who is not employed in a community investment program shall be eligible for benefits for a maximum of three months out of any consecutive 24 months. An individual who is employed in a community investment program shall be eligible for benefits for a total of eight months out of any consecutive 24 months. The limitation on eligibility applies to combined periods of eligibility and to any combination of months in which an individual receives a grant or is employed in a community investment program, whether or not the months are consecutive. General assistance received prior to July 1, 1985, will not be counted in this limitation.*

Sec. 18. Minnesota Statutes 1984, section 256D.09, subdivision 3, is amended to read:

Subd. 3. **[FULL-TIME EMPLOYMENT (PAYMENTS) FUNDED BY GRANT DIVERSION.]** Notwithstanding the provisions of subdivision 1, the commissioner (MAY) of jobs and training shall establish by rule or emergency rule a grant diversion program for payment of all or a part of a recipient's grant to a private (,) or nonprofit (, OR PUBLIC) employer who agrees to employ the recipient *full time in a permanent job*. The commissioner of jobs and training shall design the program to provide, to the extent possible, employment or employment-related training that will enable recipients to become self-supporting. A recipient shall be eligible for general assistance medical care during the term of the grant diversion contract to the extent that medical care coverage is not provided by the employer. Any rule adopted by the commissioner of jobs and training:

(a) Shall require the local agencies to administer the grant diversion program directly or to (DELEGATE ADMINISTRATION) contract for the delivery of the program to another unit of government or to a public or nonprofit agency;

(b) Shall require that grants paid to employers be paid pursuant to a written grant diversion contract;

(c) Shall determine the amount of the grant to be paid to the employer and the term of the grant diversion contract;

(d) Shall establish standards to ensure that recipients hired pursuant to grant diversion contracts do not displace other workers;

(e) Shall provide for the amount of the wage to be paid to the recipient, which shall not be less than the minimum wage (FOR JOBS WITH NONPROFIT AND PUBLIC EM-

PLOYERS) and *shall be the usual and customary wage for similar jobs with (PRIVATE) the employers;*

(f) *Shall provide for the minimum number of hours per month the (RECIPIENT MUST WORK) job must provide, which shall be sufficient to provide a net monthly wage equal to or exceeding the difference between the amount of the grant retained by the recipient and (150) 175 percent of the recipient's monthly grant; and*

(g) *shall provide a state contribution for wages and fringe benefits for eligible job applicants for a maximum of 1,040 hours over a maximum period of 26 weeks per job applicant. For eligible job applicants participating in a job training program, the state contribution for wages may be used for a maximum period of 52 weeks per job applicant.*

((G)) (h) *May establish other terms and conditions for the operation of the grant diversion program.*

Sec. 19. Minnesota Statutes 1984, section 268.31, is amended to read:

268.31 [DEVELOPMENT OF YOUTH EMPLOYMENT OPPORTUNITIES.]

To the extent of available funding, the commissioner of (ECONOMIC SECURITY) *jobs and training shall (HIRE) establish a program to employ individuals from the ages of 14 years up to 22 years from families with household incomes of less than 125 percent of the poverty guidelines established by the federal office of management and budget for a maximum of 12 weeks, not to exceed 40 hours per week per individual, during the summer for the purpose of placing such individuals in service (WITH THE DEPARTMENT OF ECONOMIC SECURITY AND) with other departments, agencies and instrumentalities of the state, county, local governments, school districts and with nonprofit organizations. Priority for employment shall be given to those young individuals between the ages of 16 years up to 22 years.*

Sec. 20. Minnesota Statutes 1984, section 268.32, is amended to read:

268.32 [RATE OF PAY.]

Persons (HIRED) *employed pursuant to sections 268.31 to 268.36 shall be compensated at the federal minimum wage rate. Persons hired in a supervisory capacity shall be compensated (AT A RATE) according to criteria established by the commissioner in rules.*

Sec. 21. Minnesota Statutes 1984, section 268.33, is amended to read:

**268.33 [ELIGIBILITY FOR EMPLOYMENT AND PLACEMENT.]**

(SUBDIVISION 1.) The (DEPARTMENT OF ECONOMIC SECURITY) *commissioner of jobs and training* shall promulgate rules determining the *priority and eligibility* for employment and placement pursuant to sections 268.31 to 268.36. The (DEPARTMENT) *commissioner* shall have emergency powers and permanent rulemaking authority to implement rules for carrying out sections 268.31 to 268.36.

(SUBD. 2.) The (DEPARTMENT OF ECONOMIC SECURITY) *commissioner of jobs and training* shall, for the purposes of sections 268.31 to 268.36, be exempt from complying with any law relating to hiring by departments, agencies or instrumentalities of the state.

Sec. 22. Minnesota Statutes 1984, section 268.34, is amended to read:

**268.34 [EMPLOYMENT CONTRACTS.]**

The commissioner (MAY) *shall* enter into arrangements with existing public and private nonprofit organizations and agencies with experience in administering (SUMMER) youth employment programs for the purpose of providing employment opportunities in furtherance of sections 268.31 to 268.36 and to advance up to 20 percent of a summer youth employment contract to any participating organization or agency. The department of (ECONOMIC SECURITY) *jobs and training* shall retain ultimate responsibility for the administration of this employment program, including but not limited to, approval of summer job opportunities, (REVIEW) *eligibility* of applicants therefor, placement of youth in jobs and the disbursement of funds.

Sec. 23. Minnesota Statutes 1984, section 268.35, is amended to read:

**268.35 [ALLOCATION OF FUNDS.]**

The commissioner shall allocate funds to recipient organizations and agencies throughout the state (TAKING INTO ACCOUNT IN MAKING SUCH ALLOCATIONS THE YOUTH POPULATION OF THE COUNTY ADJUSTED TO ELIMINATE THE INFLUENCE OF POST SECONDARY EDUCATIONAL INSTITUTIONS LOCATED IN THE COUNTY,) *on the basis of the number of unemployed in the county (UNEMPLOYMENT RATE) and the number of families living below 125 percent of the poverty level in the county in which the recipient organization or agency is located, as determined by the most recent special census.*



Sec. 24. Minnesota Statutes 1984, section 268.36, is amended to read:

**268.36 [REPORT TO THE GOVERNOR AND THE LEGISLATURE.]**

The commissioner, after consultation with the (CETA PRIME SPONSORS) *counties and providers of employment and training services*, shall evaluate the effectiveness of (THE) youth employment (PROGRAM) *programs*, taking into account the extent of (OTHER) *all* programs which are providing summer employment opportunities for youth (COVERED UNDER SECTIONS 268.31 TO 268.36), and shall report to the governor and the legislature no later than January 15 of each (EVEN NUMBERED) *odd-numbered* year with an evaluation of (THE PROGRAM) *this and other programs* and any recommendations for improvements.

Sec. 25. Minnesota Statutes 1984, section 268.671, is amended to read:

**[268.671] [CITATION.]**

Sections 268.671 to 268.686 may be cited as the "Minnesota (EMERGENCY) Employment and Economic Development (MEED) Act."

Sec. 26. Minnesota Statutes 1984, section 268.672, is amended to read:

**268.672 [DEFINITIONS.]**

Subdivision 1. [TERMS.] For the purposes of sections 268.671 to 268.686, the following terms have the meanings given them.

Subd. 2. [COORDINATOR.] "Coordinator" means the Minnesota (EMERGENCY) employment and economic development coordinator appointed under section 268.674.

Subd. 3. [ELIGIBLE BUSINESS.] "Eligible business" means a for-profit business.

Subd. 4. [ELIGIBLE EMPLOYER.] "Eligible employer" means an (ELIGIBLE GOVERNMENT AGENCY, AN) eligible nonprofit agency, or an eligible business.

Subd. 5. ([ELIGIBLE GOVERNMENT AGENCY.] "ELIGIBLE GOVERNMENT AGENCY" MEANS A COUNTY, MUNICIPALITY, SCHOOL DISTRICT, OR OTHER LOCAL GOV-

**ERNMENTAL SUBDIVISION, A STATE AGENCY, OR A  
FEDERAL AGENCY OFFICE IN MINNESOTA.)**

(SUBD. 6.) [ELIGIBLE JOB APPLICANT.] "Eligible job applicant" means a person who: (1) has been a resident of this state for at least one month, (2) is unemployed, (3) is not receiving and is not qualified to receive unemployment compensation or workers' compensation, and (4) is determined by the employment administrator to be likely to be available for employment by an eligible employer for the duration of the job.

(IN ADDITION,) A farmer (WHO RESIDES IN A COUNTY QUALIFIED UNDER FEDERAL DISASTER RELIEF AND) *or any member of a farm family household who can demonstrate severe financial need may be considered unemployed under this subdivision.*

Subd. (7) 6. [ELIGIBLE NONPROFIT AGENCY.] "Eligible nonprofit agency" means an organization exempt from taxation under the Internal Revenue Code of 1954, section 501(c) (3), as amended through December 31, 1982.

Subd. (8) 7. [EMPLOYMENT ADMINISTRATOR.] "Employment administrator" means the administrative entity designated by the coordinator to administer the provisions of this act in each service delivery area. The coordinator may designate an administrative entity authorized under the Job Training Partnership Act or its predecessor administrative entity authorized under United States Code, title 29, section 801, et seq., or a job training or placement agency with proven effectiveness.

Subd. (9) 8. [HOUSEHOLD.] "Household" means a group of persons living at the same residence consisting of, at a maximum, spouses and the minor children of each.

Subd. (10) 9. [JOB TRAINING PARTNERSHIP ACT.] "Job Training Partnership Act" means the federal Job Training Partnership Act of 1982 (JTPA), Statutes at Large, volume 92, page 1322.

Subd. (11) 10. [PROGRAM.] "Program" means the Minnesota (EMERGENCY) employment *and economic* development program created by sections 268.671 to 268.686 consisting of temporary work relief projects in the government and nonprofit agencies and new job creation in the private sector.

Subd. (12) 11. [SERVICE DELIVERY AREA.] "Service delivery area" means an area designated as a service delivery area by the coordinator.

Sec. 27. Minnesota Statutes 1984, section 268.673, subdivision 1, is amended to read:

Subdivision 1. [APPOINTMENT.] The governor shall appoint a Minnesota (EMERGENCY) employment *and economic* development coordinator to administer the provisions of sections 268.671 to 268.686. The coordinator shall be within the department of (ECONOMIC SECURITY) *jobs and training*, but shall be responsible directly to the governor. The coordinator shall have the powers necessary to carry out the purposes of the program.

Sec. 28. Minnesota Statutes 1984, section 268.673, subdivision 2, is amended to read:

Subd. 2. [RESPONSIBILITIES.] The coordinator shall:

(a) Obtain an inventory of community needs from each local governmental subdivision and compile a statewide inventory of needs within 30 days after his appointment;

(b) Enter into a contract with one or more employment administrators in each service delivery area;

(c) Review the (EMERGENCY) employment *and economic* development plan submitted by the employment administrator of each service delivery area and approve satisfactory plans. If an employment administrator submits an unsatisfactory plan, the coordinator shall assist the employment administrator in developing a satisfactory one;

(d) Coordinate the program with other state agencies;

(e) Coordinate administration of the program with the general assistance program;

(f) Set policy regarding disbursement of program funds; and

(g) Perform general program marketing and monitoring functions.

Sec. 29. Minnesota Statutes 1984, section 268.673, subdivision 3, is amended to read:

Subd. 3. [DEPARTMENT OF (ECONOMIC SECURITY) *JOBS AND TRAINING*.] The coordinator shall administer the program within the department of (ECONOMIC SECURITY) *jobs and training*. The commissioner of (ECONOMIC SECURITY) *jobs and training* shall provide administrative support services to the coordinator for the purposes of the program.

Sec. 30. Minnesota Statutes 1984, section 268.674, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The task force shall consist of nine members as follows: the coordinator, the commissioner of (ECONOMIC SECURITY) *jobs and training*, the commissioner of energy and economic development, the commissioner of labor and industry, the commissioner of human services, a representative of labor, a representative of business, a representative of nonprofit employers, and an employment administrator. The coordinator shall be the chairman and shall appoint the non-commissioner members.

Sec. 31. Minnesota Statutes 1984, section 268.675, subdivision 1, is amended to read:

Subdivision 1. [SERVICE DELIVERY AREA PORTION.] Eighty percent of the funds available for allocation to employment administrators for the program must be allocated among service delivery areas as follows: (1) each service delivery area shall be eligible to receive that proportion of the funds available which equals the number of unemployed persons in the service delivery area divided by the total number of unemployed persons in the state for the 12-month period ending the most recent March 31; (2) however, 15 percent of the amount which would be allocated under paragraph (1) to each service delivery area in which the unemployment rate, for the 12-month period ending the most recent March 31, is less than the statewide unemployment rate on that date shall not be allocated according to paragraph (1). This amount shall be pooled and distributed at the discretion of the coordinator only to employment administrators in these service delivery areas with lower than average unemployment rates who have demonstrated outstanding performance from May 1, 1984, to August 1, 1984, in placement of persons who would otherwise be eligible to receive (GENERAL) assistance *through income maintenance programs*, as shown by (:)

((I) THE PROPORTION OF GENERAL ASSISTANCE ELIGIBLE APPLICANTS WHO HAVE BEEN PLACED IN PRIVATE SECTOR JOBS UNDER THE PROGRAM, RELATIVE TO THE TOTAL NUMBER OF GENERAL ASSISTANCE ELIGIBLE APPLICANTS PLACED UNDER THE PROGRAM; OR)

((II)) the proportion of general (ASSISTANCE ELIGIBLE) *assistance and aid to families with dependent children eligible* applicants placed in all jobs under the program, relative to total job placements under the program.

(b) Ten percent of the funds available for allocation to employment administrators under the program must be allocated at the discretion of the coordinator to employment administrators:

(1) who will maximize the use of the funds through coordination with other programs and state, local, and federal agencies, through the use of matching funds or through the involvement of low-income constituent groups;

(2) who have demonstrated need beyond the allocation available under clause (1);

(3) who have demonstrated outstanding performance in job creation; or

(4) who have demonstrated that the unemployed persons in the service delivery area incur unusual costs related to employment under sections 268.671 to 268.686.

Sec. 32. Minnesota Statutes 1984, section 268.676, subdivision 1, is amended to read:

Subdivision 1. [AMONG JOB APPLICANTS.] Allocation of funds among eligible job applicants within a service delivery area shall be determined by the employment administrator in each service delivery area. The employment administrator shall give priority to:

(1) applicants living in households with no other income source; (AND)

(2) applicants (WHO WOULD OTHERWISE BE ELIGIBLE TO RECEIVE GENERAL ASSISTANCE) *whose income and resources are less than the standards of assistance established pursuant to section 256D.05, subdivision 1:*

(3) *applicants who are eligible to receive aid to families with dependent children; and*

(4) *applicants living in farm households who can demonstrate severe household financial need.*

In service delivery areas where the unemployment rate for the 12-month period ending the most recent March 31 is below the statewide unemployment rate at that time, (THE EMPLOYMENT ADMINISTRATOR SHALL GIVE HIGHER PRIORITY TO) *only those applicants described in (CLAUSE (2) THAN TO THOSE DESCRIBED IN CLAUSE (1)) clauses (1) to (4), and who otherwise satisfy the definition of an "eligible job applicant" in section 268.672, subdivision 5, are eligible for a job or job training program under section 268.677.*

Sec. 33. Minnesota Statutes 1984, section 268.676, subdivision 2, is amended to read:

Subd. 2. [AMONG EMPLOYERS.] Allocation of funds among eligible employers within a service area shall be determined by the employment administrator within each service delivery area according to the priorities in sections 268.68 and 268.681. The employment administrator shall give priority to funding private sector jobs (TO THE EXTENT THAT ELIGIBLE BUSINESSES APPLY FOR FUNDS). If possible, no more than (40) 20 percent of the funds may be allocated for jobs with eligible government and nonprofit agencies during the biennium.

Sec. 34. Minnesota Statutes 1984, section 268.677, is amended to read:

268.677 [USE OF FUNDS.]

Funds appropriated for the purposes of sections 268.671 to 268.686 may be used as follows:

(a) To provide a state contribution for wages and fringe benefits for eligible job applicants for a maximum of 1,040 hours over a maximum period of 26 weeks per job applicant. For eligible job applicants participating in a job training program, the state contribution for wages may be used for a maximum period of 52 weeks per job applicant. The state contribution for wages shall be up to (\$4) \$2 per hour for each eligible job applicant employed. The state contribution for fringe benefits may be up to (\$1) 50 cents per hour for each eligible job applicant employed. *The employer is required to provide a contribution for wages and fringe benefits of at least equal to the state contribution for each applicant employed.* However, the employer may use funds from other sources to provide increased wages to the applicants it employs. At least 75 percent of the funds appropriated for the program must be used to pay wages for eligible job applicants;

(b) To reimburse the commissioner of economic security in an amount not to exceed one percent of the funds appropriated for the actual cost of administering sections 268.671 to 268.686, and to reimburse the employment administrators in an amount not to exceed 4-1/2 percent of the funds appropriated for their actual cost of administering sections 268.671 to 268.686. The commissioner of economic security and the employment administrators shall reallocate funds from other sources to cover the administrative costs of this program whenever possible;

(c) To provide child care services or subsidies to applicants employed under sections 268.671 to 268.686;

(d) To provide workers' compensation coverage to applicants employed by (GOVERNMENT OR) nonprofit agencies under sections 268.671 to 268.686;

(e) To provide job search assistance, labor market orientation, job seeking skills, and referral for other services;

((F) TO PURCHASE SUPPLIES AND MATERIALS FOR PROJECTS CREATING PERMANENT IMPROVEMENTS TO PUBLIC PROPERTY IN AN AMOUNT NOT TO EXCEED ONE PERCENT OF THE FUNDS APPROPRIATED.)

The employment administrator of each service delivery area shall submit to the coordinator a spending plan establishing that funds allocated to the service delivery area will be used in the manner required by sections 268.671 to 268.686. Any funds allocated to the service delivery area for which there is no spending plan approved by the coordinator shall cancel back to the Minnesota (EMERGENCY) employment and economic development account and may be reallocated by the coordinator to other employment administrators.

Sec. 35. Minnesota Statutes 1984, section 268.681, subdivision 4, is amended to read:

Subd. 4. [MINNESOTA (EMERGENCY) EMPLOYMENT AND ECONOMIC DEVELOPMENT ACCOUNT.] The Minnesota emergency employment development account is created in the state treasury. All payments from businesses pursuant to subdivision 3 shall be deposited in this account, and all funds in the account are appropriated to the commissioner of (ECONOMIC SECURITY) *jobs and training* for the purpose of making disbursements pursuant to section 268.675.

Sec. 36. Minnesota Statutes 1984, section 268.684, is amended to read:

[268.684] [WORK INCENTIVE FUNDS.]

Funds made available to the commissioner of (ECONOMIC SECURITY) *jobs and training* for purposes of administration of the jobs program may be used in part, at the discretion of the commissioner, to ensure that persons eligible for or receiving income maintenance grants have access to work and training programs.

Sec. 37. Minnesota Statutes 1984, section 268.685, is amended to read:

[268.685] [TERMINATION; NOTIFICATION.]

The commissioner of (ECONOMIC SECURITY) *jobs and training* shall immediately terminate the Minnesota (EMERGENCY) employment and economic development program if and when none of the money appropriated under Laws 1983, chapter 312, article 1, section 3 or under this act remains. The commissioner of (ECONOMIC SECURITY) *jobs and training* shall immediately notify the commissioner of human services of the program's termination. The commissioner of human services

shall immediately notify each local agency referring recipients under section 256D.112 of the program's termination and require the local agency to cease transferring recipients.

On the date the program is terminated, any balance remaining in the Minnesota (EMERGENCY) employment and economic development account established under section 268.681, subdivision 4 shall cancel to the general fund. Any payments received under section 268.681, subdivisions 3 and 4 on or after that date shall be deposited in the general fund.

Sec. 38. [268A.01] [CREATION.]

*Subdivision 1. There is created the department of jobs and training with broad responsibility to increase the economic independence of Minnesotans with special effort toward those who are currently unemployed or who face special disadvantages in the labor market.*

*The department shall develop employment policies and shall link training and employment-related services with temporary income replacement and income maintenance programs, veterans' programs, workers' compensation, vocational and post-secondary education, federal income insurance programs, and economic development programs.*

*The department, to the greatest extent possible allowed under federal and state law, shall utilize employment and training services offered by private sector providers. The commission shall regularly consult with members of the private industry councils established under the federal jobs training partnership act, members of the Minnesota job skills partnership board and other representatives of the private sector to determine means of providing efficient and effective training and employment programs.*

*Subd. 2. The department shall be supervised and controlled by the commissioner, appointed by the governor with the advice and consent of the senate under section 15.06. The commissioner must be selected on the basis of ability and experience without regard to political affiliations. The commissioner serves at the pleasure of the governor.*

*Subd. 3. (a) The commissioner may establish positions in the unclassified service in accordance with section 43A.08. The commissioner shall appoint a deputy commissioner and may appoint and define the duties of other subordinate officers and employees as he or she deems necessary to discharge the functions of the department.*

*(b) The commissioner may delegate, in written orders filed with the secretary of state, any powers or duties subject to his or*



her control to officers and employees in the department. Notwithstanding any other law, the commissioner may delegate the execution of specific contracts or specific types of contracts to his deputies, an assistant commissioner, or a program director if the delegation has been approved by the commissioner of administration and filed with the secretary of state.

(c) The commissioner may accept gifts, bequests, grants, payments for services, and other public and private funds to help finance the activities of the department.

Sec. 39. [268A.02] [POWERS AND DUTIES.]

*Subdivision 1. [STATE AGENCY.] The commissioner of jobs and training is designated the "state agency" as defined by United States Code 1976, title 29, sections 49 et seq., the Wagner-Peyser Act of the United States, as amended and the laws of this state.*

*Subd. 2. [SPECIFIC POWERS.] The commissioner of jobs and training shall:*

(1) *administer and supervise all forms of unemployment insurance provided for by federal and state laws that are vested in the commissioner;*

(2) *administer and supervise all employment and training programs assigned to the department of jobs and training by federal or state law;*

(3) *promote the enforcement of laws protecting handicapped, disadvantaged, or protected individuals in gaining access to employment or training opportunities;*

(4) *coordinate employment and training programs and services with each federal and state agency, including post-secondary education units, involved in education, employment, or training activities;*

(5) *coordinate all locally provided training and employment programs and to the greatest extent possible under state and federal law, integrate locally provided public and private services through the structure of the private industry councils established under the federal job training partnership act. If allowed under federal and state law, local determination initiatives and programs for self-reliance indigenous to each local community should be a goal in coordinating and integrating these programs;*

(6) *act as the agent of and cooperate with the federal government in matters of mutual concern, including the adminis-*

*tration of any federal funds granted to the state to aid in the performance of functions of the commissioner;*

*(7) adopt emergency and permanent rules, which shall be binding upon the counties and providers of services, to make services uniformly available and to prescribe standards of administration;*

*(8) establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department;*

*(9) supervise the county boards of commissioners and any other units of government designated in federal or state law as responsible for employment and training programs;*

*(10) establish administrative standards and payment conditions and limitations for providers of employment and training services;*

*(11) have authority to conduct and administer demonstration projects to test methods and procedures for providing employment and training services. The demonstration must provide alternative methods and procedures of administration and must not conflict with the basic purposes, coverage, or benefits provided by law. The commissioner shall focus the demonstration projects on private sector alternatives to the current training and employment programs. No demonstration project authorized by this section shall become effective until the following conditions have been met:*

*(a) A comprehensive plan, including the estimated project costs, must be filed with the secretary of the senate and the chief clerk of the house of representatives at least 60 days prior to its effective date.*

*(b) Any required approval by a federal agency must be obtained.*

*(c) The comprehensive plan, including the estimated project costs, must be approved by the legislative advisory commission and filed with the commissioner of administration; and*

*(12) develop and administer policies to provide an effective public labor exchange service for all employees and individuals.*

*Subd. 3. [DUTIES AS A STATE AGENCY.] The commissioner shall:*

*(1) administer the unemployment insurance laws and related programs;*

(2) *administer those aspects of the aid to families with dependent children, general assistance, and food stamp programs which are related to providing employment and training services, subject to limitations of federal regulations;*

(3) *administer a national system of public employment offices as prescribed by United States Code 1976, title 29, sections 49 et seq., the Wagner-Peyser Act, as amended and other federal employment and training programs;*

(4) *cooperate with the federal government and its employment and training agencies in any reasonable manner as may be necessary to qualify for federal aid for employment and training programs and funds;*

(5) *enter into agreements and contracts with other departments of the state and local units of government and private sector providers, as necessary. Whenever non-government providers are available in providing the same or similar service as a government providers, the non-government provider shall be given precedence;*

(6) *administer all programs for which it is responsible or for which it coordinates with other state agencies so that the state provides consistent, integrated employment and training services across the state;*

(7) *identify, define, and prescribe the services and standards used for all employment and training services that it administers or supervises. Privately provided services shall be used whenever possible;*

(8) *develop and administer a method for providing current state and substate labor market information and forecasts, in cooperation with other agencies;*

(9) *develop and administer with the cooperation of other state and local agencies and the private sector, a system of employer services designed to increase the number, quality, and variety of employment opportunities available to the department's clients;*

(10) *develop and administer a uniform system of evaluations and service results across programs, including responses by clients and employers;*

(11) *develop a plan, in conjunction with the commissioner of human services and other affected agencies, an integrated information system, encompassing employment and training and income support programs, client information, service availability, and funding;*

(12) prepare and submit a training and employment biennial plan to the governor on or before July 1 of each even-numbered year for the succeeding biennium, and consult with the commissioners of human services, energy and economic development, finance, and education, and with the chancellor of the community college system, director of the vocational technical education board in developing this plan and representatives of the private sector including members of private industry councils, the Minnesota job skills partnership board and the governor's jobs council;

(13) identify underserved populations, unmet service needs, and funding requirements;

(14) use the biennial plan to establish the direction and parameters for required plans for individual programs administered or supervised by or coordinated with the department;

(15) in consultation with the commissioners of education and energy and economic development and with the president of the state university system, the chancellor of the community college system, the director of the vocational education board, and representatives of the business and labor communities to determine on a statewide and regional basis the occupations: (i) for which there is a present and continuing demand; (ii) which are forecast to pay wages in excess of the poverty level; and (iii) which will be approved as part of training plans developed for individuals served by programs administered or supervised by the department;

(16) submit to the governor, the commissioners of human services and finance, and the chairs of the senate finance and house appropriations committees a semi-annual report which:

(a) reports by client type, and unduplicated count of the types and number of services furnished through each program administered or supervised by the department or coordinated with it;

(b) reports on the number of job openings listed, developed, available, and obtained by clients of the department;

(c) identifies the number of cooperative agreements in place and the number of individuals being served and the types of service;

(d) evaluates the performance of special state programs, such as the Minnesota emergency employment programs and community investment programs, and the number of clients in grant diversion and wage subsidy jobs;

(e) explains the effects of current employment levels, unemployment rates, and program performance on the unemployment

*insurance fund and general assistance and aid to families with dependent children caseloads and program expenditures; and*

*(17) prescribe the form, nature, and method of information collected by counties and providers of service.*

**Sec. 40. [268A.03] [EMPLOYMENT AND TRAINING PROGRAMS FOR APPLICANTS FOR AND RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN, GENERAL ASSISTANCE, AND FOOD STAMPS.]**

*Subdivision 1. Under agreements necessary to comply with federal regulations, the commissioner shall administer employment and training services and programs for applicants for and recipients of aid to families with dependent children and food stamps on behalf of the commissioner of human services. The commissioner shall administer employment and training services and programs for general assistance applicants and recipients in consultation with the commissioner of human services.*

*Subd. 2. The programs referred to in subdivision 1 shall have as their objective improving clients' opportunities for economic independence through full-time, permanent employment at wages in excess of public assistance benefits, through support services needed to gain or maintain employment, and through education that will increase their earnings capacity.*

*Subd. 3. To the extent that the state has the authority to establish priority groups to be served under these programs, greatest consideration must be given to client groups identified as experiencing the most severe disadvantages to employment. Individuals volunteering for employment, regardless of whether or not they are required to register, must also be given preference to avoid the effects of long-term dependence on public assistance.*

*Subd. 4. (a) The priority for services to be provided is:*

*(1) permanent, unsubsidized, full-time private sector employment, in conjunction with targeted jobs tax credits as defined at United States Code, title 26, section 44B, and amended by Public Law 98-369.*

*(2) permanent, subsidized, full-time private sector employment;*

*(3) permanent, subsidized, full-time nonprofit sector employment;*

*(4) training or relocation; and*

*(5) part-time, temporary, subsidized, nonprofit, or public employment with continued employment assistance.*

(b) *Individuals receiving any of the priority services in paragraph (a) must be provided day care, transportation, or other support services as appropriate and available.*

*Subd. 5. The commissioner shall establish, by rule, the conditions under which individuals are required to participate in programs, their rights and responsibilities while participating, and the standards by which the programs must be administered, and shall provide fair hearings procedure governing participation.*

*Subd. 6. The commissioner shall, by rule or contract, establish the responsibilities and standards for counties and other providers of service. In administering the jobs and training program for recipients of aid to families with dependent children, the commissioner shall require each county to maintain at least 25 percent of nonexempt recipients in either a grant diversion or a training program.*

*Subd. 7. In administering the work incentive program under section 256.736, the commissioner shall assure that no later than July 1, 1986, at least 25 percent of all state and federal funds appropriated to that program must be spent for direct client services, including day care, transportation, institutional training, and on-the-job training. Seventy-five percent or less of the funds must be spent for services provided directly by state or county staff.*

*Subd. 8. In developing employment and training programs and services, the commissioner shall identify and incorporate, to the extent possible, funding from both federal and state income maintenance, employment and training, and educational programs.*

*Subd. 9. The commissioner shall develop a grant diversion process for both aid to families with dependent children and general assistance recipients. In selecting employers, priorities shall be given to small businesses, businesses which have the potential for offering new jobs on a long-term basis, and businesses which make use of Minnesota resources and which operate primarily in Minnesota. Businesses shall be subject to the terms and conditions of sections 268.68 to 268.682.*

*Subd. 10. (a) The department shall register clients within time limits necessary to avoid delaying a client's receipt of assistance, denying benefits, or reducing the amounts of benefits.*

*(b) The department shall consult with the local agency and with the recipient in preparing an employment appraisal and a written employability development plan for each participating recipient. The employment appraisal shall be prepared within 30*

*days of the referral from the local agency, and the employability development plan within 90 days of said referral. The plan must be prepared by a qualified person who, where feasible, is colocated with other income maintenance and employment and training staffs. The plan must identify the specific conditions applicable to the recipient which limit his or her ability to seek or secure suitable employment, must include reasonable reporting and job search requirements, and must be consistent with local labor force conditions and demands taking into account the recipient's skills, knowledge, and abilities, as well as educational attainment and association with the work force.*

*The plan must be designed to aid the recipient in obtaining suitable permanent employment, training, or work skills necessary to secure suitable employment, and may include an arrangement with another service provider or agency for specialized employment, education, training, or support services.*

*A copy of the plan must be given to the recipient at the time it is prepared; an additional copy must be given to the local agency for its files.*

*(c) If as a result of developing the employability plan, the qualified staff determines that the recipient is unable to meet minimal employer requirements or expectations based on a review of the recipient's work history and work habits or the recipient's exhibition of a mental or emotional disability, chemical dependency, or of severely diminished functioning in areas of daily living, such as personal hygiene, social skills, or personal relations, the recipient must be referred back to the local agency.*

*If either the recipient or the local agency disagrees with the determination pertaining to the individual's work skills or training, the individual or the county may appeal the decision to the commissioner of jobs and training.*

*Subd. 11. [RULEMAKING.] The commissioner shall have emergency and permanent rulemaking authority to implement this section.*

**Sec. 41. [268A.04] [JOBS TRAINING PARTNERSHIP ACT; ADMINISTRATION.]**

*Subdivision 1. [COORDINATION OF STATE AND FEDERAL PROGRAMS.] The commissioner shall act as the governor's agent in administering the federal jobs training partnership act. To the extent permitted under federal regulation, this program shall be administered in conjunction with a comprehensive state employment and training strategy and its resources used in coordination with state programs and to further state objectives.*

*Subd. 2. The commissioner shall recommend to the governor the priorities, performance standards, and special projects which are consistent with the commissioner's biennial plan.*

*Subd. 3. Priority for income maintenance recipients must be included in the goals, objectives, and criteria of the governor's coordination and special services plan under section 121 of Public Law 97-300. Local service delivery area plans and job service plans must describe methods of complying with the coordination criteria under the governor's coordination and special services plan as required under section 104 of Public Law 97-300 and under United States Code 1976, title 29, as amended.*

**Sec. 42. [268A.06] [LOCAL CONTRACTS FOR EMPLOYMENT AND TRAINING SERVICES FOR PUBLIC ASSISTANCE RECIPIENTS.]**

*Subdivision 1. Counties may contract with an established public, nonprofit, or private employment and training agency or capable post-secondary education institution to provide employment and training services to eligible public assistance recipients.*

*Subd. 2. In establishing a contract, the county shall agree to co-locate when feasible income maintenance and social service staff as necessary to accept applications and determine eligibility, monitor ongoing client eligibility, and authorize services and grants available under programs administered by the county social service or income maintenance agencies which are related to employment and training or the client's successful participation in employment and training activities.*

*Subd. 3. The commissioner of jobs and training shall furnish sufficient co-locate staff when feasible as are necessary to make the services provided through the department of jobs and training and the programs it administers or supervises available to clients being served by the contract agency.*

*Subd. 4. The commissioner of jobs and training shall assist in obtaining certification of individuals and employers for targeted job tax credits available under United States Code, title 26, section 44B, as amended at Public Law 98-369, and shall assist local agencies or their contractors in publicizing to employers the availability of such credits.*

**Sec. 43. [268A.08] [FIRST SOURCE AGREEMENTS.]**

*Subdivision 1. Any business or private enterprise receiving grants or loans from the state in amounts over \$50,000 per year, shall as part of the grant or loan agree to list any vacant or new positions with the job services of the department of jobs and training. An agreement obligates the employer to consider quali-*



*fied applicants but does not establish an obligation to hire individuals referred by the department.*

*Subd. 2. The commissioner of energy and economic development shall incorporate the provisions of this section into grant and loan instruments and assist the commissioner of jobs and training in promoting private sector listings with job services and in evaluating their effect on employers and individuals who are referred.*

*Subd. 3. [RULEMAKING.] The commissioner shall have emergency and permanent rulemaking authority to implement this section.*

**Sec. 44. [TRANSFER OF POWERS.]**

*The department of economic security as now constituted is abolished. The responsibilities of the department of economic security are transferred to the department of jobs and training and the department of human services as specified in sections 1 to 41. Section 15.039 governs the transfer of powers, except that positions in the unclassified service established under section 268.011, subdivision 2, are abolished.*

**Sec. 45. [REVISOR'S INSTRUCTION; NAME CHANGES.]**

*In Minnesota Statutes 1986 and later editions of the statutes, the revisor shall change the words "economic security" to "jobs and training," except as otherwise specified by sections 1 to 41.*

**Sec. 46. [REVISOR'S INSTRUCTION; NAME AND NUMBERING CHANGES.]**

*In Minnesota Statutes 1986 and later editions of the statutes, the revisor shall renumber each section listed in column A with the number in column B. The revisor shall also make necessary cross-reference changes consistent with renumbering.*

*In the renumbered sections, the revisor shall change the words "commissioner of economic security" to "commissioner of human services" and the words "department of economic security" to "department of human services."*

A	B
268.37	256.992
268.38	256.993
268.52	256.994

268.53                      256.995

268.54                      256.996

Sec. 47. [REVISOR'S INSTRUCTION; RENUMBERING.]

*In Minnesota Statutes 1986 and later editions of the statutes, the revisor shall renumber each section listed in column A with the number in column B. The revisor shall also make necessary cross-reference changes consistent with renumbering. In the re-numbered sections, the revisor shall change the words "economic security" to "jobs and training."*

A	B
268.014	268A.009
268.021	268A.010
268.026	268A.011
268.03	268A.012
268.04	268A.013
268.05	268A.014
268.06	268A.015
268.061	268A.016
268.07	268A.017
268.071	268A.018
268.072	268A.019
268.08	268A.020
268.081	268A.021
268.09	268A.022
268.10	268A.023
268.11	268A.024
268.12	268A.025

268.121	268A.026
268.13	268A.027
268.14	268A.028
268.15	268A.029
268.16	268A.030
268.17	268A.031
268.18	268A.032
268.20	268A.033
268.21	268A.034
268.22	268A.035
268.23	268A.036
268.231	268A.037
268.24	268A.038
268.25	268A.039
268.31	268A.040, subdivision 1
268.32	268A.040, subdivision 2
268.33	268A.040, subdivision 3
268.34	268A.040, subdivision 4
268.35	268A.040, subdivision 5
268.36	268A.040, subdivision 6
268.60	268A.042
268.61	268A.043
268.62	268A.044
268.63	268A.045
268.64	268A.046

268.671	268A.047
268.672	268A.048
268.673	268A.049
268.674	268A.050
268.675	268A.051
268.676	268A.052
268.677	268A.053
268.678	268A.054
268.679	268A.055
268.68	268A.056
268.681	268A.057
268.682	268A.058
268.683	268A.059
268.685	268A.060
268.82	268A.061
268.83	268A.062
268.84	268A.063

Sec. 48. [REPEALER.]

*Minnesota Statutes 1984, sections 129A.02, subdivision 4; 245.84, subdivision 2; 256D.02, subdivision 8a; 256D.111, subdivision 1a; 256D.112; 268.011; 268.012; 268.013; 268.12, subdivisions 1 and 1a; 268.683, subdivision 2; 268.684; 268.686; 268.80; and 268.81, are repealed.*

Sec. 49. [EFFECTIVE DATE.]

*Section 44 and all transfers of responsibility in sections 1 to 24 are effective January 1, 1986. Section 11, subdivision 4; and sections 24 to 36 are effective July 1, 1985."*

Delete the title and insert:

"A bill for an act relating to employment; abolishing the department of economic security; creating a new department of jobs and training; transferring responsibilities of the department of economic security to the department of jobs and training and the department of human services; transferring certain employment and training functions of the department of human services and the department of administration to the department of jobs and training; providing for biennial statewide plans for jobs and training and apprenticeships; providing for coordination of state and federal jobs programs; granting rulemaking authority; amending Minnesota Statutes 1984, sections 86.33, by adding subdivisions; 116L.03, subdivision 7; 116L.04, by adding a subdivision; 129A.02, subdivision 2; 136.63, by adding a subdivision; 136C.06; 178.03, by adding a subdivision; 248.07; 248.08; 256.736; 256.737; 256C.24; 256C.25; 256C.26; 256D.02, subdivision 13; 256D.05, subdivision 1; 256D.09, subdivision 3; 268.31; 268.32; 268.33; 268.34; 268.35; 268.36; 268.671; 268.672; 268.673, subdivisions 1, 2 and 3; 268.674, subdivision 2; 268.675, subdivision 1; 268.676, subdivisions 1 and 2; 268.677; 268.681, subdivision 4; 268.684; and 268.685; proposing coding for new law as Minnesota Statutes, chapter 268A; repealing Minnesota Statutes 1984, sections 129A.02, subdivision 4; 245.84, subdivision 2; 256D.02, subdivision 8a; 256D.111, subdivision 1a; 256D.112; 268.011; 268.012; 268.013; 268.12, subdivisions 1 and 1a; 268.683, subdivision 2; 268.684; 268.686; 268.80; and 268.81."

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

The report was adopted.

McDonald from the Committee on Agriculture to which was referred:

H. F. No. 962, A bill for an act relating to agriculture; appropriating money for clean-up of pseudorabies infected swine herds.

Reported the same back with the following amendments:

Page 1, line 9, delete "for" and insert "*to develop a plan to remove pseudorabies; establish an on-farm isolation program; and implement*"

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

The report was adopted.

Carlson, D., from the Committee on Transportation to which was referred:

H. F. No. 1083, A bill for an act relating to traffic regulations; authorizing commissioner of transportation to issue special permit for three-vehicle combination exceeding length and weight restrictions if used for transporting motor vehicles and operating only within 15 miles of the western border of Minnesota; amending Minnesota Statutes 1984, sections 169.81, subdivision 2; and 169.86, subdivision 5, and by adding a subdivision.

Reported the same back with the following amendments:

Page 5, line 6, delete "300" and insert "120"

Page 5, delete lines 9 to 23 and insert:

*"Subd. 7. [SPECIAL PERMIT FOR WESTERN BORDER VEHICLES.] The commissioner may issue a special annual permit for a three-vehicle combination consisting of a truck tractor and two semitrailers. The combination of vehicles may not exceed an overall length, unladen or with load, of 110 feet; a maximum total gross weight of 105,000 pounds; or maximum axle weight restrictions under this chapter. This combination of vehicles may not travel more than 15 miles in from the western border of Minnesota.*

*The commissioner may rescind the permit if the condition of the road begins to deteriorate or show signs of damage."*

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

The report was adopted.

Knickerbocker from the Committee on Governmental Operations to which was referred:

H. F. No. 1231, A bill for an act relating to crimes; transferring administration of crime victim crisis centers and the crime victims reparations board to the office of attorney general; changing a definition; establishing a crime victim and witness advisory council and a crime victim ombudsman; providing the council with extensive duties to assist victims and witnesses; providing the ombudsman with authority to investigate complaints with regard to treatment of victims; amending Minnesota Statutes 1984, sections 611A.41, subdivision 2; 611A.44; 611A.52; 611A.53, subdivision 2; 611A.54; 611A.55, subdivisions 1 and 2; and 611A.56, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 611A; repealing Minnesota Statutes 1984, section 611A.42.

Reported the same back with the following amendments:

Page 6, line 24, strike everything after the period

Page 6, line 25, strike everything before the stricken "and"

Page 9, line 31, delete "*public defenders and*"

Page 9, line 32, delete "*members of their staff;*"

Page 10, line 16, after "*witnesses*" insert "*provided under chapter 611A*"

Page 10, line 17, after "*services*" insert "*by victim assistance programs*"

Page 10, line 18, delete "*or misconduct of*"

Page 11, line 2, before the period, insert "*included in subdivision 2*"

Page 11, line 18, delete "*attorney general or other*"

Page 11, line 22, delete everything before the comma and insert "*a reasonable time period*"

Page 11, delete lines 25 to 36

Page 12, delete line 1, and insert:

"Sec. 14. [611A.75] [REPORT TO LEGISLATURE.]

*The attorney general shall report to the legislature by February 1, 1987, and biennially thereafter, on the implementation and administration of sections 1 to 13 of this act."*

Page 12, line 5, delete "14" and insert "15"

Renumber the remaining sections

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

The report was adopted.

Bennett from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 1233, A bill for an act relating to liquor; extending a moratorium on certain town off-sale licenses; amending Laws 1984, chapter 626, section 6.

Reported the same back with the following amendments:

Page 1, line 14, reinstate the stricken language and delete the new language

Page 1, line 15, delete "1984" and insert "1985"

Page 1, after line 17, insert:

"Sec. 2. [OFF-SALE LICENSE.]

*Notwithstanding any law to the contrary, the town board of the town of Cannon Falls in Goodhue county may issue an off-sale license to an establishment located within the town, with the approval of the county board and the commissioner of public safety. The license fee shall be fixed by the town board in an amount not to exceed \$500. A license issued pursuant to this section shall be governed by the appropriate provisions of Minnesota Statutes, chapter 340, except as otherwise provided by this section.*

Sec. 3. [TOWN LIQUOR LICENSE.]

*Notwithstanding any other provision of law, the town of Shingobee in Cass county may renew any off-sale intoxicating liquor license issued by it prior to the effective date of this section, and all licenses issued by the town prior to the effective date of this section may remain in effect.*

Sec. 4. [EFFECTIVE DATE.]

*Section 2 is effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the town board of Cannon Falls. Section 3 is effective July 1, 1985."*

Amend the title as follows:

Page 1, line 3, after the semicolon insert "authorizing the town of Cannon Falls to issue an off-sale license; authorizing the town of Shingobee to renew certain intoxicating liquor off-sale licenses;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Knickerbocker from the Committee on Governmental Operations to which was referred:

H. F. No. 1261, A bill for an act relating to agriculture; creating the Minnesota agriculture finance agency and Minnesota



agriculture loan fund; prescribing penalties; authorizing the issuance of state bonds; appropriating money; amending Minnesota Statutes 1984, section 290.01, subdivision 20b; proposing coding for new law as Minnesota Statutes, chapter 17C.

Reported the same back with the following amendments:

Page 2, line 29, delete "*agriculture*" and insert "*finance*"

Page 3, line 12, delete "*agriculture*" and insert "*finance*"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Onnen from the Committee on Health and Human Services to which was referred:

H. F. No. 1302, A bill for an act relating to mental health; establishing a legislative commission to study the need for regulation of psychotherapists.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [LEGISLATIVE STUDY COMMISSION ON THE REGULATION OF PSYCHOTHERAPISTS.]

*Subdivision 1. [COMMISSION ESTABLISHED.] An advisory task force is created to study and report to the commissioner of health and the legislature on the need for licensing or regulation of currently unregulated occupations, professions, and individuals engaging in psychotherapy. The commission consists of no more than 16 members, including a psychologist appointed by the board of psychology, a nurse appointed by the board of nursing, a psychiatrist appointed by the board of medical examiners, and the following members appointed by the commissioner of health:*

- (1) *a social worker;*
- (2) *a chemical dependency counselor;*
- (3) *a marriage and family therapist;*
- (4) *a counselor;*

(5) *two public members knowledgeable about psychotherapy or the regulation of occupations and professions; and*

(6) *up to seven additional members who have knowledge and expertise in the procedures and issues related to the regulation of occupations and professions.*

*The commission shall report its findings and recommendations to the commissioner of health and the legislature by January 1, 1986. In addition to addressing the criteria for regulation specified in section 214.001, subdivision 2, and other matters the commission considers appropriate, the report must address (1) the need to create consequences for psychotherapists who exploit, mistreat, or otherwise harm a client, including consequences that are directly related to their practice of psychotherapy including prohibitions of the right to practice; and (2) the need for a system of redress with the state, for victims of misconduct by psychotherapists, that is directly related to the psychotherapist's practice.*

## Sec. 2. [APPROPRIATION.]

*\$ . . . . . is appropriated from the general fund to the commissioner of health for the purposes of section 1, to be available until June 30, 1987."*

Delete the title and insert:

**"A bill for an act relating to mental health; establishing a commission to study the need for regulation of psychotherapists; appropriating money."**

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

The report was adopted.

**Valento from the Committee on Local and Urban Affairs to which was referred:**

**H. F. No. 1316, A bill for an act relating to local government; increasing the amount that a county board may credit to the sheriff's contingency fund; amending Minnesota Statutes 1984, section 387.212.**

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 387.212, is amended to read:

**387.212 [CONTINGENT FUND.]**

The board of county commissioners in any county may create a sheriff's contingent fund and may credit thereto not more than (\$1,000) \$3,000. The moneys in such fund may be used for the advancement and reimbursement of expenses of the sheriff and his office. Such moneys shall be disbursed by the county treasurer in accordance with rules and regulations prescribed by the board."

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

The report was adopted.

Bennett from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 1360, A bill for an act relating to housing; providing for a product standard for formaldehyde in building materials used in the construction of housing units; amending Minnesota Statutes 1984, section 325F.18, subdivisions 1 and 4; proposing coding for new law in Minnesota Statutes, chapter 325F; repealing Minnesota Statutes 1984, sections 144.495; and 325F.18, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 144.495, is amended to read:

**144.495 [FORMALDEHYDE RULES.]**

(WITHIN 30 DAYS AFTER APRIL 24, 1980) *The legislature finds that building materials containing urea formaldehyde may emit unsafe levels of formaldehyde in newly constructed housing units. The product standards prescribed in section 5 are intended to provide indoor air levels of formaldehyde that do not exceed 0.4 parts per million. If the commissioner of health determines that the standards prescribed in section 5 result in indoor air levels of formaldehyde that exceed 0.4 parts per million, the commissioner may adopt different building materials product standards to ensure that the 0.4 parts per million level is not exceeded. The commissioner (OF HEALTH SHALL DETER-*

MINE IF A SIGNIFICANT HEALTH PROBLEM IS PRESENTED BY THE USE OF BUILDING MATERIALS THAT EMIT FORMALDEHYDE GASES. IF HE DETERMINES THAT SUCH A PROBLEM EXISTS HE SHALL PROMULGATE RULES PURSUANT TO CHAPTER 14, INCLUDING EMERGENCY RULES, ESTABLISHING STANDARDS GOVERNING THE SALE OF BUILDING MATERIALS AND HOUSING UNITS THAT CONTAIN PRODUCTS MADE WITH UREA FORMALDEHYDE) *may adopt rules under chapter 14 to establish product standards as provided in this section. The rules of the commissioner governing ambient air levels of formaldehyde, Minnesota Rules, parts 4620.1600 to 4620.2100, are repealed, except that the rule of the commissioner relating to new installations of urea formaldehyde foam insulation in residential housing units remains in effect.*

Sec. 2. Minnesota Statutes 1984, section 325F.18, subdivision 1, is amended to read:

Subdivision 1. (a) No manufacturer shall sell any building materials and no builder shall sell or lease to the initial occupant a housing unit, other than a unit of manufactured housing, containing urea formaldehyde unless the manufacturer or builder has made the following written disclosure to any purchaser of the materials or housing unit or lessee of the housing unit: ("WARNING. THIS PRODUCT (HOUSING UNIT) CONTAINS THE CHEMICAL FORMALDEHYDE. FOR SOME PEOPLE FORMALDEHYDE MAY CAUSE HEALTH PROBLEMS, SUCH AS IRRITATION OF THE EYES, NOSE AND THROAT, SNEEZING, COUGHING, HEADACHES, SHORTNESS OF BREATH, OR CHEST OR STOMACH PAINS. CHILDREN UNDER THE AGE OF TWO, ELDERLY PEOPLE, PEOPLE WITH BREATHING PROBLEMS OR PEOPLE WITH ALLERGIES MAY HAVE MORE SERIOUS DIFFICULTIES. IF YOU HAVE QUESTIONS ABOUT PROBLEMS YOU MAY HAVE WITH FORMALDEHYDE, CONSULT A DOCTOR.") "IMPORTANT HEALTH NOTICE.

SOME OF THE BUILDING MATERIALS USED IN THIS HOME (OR THESE BUILDING MATERIALS) EMIT FORMALDEHYDE. EYE, NOSE, AND THROAT IRRITATION, HEADACHE, NAUSEA AND A VARIETY OF ASTHMA-LIKE SYMPTOMS, INCLUDING SHORTNESS OF BREATH, HAVE BEEN REPORTED AS A RESULT OF FORMALDEHYDE EXPOSURE. ELDERLY PERSONS AND YOUNG CHILDREN, AS WELL AS ANYONE WITH A HISTORY OF ASTHMA, ALLERGIES, OR LUNG PROBLEMS, MAY BE AT GREATER RISK. RESEARCH IS CONTINUING ON THE POSSIBLE LONG-TERM EFFECTS OF EXPOSURE TO FORMALDEHYDE.

REDUCED VENTILATION MAY ALLOW FORMALDEHYDE AND OTHER CONTAMINANTS TO ACCUMU-

**LATE IN THE INDOOR AIR. HIGH INDOOR TEMPERATURES AND HUMIDITY RAISE FORMALDEHYDE LEVELS. WHEN A HOME IS TO BE LOCATED IN AREAS SUBJECT TO EXTREME SUMMER TEMPERATURES, AN AIR-CONDITIONING SYSTEM CAN BE USED TO CONTROL INDOOR TEMPERATURE LEVELS. OTHER MEANS OF CONTROLLED MECHANICAL VENTILATION CAN BE USED TO REDUCE LEVELS OF FORMALDEHYDE AND OTHER INDOOR AIR CONTAMINANTS.**

**IF YOU HAVE ANY QUESTIONS REGARDING THE HEALTH EFFECTS OF FORMALDEHYDE, CONSULT YOUR DOCTOR OR LOCAL HEALTH DEPARTMENT."**

*(b) No manufacturer shall sell or lease a manufactured home containing urea formaldehyde unless the manufacturer has made the written disclosure prescribed in Code of Federal Regulations, title 24, section 3280.309 (1984).*

**Sec. 3. Minnesota Statutes 1984, section 325F.18, subdivision 1a, is amended to read:**

**Subd. 1a. For the purposes of this section "building materials" means any urea formaldehyde-containing material used in the construction (OR), insulation, or renovation of a housing unit or a nonresidential building, but does not include:**

**(1) draperies, carpeting, furniture and furnishings not normally permanently affixed to a housing unit; and**

**(2) noncellular insulation.**

**Sec. 4. Minnesota Statutes 1984, section 325F.18, subdivision 4, is amended to read:**

**Subd. 4. The manufacturer of a product (OR BUILDER OF A HOUSING UNIT) that contains (MATERIALS MADE WITH) urea formaldehyde shall pay the reasonable cost of repair or relocation if the consumer can document that the (HOUSING UNIT CONTAINS A SIGNIFICANT AMBIENT AIR LEVEL OF FORMALDEHYDE AND IN ADDITION) product used in constructing the consumer's residence did not, at the time of manufacture, meet the product standard established in section 5. The builder of a housing unit shall pay the reasonable cost of repair or relocation if the consumer can document that the builder used products in the construction of the housing unit that were subject to the product standard adopted under section 5 but were not certified and labeled under section 5. A manufacturer or builder is not liable under this subdivision unless the consumer has documented medical records of illness related to formaldehyde and a statement from a physician that the consumer must vacate the premises. The party who has received**

the claim has the right to test the (AMBIENT AIR LEVEL OF THE) housing unit or products at reasonable times.

If within 30 days after the presentation of the items set forth above the manufacturer or builder and the consumer do not agree on a remedy the consumer may bring suit to recover the reasonable cost of repair or relocation plus reasonable attorneys' fees. Notwithstanding the remedy under this subdivision, the consumer may bring an action for personal injury, if any, if the action is commenced within one year from (THE PRESENTATION OF THE ITEMS REQUIRED BY THIS SUBDIVISION) *the consumer's receipt of the order of a physician to vacate the premises due to an illness related to formaldehyde.*

Sec. 5. [325F.181] [FORMALDEHYDE PRODUCT STANDARD.]

*All plywood and particleboard used in newly constructed housing units, including manufactured homes, or sold to the public for use as building materials, shall comply with the product standards, certification and labeling requirements, and other provisions in Code of Federal Regulations, title 24, sections 3280.308 and 3280.406 (1984). All medium density fiberboard used in newly constructed housing units, including manufactured homes, or sold to the public for use as building materials, shall comply with the product standard, certification and labeling requirements, and other provisions for particleboard in Code of Federal Regulations, title 24, section 3280.308 (1984), notwithstanding the fact that medium density fiberboard is not specifically covered by that regulation. The product standards prescribed in this section may be modified by rule by the commissioner of health only as provided in section 144.495.*

Sec. 6. [STUDY.]

*The commissioner of health shall study the feasibility of developing product standards for, or otherwise regulating, the materials exempted from the definition of building materials in section 325F.18, subdivision 1a. The commissioner shall report to the legislature by January 1, 1987.*

Sec. 7. [REPEALER.]

*Minnesota Statutes 1984, section 325F.18, subdivision 5, is repealed.*

Sec. 8. [EFFECTIVE DATE.]

*Sections 1 to 7 are effective June 30, 1985."*

Delete the title and insert:

"A bill for an act relating to housing; providing for a product standard for formaldehyde in building materials used in the construction of housing units; amending Minnesota Statutes 1984, sections 144.495; and 325F.18, subdivisions 1, 1a, and 4; proposing coding for new law in Minnesota Statutes, chapter 325F; repealing Minnesota Statutes 1984, section 325F.18, subdivision 5."

With the recommendation that when so amended the bill pass.

The report was adopted.

Bennett from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 1392, A bill for an act relating to economic development; providing a state advocacy function for business license applicants; amending Minnesota Statutes 1984, section 116J.76.

Reported the same back with the following amendments:

Page 2, line 8, delete "*business license applicants*,"

Page 2, line 9, delete "*especially*" and the first comma

Amend the title as follows:

Page 1, line 3, after "for" insert "small"

With the recommendation that when so amended the bill pass.

The report was adopted.

Bennett from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 1409, A bill for an act relating to commerce; requiring certain agreements to extend credit to be in writing; proposing coding for new law in Minnesota Statutes, chapter 513.

Reported the same back with the following amendments:

Page 1, line 14, delete "*makes*" and insert "*extends credit under*"

Page 1, line 16, delete "*has*" and insert "*obtains credit*"

With the recommendation that when so amended the bill pass.

The report was adopted.

Knickerbocker from the Committee on Governmental Operations to which was referred:

H. F. No. 1427, A bill for an act relating to the economic crisis in Minnesota; creating the Minnesota Industrial Development Corporation to promote economic development in Minnesota and to provide incentives for industrial and manufacturing enterprises to locate in Minnesota; providing for a board of directors; establishing a Minnesota industrial recovery fund; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 116N.

Reported the same back with the following amendments:

Page 2, line 1, delete "is" and insert "are (1)"

Page 2, line 6, after "areas" insert "; and (2) to encourage economic development by supporting community development corporations"

Page 2, after line 15, insert:

"Subd. 3. "Community development corporation" means a corporation established under section 116M.04."

Renumber subsequent subdivisions

Page 2, line 36, after the period insert " "Project" also includes projects sponsored by a community development corporation and approved by the energy and economic development authority."

Page 3, line 17, after "speaker" insert "who is to be a nonvoting member"

Page 3, line 18, after "leader" insert "who is to be a nonvoting member"

Page 3, line 19, after "be" insert "unanimously" and delete "jointly"

Page 3, line 32, after the period insert "A majority of the board, excluding vacant memberships and those who excuse themselves due to a conflict of interest on a specific issue, is a quorum. When a quorum is present at any meeting of which notice has been given or waived by all absent members in the manner provided in bylaws adopted by a vote of a majority of all board members, any action of the board may be taken by the vote of a majority of the members present unless otherwise provided in this act."

Page 4, after line 2, insert:



*"Subd. 6. [CONFLICT OF INTEREST.] Board members shall be considered public officials for the purposes of section 10A.07."*

Page 5, line 7, delete *"or donate"*

Page 6, after line 15, insert:

*"(17) to make grants or loans to community development corporations established under section 116M.04 to fund projects sponsored by those corporations;"*

Renumber subsequent clause

Page 6, line 35, before *"to"* insert *"the corporation shall have the power"*

Page 7, after line 28, insert:

*"(b) No disbursement from the recovery fund may be made if the project will result in encouraging or subsidizing a business already located in Minnesota to move its operations from its current Minnesota location to an industrial recovery area."*

Reletter the remaining paragraphs in sequence

Page 7, line 35, after the period insert *"The limitations of this clause do not apply to grants or loans to community development corporations."*

Page 9, line 4, after the period insert *"In addition to this appropriation, \$ . . . . . must be used for grants or loans to community development corporations."*

Page 9, line 13, after the period insert *"The report shall include the number of people employed through projects funded by the corporation, the number of these employed people who were formerly unemployed Minnesota residents, and the average wage rate of people employed on these projects."*

Page 9, line 16, before the period insert *"and to the state auditor"*

Page 10, after line 4, insert:

*"Subd. 5. [CORPORATION NOT A STATE AGENCY.] The corporation is not a state agency under chapter 14, chapter 15, or for any other purpose unless provided in this act."*

Amend the title as follows:

Page 1, lines 2, 4, and 6, before "Minnesota" insert "distressed areas of"

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

The report was adopted.

Onnen from the Committee on Health and Human Services to which was referred:

H. F. No. 1436, A bill for an act relating to occupations and professions; revising the standards for licensing and disciplining physicians; establishing reporting requirements for health professionals and granting immunity to those complying with reporting requirements; appropriating money; recodifying certain provisions in Minnesota Statutes, chapter 147; amending Minnesota Statutes 1984, sections 147.02, subdivision 1; 147.021; 147.03; 147.073; 147.074; 147.09; 147.10; and 176.011, subdivision 9; proposing coding for new law in Minnesota Statutes, chapter 147; repealing Minnesota Statutes 1984, sections 147.02, subdivision 2; 147.06; 147.07; 147.072; 147.101; 147.11; 147.12; 147.13; 147.16; 147.17; 147.18; 147.19; 147.20; and 147.23.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 147.01, subdivision 1, is amended to read:

Subdivision 1. [CREATION; TERMS.] The board of medical examiners (SHALL CONSIST) *consists of* 11 (MEMBERS,) residents of the state of Minnesota (,) appointed by the governor (AS HEREINAFTER PROVIDED (A)). Seven (OF WHOM SHALL) *board members must* hold a degree of doctor of medicine and be licensed to practice medicine under this chapter (, (B)). One (OF WHOM SHALL) *board member must* hold a degree of doctor of osteopathy and either be licensed to practice osteopathy under Minnesota Statutes 1961, Sections 148.11 to 148.16; prior to May 1, 1963, or be licensed to practice medicine under this chapter (AND (C)). Three (OF WHOM SHALL) *board members must* be public members as defined by section 214.02. *One of the public members must represent a mental health and consumer advocacy organization.* A member may serve more than one term but shall not serve more than two terms consecutively. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements (SHALL BE) *are* as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and process-

ing of complaints; the setting of board fees; and other provisions relating to board operations (SHALL BE) are as provided in chapter 214 and Laws 1976, Chapter 222, Sections 2 to 7.

Sec. 2. Minnesota Statutes 1984, section 147.01, subdivision 2, is amended to read:

Subd. 2. [RECOMMENDATIONS FOR APPOINTMENT.] (EACH YEAR IN WHICH THE TERMS OF DOCTORS OF MEDICINE EXPIRE THE COUNCIL OF THE MINNESOTA STATE MEDICAL ASSOCIATION SHALL RECOMMEND TO THE GOVERNOR THREE DOCTORS OF MEDICINE QUALIFIED TO SERVE ON THE BOARD WITH RESPECT TO EACH MEMBERSHIP WHICH IS THEN FILLED BY A DOCTOR OF MEDICINE. EACH YEAR IN WHICH THE TERM OF A DOCTOR OF OSTEOPATHY EXPIRES, THE MINNESOTA STATE OSTEOPATHIC ASSOCIATION SHALL RECOMMEND TO THE GOVERNOR THREE DOCTORS OF OSTEOPATHY QUALIFIED TO SERVE ON THE BOARD. FROM THE LIST OF PERSONS SO RECOMMENDED THE GOVERNOR MAY APPOINT ONE MEMBER TO THE BOARD FOR THE ABOVE PRESCRIBED TERM OF FOUR YEARS. WITHIN 60 DAYS AFTER THE OCCURRENCE OF ANY VACANCY IN THE BOARD, THE COUNCIL OF THE MINNESOTA STATE MEDICAL ASSOCIATION, IF THE VACANCY BE WITH RESPECT TO A MEMBERSHIP VACATED BY A DOCTOR OF MEDICINE, OR THE MINNESOTA STATE OSTEOPATHIC ASSOCIATION, IF THE VACANCY BE WITH RESPECT TO A MEMBERSHIP VACATED BY A DOCTOR OF OSTEOPATHY, SHALL RECOMMEND TO THE GOVERNOR THREE DOCTORS OF MEDICINE QUALIFIED TO SERVE ON THE BOARD IF THE RECOMMENDATION BE BY THE MINNESOTA STATE MEDICAL ASSOCIATION OR THREE DOCTORS OF OSTEOPATHY QUALIFIED TO SERVE ON THE BOARD IF THE RECOMMENDATION BE BY THE MINNESOTA STATE OSTEOPATHIC ASSOCIATION. FROM THE LIST OF PERSONS SO RECOMMENDED THE GOVERNOR, WITHIN 30 DAYS AFTER RECEIVING SUCH RECOMMENDATION, MAY APPOINT ONE MEMBER TO THE BOARD FOR THE UNEXPIRED TERM OCCASIONED BY SUCH VACANCY AND ANY APPOINTMENT THERETO TO FILL A VACANCY SHALL BE MADE WITHIN 90 DAYS AFTER THE OCCURRENCE OF SUCH VACANCY FOR THE BALANCE OF THE UNEXPIRED TERM) *Prior to the end of the term of a doctor of medicine on the board, or within 60 days after a doctor of medicine membership on the board becomes vacant, the state medical association, the mental health association of Minnesota, and other interested persons and organizations may recommend to the governor doctors of medicine and public members qualified to serve on the board. Prior to the end of the term of a doctor of osteopathy, or within 60 days after a doctor of osteopathy membership becomes vacant, the Minnesota osteopathic medical society may recommend to the governor three doc-*

*tors of osteopathy qualified to serve on the board. The governor may appoint members to the board from the list of persons recommended or from among other qualified candidates.*

Sec. 3. Minnesota Statutes 1984, section 147.01, subdivision 4, is amended to read:

Subd. 4. [DISCLOSURE.] *Subject to the exceptions listed in this subdivision, all communications or information received by or disclosed to the board relating to any person or matter subject to its regulatory jurisdiction, and all records of any action or proceedings thereon, except (ONLY) a final decision of the board, (WHICH SHALL STATE THE SPECIFIC REASON THEREFOR SHALL BE) are confidential and privileged (WITHIN THE MEANING OF SECTION 595.02, SUBDIVISION 1, PARAGRAPH (E), AND SHALL NOT BE PUBLIC RECORDS WITHIN THE MEANING OF SECTION 15.17, SUBDIVISION 4; PROVIDED THAT) and any disciplinary hearing shall be closed to the public.*

(a) Upon application of a party in a proceeding before the board (PURSUANT TO) *under section 147.021, the board shall produce and permit the inspection and copying, by or on behalf of the moving party, of any designated documents or papers relevant to the proceedings, in accordance with the provisions of rule 34, Minnesota rules of civil procedure.*

(b) *If the board imposes disciplinary measures of any kind, the name and business address of the licensee, the nature of the misconduct, and the action taken by the board are public data.*

(c) *The board may exchange information with other licensing boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph (e), and may release information in the reports required under sections 147.02, subdivision 6, and 214.10, subdivision 8, paragraph (c).*

Sec. 4. Minnesota Statutes 1984, section 147.02, subdivision 1, is amended to read:

Subdivision 1. [(EXAMINATION) UNITED STATES OR CANADIAN MEDICAL SCHOOL GRADUATES.] (A PERSON NOT AUTHORIZED TO PRACTICE MEDICINE IN THE STATE AND DESIRING SO TO DO SHALL APPLY TO THE SECRETARY OF THE STATE BOARD OF MEDICAL EXAMINERS AND PAY A FEE SET BY THE BOARD, WHICH IN NO CASE SHALL BE REFUNDED. AT A TIME APPOINTED, OR AT THE NEXT REGULAR EXAMINATION, HE SHALL PROVE (A) THAT HE IS OF GOOD MORAL CHARACTER; (B) THAT HE IS EITHER A GRADUATE OF A MEDICAL OR OSTEOPATHIC SCHOOL APPROVED BY THE BOARD AFTER A STUDY OF ITS CUR-

RICULUM, FACULTY, FACILITIES, ACCREDITATION, AND OTHER RELEVANT DATA, OR IS CURRENTLY ENROLLED IN THE FINAL YEAR OF STUDY AT SUCH SCHOOL; AND (C) THAT HE HAS SATISFACTORILY PASSED, WITHIN THREE YEARS BEFORE, OR FIVE YEARS AFTER BEING GRANTED THE DEGREE OF M.D. OR D.O., AN EXAMINATION PREPARED AND GRADED BY EITHER THE FEDERATION OF STATE MEDICAL BOARDS OR THE NATIONAL BOARD OF MEDICAL EXAMINERS. CERTIFICATION OF PASSAGE BY EITHER THE FEDERATION OF STATE MEDICAL BOARDS, THE NATIONAL BOARD OF MEDICAL EXAMINERS OR THE MEDICAL SCHOOL FROM WHICH THE APPLICANT GRADUATED SHALL BE ACCEPTED AS EVIDENCE THAT THE APPLICANT HAS PASSED SUCH EXAMINATION. IF THE BOARD DETERMINES THAT THE APPLICANT HAS NOT SATISFACTORILY PASSED AN EXAMINATION WITHIN THREE YEARS BEFORE, OR FIVE YEARS AFTER BEING GRANTED THE DEGREE OF M.D. OR D.O., THE BOARD MAY REQUIRE THE APPLICANT TO TAKE EITHER OF THE EXAMINATIONS. THE BOARD MAY BY RULE ESTABLISH FEES FOR THE RENEWAL OF LICENSES AND PERMITS AUTHORIZED BY THIS CHAPTER. THE BOARD MAY ASSESS A CHARGE, TO BE SET BY RULE, FOR THE DELINQUENT PAYMENT OF A FEE.)

(THE BOARD MAY ISSUE A TEMPORARY PERMIT TO PRACTICE MEDICINE TO A PHYSICIAN ELIGIBLE FOR LICENSURE UNDER SECTION 147.03 UPON PAYMENT OF A FEE SET BY THE BOARD. THE PERMIT SHALL BE VALID ONLY UNTIL THE NEXT MEETING OF THE BOARD.) *The board shall, with the consent of six of its members, issue a license to practice medicine to a person who meets the following requirements:*

(a) *An applicant for a license shall file a written application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.*

(b) *The applicant shall present evidence satisfactory to the board that he or she is a graduate of a medical or osteopathic school located in the United States, its territories or Canada, and approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant data, or is currently enrolled in the final year of study at the school.*

(c) *The applicant must have passed an examination prepared and graded by the national board of medical examiners or the federation of state medical boards. The board shall by rule determine what constitutes a passing score in the examination.*

(d) *The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization.*

(e) *The applicant shall make arrangements with the executive director to appear in person before the board or its designated representative to show that he or she satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.*

(f) *The applicant shall pay a fee established by the board by rule. The fee may not be refunded.*

(g) *The applicant must not have engaged in conduct warranting disciplinary action against a licensee. If the applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.*

Sec. 5. Minnesota Statutes 1984, section 147.02, is amended by adding a subdivision to read:

*Subd. 5. [PROCEDURES.] The board shall adopt a written statement of internal operating procedures describing procedures for receiving and investigating complaints, reviewing misconduct cases, and imposing disciplinary actions.*

Sec. 6. Minnesota Statutes 1984, section 147.02, is amended by adding a subdivision to read:

*Subd. 6. [DISCIPLINARY ACTIONS MUST BE PUBLISHED.] At least annually, the board shall publish and release to the public a description of all disciplinary measures taken by the board. The publication must include, for each disciplinary measure taken, the name and business address of the licensee, the nature of the misconduct, and the disciplinary measure taken by the board.*

Sec. 7. Minnesota Statutes 1984, section 147.021, is amended to read:

**147.021 [(REFUSAL TO GRANT LICENSE, SUSPENSION OR REVOCATION OF LICENSE) GROUNDS FOR DISCIPLINARY ACTION.]**

**Subdivision 1. [GROUNDS LISTED.]** The board (SHALL CENSURE, SHALL) *may* refuse to grant a license (TO, SHALL

ORDER RE-EXAMINATION, OR SHALL SUSPEND, REVOKE, CONDITION, LIMIT, QUALIFY OR RESTRICT THE LICENSE, WHETHER GRANTED UNDER THIS CHAPTER OR UNDER MINNESOTA STATUTES 1961, SECTIONS 148.11 TO 148.16, PRIOR TO MAY 1, 1963, OF ANY PERSON WHOM SUCH BOARD, AFTER A HEARING, ADJUDGES UNQUALIFIED OR WHO THE BOARD DETERMINES AFTER SUCH A HEARING IS ANY ONE OR MORE OF THE FOLLOWING) *or may impose disciplinary action as described in section 17 against any physician. The following conduct is prohibited and is grounds for disciplinary action:*

(a) (A PERSON WHO FAILS) *Failure to demonstrate the qualifications or satisfy the (STANDARDS) requirements for a license contained in this chapter or rules of the board. The burden of proof shall be upon the applicant to demonstrate such qualifications or satisfaction of such (STANDARDS) requirements.*

(b) (A PERSON WHO MAKES MISLEADING, DECEPTIVE, UNTRUE OR FRAUDULENT REPRESENTATIONS IN THE PRACTICE OF MEDICINE OR WHO EMPLOYS A TRICK OR SCHEME IN THE PRACTICE OF MEDICINE OR FRAUD OR DECEIT IN OBTAINING A LICENSE TO PRACTICE MEDICINE) *Obtaining a license by fraud or cheating, or attempting to subvert the licensing examination process. Conduct which subverts or attempts to subvert the licensing examination process includes, but is not limited to: (1) conduct which violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination; (2) conduct which violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or (3) impersonating an examinee or permitting an impersonator to take the examination in one's own behalf.*

(c) (A PERSON WHO AT ANY TIME) *Conviction, during the previous five years (WAS CONVICTED), of a felony reasonably related to (HIS) the practice of medicine or osteopathy. Conviction as used in this subdivision shall include a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered thereon.*

(d) (A PERSON WHOSE LICENSE TO PRACTICE MEDICINE HAS BEEN REVOKED, SUSPENDED, AN-

NULLED OR WITH REGARD TO WHOM DISCIPLINARY ACTION HAS BEEN TAKEN OR WHOSE APPLICATION FOR A LICENSE HAS BEEN DENIED BY THE PROPER LICENSING AUTHORITY OF ANOTHER STATE, TERRITORY OR COUNTRY.)

(IN CLAUSES (C) AND (D) A COPY OF THE JUDGMENT OR PROCEEDING UNDER THE SEAL OF THE CLERK OF THE COURT OR OF THE ADMINISTRATIVE AGENCY WHICH ENTERED THE SAME SHALL BE ADMISSIBLE INTO EVIDENCE WITHOUT FURTHER AUTHENTICATION AND SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF THE CONTENTS THEREOF) *Revocation, suspension, restriction, limitation, or other disciplinary action against the person's medical license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction.*

(e) (A PERSON WHO ADVERTISES IN ANY MANNER, EITHER IN HIS OWN NAME OR UNDER THE NAME OF ANOTHER PERSON OR CONCERN, ACTUAL OR PRETENDED, IN ANY NEWSPAPER, PAMPHLET, CIRCULAR, OR OTHER WRITTEN OR PRINTED PAPER OR DOCUMENT, PROFESSIONAL SUPERIORITY TO OR GREATER SKILL THAN THAT POSSESSED BY ANOTHER DOCTOR OF MEDICINE OR ANOTHER DOCTOR OF OSTEOPATHY LICENSED TO PRACTICE MEDICINE UNDER THIS CHAPTER, OR THE POSITIVE CURE OF ANY DISEASE) *Advertising which is false or misleading, which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by another physician.*

(f) (A PERSON WHO VIOLATES) *Violating a (LAWFUL) rule promulgated by the board or (VIOLATES A LAWFUL) an order of the board, (PREVIOUSLY ENTERED BY THE BOARD IN A DISCIPLINARY HEARING) a state, or federal law which relates to the practice of medicine, or in part regulates the practice of medicine, or a state or federal narcotics or controlled substance law.*

(g) (A PERSON WHO ENGAGES) *Engaging in any unethical (, DECEPTIVE OR DELETERIOUS) conduct; conduct (OR PRACTICE HARMFUL TO) likely to deceive, defraud, or harm the public, or (WHO DEMONSTRATES) demonstrating a willful or careless disregard for the health, welfare or safety of (HIS PATIENTS) a patient; or medical practice which is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established.*



(h) (A PERSON WHO PROCURES, AIDS, OR ABETS IN THE PROCURING OF A CRIMINAL ABORTION) *Failure to supervise a physician's assistant or failure to supervise a physician under any agreement with the board.*

(i) (A PERSON WHO VIOLATES A STATUTE OR RULE OF THIS STATE OR OF ANY OTHER STATE OR OF THE UNITED STATES WHICH RELATES TO THE PRACTICE OF MEDICINE OR IN PART REGULATES THE PRACTICE OF MEDICINE) *Aiding or abetting an unlicensed person in the practice of medicine, except that it is not a violation of this paragraph for a physician to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of his or her license or registration or delegated authority.*

(j) (A PERSON WHO HAS BEEN ADJUDGED) *Adjudication as mentally incompetent, mentally ill or mentally deficient, or (ADJUDGED TO BE) as a drug dependent person, an inebriate person, a person dangerous to the public, or a person who has a psychopathic personality by a court of competent jurisdiction, within or without this state. Such adjudication shall automatically suspend a license for the duration thereof unless the board orders otherwise.*

(k) (A PERSON WHO IS GUILTY OF) *Engaging in unprofessional conduct. Unprofessional conduct shall include any departure from or the failure to conform to the minimal standards of acceptable and prevailing medical practice in which proceeding actual injury to a patient need not be established.*

(l) (A PERSON WHO IS UNABLE) *Inability to practice medicine with reasonable skill and safety to patients by reason of illness, (PROFESSIONAL INCOMPETENCE, SENILITY,) drunkenness, use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills. (IF THE BOARD HAS PROBABLE CAUSE TO BELIEVE THAT A PHYSICIAN COMES WITHIN THIS CLAUSE, IT SHALL DIRECT THE PHYSICIAN TO SUBMIT TO A MENTAL OR PHYSICAL EXAMINATION. FOR THE PURPOSE OF THIS CLAUSE, EVERY PHYSICIAN LICENSED UNDER THIS CHAPTER SHALL BE DEEMED TO HAVE GIVEN HIS CONSENT TO SUBMIT TO A MENTAL OR PHYSICAL EXAMINATION WHEN DIRECTED IN WRITING BY THE BOARD AND FURTHER TO HAVE WAIVED ALL OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING PHYSICIANS' TESTIMONY OR EXAMINATION REPORTS ON THE GROUND THAT THE SAME CONSTITUTE A PRIVILEGED COMMUNICATION. FAILURE OF A PHYSICIAN TO SUBMIT TO SUCH EXAMINATION WHEN DIRECTED SHALL CONSTITUTE AN ADMIS-*

SION OF THE ALLEGATIONS AGAINST HIM, UNLESS THE FAILURE WAS DUE TO CIRCUMSTANCES BEYOND HIS CONTROL, IN WHICH CASE A DEFAULT AND FINAL ORDER MAY BE ENTERED WITHOUT THE TAKING OF TESTIMONY OR PRESENTATION OF EVIDENCE. A PHYSICIAN AFFECTED UNDER THIS CLAUSE SHALL AT REASONABLE INTERVALS BE AFFORDED AN OPPORTUNITY TO DEMONSTRATE THAT HE CAN RESUME THE COMPETENT PRACTICE OF MEDICINE WITH REASONABLE SKILL AND SAFETY TO PATIENTS.)

(IN ANY PROCEEDING UNDER THIS CLAUSE, NEITHER THE RECORD OF PROCEEDINGS NOR THE ORDERS ENTERED BY THE BOARD SHALL BE USED AGAINST A PHYSICIAN IN ANY OTHER PROCEEDING.)

(m) (A PERSON WHO WILLFULLY BETRAYS A PROFESSIONAL SECRET) *Revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law.*

(n) *Failure by a doctor of osteopathy (WHO FAILS) to identify his school of healing in the professional use of his name by one of the following terms: osteopathic physician and surgeon, doctor of osteopathy, or D.O.*

(o) *Improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made pursuant to section 144.335 or to furnish a medical record or report required by law.*

(p) *Splitting fees, or promising to pay a portion of a fee or a commission, or accepting a rebate.*

(q) *Engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws.*

(r) *Becoming addicted or habituated to a drug or intoxicant.*

(s) *Prescribing a drug for other than medically accepted therapeutic or experimental or investigative purposes authorized by a state or federal agency.*

(t) *Engaging in conduct with a patient which is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior which is seductive or sexually demeaning to a patient.*

(u) *Failure to make reports as required by section 14 or to cooperate with an investigation of the board as required by section 16.*

Subd. 2. [EFFECTIVE DATES.] A suspension, revocation, condition, limitation, qualification or restriction of a license shall be in effect pending determination of an appeal unless the court, upon petition and for good cause shown, shall otherwise order.

A license to practice medicine is *automatically* suspended if (1) a guardian of the person of a licensee is appointed by order of a probate court pursuant to sections 525.54 to 525.612, for reasons other than the minority of the licensee; or (2) the licensee is committed by order of a probate court pursuant to chapter 253B or sections 526.09 to 526.11. The license remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing. (A LICENSE TO PRACTICE MEDICINE IS ALSO SUSPENDED WHEN A LICENSEE IS CONVICTED OF THE CRIME OF ABORTION AND REMAINS SUSPENDED UNTIL, UPON PETITION BY THE LICENSEE, THE SUSPENSION IS TERMINATED BY THE BOARD AFTER A HEARING.)

(WHEN A PROBATE COURT OR OTHER COURT OF COMPETENT JURISDICTION APPOINTS A GUARDIAN OF THE PERSON OF A LICENSEE PURSUANT TO SECTIONS 525.54 TO 525.612 FOR REASONS OTHER THAN THE MINORITY OF THE LICENSEE OR COMMITS A LICENSEE PURSUANT TO CHAPTER 253B OR SECTIONS 526.09 TO 526.11, THE PROBATE COURT OR OTHER COURT OF COMPETENT JURISDICTION SHALL PROMPTLY NOTIFY THE BOARD IN WRITING OF THE FACT.)

Subd. 3. [CONDITIONS ON REISSUED LICENSE.] In its discretion, the board may restore and reissue a license to practice medicine, but as a condition thereof may impose any disciplinary or corrective measure which it might originally have imposed.

Subd. 4. [TEMPORARY SUSPENSION OF LICENSE.] In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend (A) *the* license (FOR NOT MORE THAN 60 DAYS) *of a physician* if the board finds that (A) *the* physician has violated a statute or rule which the board is empowered to enforce and continued practice by the physician would create (AN IMMINENT) *a serious* risk of harm to (OTHERS) *the public*. The suspension shall take effect upon written notice to the physician, specifying the statute or rule violated. *The suspension shall remain in effect until the board issues a final order in the matter after a hearing.* At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the administrative procedure act. The physician shall be provided with at least 20 days notice of any hearing held pursuant to this subdivision. *The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.*

*Subd. 5. [EVIDENCE.] In disciplinary actions alleging a violation of subdivision 1, paragraph (c) or (d), a copy of the judgment or proceeding under the seal of the clerk of the court or of the administrative agency which entered the same shall be admissible into evidence without further authentication and shall constitute prima facie evidence of the contents thereof.*

*Subd. 6. [MENTAL EXAMINATION; ACCESS TO MEDICAL DATA.] (a) If the board has probable cause to believe that a physician comes under subdivision 1, paragraph (1), it may direct the physician to submit to a mental or physical examination. For the purpose of this subdivision every physician licensed under this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication. Failure of a physician to submit to an examination when directed constitutes an admission of the allegations against the physician, unless the failure was due to circumstance beyond the physician's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A physician affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.*

*In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding.*

*(b) In addition to ordering a physical or mental examination, the board may, notwithstanding sections 13.42, 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a licensee or applicant without the licensee's or applicant's consent if the board has probable cause to believe that a physician comes under subdivision 1, paragraph (1). The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency, including the department of human services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private under sections 13.01 to 13.87.*

**Sec. 8.** Minnesota Statutes 1984, section 147.03, is amended to read:

147.03 [(LICENSES; BOARDS OF OTHER STATES, NATIONAL BOARD, MEDICAL COUNCIL OF CANADA) *LICENSURE BY ENDORSEMENT; RECIPROCITY.*]

(THE STATE BOARD OF MEDICAL EXAMINERS, EITHER WITH OR WITHOUT EXAMINATION, MAY GRANT A LICENSE TO ANY PHYSICIAN LICENSED TO PRACTICE BY A SIMILAR BOARD OF ANOTHER STATE, THE NATIONAL BOARD OF MEDICAL EXAMINERS, OR THE NATIONAL BOARD OF EXAMINERS FOR OSTEOPATHIC PHYSICIANS AND SURGEONS OR THE LICENSURE MEDICAL COUNCIL OF CANADA. THE PHYSICIAN MUST HOLD A CERTIFICATE OF REGISTRATION SHOWING THAT AN EXAMINATION HAS BEEN MADE BY THE PROPER BOARD, IN WHICH AN AVERAGE GRADE OF NOT LESS THAN 75 PERCENT WAS AWARDED TO THE HOLDER AND THAT THE APPLICANT AND HOLDER OF THE CERTIFICATE WAS, AT THE TIME OF THE EXAMINATION, THE LEGAL POSSESSOR OF A DIPLOMA FROM A MEDICAL OR OSTEOPATHIC COLLEGE IN GOOD STANDING IN THIS STATE. IN CASE THE SCOPE OF THE PREVIOUS EXAMINATION WAS LESS THAN THAT PRESCRIBED BY THIS STATE, THE APPLICANT MAY BE REQUIRED TO SUBMIT TO AN EXAMINATION IN ANY SUBJECTS NOT PREVIOUSLY COVERED. THE APPLICANT SHALL PAY A FEE OF \$100, WHICH IN NO CASE SHALL BE REFUNDED.)

(A CERTIFICATE OF REGISTRATION OR LICENSE ISSUED BY THE PROPER BOARD OF ANY STATE MAY BE ACCEPTED AS EVIDENCE OF QUALIFICATION FOR REGISTRATION IN THIS STATE; PROVIDED THE HOLDER THEREOF WAS, AT THE TIME OF SUCH REGISTRATION, THE LEGAL POSSESSOR OF A DIPLOMA ISSUED BY A MEDICAL OR OSTEOPATHIC COLLEGE IN GOOD STANDING IN THIS STATE AND THAT THE DATE THEREOF WAS PRIOR TO THE LEGAL REQUIREMENTS OF THE EXAMINATION TEST IN THIS STATE.) *The board, with the consent of six of its members, may issue a license to practice medicine to any person who satisfies the following requirements:*

(a) *The applicant shall satisfy all the requirements established in section 4, subdivision 1, paragraphs (a), (b), (d), (e), and (f).*

(b) *The applicant shall present evidence satisfactory to the board that he or she has a valid license to practice medicine issued by the proper agency in another state or by a province of Canada; or is a diplomate of the national board of medical examiners, the national board of examiners for osteopathic physicians and surgeons, or the licensure medical council of Canada.*

(c) *The applicant shall present evidence satisfactory to the board that he or she passed an examination as determined by the endorsing examining board or licensing agency. The board, at its discretion, may establish by rule passing grade levels higher than those determined by an examining board or agency or may require the applicant to be examined in subjects not previously covered in an examination.*

(d) *The applicant shall pay a fee established by the board by rule. The fee may not be refunded.*

(e) *The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action in another state. If an applicant does not satisfy the requirements stated in this clause, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.*

*The board may issue a temporary permit to practice medicine to a physician eligible for licensure under this section upon payment of a fee set by the board. The permit remains valid only until the next meeting of the board.*

#### **Sec. 9. [147.037] [LICENSING OF FOREIGN MEDICAL SCHOOL GRADUATES.]**

*Subdivision 1. [REQUIREMENTS.] The board shall, with the consent of six of its members, issue a license to practice medicine to any person who satisfies the following requirements:*

(a) *The applicant shall satisfy all the requirements established in section 4, subdivision 1, paragraphs (a), (e), (f), and (g).*

(b) *The applicant shall present evidence satisfactory to the board that he or she is a graduate of a medical or osteopathic school approved by the board as equivalent to accredited United States or Canadian schools based upon its faculty, curriculum, facilities, accreditation, or other relevant data.*

(c) *The applicant shall present evidence satisfactory to the board that he or she has been awarded a certificate by the educational council for foreign medical graduates and that he or she has a working ability in the English language sufficient to communicate with patients and physicians and to engage in the practice of medicine.*

(d) *The applicant shall present evidence satisfactory to the board of the completion of two years of graduate, clinical medical training in a program located in the United States, its territories, or Canada and accredited by a national accrediting*

*organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization. This requirement shall not apply to an applicant who is admitted as a permanent immigrant to the United States as a person of exceptional ability in the sciences pursuant to rules of the United States department of labor and who has completed one year of the graduate, clinical medical training required by this paragraph.*

*(e) The applicant must have passed an examination prepared and graded by the federation of state medical boards, the licensure medical council of Canada, or shall establish eligibility through reciprocity with another state using an examination equivalent to Minnesota's at the time the applicant was licensed in that state.*

*Subd. 2. [MEDICAL SCHOOL REVIEW.] The board may contract with any qualified person or organization for the performance of a review or investigation, including site visits if necessary, of any medical or osteopathic school prior to approving the school under section 4, subdivision 1, paragraph (b) or subdivision 1, paragraph (b), of this section. To the extent possible, the board shall require the school being reviewed to pay the costs of the review or investigation.*

**Sec. 10.** Minnesota Statutes 1984, section 147.073, is amended to read:

**147.073 [PHYSICIAN ACCOUNTABILITY.]**

**Subdivision 1. [INVESTIGATION.]** The board shall maintain and keep current a file containing the (INSURERS) reports and (PUBLIC) complaints filed against physicians in the state (, WHICH SHALL BE PRIVATE INFORMATION ACCESSIBLE, PURSUANT TO CHAPTER 13, TO THE PHYSICIAN WHO IS THE SUBJECT OF THE DATA). Each complaint filed with the board pursuant to section 214.10, subdivision 1, shall be investigated according to section 214.10, subdivision 2.

Whenever the files maintained by the board show that a medical malpractice settlement or award to the plaintiff has been made against a physician as reported by insurers pursuant to section (147.072) 9, the executive director of the board shall notify the board and the board may authorize a review of the physician's practice.

**Subd. 2. [ATTORNEY GENERAL INVESTIGATES.]** When the board initiates a review of a physician's practice it shall notify the attorney general who shall investigate the matter in the same manner as provided in section 214.10. If an investigation is to be made, the attorney general shall notify the physician, and, if the incident being investigated occurred there, the

administrator and chief of staff at the medical care facilities in which the physician serves.

Subd. 3. [ACCESS TO HOSPITAL RECORDS.] The board shall have access to hospital and medical records of a patient treated by the physician under review if the patient signs a written consent permitting such access. *If no consent form has been signed, the hospital or physician shall first delete data in the record which identifies the patient before providing it to the board.*

Sec. 11. Minnesota Statutes 1984, section 147.074, is amended to read:

**147.074 [(PHYSICIAN'S LISTING OF) MEDICAL CARE FACILITIES; (FILING) EXCLUSION.]**

Each physician shall file with the board a list of the in-patient and out-patient medical care facilities at which (THEY HAVE) *he or she has* medical privileges. The list shall be updated when the physician applies for license renewal. *Nothing in this chapter grants to any person the right to be admitted to the medical staff of a health care facility.*

Sec. 12. Minnesota Statutes 1984, section 147.09, is amended to read:

**147.09 [EXEMPTIONS.]**

**(THIS CHAPTER SHALL)** *Section 147.10 does not (APPLY TO COMMISSIONED SURGEONS OF THE UNITED STATES ARMED FORCES, TO PHYSICIANS) prevent or restrict the practice, service, or activities of:*

(1) *A person who is a commissioned medical officer of, a member of, or employed by, the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution or any federal agency while engaged in the performance of official duties within this state, if the person is licensed elsewhere.*

(2) *A licensed physician from (OTHER STATES) a state or country who (ARE) is in actual consultation here (OR).*

(3) *A licensed physician who (TREAT THEIR) treats his or her homestate patients or other participating patients while the physicians and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3 (, TO STUDENTS). A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to promulgate the contents of that form by rule. No fee shall be charged for this registration.*



(4) *A student practicing under the direct supervision of a preceptor while (THEY ARE) he or she is enrolled in and regularly attending a recognized medical school (OR TO).*

(5) *A student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any hospital or institution approved for training by the board.*

(6) *A person employed in a scientific, sanitary or teaching (PERSONNEL EMPLOYED) capacity by the state university, the state department of education, or by any public or private school, college, or other bona fide educational institution, or the state department of health, whose duties are entirely of a public health or educational character, while engaged in such duties.*

**(THESE PHYSICIANS SHALL FIRST REGISTER WITH THE BOARD OF MEDICAL EXAMINERS AND SHALL COMPLETE A FORM PROVIDED BY THE BOARD FOR THAT PURPOSE. THE BOARD SHALL NOT BE REQUIRED TO PROMULGATE THE CONTENTS OF THAT FORM BY RULE. NO FEE SHALL BE CHARGED FOR THIS REGISTRATION.)**

(7) *Physician's assistants registered in this state.*

(8) *A doctor of osteopathy duly licensed by the state board of osteopathy under Minnesota Statutes 1961, sections 148.11 to 148.16, prior to May 1, 1963, who has not been granted a license to practice medicine in accordance with this chapter provided that he or she confines activities within the scope of the license.*

(9) *Any person licensed by a health related licensing board, as defined in section 214.01, subdivision 2, or registered by the commissioner of health pursuant to section 214.13, including licensed or certified psychologists with respect to the use of hypnosis; provided that the person confines activities within the scope of his or her license.*

(10) *A Christian Scientist or other person who endeavors to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer, or who practices ritual circumcision pursuant to the requirements or tenets of any established religion.*

**Sec. 13. Minnesota Statutes 1984, section 147.10, is amended to read:**

**147.10 [PRACTICING WITHOUT LICENSE; PENALTY.]**

**(EVERY PERSON NOT HERETOFORE AUTHORIZED BY LAW SO TO DO WHO SHALL PRACTICE MEDICINE**

IN THIS STATE WITHOUT HAVING OBTAINED THE LICENSE HEREIN PROVIDED FOR, AND EVERY PERSON WHO SHALL SO PRACTICE CONTRARY TO ANY PROVISION OF THIS CHAPTER, SHALL BE GUILTY OF A GROSS MISDEMEANOR. ANY PERSON SHALL BE REGARDED AS PRACTICING WITHIN THE MEANING OF THIS CHAPTER WHO SHALL APPEND TO HIS NAME ANY OF THE LETTERS M.D., M.B. OR D.O. OR ANY OF THE WORDS MEDICAL DOCTOR, DOCTOR OF MEDICINE, SURGEON, PHYSICIAN, OSTEOPATH, DOCTOR OF OSTEOPATHY, OR OSTEOPATHIC PHYSICIAN OR ANY OTHER WORD OR ABBREVIATION WHEN THE USE THEREOF IS INTENDED TO INDICATE OR DOES IN FACT INDICATE THAT HE IS AUTHORIZED BY LAW TO ENGAGE IN THE PRACTICE OF MEDICINE AS HEREIN DEFINED, IF HE IS NOT IN FACT LEGALLY ENTITLED TO THE USE OF SUCH LETTERS OR WORDS; OR FOR A FEE PRESCRIBE, DIRECT, OR RECOMMEND FOR THE USE OF ANY PERSON, ANY DRUG, OR MEDICINE OR OTHER AGENCY FOR THE TREATMENT OF RELIEF OF ANY WOUND, FRACTURE, OR BODILY INJURY, INFIRMITY, OR DISEASE. A DOCTOR OF OSTEOPATHY DULY LICENSED BY THE STATE BOARD OF OSTEOPATHY UNDER MINNESOTA STATUTES 1961, SECTIONS 148.11 TO 148.16, PRIOR TO MAY 1, 1963, WHO HAS NOT BEEN GRANTED A LICENSE TO PRACTICE MEDICINE IN ACCORDANCE WITH SECTION 147.031 SHALL NOT BE CONSIDERED AS PRACTICING MEDICINE WITHIN THE MEANING OF THIS SECTION BECAUSE HE APPENDS THE LETTERS D.O. TO HIS NAME SO LONG AS HE CONFINES HIS ACTIVITIES WITHIN THE SCOPE OF HIS LICENSE. THIS SECTION SHALL NOT APPLY TO ANY OTHER PERSONS LEGALLY AUTHORIZED TO PRACTICE HEALING OR EXCEPTED FROM THE PRACTICE OF HEALING IN THIS STATE SO LONG AS THEY CONFINE THEIR ACTIVITIES WITHIN THE SCOPE OF THEIR RESPECTIVE LICENSES, NOR TO CHRISTIAN SCIENTISTS OR OTHER PERSONS WHO ENDEAVOR TO PREVENT OR CURE DISEASE OR SUFFERING EXCLUSIVELY BY MENTAL OR SPIRITUAL MEANS OR BY PRAYER, NOR TO THE PRACTICE OF RITUAL CIRCUMCISION PERFORMED PURSUANT TO THE REQUIREMENTS OR TENETS OF ANY ESTABLISHED RELIGION; BUT THIS SECTION SHALL APPLY TO PERSONS, OTHER THAN PSYCHOLOGISTS CERTIFIED OR LICENSED BY STATUTES, WHO USE HYPNOSIS FOR THE TREATMENT OR RELIEF OF ANY WOUND, FRACTURE, OR BODILY INJURY, INFIRMITY, OR DISEASE.)

*Subdivision 1. [UNLAWFUL PRACTICE OF MEDICINE.]*

*It is unlawful for any person not holding a valid license issued in accordance with this chapter to practice medicine as defined in subdivision 3 in this state.*

*Subd. 2. [PENALTY.] Any person violating the provisions of subdivision 1 is guilty of a gross misdemeanor.*

*Subd. 3. [PRACTICE OF MEDICINE DEFINED.] For purposes of this chapter, a person is "practicing medicine" or engaged in the "practice of medicine" if the person does any of the following:*

*(1) advertises, holds out to the public, or represents in any manner that he or she is authorized to practice medicine in this state;*

*(2) offers or undertakes to prescribe, give, or administer any drug or medicine for the use of another;*

*(3) offers or undertakes to prevent or to diagnose, correct, or treat in any manner or by any means, methods, devices, or instrumentalities, any disease, illness, pain, wound, fracture, infirmity, deformity, defect, or abnormal physical or mental condition of any person;*

*(4) offers or undertakes to perform any surgical operation upon any person;*

*(5) offers to undertake to use hypnosis for the treatment or relief of any wound, fracture, or bodily injury, infirmity, or disease; or*

*(6) uses in the conduct of any occupation or profession pertaining to the diagnosis of human disease or conditions, the designation "doctor," "doctor of medicine," "medical doctor," "doctor of osteopathy," "osteopath," "osteopathic physician," "physician," "surgeon," "M.D.," "D.O.," or any combination of these designations.*

#### **Sec. 14. [147.111] [REPORTING OBLIGATIONS.]**

*Subdivision 1. [PERMISSION TO REPORT.] A person who has knowledge of any conduct constituting grounds for discipline under sections 147.01 to 147.33 may report the violation to the board.*

*Subd. 2. [INSTITUTIONS.] Any hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the board any action taken by the institution or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition a physician's privilege to practice or treat patients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action. The institution or organization shall also report the resignation of any physicians*

*prior to the conclusion of any disciplinary proceeding, or prior to the commencement of formal charges but after the physician had knowledge that formal charges were contemplated or in preparation. No report shall be required of a physician voluntarily limiting his or her practice at a hospital provided that the physician notifies all hospitals at which he or she has privileges of the voluntary limitation and the reasons for it.*

*Subd. 3. [MEDICAL SOCIETIES.] A state or local medical society shall report to the board any termination, revocation, or suspension of membership or any other disciplinary action taken against a physician. If the society has received a complaint which might be grounds for discipline under sections 147.01 to 147.33 against a member physician on which it has not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the board of medical examiners.*

*Subd. 4. [LICENSED PROFESSIONALS.] A licensed health professional shall report to the board any conduct constituting grounds for disciplinary action under sections 147.01 to 147.33 by any physician, which appears to show that the physician is or may be medically incompetent or may be guilty of unprofessional conduct or may be medically or physically unable to engage safely in the practice of medicine. No report shall be required if the information was obtained in the course of a physician-patient relationship if the patient is another physician and the treating physician successfully counsels the other physician to limit or withdraw from practice to the extent required by the impairment.*

*Subd. 5. [INSURERS.] Four times each year as prescribed by the board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to physicians shall submit to the board a report concerning the physicians against whom medical malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:*

*(1) the total number of medical malpractice settlements or awards made to the plaintiff;*

*(2) the date the medical malpractice settlements or awards to the plaintiff were made;*

*(3) the allegations contained in the claim or complaint leading to the settlements or awards made to the plaintiff;*

*(4) the dollar amount of each medical malpractice settlement or award;*

*(5) the regular address of the practice of the physician against whom an award was made or with whom a settlement was made; and*

(6) *the name of the physician against whom an award was made or with whom a settlement was made.*

*The insurance company shall, in addition to the above information, report to the board any information it possesses which tends to substantiate a charge that a physician may have engaged in conduct violating sections 147.01 to 147.33.*

*Subd. 6. [COURTS.] The clerk of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court which adjudges or includes a finding that a physician is mentally ill, mentally incompetent, guilty of a felony, or guilty of a violation of federal or state narcotics laws or controlled substances act, guilty of an abuse or fraud under Medicare or Medicaid, appoints a guardian of the physician pursuant to sections 525.54 to 525.61 or commits a physician pursuant to chapter 253B or sections 526.09 to 526.11.*

*Subd. 7. [SELF-REPORTING.] A physician shall report to the board any action concerning himself or herself which would require that a report be filed with the board by any person, health care facility, business, or organization pursuant to subdivisions 2 to 6.*

*Subd. 8. [DEADLINES; FORMS.] Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.*

*Subd. 9. [SUBPOENAS.] The board may issue subpoenas for the production of any reports required by subdivisions 2 to 7 or any related documents.*

#### **Sec. 15. [147.121] [IMMUNITY.]**

*Subdivision 1. [REPORTING.] Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the board pursuant to section 14 or for otherwise reporting to the board violations or alleged violations of section 147.021. All such reports are confidential and absolutely privileged communications.*

*Subd. 2. [INVESTIGATION.] Members of the board and persons employed by the board or engaged in the investigation of violations and in the preparation and management of charges of violations of sections 147.01 to 147.33 on behalf of the board are immune from civil liability and criminal prosecution for any*

*actions, transactions, or publications in the execution of, or relating to, their duties under sections 147.01 to 147.33.*

Sec. 16. [147.131] [PHYSICIAN COOPERATION.]

*A physician who is the subject of an investigation by or on behalf of the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation and providing copies of patient medical records, as reasonably requested by the board, to assist the board in its investigation. The board shall pay for copies requested. If the board does not have a written consent from a patient permitting access to his or her records, the physician shall delete any data in the record which identifies the patient before providing it to the board. The board shall maintain any records obtained pursuant to this section as investigative data pursuant to chapter 13.*

Sec. 17. [147.141] [FORMS OF DISCIPLINARY ACTION.]

*When the board finds that a licensed physician has violated a provision or provisions of sections 147.01 to 147.33, it may do one or more of the following:*

(1) *revoke the license;*

(2) *suspend the license;*

(3) *impose limitations or conditions on the physician's practice of medicine, including the limitation of scope of practice to designated field specialties; the imposition of retraining or rehabilitation requirements; the requirement of practice under supervision; or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination or other review of skill and competence;*

(4) *impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the physician of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding;*

(5) *order the physician to provide unremunerated professional service under supervision at a designated public hospital, clinic, or other health care institution; or*

(6) *censure or reprimand the licensed physician.*

Sec. 18. [147.151] [DISCIPLINARY RECORD ON JUDICIAL REVIEW.]

*Upon judicial review of any board disciplinary action taken under sections 147.01 to 147.33, the reviewing court shall seal the administrative record, except for the board's final decision, and shall not make the administrative record available to the public.*

Sec. 19. Minnesota Statutes 1984, section 176.011, subdivision 9, is amended to read:

Subd. 9. [EMPLOYEE.] "Employee" means any person who performs services for another for hire including the following:

- (1) an alien;
- (2) a minor;
- (3) a sheriff, deputy sheriff, constable, marshal, policeman, firefighter, county highway engineer, and peace officer while engaged in the enforcement of peace or in the pursuit or capture of any person charged with or suspected of crime and any person requested or commanded to aid an officer in arresting any person, or in retaking any person who has escaped from lawful custody, or in executing any legal process in which case, for purposes of calculating compensation payable under this chapter, the daily wage of the person requested or commanded to assist an officer or to execute a legal process shall be the prevailing wage for similar services where the services are performed by paid employees;
- (4) a county assessor;
- (5) an elected or appointed official of the state, or of any county, city, town, school district or governmental subdivision in it. An officer of a political subdivision elected or appointed for a regular term of office, or to complete the unexpired portion of a regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;
- (6) an executive officer of a corporation, except an officer of a family farm corporation as defined in section 500.24, subdivision 1, clause (c), or an executive officer of a closely held corporation who is referred to in section 176.012;
- (7) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioner of human services and state institutions under the commissioner of corrections similar to those of officers and employees of these institutions, and whose services have been accepted or contracted for by the commissioner of human services or the commissioner of corrections as authorized by law, shall be employees. In the event of injury or death of the voluntary un-

compensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(8) a voluntary uncompensated worker engaged in peace time in the civil defense program when ordered to training or other duty by the state or any political subdivision of it, shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services where the services are performed by paid employees;

(9) a voluntary uncompensated worker participating in a program established by a county welfare board shall be an employee. In the event of injury or death of the voluntary uncompensated worker, the wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid in the county at the time of the injury or death for similar services where the services are performed by paid employees working a normal day and week;

(10) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 84.089 shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of injury or death for similar services where the services are performed by paid employees;

(11) a member of the military forces, as defined in section 190.05, while in state active service, as defined in section 190.05, subdivision 5a. The daily wage of the member for the purpose of calculating compensation payable under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

(12) a voluntary uncompensated worker, accepted by the director of the Minnesota historical society, rendering services as a volunteer, pursuant to chapter 138, shall be an employee. The daily wage of the worker, for the purposes of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of injury or death for similar services where the services are performed by paid employees;

(13) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota School for the Deaf or the Minnesota Braille and Sight-Saving School, and whose services have been accepted or contracted for by the state board



of education, as authorized by law, shall be an employee. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(14) a voluntary uncompensated worker, other than a resident of the veterans home, who renders services at a Minnesota veterans home, and whose services have been accepted or contracted for by the commissioner of veterans affairs, as authorized by law, is an employee. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(15) a worker who renders in-home attendant care services to a physically handicapped person, and who is paid directly by the commissioner of human services for these services, shall be an employee of the state within the meaning of this subdivision, but for no other purpose;

(16) those students enrolled in and regularly attending the medical school of the University of Minnesota, whether in the graduate school program or the post-graduate program, (AS PROVIDED IN SECTION 147.20,) notwithstanding that the students shall not be considered employees for any other purpose. In the event of the student's injury or death, the weekly wage of the student for the purpose of calculating compensation payable under chapter 176, shall be the annualized educational stipend awarded to the student, divided by 52 weeks. The institution in which the student is enrolled shall be considered the "employer" for the limited purpose of determining responsibility for paying benefits payable under chapter 176;

(17) a faculty member of the University of Minnesota employed for the current academic year is also an employee for the period between that academic year and the succeeding academic year if:

(a) the faculty member has a contract or reasonable assurance of a contract from the University of Minnesota for the succeeding academic year; and

(b) the personal injury for which compensation is sought arises out of and in the course of activities related to the faculty member's employment by the University of Minnesota; and

(18) a worker who performs volunteer ambulance driver or attendant services is an employee of the political subdivision,

nonprofit hospital, nonprofit corporation, or other entity for which the worker performs the services. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees; and

(19) a voluntary uncompensated worker, accepted by the commissioner of administration, rendering services as a volunteer at the department of administration. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services were performed by paid employees.

In the event it is difficult to determine the daily wage as provided in this subdivision, then the trier of fact may determine the wage upon which the compensation is payable.

Sec. 20. Minnesota Statutes 1984, section 214.07, subdivision 1, is amended to read:

Subdivision 1. [BOARD REPORTS.] The health related licensing boards and the non-health related licensing boards shall prepare reports by October 1 of each even numbered year on forms prepared by the commissioner of administration. Copies of the reports shall be delivered to the legislature in accordance with section 3.195, the governor and the commissioner of administration. Copies of the reports of the health related licensing boards shall be delivered to the commissioner of health. The reports shall contain the following information relating to the two year period ending the previous June 30:

- (a) A general statement of board activities;
- (b) The number of meetings and approximate total number of hours spent by all board members in meetings and on other board activities;
- (c) The receipts and disbursements of board funds;
- (d) The names of board members and their addresses, occupations, and dates of appointment and reappointment to the board;
- (e) The names and job classifications of board employees;
- (f) A brief summary of board rules proposed or adopted during the reporting period with appropriate citations to the state register and published rules;

(g) The number of persons having each type of license and registration issued by the board as of June 30 in the year of the report;

(h) The locations and dates of the administration of examinations by the board;

(i) The number of persons examined by the board with the persons subdivided into groups showing age categories, sex, and states of residency;

(j) The number of persons licensed or registered by the board after taking the examinations referred to in clause (h) with the persons subdivided by age categories, sex, and states of residency;

(k) The number of persons not licensed or registered by the board after taking the examinations referred to in clause (h) with the persons subdivided by age categories, sex, and states of residency;

(l) The number of persons not taking the examinations referred to in clause (h) who were licensed or registered by the board or who were denied licensing or registration with the reasons for the licensing or registration or denial thereof and with the persons subdivided by age categories, sex, and states of residency;

(m) The number of persons previously licensed or registered by the board whose licenses or registrations were revoked, suspended, or otherwise altered in status with brief statements of the reasons for the revocation, suspension or alteration;

(n) The number of written and oral complaints and other communications received by the executive secretary of the board, a board member, or any other person performing services for the board (1) which allege or imply a violation of a statute or rule which the board is empowered to enforce and (2) which are forwarded to other agencies as required by section 214.10;

(o) A summary, by *specific* category, of the substance of the complaints and communications referred to in clause (n) and, for each *specific* category, the responses or dispositions thereof pursuant to sections 214.10 or 214.11;

(p) Any other objective information which the board members believe will be useful in reviewing board activities.

Sec. 21. Minnesota Statutes 1984, section 214.10, subdivision 1, is amended to read:

Subdivision 1. [RECEIPT OF COMPLAINT.] The executive secretary of a board, a board member or any other person who performs services for the board who receives a complaint or other communication, whether oral or written, which complaint or communication alleges or implies a violation of a statute or rule which the board is empowered to enforce, shall promptly forward the substance of the communication on a form prepared by the attorney general to the designee of the attorney general responsible for providing legal services to the board. Before proceeding further with the communication, the designee of the attorney general may require the complaining party to state his complaint in writing on a form prepared by the attorney general. Complaints which relate to matters within the jurisdiction of another governmental agency shall be forwarded to that agency by the executive secretary. An officer of that agency shall advise the executive secretary of the disposition of that complaint. A complaint received by another agency which relates to a statute or rule which a licensing board is empowered to enforce shall be forwarded to the executive secretary of the board to be processed in accordance with this section. *No complaint shall be dismissed by a board unless at least two board members have reviewed the matter.*

Sec. 22. Minnesota Statutes 1984, section 214.10, is amended by adding a subdivision to read:

*Subd. 8. [SPECIAL REQUIREMENTS FOR HEALTH-RELATED LICENSING BOARDS.] In addition to the provisions of this section that apply to all examining and licensing boards, the requirements in this subdivision apply to all health-related licensing boards, except the board of veterinary medicine.*

*(a) When a complaint is received that concerns a matter that is within the jurisdiction of a board, the board must acknowledge receipt of the complaint within ten days after receipt by providing a written notice to the person who made the complaint. The notice must explain the board's investigative process and state, in general terms, that other legal recourse may be available. At least every three months the board shall give the complainant a report on the progress of board activities relating to that complaint. Within 30 days after a final disposition, the board shall provide a report to the complainant including a summary of the results of the investigation, the actions taken by the board, and the reasons for the board's actions or lack of action.*

*(b) If the executive secretary or consulted board member determines that a communication received alleges a violation of statute or rule that involves sexual contact with a patient or client, the communication shall be forwarded to the designee of the attorney general for an investigation of the facts alleged in the communication. If, after an investigation it is the opinion of the executive secretary or consulted board member that there is sufficient evidence to justify disciplinary action, the board*

shall conduct a disciplinary conference or hearing. If, after a hearing or disciplinary conference the board determines that misconduct involving sexual contact with a patient or client occurred, the board shall take disciplinary action. Notwithstanding section 214.10, subdivision 2, a board may not attempt to correct improper activities or redress grievances through education, conciliation, and persuasion, unless in the opinion of the executive secretary or consulted board member there is insufficient evidence to justify disciplinary action. The board may settle a case by stipulation prior to, or during, a hearing if the stipulation provides for disciplinary action.

(c) In addition to the information required under section 214.07, subdivision 1, each board shall include in its reports to the legislature summaries of each individual case that involved possible sexual contact with a patient or client. The summary must include a description of the alleged misconduct; the general results of the investigation; the nature of board activities relating to that case; the disposition of the case; and the reasons for board decisions concerning the disposition of the case. The information disclosed under this section must not include the name or specific identifying information about any person, agency, or organization.

(d) A board member who has a direct current or former financial connection or professional relationship to a person who is the subject of board disciplinary activities must not participate in board activities relating to that case.

(e) Each health-related licensing board shall establish procedures for exchanging information with other Minnesota state boards, agencies, and departments responsible for licensing health-related occupations, facilities, and programs, and for coordinating investigations involving matters within the jurisdiction of more than one licensing body. The procedures must provide for the forwarding to other licensing bodies of all information and evidence, including the results of investigations, that is relevant to matters within that licensing body's regulatory jurisdiction. Each health-related licensing board shall have access to any data of the department of human services relating to a person subject to the jurisdiction of the licensing board. The data shall have the same classification under sections 13.01 to 13.88, the Minnesota government data practices act, in the hands of the agency receiving the data as it had in the hands of the department of human services.

(f) Each health-related licensing board shall establish procedures for exchanging information with other states regarding disciplinary actions against licensees. The procedures must provide for the collection of information from other states about disciplinary actions taken against persons who are licensed to practice in Minnesota or who have applied to be licensed in this state and the dissemination of information to other states regarding disciplinary actions taken in Minnesota.

## Sec. 23. [APPROPRIATION.]

*\$1,244,200 is appropriated to the board of medical examiners for the purpose of licensing and disciplining physicians and performing the board's other duties under chapter 147. \$620,800 is available for the fiscal year ending June 30, 1986, and \$623,400 is available for the fiscal year ending June 30, 1987.*

## Sec. 24. [REVISOR'S INSTRUCTION.]

*In Minnesota Statutes 1986 and later editions of the statutes, the revisor shall renumber the sections listed in column A with the numbers in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.*

<i>Column A</i>	<i>Column B</i>
<i>147.021</i>	<i>147.091</i>
<i>147.05</i>	<i>147.01, subdivision 5</i>
<i>147.073</i>	<i>147.161</i>
<i>147.074</i>	<i>147.162</i>
<i>147.10</i>	<i>147.081</i>

*In Minnesota Statutes 1986 and later editions of the statutes, the revisor shall substitute the term "director" for "secretary" where "secretary" refers to the executive secretary of the board of medical examiners in Minnesota Statutes, section 147.01, subdivision 3.*

## Sec. 25. [REPEALER.]

*Minnesota Statutes 1984, sections 147.02, subdivision 2; 147.06; 147.07; 147.072; 147.101; 147.11; 147.12; 147.13; 147.16; 147.17; 147.18; 147.19; 147.20; and 147.23, are repealed."*

Delete the title and insert:

**"A bill for an act relating to occupations and professions; changing the composition of the board of medical examiners and the method of appointing board members; authorizing the release of certain information by the board of medical examiners; requiring the board of medical examiners to adopt a written statement describing its procedures, and publish disciplinary actions; revising the standards for licensing and disciplining physicians; establishing reporting requirements for health professionals and granting immunity to those complying with reporting requirements; establishing special requirements for**

health-related licensing boards; appropriating money; recodifying certain provisions in Minnesota Statutes, chapter 147; amending Minnesota Statutes 1984, sections 147.01, subdivisions 1, 2, and 4; 147.02, subdivision 1, and by adding subdivisions; 147.021; 147.03; 147.073; 147.074; 147.09; 147.10; 176.011, subdivision 9; 214.07, subdivision 1; and 214.10, subdivision 1, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 147; repealing Minnesota Statutes 1984, sections 147.02, subdivision 2; 147.06; 147.07; 147.072; 147.101; 147.11; 147.12; 147.13; 147.16; 147.17; 147.18; 147.19; 147.20; and 147.23."

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

The report was adopted.

Bennett from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 1549, A bill for an act relating to economic development; creating a comprehensive economic development strategy commission to review state economic development efforts, to develop a strategy for state investment in economic development, and to report to the governor and the legislature; appropriating money.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [LEGISLATIVE FINDINGS AND PURPOSE.]

*The legislature finds that concern over economic fluctuations, structural changes in the economy, and interstate competition for industry have led to many proposals and programs to aid economic development.*

*The legislature further finds that some programs were directed to ease the effects of the economic recession and other economic problems requiring immediate attention. The legislature further finds that some parts of the state's economy have improved and that the state should take the opportunity to review the conditions that created these economic development programs, to assess their appropriateness to the future, and to develop principles for the current and future involvement of the state in economic development.*

Sec. 2. [COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY COMMISSION.]

*Subdivision 1. [COMMISSION CREATED.] A comprehensive economic development strategy commission is created to review state economic development efforts and recommend an economic development strategy for Minnesota.*

*Subd. 2. [MEMBERSHIP.] The commission consists of 11 voting members as follows:*

*(a) the commissioner of energy and economic development, or the commissioner's designee;*

*(b) the chair of the world trade center board, or the chair's designee;*

*(c) the commissioner of agriculture, or the commissioner's designee;*

*(d) the president of the University of Minnesota, or the president's designee;*

*(e) three members knowledgeable in commerce and economic development to be appointed by the governor; and*

*(f) four members of the legislature to be appointed as follows:*

*(1) two members of the senate to be appointed by the committee on committees; and*

*(2) two members of the house of representatives, to be appointed by the speaker, one of whom is a member of the commerce and economic development committee.*

*Members may be replaced by the appointing authority in the manner provided by Minnesota Statutes, section 15.0575, subdivision 4. The governor shall appoint the chair from among the voting members.*

*Subd. 3. [COMPENSATION.] Members of the commission shall be compensated in the manner provided by Minnesota Statutes, section 15.0575, subdivision 3.*

*Subd. 4. [STAFF ASSISTANCE.] The department of energy and economic development shall provide necessary office space, equipment, and staff assistance to the commission to enable the commission to carry out its duties under sections 1 to 4. The commission shall appoint an executive director of the staff who may request and shall receive reasonable assistance from other state agencies.*



**Sec. 3. [COMMISSION POWERS AND DUTIES.]****Subdivision 1. [DUTIES.]** *The commission shall:*

(1) *review existing data and collect additional data when needed regarding potential, proposed, and existing economic development programs;*

(2) *study state economic development options and develop a long-term strategy for economic development in Minnesota, including suggested goals and measurable objectives; and*

(3) *report on the results of those matters specified by clauses (1) and (2) to the governor and the legislature by January 1, 1987. The report shall include but is not limited to the strategy required by clause (2), and legislation to create, revise, or repeal new or existing economic development programs.*

**Subd. 2. [POWERS.]** *The commission may:*

(1) *contract for consulting or research services as necessary to fulfill the purposes of subdivision 1; and*

(2) *vote to discontinue its work if it reasonably concludes that it has complied with subdivision 1, and that there is nothing remaining for the commission or its staff to accomplish.*

**Sec. 4. [FACTUAL CONSIDERATIONS.]**

*In carrying out the duties required by section 3, subdivision 1, the commission shall consider:*

(1) *the economic and noneconomic strengths and weaknesses of the state;*

(2) *economic and noneconomic costs of development, including effects on people, communities, and businesses;*

(3) *the proper role and limitations of government efforts to aid economic development, including any necessary reorganization of state government and any necessary interagency coordination and communication;*

(4) *the effect of past and present economic development policies and programs, as well as the possibility and results of cooperation with the federal government and other midwestern states;*

(5) *the proper role of local government, including coordination of local programs;*

(6) *the industries or segments of industry and types of businesses that should be the focus of state economic development efforts;*

(7) *whether the focus of state decision makers should be on new firms, or businesses, or limited to expansion of existing firms or businesses, and what guidelines should be established to assure that the development or expansion would not occur without state assistance;*

(8) *the effectiveness, including cost effectiveness, considering the state's kind and number of resources, of current economic development tools, such as job training, grants, loans, loan guarantees, tax incentives, subsidies, venture capital, technical support, and project incubation;*

(9) *the potential effectiveness of other policies or tools not currently provided for;*

(10) *the importance to economic development of state educational programs, tax structures, infrastructure, and regulation;*

(11) *the effects of international trade and federal fiscal and monetary policy on the potential for economic development within the state; and*

(12) *the extent to which economic development programs should be directed to industries in which Minnesota has a comparative advantage, or directed to maintaining a diversified economy.*

Sec. 5. [SUNSET DATE.]

*Sections 1 to 4 are repealed on June 30, 1987.*

Sec. 6. [APPROPRIATION.]

*\$ . . . . . is appropriated from the general fund to the department of energy and economic development to accomplish the provisions of sections 1 to 4. This appropriation is available until June 30, 1987."*

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

The report was adopted.

Carlson, D., from the Committee on Transportation to which was referred:

S. F. No. 40, A bill for an act relating to transportation; traffic regulations; defining "passenger vehicle"; requiring use of seat belts by passenger vehicle drivers and passengers; imposing a penalty; amending Minnesota Statutes 1984, sections 169.01, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 169.

Reported the same back with the following amendments:

Page 2, line 8, delete "*under the age of 16*"

Page 2, delete lines 12 to 17 and insert:

*"A violation of this subdivision shall not result in a fine but is punishable only by a safety warning. A violation of this subdivision may not be recorded on the driving record of any person."*

Page 2, delete line 32

Page 2, line 34, delete the period and insert "; and

*(6) a person driving or riding in a passenger vehicle manufactured before January 1, 1965."*

Pages 2 and 3, delete section 4

Amend the title as follows:

Page 1, line 5, delete "imposing a penalty;"

With the recommendation that when so amended the bill pass.

The report was adopted.

## SECOND READING OF HOUSE BILLS

H. F. Nos. 442, 492, 1233, 1316, 1360, 1392 and 1409 were read for the second time.

## SECOND READING OF SENATE BILLS

S. F. Nos. 597 and 40 were read for the second time.

INTRODUCTION AND FIRST READING  
OF HOUSE BILLS

The following House Files were introduced:

Vanasek, by request, introduced:

H. F. No. 1614, A resolution memorializing Congress to call a constitutional convention to propose an amendment to the United States Constitution to require a balanced federal budget.

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

Vanasek introduced:

H. F. No. 1615, A resolution memorializing the President and Congress to enact a balanced federal budget for fiscal year 1987.

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

Vanasek introduced:

H. F. No. 1616, A resolution memorializing Congress to propose an amendment to the United States Constitution to require a balanced federal budget.

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

Tjornhom; Olsen, S.; Dimler; Tompkins and Jacobs introduced:

H. F. No. 1617, A bill for an act relating to taxation; property; providing for assessment of homesteads of certain persons age 60 and older; amending Minnesota Statutes 1984, section 273.11, subdivision 1, and by adding a subdivision.

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

Riveness and Tjornhom introduced:

H. F. No. 1618, A bill for an act relating to education; establishing a pilot all-day kindergarten program in independent school district No. 280, Richfield; appropriating money.

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

#### HOUSE ADVISORIES

The following House Advisories were introduced:

Carlson, D., and Solberg introduced:

H. A. No. 20, A proposal to study medical malpractice insurance.

The advisory was referred to the Committee on Financial Institutions and Insurance.

McLaughlin; Thorson; Jennings, L.; Sherman and Peterson introduced:

H. A. No. 21, A proposal to study the barriers to the growth of the State's bed and breakfast industry.

The advisory was referred to the Committee on Commerce and Economic Development.

Bennett, Jacobs, Himle, O'Connor and Piepho introduced:

H. A. No. 22, A proposal to study the role of state government and of the Department of Public Safety in the regulation of alcoholic beverages.

The advisory was referred to the Committee on Commerce and Economic Development.

#### MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 157, A bill for an act relating to elections; requiring that a candidate for school district office be eligible to hold office; amending Minnesota Statutes 1984, section 123.32, subdivision 4.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 91, A bill for an act relating to elections; providing for the preparation and availability of correct precinct lists; amending Minnesota Statutes 1984, section 201.091, subdivision 2.

H. F. No. 316, A bill for an act relating to the military; providing for the appointment of an additional assistant adjutant general for the army national guard; amending Minnesota Statutes 1984, section 190.08, subdivision 1.

H. F. No. 379, A bill for an act relating to elections; qualifying certain persons to be election judges; amending Minnesota Statutes 1984, section 204B.19, subdivision 2.

H. F. No. 415, A bill for an act relating to elections; permitting certain reports to be made by certified mail; amending Minnesota Statutes 1984, section 10A.20, subdivision 5.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 241, A bill for an act relating to commerce; modifying certain motor vehicle sale and distribution regulations; amending Minnesota Statutes 1984, sections 80E.04, subdivision 4; 80E.06, subdivision 1; 80E.10, subdivision 5; 80E.12; and 80E.14, subdivision 1; repealing Minnesota Statutes 1984, section 80E.03, subdivision 11.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 221, A bill for an act relating to highways; designating the George Mann Memorial Highway; amending Minnesota Statutes 1984, section 161.14, by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 320, A bill for an act relating to the city of Roseville; increasing the total number of on-sale liquor licenses.

H. F. No. 604, A bill for an act relating to agriculture; eliminating license requirement for fur farmers; establishing a registration system; providing definitions; defining agricultural products and pursuits related to fur farming; proposing coding for new law in Minnesota Statutes, chapter 17; repealing Minnesota Statutes 1984, section 17.35.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 158, A bill for an act relating to taxation; increasing the amount statutory cities and towns may levy for a public cemetery; amending Minnesota Statutes 1984, section 471.24.

H. F. No. 485, A bill for an act relating to the city of Lismore; authorizing it to issue bonds for municipal facilities.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 953, A bill for an act relating to the city of Hermantown; permitting the city to fix the size of its public utilities commission.

H. F. No. 1065, A bill for an act relating to local government; permitting the municipal board to require meetings to discuss disputed issues; amending Minnesota Statutes 1984, section 414.01, by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the adoption by the Senate of the following House Concurrent Resolution, herewith returned:

House Concurrent Resolution No. 10, A house concurrent resolution congratulating Minnesota Rural Electric Cooperatives on their 50th Anniversary.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 461, A bill for an act relating to courts; providing that Ramsey municipal court judges shall set salaries of conciliation court referees in Ramsey county; amending Minnesota Statutes 1984, section 488A.30, subdivision 1.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONCURRENCE AND REPASSAGE

Cohen moved that the House concur in the Senate amendments to H. F. No. 461 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 461, A bill for an act relating to courts; providing that Ramsey municipal court judges shall set salaries of conciliation court referees in Ramsey county; amending Minnesota Statutes 1984, section 488A.30, subdivision 1.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 93 yeas and 0 nays as follows:



Those who voted in the affirmative were:

Anderson, G.	Fjoslien	Levi	Piepho	Sparby
Backlund	Forsythe	Lieder	Piper	Stanis
Battaglia	Frederick	Long	Poppenhagen	Sviggum
Beard	Frederickson	McDonald	Price	Thiede
Becklin	Gruenes	McEachern	Quinn	Thorson
Bennett	Gutknecht	McKasy	Rees	Tomlinson
Bishop	Hartinger	McLaughlin	Rest	Tompkins
Boerboom	Hartle	McPherson	Richter	Tunheim
Boo	Haukoos	Metzen	Riveness	Uphus
Burger	Heap	Miller	Rodosovich	Valan
Carlson, D.	Jaros	Murphy	Rose	Vellenga
Carlson, J.	Johnson	Nelson, D.	Sarna	Voss
Carlson, L.	Kalis	Norton	Schafer	Waltman
Clausnitzer	Kelly	O'Connor	Seaberg	Welle
Cohen	Kiffmeyer	Olson, E.	Segal	Wenzel
DenOuden	Knickerbocker	Onnen	Shaver	Zaffke
Dyke	Knuth	Otis	Sherman	Spk. Jennings, D.
Elioff	Kostohryz	Ozment	Simoneau	
Erickson	Krueger	Peterson	Solberg	

The bill was repassed, as amended by the Senate, and its title agreed to.

#### POINT OF ORDER

Simoneau raised a point of order pursuant to section 504 of "Mason's Manual of Legislative Procedure" relating to a quorum call. The Speaker ruled the point of order not well taken.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 151, A bill for an act relating to education; prohibiting a school district from commencing the school year prior to Labor Day; amending Minnesota Statutes 1984, section 126.12.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONCURRENCE AND REPASSAGE

Thiede moved that the House concur in the Senate amendments to H. F. No. 151 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 151, A bill for an act relating to education; prohibiting a school district from commencing the school year prior to Labor Day; amending Minnesota Statutes 1984, section 126.12.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 74 yeas and 49 nays as follows :

Those who voted in the affirmative were :

Anderson, R.	Forsythe	Knuth	O'Connor	Shaver
Battaglia	Frederick	Kostohryz	Ogren	Sherman
Beard	Gutknecht	Krueger	Olson, E.	Solberg
Becklin	Halberg	Levi	Osthoft	Sparby
Begich	Hartinger	Lieder	Peterson	Stanisus
Bennett	Hartle	Long	Poppenhagen	Thiede
Blatz	Heap	Marsh	Price	Thorson
Boo	Himle	McDonald	Quist	Tjornhom
Brinkman	Jacobs	McEachern	Redalen	Tunheim
Carlson, D.	Jaros	Metzen	Rees	Uphus
Clausnitzer	Johnson	Minne	Richter	Voss
Cohen	Kahn	Munger	Rodosovich	Wenzel
Elioff	Kelly	Murphy	Sarna	Zaffke
Erickson	Kiffmeyer	Neuenschwander	Schafer	Spk. Jennings, D.
Fjoslien	Knickerbocker	Norton	Segal	

Those who voted in the negative were :

Anderson, G.	DenOuden	Kvam	Ozment	Skoglund
Bishop	Dimler	McKasy	Pappas	Staten
Boerboom	Dyke	McLaughlin	Piepho	Tomlinson
Brandl	Ellingson	McPherson	Piper	Tompkins
Brown	Frederickson	Miller	Rest	Valan
Burger	Frerichs	Nelson, D.	Rice	Vellenga
Carlson, J.	Greenfield	Nelson, K.	Riveness	Waltman
Carlson, L.	Gruenes	Olsen, S.	Rose	Welle
Clark	Haukoos	Onnen	Seaberg	Wynia
Dempsey	Kalis	Otis	Simoneau	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 1, A bill for an act relating to local government: establishing a procedure to consolidate the cities of International Falls and South International Falls; authorizing a special mill levy in the event of consolidation.

PATRICK E. FLAHAVEN, Secretary of the Senate

## CONCURRENCE AND REPASSAGE

Neuenschwander moved that the House concur in the Senate amendments to H. F. No. 1 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1, A bill for an act relating to local government; establishing a procedure to consolidate the cities of International Falls and South International Falls; authorizing a special mill levy in the event of consolidation.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Dyke	Kostohryz	Osthoff	Shaver
Anderson, R.	Elioff	Krueger	Otis	Sherman
Backlund	Ellingson	Kvam	Ozment	Simoneau
Battaglia	Erickson	Levi	Pappas	Skoglund
Beard	Fjoslien	Lieder	Pauly	Solberg
Becklin	Forsythe	Long	Peterson	Sparby
Begich	Frederick	Marsh	Piepho	Stanius
Bennett	Frederickson	McDonald	Piper	Staten
Bishop	Frerichs	McEachern	Poppenhagen	Swiggum
Blatz	Greenfield	McLaughlin	Price	Thorson
Boerboom	Gruenes	McPherson	Quinn	Tjornhom
Boo	Hartinger	Metzen	Quist	Tomlinson
Brandl	Hartle	Miller	Redalen	Tompkins
Brinkman	Haukoos	Minne	Rees	Tunheim
Brown	Heap	Munger	Rest	Uphus
Burger	Himle	Murphy	Rice	Valan
Carison, D.	Jacobs	Nelson, D.	Richter	Valento
Carlson, J.	Jaros	Nelson, K.	Riveness	Vellenga
Carlson, L.	Johnson	Neuenschwander	Rodosovich	Voss
Clark	Kahn	Norton	Rose	Waltman
Clausnitzer	Kalis	O'Connor	Sarna	Welle
Cohen	Kelly	Ogren	Schafer	Wenzel
Dempsey	Kiffmeyer	Olsen, S.	Scheid	Wynia
DenOuden	Knickerbocker	Olson, E.	Seaberg	Zaffke
Dimler	Knuth	Onnen	Segal	Spk. Jennings, D.

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 183, A bill for an act relating to commerce; modifying the finance charge on certain open end credit sales; amending Minnesota Statutes 1984, section 334.16, subdivision 1.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONCURRENCE AND REPASSAGE

Himle moved that the House concur in the Senate amendments to H. F. No. 183 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 183, A bill for an act relating to commerce; modifying the finance charge on certain open end credit sales; providing for notice of increased interest rates; amending Minnesota Statutes 1984, section 334.16, subdivision 1.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 79 yeas and 48 nays as follows:

Those who voted in the affirmative were:

Becklin	Dyke	Kalis	Neuenschwander	Stanis
Bennett	Erickson	Kilmeyer	Olsen, S.	Sviggum
Bishop	Frederick	Knickerbocker	Onnen	Thiede
Blatz	Frederickson	Knuth	Pauly	Thorson
Boerboom	Frerichs	Kostohryz	Poppenhagen	Tjornhom
Boo	Gruenes	Krueger	Quist	Tompkins
Brandl	Gutknecht	Kvam	Redalen	Uphus
Brinkman	Halberg	Levi	Rees	Valan
Burger	Hartinger	Lieder	Richter	Valento
Carlson, D.	Hartle	Marsh	Rodosovich	Vellenga
Carlson, J.	Haukoos	McDonald	Rose	Waltman
Clausenitzer	Heap	McKasy	Schafer	Welle
Cohen	Himle	McPherson	Schreiber	Wenzel
Dempsey	Jacobs	Metzen	Seaberg	Zaffke
DenOuden	Jaros	Miller	Shaver	Spk. Jennings, D.
Dimler	Johnson	Nelson, K.	Sherman	

Those who voted in the negative were:

Anderson, G.	Carlson, L.	Kahn	Munger	Olson, E.
Backlund	Clark	Kelly	Murphy	Osthoff
Battaglia	Elioff	Long	Nelson, D.	Otis
Beard	Ellingson	McEachern	Norton	Pappas
Begich	Fjoslien	McLaughlin	O'Connor	Peterson
Brown	Greenfield	Minne	Ogren	Piper

Price	Riveness	Segal	Sparby	Voss
Quinn	Sarna	Simoneau	Staten	Wynia
Rest	Scheid	Skogiund	Tomlinson	
Rice	Schoenfeld	Solberg	Tunheim	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker :

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested :

H. F. No. 1216, A bill for an act relating to agriculture; clarifying the meaning of lender in the Minnesota emergency farm operating loans act; amending Laws 1985, chapter 4, section 3, subdivision 8.

PATRICK E. FLAHAVEN, Secretary of the Senate

Redalen moved that the House refuse to concur in the Senate amendments to H. F. No. 1216, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker :

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted :

S. F. No. 364.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker :

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted :

S. F. Nos. 664, 743, 1099 and 1119.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 880.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 581, 994 and 1029.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### FIRST READING OF SENATE BILLS

S. F. No. 364, A bill for an act relating to health; expanding the purposes of health care review organizations; amending Minnesota Statutes 1984, section 145.61, subdivision 5.

The bill was read for the first time.

Poppenhagen moved that S. F. No. 364 and H. F. No. 818, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 664, A bill for an act relating to natural resources; revising the boundaries of certain state forests; creating a new state forest; amending Minnesota Statutes 1984, section 89.021, subdivisions 18, 28, 33, and by adding a subdivision.

The bill was read for the first time.

Waltman moved that S. F. No. 664 and H. F. No. 998, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 743, A bill for an act relating to corporations; allowing nonprofit corporations to establish, maintain, and operate common trust funds; proposing coding for new law in Minnesota Statutes, chapter 317.

The bill was read for the first time.

Onnen moved that S. F. No. 743 and H. F. No. 695, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1099, A resolution memorializing the President and Congress of the United States to award posthumous Medals of Freedom to Andrew Goodman, Michael Schwerner, and James Chaney.

The bill was read for the first time.

Wenzel moved that S. F. No. 1099 and H. F. No. 1088, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1119, A bill for an act relating to local government; increasing the amount that a county board may credit to the sheriff's contingency fund; amending Minnesota Statutes 1984, section 387.212.

The bill was read for the first time.

Brinkman moved that S. F. No. 1119 and H. F. No. 1316, now on the Technical Consent Calendar, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 880, A resolution memorializing the United States Department of Energy of Minnesota's opposition to the siting of a high-level radioactive waste disposal site in Minnesota pursuant to the Nuclear Waste Policy Act of 1982.

The bill was read for the first time.

Rose moved that S. F. No. 880 and H. F. No. 1017, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 581, A bill for an act relating to commerce; authorizing certain investments in obligations of or guaranteed by the United States and certain other authorized securities; amending Minnesota Statutes 1984, sections 48.61, by adding a subdivision; 475.66, subdivision 3; 501.125, by adding a subdivision; and 501.66, subdivision 6.

The bill was read for the first time and referred to the Committee on Financial Institutions and Insurance.

S. F. No. 994, A bill for an act relating to education; authorizing the transfer of certain state land unneeded for community

college purposes to certain cities to be used for student housing; authorizing the sale of certain community college land in Worthington; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 136.

The bill was read for the first time.

Dyke moved that S. F. No. 994 and H. F. No. 1011, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1029, A bill for an act relating to drivers licenses; providing for access to drivers license photographic negatives; amending Minnesota Statutes 1984, section 171.07, subdivision 1a.

The bill was read for the first time.

Kiffmeyer moved that S. F. No. 1029 and H. F. No. 1191, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

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

Levi, from the Committee on Rules and Legislative Administration, pursuant to Rule 1.9, designated the following bills as Special Orders for today, April 24, 1985, immediately preceding the Consent Calendar:

H. F. Nos. 683, 633, 882, 889, 937, 1011, 264, 634, 708, 1109, 563, 781, 959, 1023, 1106, 1170, 1178, 1370, 1161, 1280, 135, 1116, 1266, 1308, 1375, 1417, 782, 592, 1503, 784 and 1165.

#### SPECIAL ORDERS

H. F. No. 683, A bill for an act relating to probate; allowing a minor to be a donor for purposes of the Uniform Anatomical Gift Act; amending Minnesota Statutes 1984, sections 525.922, subdivision 1; and 525.924, by adding a subdivision.

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

The question was taken on the passage of the bill and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 124 yeas and 0 nays as follows:



Those who voted in the affirmative were:

Anderson, G.	Dyke	Knuth	Otis	Simoneau
Anderson, R.	Elioff	Kostohryz	Ozment	Skoglund
Backlund	Ellingson	Krueger	Pappas	Solberg
Battaglia	Erickson	Levi	Pauly	Sparby
Beard	Fjoslien	Lieder	Peterson	Stanius
Becklin	Forsythe	Long	Piepho	Staten
Begich	Frederick	Marsh	Piper	Sviggum
Bennett	Frederickson	McDonald	Poppenhagen	Thiede
Bishop	Frerichs	McEachern	Price	Thorson
Blatz	Greenfield	McLaughlin	Quinn	Tjornhom
Boerboom	Gruenes	McPherson	Rees	Tomlinson
Boo	Gutkaecht	Metzen	Rest	Tompkins
Brandl	Halberg	Miller	Rice	Tunheim
Brinkman	Hartinger	Minne	Richter	Uphus
Brown	Hartle	Munger	Riveness	Valan
Burger	Heap	Murphy	Rodosovich	Valento
Carlson, D.	Himle	Nelson, D.	Rose	Vellenga
Carlson, J.	Jacobs	Nelson, K.	Sarna	Voss
Carlson, L.	Jaros	Norton	Schafer	Waltman
Clark	Johnson	O'Connor	Scheid	Welle
Clausnitzer	Kahn	Ogren	Schoenfeld	Wenzel
Cohen	Kalis	Olsen, S.	Seaberg	Wynia
Dempsey	Kelly	Olson, E.	Segal	Zaffke
DenOuden	Kiffmeyer	Onnen	Shaver	Spk. Jennings, D.
Dimler	Knickerbocker	Osthoff	Sherman	

The bill was passed and its title agreed to.

H. F. No. 633 was reported to the House.

Dempsey and Quist moved to amend H. F. No. 633, the first engrossment, as follows:

Page 2, after line 5, insert:

"Sec. 3. [TEMPORARY DEFINITION OF SCHOOL BUS.]

*Notwithstanding Minnesota Statutes 1984, section 169.01, subdivision 6 to the contrary, the definition of school bus does not include a motor vehicle designed to carry fewer than 16 passengers and which does not, at any time, take on or let off passengers from the right-of-way of a public highway, street, or road.*

Sec. 4. [REPEALER.]

*Section 3 is repealed September 1, 1986."*

Page 2, line 7, delete "and 2" and insert "to 4"

ReNUMBER the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon insert "providing for a temporary definition of school bus;"

The motion prevailed and the amendment was adopted.

H. F. No. 633, A bill for an act relating to traffic regulations; providing for a temporary definition of school bus; providing for book racks and "MN" designation on school buses; amending Minnesota Statutes 1984, section 169.44, by adding subdivisions.

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

The question was taken on the passage of the bill and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 122 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Dyke	Knuth	Otis	Shaver
Anderson, R.	Elioff	Kostohryz	Ozment	Simoneau
Backlund	Ellingson	Krueger	Pappas	Skoglund
Battaglia	Erickson	Kvam	Pauly	Sparby
Beard	Fjoslien	Levi	Peterson	Stanisus
Becklin	Forsythe	Lieder	Piepho	Sviggun
Begich	Frederick	Long	Piper	Thorson
Bennett	Frederickson	Marsh	Poppenhagen	Tjornhom
Bishop	Frerichs	McDonald	Price	Tomlinson
Blatz	Greenfield	McEachern	Quinn	Tompkins
Boerboom	Gruenes	McLaughlin	Quist	Tunheim
Boo	Gutknecht	McPherson	Redalen	Uphus
Brandl	Halberg	Metzen	Rees	Valan
Brinkman	Hartinger	Miller	Rest	Valento
Brown	Hartle	Minne	Rice	Vanasek
Burger	Haukoos	Munger	Richter	Vellenga
Carlson, D.	Heap	Murphy	Riveness	Voss
Carlson, J.	Himle	Nelson, D.	Rodosovich	Waltman
Carlson, L.	Jacobs	Nelson, K.	Rose	Welle
Clark	Johnson	Neuenschwander	Sarna	Wenzel
Clausnitzer	Kahn	Norton	Schafer	Wynia
Cohen	Kalis	Olsen, S.	Scheid	Spk. Jennings, D.
Dempsey	Kelly	Olson, E.	Schoenfeld	
DenOuden	Kifmeyer	Onnen	Seaberg	
Dimler	Knickerbocker	Osthoff	Segal	

Those who voted in the negative were:

O'Connor      Ogren      Thiede

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

Ellingson was excused between the hours of 2:50 p.m. and 5:35 p.m.

H. F. No. 882, A bill for an act relating to natural resources; authorizing the commissioner to enter into agreements with other states for forest fire prevention and suppression purposes; proposing coding for new law in Minnesota Statutes, chapter 88.

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

The question was taken on the passage of the bill and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 124 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Dyke	Knuth	Onnen	Shaver
Anderson, R.	Elioff	Kostohryz	Osthoff	Simoneau
Backlund	Erickson	Krueger	Otis	Skoglund
Battaglia	Fjoslien	Kvam	Ozment	Sparby
Beard	Forsythe	Levi	Pappas	Stanisus
Becklin	Frederick	Lieder	Pauly	Staten
Begich	Frederickson	Long	Peterson	Sviggum
Bennett	Frerichs	Marsh	Piepho	Thiede
Bishop	Greenfield	McDonald	Piper	Thorson
Blatz	Gruenes	McEachern	Poppenhagen	Tjornhom
Beerboom	Gutknecht	McLaughlin	Price	Tomlinson
Boo	Halberg	McPherson	Quinn	Tompkins
Brandl	Hartinger	Metzen	Redalen	Tunheim
Brinkman	Hartle	Miller	Rees	Uphus
Brown	Haukoos	Minne	Rest	Valan
Burger	Heap	Munger	Rice	Valento
Carlson, D.	Himle	Murphy	Richter	Vanasek
Carlson, J.	Jacobs	Nelson, D.	Riveness	Vellenga
Carlson, L.	Jaros	Nelson, K.	Rodosovich	Voss
Clark	Johnson	Neuenschwander	Sarna	Waltman
Clausnitzer	Kahn	Norton	Schafer	Welle
Cohen	Kalis	O'Connor	Scheid	Wenzel
Dempsey	Kelly	Ogren	Schoenfeld	Wynia
DenOuden	Kiffmeyer	Olsen, S.	Seaberg	Spk. Jennings, D.
Dinler	Knickerbocker	Olson, E.	Segal	

The bill was passed and its title agreed to.

H. F. No. 889 was reported to the House.

Schreiber moved to amend H. F. No. 889, the first engrossment, as follows:

Page 14, after line 30, insert:

"Sec. 17. [STATE PLANNING AGENCY STUDY.]

*The state planning agency, in consultation with local government officials and others that it deems appropriate, shall study*

*the roles of county, city, and town government in land use planning and the provision of governmental services. The studies shall review current law relating to land use planning and address how the current allocation of powers and functions among the governmental units for land use control and the provision of governmental services relates to the efficiency with which governmental services are provided, the preservation of land for agricultural use and for use as open space, and equity between taxpayers in cities and those in towns. The state planning agency shall submit a report of its study, including its recommendations, to the local and urban government committee in the senate, the local and urban affairs committee in the house of representatives, and to the governor's council on local government no later than January 15, 1986."*

Renumber the remaining sections

A roll call was requested and properly seconded.

Onnen moved to amend the Schreiber amendment to H. F. No. 889, the first engrossment, as follows:

In the Schreiber amendment, Page 1, line 5, delete "consultation" and insert "coordination"

The motion did not prevail and the amendment to the amendment was not adopted.

The question recurred on the Schreiber amendment and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 88 yeas and 33 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Frederickson	Long	Peterson	Simoneau
Battaglia	Greenfield	Marsh	Piper	Skoglund
Beard	Gruenes	McKasy	Poppenhagen	Solberg
Begich	Halberg	McLaughlin	Price	Sparby
Bennett	Hartinger	Metzen	Quinn	Staten
Blatz	Hartle	Minne	Quist	Thorson
Boo	Haukoos	Murphy	Redalen	Tjornhom
Brandl	Heap	Nelson, D.	Rest	Tomlinson
Brinkman	Himle	Nelson, K.	Rice	Tunheim
Brown	Jacobs	Neuenschwander	Riveness	Valan
Burger	Kahn	Norton	Rodosovich	Valento
Carlson, L.	Kelly	O'Connor	Rose	Vanasek
Clausnitzer	Knickerbocker	Olsen, S.	Scheid	Voss
Cohen	Knuth	Olsen, E.	Schreiber	Wynia
Dempsey	Kostohryz	Otis	Seaberg	Zaffke
Dyke	Kvam	Ozment	Segal	Spk. Jennings, D.
Elioff	Levi	Pappas	Shaver	
Frederick	Lieder	Pauly	Sherman	

Those who voted in the negative were:

Anderson, R.	DenOuden	Johnson	Onnen	Thiede
Backlund	Dimler	Kalis	Piepho	Uphus
Becklin	Erickson	Kiffmeyer	Rees	Waltman
Bishop	Fjoslien	Krueger	Richter	Welle
Boerboom	Forsythe	McDonald	Schafer	Wenzel
Carlson, D.	Frerichs	McPherson	Schoenfeld	
Carlson, J.	Gutknecht	Miller	Swiggum	

The motion prevailed and the amendment was adopted.

#### POINT OF ORDER

DenOuden raised a point of order pursuant to rule 5.7 that H. F. No. 889, as amended, be re-referred to the Committee on Appropriations.

Pursuant to section 244 of "Mason's Manual of Legislative Procedure" the Speaker deferred his decision on the DenOuden point of order and H. F. No. 889, as amended, was continued on Special Orders.

Halberg was excused for the remainder of today's session.

H. F. No. 937 was reported to the House.

Kahn moved to amend H. F. No. 937, as follows:

Pages 1 and 2, delete sections 2 and 3

Renumber the remaining sections

Amend the title as follows:

Page 1, line 5, delete "subdivisions 1, 3, and" and insert "sub-division"

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

H. F. No. 937, A bill for an act relating to wild animals; altering provisions relating to taking and possession of certain animals; amending Minnesota Statutes 1984, sections 98.48, subdivision 5; 100.27, subdivisions 1, 3, and 4; and 100.29, subdivisions 15 and 25.

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

The question was taken on the passage of the bill and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 86 yeas and 41 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Dimler	Krueger	Piepho	Swiggum
Anderson, R.	Dyke	Kvam	Poppenhagen	Thiede
Backlund	Elioff	Levi	Price	Thorson
Battaglia	Erickson	Lieder	Quinn	Tompkins
Beard	Fjoslien	Marsh	Quist	Tunheim
Becklin	Frederick	McDonald	Redalen	Uphus
Begich	Frederickson	McKasy	Rees	Valan
Bishop	Frerichs	McPherson	Richter	Valento
Boerboom	Gruenes	Miller	Rose	Vellenga
Boo	Hartinger	Minne	Sarna	Voss
Brandl	Hartle	Neuenschwander	Schafer	Waltman
Brinkman	Heap	Ogren	Schoenfeld	Wenzel
Burger	Jacobs	Olsen, S.	Schreiber	Zaffke
Carlson, D.	Jennings, L.	Olson, E.	Seaberg	Spk. Jennings, D.
Carlson, J.	Johnson	Onnen	Sherman	
Clausnitzer	Kalis	Otis	Solberg	
Dempsey	Kiffmeyer	Ozment	Sparby	
DenOuden	Kostohryz	Peterson	Stanilus	

Those who voted in the negative were:

Bennett	Himle	Metzen	Piper	Staten
Blatz	Jaros	Munger	Rest	Tjornhom
Brown	Kahn	Murphy	Rice	Tomlinson
Carlson, L.	Kelly	Nelson, K.	Riveness	Welle
Clark	Knickerbocker	Norton	Scheid	Wynia
Cohen	Knuth	O'Connor	Segal	
Forsythe	Long	Osthoff	Shaver	
Greenfield	McEachern	Pappas	Simoneau	
Gutknecht	McLaughlin	Pauly	Skoglund	

The bill was passed and its title agreed to.

H. F. No. 264 was reported to the House.

There being no objection H. F. No. 264 was temporarily laid over on Special Orders.

H. F. No. 634 was reported to the House.

Shaver moved that H. F. No. 634 be continued on Special Orders for one day. The motion prevailed.

H. F. No. 708 was reported to the House.

McDonald moved that H. F. No. 708 be continued on Special Orders for one day. The motion prevailed.

H. F. No. 1109 was reported to the House and given its third reading.

## MOTION FOR RECONSIDERATION

Frerichs moved that the action whereby H. F. No. 1109 was given its third reading be now reconsidered. The motion prevailed.

Frerichs moved that H. F. No. 1109 be continued on Special Orders for one day. The motion prevailed.

H. F. No. 264 which was temporarily laid over earlier today was again reported to the House.

Anderson, G., was excused for the remainder of today's session.

Fjoslien, Sparby and Carlson, D., moved to amend H. F. No. 264, the first engrossment, as follows:

Pages 1 and 2, delete sections 1, 2 and 4

Page 2, line 9, delete "Sec. 3" and insert "Section 1"

Page 2, line 10, delete "6" and insert "3"

Page 2, line 26, delete "6" and insert "3"

Page 3, line 28, delete "8" and insert "5"

Page 3, line 31, delete "8, 9" and insert "5, 6"

Page 4, line 2, delete "7 to 10" and insert "4 to 7"

Renumber the sections in sequence

A roll call was requested and properly seconded.

The question was taken on the Fjoslien et al. amendment and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 58 yeas and 70 nays as follows:

Those who voted in the affirmative were:

Becklin	Brinkman	DenOuden	Frerichs	Johnson
Begich	Brown	Dimler	Gruenes	Kalis
Bennett	Carlson, D.	Dyke	Hartinger	Kiffmeyer
Boerboom	Carlson, J.	Erickson	Hartle	Kostohryz
Boo	Dempsey	Fjoslien	Jacobs	Krueger

Kvam	Olsen, E.	Richter	Stanius	Valento
McEachern	Onnen	Sarna	Sviggum	Vanasek
McPherson	Pappas	Schafer	Thiede	Waltman
Miller	Peterson	Seaberg	Thorson	Wenzel
Minne	Piepho	Sherman	Tunheim	Zaffke
Neuenschwander	Quist	Solberg	Uphus	
Ogren	Redalen	Sparhy	Valan	

Those who voted in the negative were:

Anderson, R.	Frederickson	Marsh	Ozment	Schreiber
Backlund	Greenfield	McDonald	Pauly	Segal
Battaglia	Gutknecht	McKasy	Piper	Shaver
Beard	Haukoos	McLaughlin	Poppenhagen	Simoneau
Bishop	Heap	Metzen	Price	Skoglund
Blatz	Himle	Munger	Quinn	Staten
Brandl	Jaros	Murphy	Rees	Tjornhom
Burger	Kahn	Nelson, D.	Rest	Tomlinson
Carlson, L.	Kelly	Nelson, K.	Rice	Tompkins
Clark	Knickerbocker	Norton	Riveness	Vellenga
Clausnitzer	Knuth	O'Connor	Rodosovich	Voss
Cohen	Levi	Olsen, S.	Rose	Welle
Elioff	Lieder	Osthoff	Scheid	Wynia
Forsythe	Long	Otis	Schoenfeld	Spk. Jennings, D.

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

Kelly moved to amend H. F. No. 264, the first engrossment, as follows:

Page 3, line 6, strike "animal" insert "dog"

Page 3, line 12, delete "animal" insert "dog"

Page 3, line 24, delete "animal" insert "dog"

Page 3, line 32, delete "animal" insert "dog"

Page 3, line 34, delete "animal" insert "dog"

Page 3, line 35, delete "animal" insert "dog"

The motion prevailed and the amendment was adopted.

Heap moved to amend H. F. No. 264, the first engrossment, as amended, as follows:

Page 3, line 19, delete ", and includes"

Page 3, delete line 20

Page 3, line 21, delete "bruise"

Page 3, line 26, delete "gross"



Page 3, delete lines 27 and 28

Olsen, S., requested a division of the Heap amendment.

Heap moved that H. F. No. 264, as amended, be continued on Special Orders for one day. The motion prevailed.

Levi moved that the remaining bills on Special Orders for today be continued one day. The motion prevailed.

### CONSENT CALENDAR

Levi moved that the bills on the Consent Calendar for today be continued one day. The motion prevailed.

### GENERAL ORDERS

Levi moved that the bills on General Orders for today be continued one day. The motion prevailed.

### ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1216:

Redalen; Anderson, G., and McDonald.

### MOTIONS AND RESOLUTIONS

Hartinger moved that the names of Bishop and Kelly be added as authors on H. F. No. 690. The motion prevailed.

Skoglund moved that his name be stricken as an author on H. F. No. 756. The motion prevailed.

Heap moved that the name of Sparby be added as an author on H. F. No. 976. The motion prevailed.

Kostohryz moved that the name of Riveness be added as an author on H. F. No. 1033. The motion prevailed.

Gruenes moved that H. F. No. 911, now on General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Tjornhom moved that H. F. No. 1248, now on General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Ozment moved that H. F. No. 1250, now on General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Schreiber moved that H. F. No. 1402 be recalled from the Committee on Budget and be re-referred to the Committee on Taxes. The motion prevailed.

Schafer moved that H. F. No. 803 be returned to its author. The motion prevailed.

Ozment moved that H. F. No. 686 be returned to its author. The motion prevailed.

Piepho moved that H. F. No. 833 be returned to its author. The motion prevailed.

Price; Olsen, S.; Levi; Tjornhom and Forsythe introduced:

House Resolution No. 28, A house resolution congratulating the seven Minnesota secondary schools recognized by the United States Department of Education for educational excellence.

The resolution was referred to the Committee on Education.

Clark introduced:

House Resolution No. 29, A house resolution directing the reinstallation of recycling barrels in the State Office Building.

The resolution was referred to the Committee on Rules and Legislative Administration.

Elioff introduced:

House Resolution No. 30, A house resolution commending and congratulating Arnold T. Baland for his longtime contribution to public awareness in Minnesota of the nature and importance of our freedoms under our democratic system of government.

The resolution was referred to the Committee on Rules and Legislative Administration.

Kahn, Greenfield, Segal, Cohen and Norton introduced:

House Resolution No. 31, A house resolution expressing the sense of the House of Representatives that the President of the United States should not pay tribute to those who perpetrated the holocaust.

## SUSPENSION OF RULES

Kahn moved that the rules be so far suspended that House Resolution No. 31 be now considered and be placed upon its adoption.

A roll call was requested and properly seconded.

The question was taken on the Kahn motion and the roll was called. There were 92 yeas and 14 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Greenfield	McDonald	Peterson	Staten
Backlund	Gruenes	McEachern	Piper	Thorson
Battaglia	Hartinger	McKasy	Poppenhagen	Tjornhom
Beard	Hartile	McLaughlin	Price	Tomlinson
Begich	Himle	McPherson	Quist	Tunheim
Blatz	Jaros	Minne	Rees	Uphus
Brandl	Jennings, L.	Munger	Rest	Valan
Brown	Johnson	Murphy	Rice	Vanasek
Burger	Kahn	Nelson, D.	Riveness	Vellenga
Carlson, L.	Kalis	Nelson, K.	Rodosovich	Voss
Clark	Kelly	Norton	Sarna	Waltman
Clausnitzer	Knuth	O'Connor	Scheid	Welle
Cohen	Kostohryz	Ogren	Schoenfeld	Wenzel
DenOuden	Krueger	Olsen, S.	Seaberg	Wynia
Dyke	Kvam	Olson, E.	Segal	Zaffke
Elioff	Levi	Onnen	Sherman	Spk. Jennings, D.
Forsythe	Lieder	Osthoff	Simoneau	
Frederick	Long	Otis	Skoglund	
Frederickson	Marsh	Ozment	Solberg	

Those who voted in the negative were:

Bishop	Carlson, J.	Kiffmeyer	Redalen	Thiede
Boerboom	Fjoslien	Miller	Richter	Tompkins
Carlson, D.	Gutknecht	Piepho	Schafer	

The motion prevailed.

## HOUSE RESOLUTION NO. 31

A house resolution expressing the sense of the House of Representatives that the President of the United States should not pay tribute to those who perpetrated the holocaust.

*Whereas*, the plans for the President of the United States' trip to Germany include a visit and wreath laying at a cemetery where members of the Waffen SS who died in the Battle of the Bulge are buried; and

*Whereas*, the Waffen SS is one of the units primarily responsible for the perpetration of the holocaust; and

*Whereas*, it is not only beyond understanding why any tribute would be paid to the deceased Waffen SS members but is morally wrong and offensive to the survivors of the holocaust and the American and other allied soldiers who fought against the Nazi regime; and

*Whereas*, alternatives have been suggested, including visiting one of the many former concentration or extermination camp sites, as an appropriate remembrance of World War II; and

*Whereas*, the President of the United States should heed the just indignation of religious and veterans groups and many individual Americans about the proposed honoring of the battle casualties including Waffen SS troopers; *Now, Therefore*,

*Be It Resolved* by the House of Representatives of the State of Minnesota that it is its sense that a visit by the President of the United States to a cemetery including Waffen SS troopers is an outrage. The visit should be replaced with one to a former concentration or extermination camp site to honor those who were victims of the Waffen SS or other groups perpetrating the Nazi horror.

DenOuden moved to amend House Resolution No. 31, as follows:

Page 1, line 13, delete "tribute" insert "consideration"

Amend the title as follows:

Page 1, line 3, delete "pay" insert "visit Bitburg Cemetery"

Page 1, line 4, delete everything before the period

The motion prevailed and the amendment was adopted.

Kahn moved that House Resolution No. 31, as amended, be now adopted. The motion prevailed and House Resolution No. 31, as amended, was adopted.

#### ADJOURNMENT

Levi moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:00 p.m., Thursday, April 25, 1985.

EDWARD A. BURDICK, Chief Clerk, House of Representatives