

## STATE OF MINNESOTA

## SEVENTY-SIXTH SESSION—1989

## THIRTY-FIFTH DAY

SAINT PAUL, MINNESOTA, THURSDAY, APRIL 20, 1989

The House of Representatives convened at 2:30 p.m. and was called to order by Robert E. Vanasek, Speaker of the House.

Prayer was offered by the Reverend Dennis D. Evenson of St. Timothy's Catholic Church, Blaine, Minnesota.

The roll was called and the following members were present:

Abrams	Frederick	Kostohryz	Olson, K.	Schafer
Anderson, G.	Frerichs	Krueger	Omann	Scheid
Anderson, R.	Girard	Lasley	Onnen	Seaberg
Battaglia	Greenfield	Lieder	Orenstein	Segal
Bauerly	Gruenes	Limmer	Osthoff	Simoneau
Beard	Gutknecht	Long	Ostrom	Skoglund
Begich	Hartle	Lynch	Otis	Solberg
Bennett	Hasskamp	Macklin	Ozment	Sparby
Bertram	Haukoos	Marsh	Pappas	Stanius
Bishop	Heap	McDonald	Pauly	Steensma
Blatz	Henry	McEachern	Pellow	Sviggum
Boo	Hugoson	McGuire	Pelowski	Swenson
Brown	Jacobs	McLaughlin	Peterson	Tompkins
Burger	Janezich	McPherson	Popenhagen	Trimble
Carlson, D.	Jaros	Milbert	Price	Tunheim
Carlson, L.	Jefferson	Miller	Pugh	Uphus
Carruthers	Jennings	Morrison	Quinn	Valento
Clark	Johnson, A.	Munger	Redalen	Vellenga
Conway	Johnson, R.	Murphy	Reding	Wagenius
Cooper	Johnson, V.	Nelson, C.	Rest	Waltman
Dauner	Kahn	Nelson, K.	Rice	Weaver
Dawkins	Kalis	Neuenschwander	Richter	Welle
Dempsey	Kelly	O'Connor	Rodosovich	Wenzel
Dille	Kelso	Ogren	Rukavina	Williams
Dorn	Kinkel	Olsen, S.	Runbeck	Winter
Forsythe	Knickerbocker	Olson, E.	Sarna	Wynia
				Spk. Vanasek

A quorum was present.

Himle, Schreiber and Tjornhom were excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Murphy moved that further reading of the Journal be dispensed with and that the Journal 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. 833, 1175, 1522, 173, 647, 1285, 729, 984, 1604, 1037, 1168, 1234, 1282, 1292, 1388, 1445, 1608 and 1636 and S. F. No. 493 have been placed in the members' files.

S. F. No. 1241 and H. F. No. 1378, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

## SUSPENSION OF RULES

Price moved that the rules be so far suspended that S. F. No. 1241 be substituted for H. F. No. 1378 and that the House File be indefinitely postponed. The motion prevailed.

## PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR  
ST. PAUL 55155

April 17, 1989

The Honorable Robert E. Vanasek  
Speaker of the House of Representatives  
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 File:

H. F. No. 322, relating to consumer protection; regulating the sale of used motor vehicles; modifying certain definitions.

Sincerely,

RUDY PERPICH  
Governor

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

The Honorable Robert E. Vanasek  
Speaker of the House of Representatives

The Honorable Jérôme M. Hughes  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 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>Time and Date Approved 1989</i>	<i>Date Filed 1989</i>
	322	34	14:58 - April 17	April 17
112		35	17:00 - April 17	April 17
699		36	17:01 - April 17	April 17
382		37	17:01 - April 17	April 17
390		38	17:07 - April 17	April 17
831		39	17:10 - April 17	April 17
203		40	17:04 - April 17	April 17

Sincerely,

JOAN ANDERSON GROWE  
Secretary of State

## REPORTS OF STANDING COMMITTEES

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 66, A bill for an act relating to gambling; creating a department of gaming; authorizing a state lottery to be conducted by a division of state lottery within the department of gaming; creating a division of charitable gambling control and transferring certain powers of the charitable gambling control board to that division and to the department of revenue; creating a division of pari-mutuel racing; creating a division of inspection and enforcement and providing for its duties; prescribing penalties; appropriating money; amending Minnesota Statutes 1988, sections 10A.01, subdivision 18; 10A.09, subdivision 1; 15.06, subdivision 1; 15A.081, subdivision 1; 43A.08, subdivision 1a; 240.01, by adding subdivisions; 240.02,

subdivisions 1 and 2; 240.04, subdivisions 1, 3, and 7; 240.06, subdivisions 3 and 8; 240.07, subdivision 2; 240.08, subdivision 3; 240.21; 240.28; 290.01, subdivision 19b; 297A.25, by adding a subdivision; 340A.410, subdivision 5; 349.12, subdivisions 11, 17, and 20, and by adding subdivisions; 349.151, subdivisions 1, 2, 4, and 5; 349.16, subdivision 4; 349.161, subdivision 4; 349.162, subdivisions 1, 2, 4, and 5; 349.163; 349.18, subdivision 1; 349.19, subdivisions 5 and 6; 349.212; 349.2121, subdivisions 2, 3, 4, 4a, 6, 7, 8, and 10; 349.2122; 349.2125, subdivisions 1, 2, and 3; 349.2127, subdivision 2; 349.214, subdivision 2; 349.22, subdivisions 1 and 3; 541.20; 541.21; 609.75; 609.761; and 626.85, subdivision 1; proposing coding for new law as Minnesota Statutes, chapters 349A; 349B; and 349C; proposing coding for new law in Minnesota Statutes, chapters 240 and 349; repealing Minnesota Statutes 1988, sections 240.02, subdivision 7; 349.151, subdivisions 3 and 5; 349.161, subdivision 7; 349.164, subdivision 5; 349.171; and 349.22, subdivision 4.

Reported the same back with the following amendments:

Page 3, line 25, after "family" insert "residing in the same household"

Page 11, line 12, reinstate "(2)"

Page 11, line 14, reinstate "~~to receive reports required by this chapter~~"

Page 11, line 17, reinstate the semicolon

Page 11, line 18, delete "(2)" and insert "(3)"

Page 11, lines 20 and 21, after "(5)" insert "(4)" and reinstate the stricken language

Renumber the remaining clauses in order

Page 48, line 3, delete "or"

Page 48, line 6, delete the period and insert "; or

(8) has violated section 340A.503, subdivision 2, clause (1), two or more times within a two-year period."

Page 49, line 25, after "applicant" insert "that does not meet the requirements of this subdivision"

Page 53, after line 4, insert:



"(c) No prize may be paid to any person under the age of 18 years except in the case of a ticket inherited by a person under the age of 18 years. The director may require evidence of inheritance of the ticket before paying the prize."

Page 53, after line 34, insert:

"Each publication and notice required under this subdivision must contain a prominent statement substantially setting out the restrictions in section 349A.09, subdivision 7, on payment of prizes to persons under the age of 18 years."

Page 54, line 16, delete "or"

Page 54, line 18, delete the period and insert "; or

(3) presents the purchase of a lottery ticket as a financial investment."

Page 57, line 1, after the period insert "A violation of clause (1) is a misdemeanor. A violation of clause (2) or (3) is a gross misdemeanor."

Page 57, line 8, after the period insert "A violation of this paragraph is a misdemeanor."

Page 58, line 27, delete everything after "gift"

Page 58, line 28, delete everything before the period

Page 59, after line 6, insert:

"Sec. 15. [349A.15] [CONTRIBUTIONS TO POLITICAL CANDIDATES.]

On and after July 1, 1992, no person or organization may be selected to provide auditing services or a major procurement item to the lottery division if the person, organization, an officer of the organization, or a political action committee of or supported by the organization contributed to any candidate for political office in Minnesota state government within the three years preceding the contract award. On and after the effective date of this section, no person or organization selected to provide these services or items to the lottery division, or its officers or political action committee, may make the political contributions described in this section during the period of the contract or for three years after the contract has been performed."

Page 59, line 7, delete "[349A.15]" and insert "[349A.16]"

Page 59, delete section 16

Page 60, line 17, after the second comma insert "and"

Page 60, line 18, delete "and inspection and enforcement,"

Page 60, delete lines 22 and 23

Page 60, line 24, delete "(2)" and insert "(1)"

Page 60, line 27, delete "(3)" and insert "(2)"

Page 60, line 30, delete "(4)" and insert "(3)"

Page 60, line 33, delete "(5)" and insert "(4)"

Page 60, line 35, delete "(3)" and insert "(2)"

Page 61, line 26, delete "[349C.01]" and insert "[299K.01]"

Page 61, lines 30, 32, and 36, delete "gaming" and insert "public safety"

Pages 62 to 65, delete sections 2 to 8, and insert:

"Sec. 2. [299K.02] [DIVISION OF INSPECTION AND ENFORCEMENT.]

Subdivision 1. [DIVISION.] A division of inspection and enforcement is created in the department of public safety under the control and supervision of the director of inspection and enforcement who shall be appointed by the commissioner of public safety. The director must be qualified by experience in law enforcement to act as the director.

Subd. 2. [REMOVAL.] The director serves at the pleasure of the commissioner in the unclassified service.

Subd. 3. [EMPLOYEES.] The director may employ other persons as necessary to carry out the director's powers and duties under this chapter. All professional employees, as defined under section 179A.03, subdivision 13, of the division of inspection and enforcement are in the unclassified service. The director shall request that the bureau of criminal apprehension perform background checks on all persons seeking employment with the division.

Sec. 3. [299K.03] [DUTIES OF DIRECTOR.]

Subdivision 1. [LOTTERY.] (a) The director shall conduct background checks on employees of the state lottery, lottery retailers, and successful bidders of major procurement contracts with the lottery.

(b) Whenever the director believes it to be necessary or when so requested by the director of the state lottery, the director shall conduct investigations of lottery retailers, applicants for lottery retailer contracts, suppliers of goods or services to the state lottery, and persons bidding on contracts for goods or services with the state lottery.

(c) The director shall conduct an annual security audit of the state lottery, or arrange for such an audit by an outside agency or person, firm, or corporation. The director shall report to the state lottery board and the director of the lottery on the results of the audit.

(d) Whenever the director believes it to be necessary or when so requested by the director of the state lottery, the director shall conduct inspections of the premises of any lottery retailer or the activities of any lottery retailer to determine the retailer's compliance with applicable laws and rules and orders of the division of the state lottery.

(e) Whenever the director believes it to be necessary or when so requested by the director of the state lottery, the director shall conduct an audit of any lottery retailer's accounts, books, records, or other documents the agent is required to keep.

Subd. 2. [CHARITABLE GAMBLING.] The director shall:

(1) conduct background investigations of applicants for licensing as a manufacturer or distributor of gambling equipment or as a bingo hall under chapter 349; and

(2) when the director believes it to be necessary or when so requested by the charitable gambling control board or the director of the board, the director shall inspect the premises of a licensee under chapter 349 to determine compliance with law and with the rules of the board, or to conduct an audit of the accounts, books, records, or other documents required to be kept by the licensee.

Subd. 3. [HORSE RACING INVESTIGATIONS.] (a) The director shall conduct background investigations as provided by law on all applicants for licenses issued by the Minnesota racing commission.

(b) Whenever the director believes it to be necessary or when so requested by the Minnesota racing commission or the executive director of the racing commission, the director shall investigate the

activities of a licensee of the commission to determine the licensee's compliance with law and with rules of the commission.

**Subd. 4. [OTHER GAMBLING.]** The director shall cooperate with all state and local agencies in the detection and apprehension of unlawful gambling.

**Subd. 5. [BACKGROUND CHECKS.]** In any background check required to be conducted by the director under chapter 240, 349, or 349A, the director may require that fingerprints be taken and the director may forward the fingerprints to the Federal Bureau of Investigation for the conducting of a national criminal history check.

**Sec. 4. [299K.04] [POWERS OF DIRECTOR.]**

**Subdivision 1. [INSPECTIONS; ACCESS.]** In conducting any inspection authorized under chapter 240, 349, or 349A, the director has free and open access to all parts of the regulated business premises, and may conduct the inspection at any reasonable time without notice and without a search warrant. For purposes of this subdivision, "regulated business premises" means premises where:

(1) lawful gambling is conducted by an organization licensed under chapter 349 or by an organization exempt from licensing under section 349.214;

(2) gambling equipment is manufactured, sold, distributed, or serviced by a manufacturer or distributor licensed under chapter 349;

(3) records required to be maintained under chapter 240, 349, or 349A are prepared or retained;

(4) lottery tickets are sold by a lottery retailer under chapter 340A; or

(5) races are conducted by a person licensed under chapter 240.

**Subd. 2. [ITEMS REQUIRED TO BE PRODUCED.]** In conducting an audit or inspection authorized under chapter 240, 349, or 349A, the director may inspect any book, record, or other document the licensee, retailer, or vendor is required to keep.

**Subd. 3. [SUBPOENA POWER.]** The director may issue subpoenas to compel the attendance of witnesses and the production of documents, books, records, and other evidence relating to any investigation or audit the director is authorized to conduct.

Subd. 4. [ACCESS TO CRIMINAL HISTORY.] The director has access to all criminal history data compiled by the bureau of criminal apprehension on any person licensed under contract with the state lottery, racing commission, or the charitable gambling control board, or any applicant for licensing or a person who has submitted a bid on a gambling contract.

Subd. 5. [ARREST POWERS.] The director may designate certain employees who are authorized to arrest or investigate any person who is suspected of violating any provision of chapter 240, 349, or 349A, or is suspected of committing any crime involving gambling, and to conduct searches and seizures to enforce any of those laws. Any employee authorized by this subdivision to make an arrest must be licensed under sections 626.84 to 626.863.

Subd. 6. [UNLICENSED SELLERS.] (a) If anyone not licensed under chapter 349 sells gambling equipment at a business establishment, the director may, in addition to any other provisions of chapter 349:

(1) assess a civil penalty of not more than \$300 against each person participating in the sales and assess a civil penalty of not more than \$1,000 against the owner or owners of the business establishment; or

(2) if the subject violation is the second or subsequent violation of this subdivision at the same business establishment within any 24-month period, assess a civil penalty of not more than \$300 against each person participating in such sales, and assess a civil penalty of not more than \$5,000 against the owner or owners of the business establishment.

(b) The assessment of a civil penalty under this section does not preclude a recommendation by the director at any time deemed appropriate to a licensing authority for revocation, suspension, or denial of a license controlled by the licensing authority.

(c) Within ten days of an assessment under this subdivision, the person assessed the penalty must pay the assessment or request that a hearing be held under chapter 14. If a hearing is requested, the hearing must be scheduled within 20 days of the request, and the recommendations of the administrative law judge must be issued within five working days of the close of the hearing. The commissioner of public safety must issue a final order within five working days of the issuance of the recommendations of the administrative law judge.

Subd. 7. [OTHER POWERS.] Nothing in this chapter limits the authority of the director to exercise any other power specified under chapter 240, 349, or 349A.

Subd. 8. [RULEMAKING.] The commissioner of public safety may adopt rules under chapter 14 to carry out the director's duties under this chapter.

**Sec. 5. [299K.05] [CONFLICT OF INTEREST.]**

Subdivision 1. [INTEREST.] The commissioner of public safety, the director, and any person employed by the division of inspection and enforcement may not hold a Class C license issued by the racing commission or have a direct or indirect financial interest in:

- (1) a class A or B licensee of the racing commission;
- (2) a lottery retailer under contract with the state lottery;
- (3) a person who is under a major procurement contract with the state lottery; or
- (4) a bingo hall, manufacturer, or distributor licensed under chapter 349.

Subd. 2. [CHARITABLE GAMBLING.] The director or an employee of the division may not participate in the conducting of lawful gambling under chapter 349.

**Sec. 6. [299K.06] [GAMBLING VIOLATIONS; RESTRICTIONS ON FURTHER ACTIVITY.]**

An owner of an establishment is prohibited from having lawful gambling under chapter 349 conducted on the premises, selling any lottery tickets under chapter 349A, or having a video game of chance as defined under section 349.50 located on the premises, if a person was convicted of violating section 609.76, subdivision 1, clause (7); 609.76, subdivision 2; or any provision of chapter 349, for an activity occurring on the owner's premises.

**Sec. 7. Minnesota Statutes 1988, section 609.76, subdivision 1, is amended to read:**

**Subdivision 1. [GROSS MISDEMEANORS.]** Whoever does any of the following may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both:

- (1) maintains or operates a gambling place or operates a bucket shop;**
- (2) intentionally participates in the income of a gambling place or bucket shop;**

(3) conducts a lottery, or, with intent to conduct a lottery, possesses facilities for doing so;

(4) sets up for use for the purpose of gambling, or collects the proceeds of, any gambling device or bucket shop;

(5) with intent that it shall be so used, manufactures, sells or offers for sale, in whole or any part thereof, any gambling device including those defined in section 349.30, subdivision 2, and any facility for conducting a lottery, except as provided by section 349.40; or

(6) receives, records, or forwards bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possesses facilities to do so; or

(7) pays any compensation for game credits earned on or otherwise rewards players of video games of chance as defined under section 349.50, subdivision 8.

Sec. 8. Minnesota Statutes 1988, section 626.05, subdivision 2, is amended to read:

Subd. 2. The term "peace officer" as used in sections 626.04 to 626.17 means a sheriff, deputy sheriff, police officer, constable, agent of the bureau of criminal apprehension, agent of the division of inspection and enforcement, or University of Minnesota peace officer.

Sec. 9. Minnesota Statutes 1988, section 626.13, is amended to read:

626.13 [SERVICE, PERSONS MAKING.]

A search warrant may in all cases be served by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on the officer's requiring it, the officer being present and acting in its execution. If the warrant is to be served by an agent of the bureau of criminal apprehension or an agent of the division of inspection and enforcement, the agent shall notify the chief of police of an organized full-time police department of the municipality or, if there is no such local chief of police, the sheriff or a deputy sheriff of the county in which service is to be made prior to execution.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 6, 8, and 9 are effective July 1, 1989. Section 7 is effective July 1, 1989, and applies to crimes committed on or after that date.

Page 66, line 26, delete "or"

Page 66, line 28, before the period insert ", or

(q) director of the division of inspection and enforcement in the department of public safety"

Page 67, delete lines 32 and 33

Page 74, lines 15 to 16, reinstate the stricken language and delete the new language and after "patrol" insert ", agents of the division of inspection and enforcement,"

Page 76, line 18, delete "gaming" and insert "public safety"

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 10, after "enforcement" insert "in the department of public safety"

Page 1, line 29, after the first semicolon insert "609.76, subdivision 1;" and after "609.761," insert "626.05, subdivision 2; 626.13;"

Page 1, line 30, after "chapters" insert "299K,"

Page 1, line 31, before "349B" insert "and" and delete "; and 340C"

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

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 146, A bill for an act relating to the education code; revising the text of certain chapters of the code without changing their meaning; amending Minnesota Statutes 1988, chapters 128; 128A; 128B; and 129; repealing Minnesota Statutes 1988, sections 128.04; 128.06; 128.069; 128A.04; 129.02; and 129.05 to 129.10.

Reported the same back with the following amendments:

Page 6, line 33, after "money" insert a comma



Page 6, line 34, after "property" insert a comma

Page 10, line 24, delete "parents" and insert "parent or guardian"

Page 19, line 14, strike "committee" and after the stricken "shall" insert "council"

Page 20, line 29, reinstate the stricken "to"

Page 20, line 30, delete ". The agreement must be to"

Page 25, line 36, delete "get into" and insert "join"

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

The report was adopted.

Skoglund from the Committee on Insurance to which was referred:

H. F. No. 162; A bill for an act relating to insurance; regulating insurance information collection, use, disclosure, access, and correction practices; requiring reasons for adverse underwriting decisions; amending Minnesota Statutes 1988, section 72A.20, subdivision 11; proposing coding for new law in Minnesota Statutes, chapter 72A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 72A.20, subdivision 11, is amended to read:

Subd. 11. [APPLICATION TO CERTAIN SECTIONS.] Violating any provision of the following sections of this chapter not set forth in this section shall constitute an unfair method of competition and an unfair and deceptive act or practice: sections 72A.12, subdivisions 2, 3, and 4, 72A.16, subdivision 2, 72A.03 and 72A.04, 72A.08, subdivision 1, as modified by section sections 72A.08, subdivision 4, 72A.201, sections 2 to 17, and 65B.13.

Sec. 2. [72A.49] [SHORT TITLE.]

Sections 2 to 17 may be cited as the "Minnesota fair information reporting act."

Sec. 3. [72A.491] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] For the purposes of sections 2 to 17, the following terms have the meanings given them.

Subd. 2. [ADVERSE UNDERWRITING DECISION.] "Adverse underwriting decision" means any of the following actions with respect to insurance transactions involving insurance coverage that is individually underwritten:

(1) denial, in whole or in part, of coverage that was requested in writing to the insurer;

(2) termination or reduction of insurance coverage or policy;

(3) failure of an insurance agent to apply for coverage with a specific insurer that the agent represents and that is specifically requested by an applicant;

(4) placement by an insurer or insurance agent of a risk with a residual market mechanism, an unauthorized insurer, or an insurer that specializes in substandard risks;

(5) charging a higher rate on the basis of information that differs from that which the applicant or policyholder furnished for property or casualty coverage;

(6) an offer to insure at higher than standard rates for life, health, or disability coverage; or

(7) the rescission of a policy.

Subd. 3. [AFFILIATE OR AFFILIATED.] "Affiliate" or "affiliated" means a person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

Subd. 4. [APPLICANT.] "Applicant" means any person who seeks to contract for insurance coverage from an insurer.

Subd. 5. [CONSUMER REPORT.] "Consumer report" means any written, oral, or other communication of information bearing on a person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used in connection with an insurance transaction.

Subd. 6. [CONSUMER REPORTING AGENCY.] "Consumer reporting agency" means any person who:

(1) regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee;

(2) obtains information primarily from sources other than insurers; and

(3) furnishes consumer reports to other persons.

Subd. 7. [CONTROL.] "Control," "controlled by," or "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

Subd. 8. [HEALTH CARE INSTITUTION.] "Health care institution" means any facility or institution that is licensed to provide health care services to natural persons.

Subd. 9. [HEALTH PROFESSIONAL.] "Health professional" means any person licensed or certified to provide health care services to natural persons.

Subd. 10. [HEALTH RECORD INFORMATION.] "Health record information" means personal information that:

(1) relates to an individual's physical or mental condition, health history, or health treatment; and

(2) is obtained from a health professional or health care institution, from the individual, or from the individual's spouse, parent, legal guardian, or other person.

Subd. 11. [INDIVIDUAL.] "Individual" means any natural person who:

(1) in the case of property or casualty insurance is a past, present, or proposed named insured or certificate holder;

(2) in the case of life, health, or disability insurance is a past, present, or proposed principal insured or certificate holder;

(3) is a past, present, or proposed policy owner;

(4) is a past or present applicant;

(5) is a past or present claimant; or

(6) derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this act.

Subd. 12. [INSURANCE-SUPPORT ORGANIZATION.] (a) "Insurance-support organization" means any person who regularly engages, in whole or in part, in the practice of assembling or collecting information about persons for the primary purpose of providing the information to an insurer or insurance agent for insurance transactions, including:

(1) the furnishing of consumer reports or investigative consumer reports to an insurer or insurance agent for use in connection with an insurance transaction; and

(2) the collection of personal information from insurers, insurance agents, or other insurance-support organizations to detect or prevent fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity.

(b) Insurance-support organizations do not include insurance agents, government institutions, insurers, health care institutions, or health professionals.

Subd. 13. [INSURANCE TRANSACTION.] "Insurance transaction" means any transaction that involves:

(1) the determination of an individual's eligibility for an insurance coverage, benefit, or payment; or

(2) the servicing of an insurance application, policy, contract, or certificate.

Subd. 14. [INSURER.] "Insurer" means any insurance company, risk retention group as defined under section 60E.02, service plan corporation as defined under section 62C.02, health maintenance organization as defined under section 62D.02, fraternal benefit society regulated under chapter 64B, township mutual company regulated under chapter 67A, joint self-insurance plan or multiple employer trust regulated under chapter 60F, 62H, or section 471.617, subdivision 2, and persons administering a self-insurance plan as defined under section 60A.23, subdivision 8, paragraph (2), clauses (a) and (d).

Subd. 15. [INSURER THAT SPECIALIZES IN SUBSTANDARD RISKS.] "Insurer that specializes in substandard risks" means an insurer whose rates and market orientation are directed at risks other than preferred or standard risks.

Subd. 16. [INVESTIGATIVE CONSUMER REPORT.] "Investigative consumer report" means all or part of a consumer report in which information about a person's character, general reputation, personal characteristics, or mode of living is obtained through

personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning these items of information.

Subd. 17. [PERSONAL INFORMATION.] "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. The term includes the individual's name and address and health record information, but does not include privileged information. Personal information does not include health information maintained by a health maintenance organization as defined under section 62D.02, subdivision 4, in its capacity as a health provider.

Subd. 18. [POLICYHOLDER.] "Policyholder" means any individual who is a present named insured, a present policyowner, or a present group certificate holder.

Subd. 19. [PRIVILEGED INFORMATION.] (a) "Privileged information" means any individually identifiable information that:

(1) relates to a claim for insurance benefits or a civil or criminal proceeding; or

(2) is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding.

(b) Information otherwise meeting the definition of privileged information under paragraph (a) must be considered personal information if it is disclosed in violation of section 14.

Subd. 20. [RESIDUAL MARKET MECHANISM.] "Residual market mechanism" means an association, organization, or other entity created under the laws of this state to provide insurance coverage to any person who is unable to obtain coverage through ordinary methods in the normal insurance markets.

Subd. 21. [TERMINATION OF INSURANCE COVERAGE OR POLICY.] "Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

Subd. 22. [UNAUTHORIZED INSURER.] "Unauthorized insurer" means an insurance company that has not been granted a certificate of authority by the commissioner to transact the business of insurance in this state.

## Sec. 4. [72A.492] [SCOPE.]

Subdivision 1. [COVERED POLICIES.] The obligations imposed by sections 2 to 17 apply to insurers, insurance agents, and insurance-support organizations that:

(1) collect, receive, or maintain information in connection with insurance transactions that pertains to persons who are residents of this state; or

(2) engage in insurance transactions with applicants, individuals, or policyholders who are residents of this state.

Subd. 2. [COVERED PERSONS.] The rights granted by sections 2 to 17 extend to:

(1) a person who is a resident of this state and is the subject of information collected, received, or maintained in connection with an insurance transaction; and

(2) a person who is a resident of this state and engages in or seeks to engage in an insurance transaction.

Subd. 3. [EXCEPTIONS.] (a) Sections 2 to 17 do not apply to information collected from the public records of a governmental authority and maintained by an insurance company or its representatives to insure the title to real property located in this state.

(b) Nothing in sections 2 to 17 gives a patient access to the health records pertaining to the patient maintained by the patient's health provider, or gives the patient the right to alter or amend those health records, unless otherwise provided by law.

(c) Sections 2 to 17 do not apply to any insurance transactions involving property and casualty insurance primarily for business or professional needs.

Sec. 5. [72A.493] [OBTAINING INFORMATION BY IMPROPER MEANS.]

An insurer, insurance agent, or insurance-support organization must not obtain information or authorize another person to obtain information in connection with an insurance transaction by:

(1) pretending to be someone he or she is not;

(2) pretending to represent a person he or she is not in fact representing;

(3) misrepresenting the true purpose of the interview; or

(4) refusing to identify himself or herself upon request.

Sec. 6. [72A.494] [NOTICE.]

Subdivision 1. [REQUIRED.] Each insurer or insurance agent shall provide a notice relating to information practices to each applicant or policyholder in the manner and at the time required by this section.

Subd. 2. [EXEMPTION.] A notice is not required to be provided under this section for:

(1) a group policy or contract that is not individually underwritten; or

(2) a renewal, reinstatement, or a change in benefits for a policy or contract if no personal information is to be collected other than from the applicant or policyholder, or from public records.

Subd. 3. [TIMING.] (a) In the case of an application for insurance coverage, the notice must be provided to the applicant or policyholder no later than the time application is made for the coverage, renewal, reinstatement, or change in benefits.

(b) If personal information is to be collected only from the applicant or from public records, the notice may be provided at the time of delivery of the policy or the certificate.

Subd. 4. [CONTENT OF NOTICE.] The notice required by this section must be in writing and state:

(1) whether personal information may be collected from persons other than the individual or individuals proposed for coverage;

(2) the types of personal information that may be collected and the types of sources and investigative techniques that may be used to collect the information;

(3) the types of disclosures of personal information that may be made under section 13 and the circumstances under which the disclosures may be made without prior authorization; except that only those circumstances which occur with such frequency as to indicate a general business practice must be described;

(4) a description of the rights established under sections 9 and 10 and the manner in which those rights may be exercised; and

(5) that information obtained from a report prepared by an insurance-support organization may be retained by the insurance-support organization and disclosed to other persons.

Subd. 5. [ABBREVIATED NOTICE.] In lieu of the notice required under subdivision 3, the insurer or insurance agent may provide an abbreviated notice informing the applicant or policyholder that:

(1) personal information may be collected from persons other than the person or persons proposed for coverage;

(2) the information collected by the insurer or insurance agent may in certain circumstances be disclosed to third parties without authorization;

(3) the person has a right to see their personal records and correct personal information collected; and

(4) the person will be furnished the detailed notice required under subdivision 3 upon request.

Subd. 6. [OTHER COMPANIES OR AGENCIES ACTING ON ITS BEHALF.] The obligations imposed by this section upon an insurer or insurance agent may be satisfied by another insurer or insurance agent authorized to act on its behalf.

#### Sec. 7. [72A.495] [MARKETING AND RESEARCH SURVEYS.]

An insurer or insurance agent shall clearly specify any questions designed to obtain information solely for marketing or research purposes from an individual in connection with an insurance transaction, and state that responses to the questions are not required to obtain coverage.

#### Sec. 8. [72A.496] [INVESTIGATIVE CONSUMER REPORTS.]

Subdivision 1. [NOTICE.] An insurer, insurance agent, or insurance-support organization must not prepare or request an investigative consumer report about an individual in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement, or a change in insurance benefits, unless the insurer or insurance agent informs the person:

(1) that the individual may request to be interviewed in connection with the preparation of the investigative consumer report; and

(2) that, upon a request pursuant to section 9, the individual is entitled to receive a copy of the investigative consumer report.

Subd. 2. [REPORTS PREPARED BY INSURERS.] If an investigative consumer report is to be prepared by an insurer or insurance agent, the insurer or insurance agent shall institute reasonable procedures to conduct a personal interview requested by an individual.



Subd. 3. [REPORTS PREPARED BY INSURANCE-SUPPORT ORGANIZATIONS.] If an investigative consumer report is to be prepared by an insurance-support organization, the insurer or insurance agent desiring the report shall inform the insurance-support organization whether a personal interview has been requested by the individual. The insurance-support organization shall institute reasonable procedures for conducting an interview, if requested.

Sec. 9. [72A.497] [ACCESS TO PERSONAL INFORMATION.]

Subdivision 1. [REQUEST.] (a) If an individual, after proper identification, submits a written request to an insurer, insurance agent, or insurance-support organization for access to personal information about the individual, the insurer, insurance agent, or insurance-support organization shall within 30 business days from the date the request is received:

(1) inform the individual of the nature and substance of the personal information that they possess in writing, by telephone, or by other oral communication, whichever the insurer, insurance agent, or insurance-support organization elects;

(2) permit the individual to see and copy, in person, the personal information pertaining to that person;

(3) permit the individual to obtain by mail a copy of all of the personal information or a reasonably described portion thereof, whichever the individual requests;

(4) disclose to the individual the identity of those persons to whom the insurer, insurance agent, or insurance-support organization has disclosed the personal information within two years before the request; and

(5) provide the individual with a summary of the procedures by which the person may request correction, amendment, or deletion of personal information, as provided under section 10.

(b) If the personal information is in coded form, an accurate translation in plain language must be provided in writing.

(c) If credit information is requested that federal law prohibits an insurer to disclose, the insurer must disclose that the individual has the right to receive the credit information from the credit reporting agency. The insurer must disclose the name, address, and telephone number of the credit reporting agency that supplied the insurer with the credit information.

Subd. 2. [SOURCE.] Any personal information collected must specifically identify the source of the information.

Subd. 3. [HEALTH RECORDS.] (a) Health record information requested under subdivision 1 that has been supplied by a health care institution or a health professional must provide the identity of the health professional or health care institution that supplied the information. The health record information must be provided either directly to the individual or to a health professional designated by the person who is licensed to provide health care with respect to the condition to which the information relates, whichever the individual elects. If the information is provided to a designated health professional, the insurer, insurance agent, or insurance-support organization shall notify the person, at the time of the disclosure, that the information has been provided to the health professional.

(b) If a health professional or a health care institution has provided health information to an insurer, insurance-support organization, or insurance agent that the health professional or health care institution has determined and indicates in writing that the release of the health record information is detrimental to the physical or mental health of the person, or is likely to cause the individual to inflict self-harm or to harm another, the insurer, insurance agent, or insurance-support organization may provide that information directly to the individual only with the approval of the health professional with treatment responsibility for the condition to which the information relates. If approval is not obtained, the information must be provided to the health professional designated by the individual.

(c) Nothing in this section may reduce or affect a patient's rights under section 144.335.

Subd. 4. [FEE.] An insurer, insurance agent, or insurance-support organization may charge a reasonable fee, not to exceed the actual costs, to copy information provided under this section. If an individual is requesting information as a result of an adverse underwriting decision, the insurer, insurance agent, or insurance-support organization must provide the information free of any charge.

Subd. 5. [OTHER COMPANIES OR AGENTS ACTING ON ITS BEHALF.] The obligations imposed by this section upon an insurer or insurance agent may be satisfied by another insurer or insurance agent authorized to act on its behalf. With respect to the copying and disclosure of personal information under a request under subdivision 1, an insurer, insurance agent, or insurance-support organization may make arrangements with an insurance-support organization or a consumer reporting agency to copy and disclose personal information on its behalf.

Subd. 6. [PRIVILEGED INFORMATION.] The rights granted

under this section and section 10 do not extend to privileged information.

**Sec. 10. [72A.498] [CORRECTION, AMENDMENT, OR DELETION OF PERSONAL INFORMATION.]**

Subdivision 1. [PROCEDURE.] Within 30 business days from the date of receipt of a written request from an individual to correct, amend, or delete any personal information about the person within its possession, an insurer, insurance agent, or insurance-support organization shall either:

(1) correct, amend, or delete the portion of the personal information in dispute; or

(2) notify the individual of its refusal to make the correction, amendment, or deletion, the reasons for the refusal, and the person's right to file a statement as provided in subdivision 3, and the individual's right to appeal to the commissioner under subdivision 5.

Subd. 2. [NOTICE.] If the insurer, insurance agent, or insurance-support organization corrects, amends, or deletes disputed personal information upon request of an individual or as ordered by the commissioner, the insurer, insurance agent, or insurance-support organization shall notify the person in writing and provide the correction, amendment, or fact of deletion to:

(1) any person specifically designated by the individual who may have within the preceding two years received the personal information;

(2) any insurance-support organization whose primary source of personal information is insurers, if the insurance-support organization has systematically received the personal information from the insurer within the preceding seven years, provided that the correction, amendment, or fact of deletion need not be provided to an insurance-support organization if the insurance-support organization no longer maintains personal information about the individual; and

(3) any insurance-support organization that provided the personal information that has been corrected, amended, or deleted.

Subd. 3. [STATEMENT.] If the insurer, insurance agent, or insurance-support organization refuses to correct, amend, or delete disputed personal information, the individual must be permitted to file with the insurer, insurance agent, or insurance-support organization a concise statement setting forth what the person thinks is the correct, relevant, or fair information and stating the reasons

why the individual disagrees with the insurer's, insurance agent's, or insurance-support organization's refusal to correct, amend, or delete disputed personal information.

Subd. 4. [DISPUTED INFORMATION.] In the event an individual files a statement described in subdivision 3, the insurer, insurance agent, or insurance-support organization shall:

(1) file the statement with the disputed personal information and provide a means by which anyone reviewing the disputed personal information will be made aware of the individual's statement and have access to it;

(2) in any subsequent disclosure by the insurer, insurance agent, or insurance-support organization of the disputed personal information, clearly identify the matter or matters in dispute and provide the individual's statement along with the personal information being disclosed; and

(3) furnish the statement to the persons and in the manner specified in subdivision 2.

Subd. 5. [APPEAL.] (a) If an insurer, insurance-support organization, or insurance agent refuses to correct, amend, or delete disputed personal information, the individual may file an appeal with the commissioner.

(b) The commissioner may, after providing the insurer, insurance-support organization, or insurance agent an opportunity for a hearing, order the insurer, insurance-support organization, or insurance agent to amend, correct, or delete disputed personal information if the commissioner finds that the personal information kept by the insurer, insurance-support organization, or insurance agent is in error. If the commissioner finds that the disputed personal information maintained by the insurer, insurance agent, or insurance-support organization is correct, the insurer, insurance agent, or insurance-support organization may delete from the individual's records any statement filed with them by that individual relating to the disputed information under subdivision 3.

Sec. 11. [72A.499] [REASONS FOR ADVERSE UNDERWRITING DECISIONS.]

Subdivision 1. [NOTICE AND INFORMATION.] In the event of an adverse underwriting decision, the insurer or insurance agent responsible for the decision shall provide in writing to the applicant, policyholder, or individual proposed for coverage:

(1) the specific reason or reasons for the adverse underwriting decision, a summary of the person's rights under sections 9 and 10,

and that upon request the person may receive the specific items of personal information that support those reasons and the specific sources of the information; or

(2) the specific reason or reasons for the adverse underwriting decision, the specific items of personal and privileged information that support those reasons, the names and addresses of the sources that supplied the specific items of information specified, and a summary of the rights established under sections 9 and 10.

Subd. 2. [HEALTH REASONS.] If the specific reason for an adverse underwriting decision is based on health record information, the insurer may, in lieu of providing the specific reason to the individual under subdivision 1, provide the individual with the specific source of the adverse underwriting decision referring to the specific date, page, and line of the information received from a health professional or health care institution. If the insured has been informed of the condition indicated by their health provider and is unable to determine the reason for the adverse underwriting decision, then the insurer must provide the specific reason to the individual. The insurer must provide the specific reason for the adverse underwriting decision to a health professional designated by the individual, if requested either orally or in writing by the individual.

Subd. 3. [EXEMPTION.] (a) This section is not applicable to group policies or contracts, except for group policies that are individually underwritten. For group policies or contracts that are individually underwritten, the notice required under this section must be given to the individual or individuals in the group whose personal information resulted in the adverse underwriting decision.

(b) If a policy or contract is terminated on a class or statewide basis, or an insurance coverage is declined solely because the coverage is unavailable on a class or statewide basis, the insurer or agent is not required to provide the notice required under this section provided that the applicant or policyholder is provided with the specific reason for the termination or declination of coverage.

Subd. 4. [PRIVILEGED INFORMATION.] (a) An insurer or insurance agent is not required to provide particular, specific items of privileged information under subdivision 1 if it has a reasonable suspicion, based upon that specific information, that the applicant, policyholder, or person proposed for coverage has engaged in criminal activity, fraud, material misrepresentation, or material nondisclosure. If an insurer or insurance agent does not provide the specific items of information because the information is privileged under this subdivision, the insurer or insurance agent must notify the applicant, policyholder, or individual proposed for coverage that the specific items of information are privileged and of the person's right to appeal to the commissioner under this subdivision.

(b) If a person is not provided with the specific items of information relating to an adverse underwriting decision because the information is privileged under this subdivision, the person may request that the commissioner review the information. The commissioner may then order the insurer or insurance agent to supply the privileged information to the commissioner. If the commissioner determines that the information is not privileged under this subdivision, the commissioner shall order the insurer or insurance agent to provide the information to the applicant, policyholder, or person proposed for coverage.

Subd. 5. [HEALTH RECORDS INFORMATION.] Specific items of health record information supplied by a health care institution or health professional, and the identity of the health professional or health care institution that supplied the information, must be disclosed in the manner required under section 9, subdivision 3.

Subd. 6. [OTHER COMPANIES OR AGENTS ACTING ON THEIR BEHALF.] The obligations imposed by this section upon an insurer or insurance agent may be satisfied by another insurer or insurance agent authorized to act on its behalf.

Sec. 12. [72A.50] [PREVIOUS ADVERSE UNDERWRITING DECISIONS.]

Subdivision 1. [ADDITIONAL INFORMATION REQUIRED.] An insurer, insurance agent, or insurance-support organization must not seek information in connection with an insurance transaction concerning any previous adverse underwriting decision experienced by a person, or any previous insurance coverage obtained by a person through a residual market mechanism, unless the inquiry also requests the reasons for the previous adverse underwriting decision or the reasons why insurance coverage was previously obtained through a residual market mechanism.

Subd. 2. [PROHIBITIONS.] An insurer or insurance agent may not base an adverse underwriting decision, in whole or in part, on:

(1) the fact of a previous adverse underwriting decision or the fact that a person previously obtained insurance coverage through a residual market mechanism, provided that an insurer or insurance agent may base an adverse underwriting decision on further information obtained from an insurer or insurance agent responsible for a previous adverse underwriting decision; or

(2) personal information received from an insurance-support organization whose primary source of information is insurers, provided that an insurer or insurance agent may base an adverse underwriting decision on further personal information obtained as the result of information received from the insurance-support organization.

## Sec. 13: [72A.501] [DISCLOSURE AUTHORIZATION.]

Subdivision 1. [REQUIREMENT; CONTENT.] An authorization used by an insurer, insurance-support organization, or insurance agent to disclose or collect personal information must be in writing and must meet the following requirements:

- (1) is written in plain language;
- (2) is dated;
- (3) specifies the types of persons authorized to disclose information about the person;
- (4) specifies the nature of the information authorized to be disclosed;
- (5) names the insurer or insurance agent and identifies by generic reference representatives of the insurer to whom the person is authorizing information to be disclosed;
- (6) specifies the purposes for which the information is collected; and
- (7) specifies the length of time the authorization remains valid.

Subd. 2. [APPLICATION.] (a) If the authorization is signed to collect information in connection with an application for a property and casualty insurance policy, a policy reinstatement, or a request for a change in benefits, the authorization must not remain valid for longer than one year from the date the authorization is signed or the date the insurer grants or denies coverage, reinstatement, or change in benefits, whichever is sooner.

(b) If the authorization is signed to collect information in connection with an application for a life, disability, and health insurance policy or contract, reinstatement, or request for change in benefits, the authorization may not remain valid for longer than 26 months from the date the authorization is signed.

Subd. 3. [CLAIMS.] If the authorization is signed to collect information in connection with a claim for benefits under an insurance policy, the authorization must not remain valid for longer than:

- (1) the term of coverage of the policy, if the claim is for a health insurance benefit; or
- (2) the duration of the claim, if the claim is for a claim other than for a health insurance benefit.

Subd. 4. [AUTHORIZATION; NONINSURERS.] If an authorization is submitted to an insurer, insurance-support organization, or insurance agent by a person other than an insurer, insurance-support organization, or insurance agent, the authorization must be dated, signed by the person, and obtained one year or less before the date a disclosure is sought.

Sec. 14. [72A.502] [DISCLOSURE OF INFORMATION; LIMITATIONS AND CONDITIONS.]

Subdivision 1. [REQUIREMENT.] An insurer, insurance agent, or insurance-support organization must not disclose any personal or privileged information about a person collected or received in connection with an insurance transaction without the written authorization of that person except as authorized by this section. An insurer, insurance agent, or insurance-support organization must not collect personal information about a policyholder or an applicant not relating to a claim from sources other than public records without a written authorization from the person.

Subd. 2. [PREVENTION OF FRAUD.] Personal or privileged information may be disclosed without a written authorization to another person if the information is limited to that which is reasonably necessary to detect or prevent criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with an insurance transaction, and that person agrees not to disclose the information further without the individual written authorization unless the further disclosure is otherwise permitted by this section if made by an insurer, insurance agent, or insurance-support organization.

Subd. 3. [HEALTH CARE INSTITUTIONS AND PROFESSIONALS.] Personal or privileged information may be disclosed without a written authorization to a health care institution or health professional for the purpose of verifying insurance coverage benefits, informing a person of a health problem of which the person must not be aware, or conducting an operations or services audit, if the information is only disclosed that is reasonably necessary to accomplish the purposes under this subdivision.

Subd. 4. [REGULATORY AUTHORITY.] Personal or privileged information may be disclosed without a written authorization to an insurance regulatory authority.

Subd. 5. [OTHER GOVERNMENTAL AUTHORITIES.] Personal or privileged information may be disclosed without a written authorization to a law enforcement or other governmental authority if:

- (1) the disclosure is to protect the interests of the insurer, agent,



or insurance-support organization in preventing or prosecuting the perpetration of fraud upon it; or

(2) the insurer, agent, or insurance-support organization reasonably believes that illegal activities have been conducted by the individual.

Subd. 6. [OTHER LAWS OR ORDER.] Personal or privileged information may be disclosed without a written authorization if permitted or required by another law or in response to a facially valid administrative or judicial order, including a search warrant or subpoena.

Subd. 7. [ACTUARIAL AND RESEARCH STUDIES.] Personal or privileged information may be disclosed without a written authorization to conduct actuarial or research studies if:

(1) no individual may be identified in the actuarial or research report;

(2) materials allowing an individual to be identified are returned or destroyed as soon as they are no longer needed; and

(3) the actuarial or research organization agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance company, agent, or insurance-support organization.

Subd. 8. [AFFILIATE COMPANIES.] Personal or privileged information may be disclosed without a written authorization to an affiliate whose only use of the information will be in connection with an audit of the insurer or agent or the marketing of an insurance product or service, provided the affiliate agrees to not disclose the information for any other purpose or to unaffiliated persons.

Subd. 9. [GROUP POLICYHOLDER.] Personal or privileged information may be disclosed with written authorization to a group policyholder only to report claims experience or conduct an audit of the insurer's or agent's operations or services, if the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit.

Subd. 10. [GOVERNMENTAL LICENSING BOARD.] Personal or privileged information may be disclosed without a written authorization to a governmental professional licensing or regulatory board to review the service or conduct of a health care institution or health professional that the insurer has reason to believe has violated its licensing act or engaged in the unlawful practice of a licensed professional.

Subd. 11. [PROFESSIONAL PEER REVIEW.] Subject to the terms of a contract between an insurer and a health professional or health care institution, personal or privileged information may be disclosed without a written authorization to a professional peer review organization to review the service or conduct of a health care institution or health professional.

Subd. 12. [NOTICE.] Whenever an insurer, insurance agent, or insurance-support organization discloses personal or privileged information about a person that requires the written authorization of that person under this section, the insurer, insurance agent, or insurance-support organization shall notify that person in writing within ten days of the date the information was disclosed. The notification must specify the identity of the person to whom information was disclosed and the nature and substance of the information that was disclosed. A notice is not required to be given under this subdivision if an insurer is disclosing personal information for underwriting purposes to another insurer, or to an insurance-support organization if the person had signed an authorization authorizing the disclosure.

**Sec. 15. [72A.503] [PRIVATE REMEDIES.]**

Subdivision 1. [LIABILITY.] Any insurer, insurance agent, or insurance-support organization that violates sections 2 to 17 is liable to the aggrieved person for all actual damages sustained by the person as a result of the violation. In determining the amount of general damages the court must consider the nature and seriousness of any intangible harm suffered by the person, the frequency and persistence of violations by the defendant, and the extent to which the violation was intentional.

Subd. 2. [EQUITABLE RELIEF] Upon application by an aggrieved person, a court of competent jurisdiction may grant equitable and declaratory relief as necessary to enforce the requirements of sections 2 to 17.

Subd. 3. [COSTS.] In any successful action brought under this section, the costs of the action, including reasonable attorney fees as determined by the court, may be awarded in addition to any damages.

**Sec. 16. [72A.504] [OBTAINING INFORMATION UNDER IMPROPER MEANS.]**

Any person who knowingly and willfully obtains information about a person in violation of section 5 is subject to a fine not to exceed \$3,000 or imprisonment not to exceed one year, or both.

**Sec. 17. [72A.505] [IMMUNITY.]**

No cause of action in the nature of defamation, invasion of privacy, or negligence may arise against an insurer, insurance agent, or insurance-support organization for disclosing personal or privileged information required to be disclosed under sections 1 to 16, provided no immunity exists for disclosing false information with malice or willful intent to injure any person.

Sec. 18. [EFFECTIVE DATE.]

Sections 1 to 5 and 7 to 17 are effective August 1, 1989, and the rights granted under those sections are effective on that date, regardless of the date of the collection or receipt of the information which is subject to those sections. Section 6 is effective January 1, 1990. Insurers may use, until July 1, 1990, notices that are in substantial compliance with this section that have not been approved by the commissioner of commerce.

Delete the title and insert:

"A bill for an act relating to insurance; regulating insurance information collection, use, disclosure, access, and correction practices; requiring reasons for adverse underwriting decisions; amending Minnesota Statutes 1988, section 72A.20, subdivision 11; proposing coding for new law in Minnesota Statutes, chapter 72A."

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

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 390, A bill for an act relating to appropriations; requiring recommendations of the legislative advisory commission to be made at a meeting of the commission except in certain circumstances; amending Minnesota Statutes 1988, section 3.30, subdivisions 1 and 2.

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

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 515, A bill for an act relating to judicial procedure; clarifying and recodifying tax court powers and procedures; making

technical corrections and eliminating redundant and unnecessary language and obsolete references; amending Minnesota Statutes 1988, sections 270.07, subdivision 1; 270.10, by adding a subdivision; 271.01, subdivisions 1 and 5; 271.02; 271.04; 271.06, subdivisions 1, 2, 3, and 7; 271.061; 271.07; 271.13; 271.15; 271.17; 271.18; 271.21, subdivisions 2 and 10; 277.011, subdivision 7; 278.01, subdivision 1; 278.02; 278.05, subdivision 4; and 278.08, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 270; repealing Minnesota Statutes 1988, sections 271.01, subdivision 6; 271.21, subdivision 4; and 271.22.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

**"Section 1. [270.021] [EX-OFFICERS AND EX-EMPLOYEES NOT TO REPRESENT CLIENTS; PENALTY.]**

An officer or employee of the department of revenue may not, for a period of one year after the term of office has ended or employment has terminated, act as counsel, attorney, or agent for a taxpayer in connection with a claim or proceeding pending in the department. An officer or employee of the department of revenue may not act as counsel, attorney, or agent for a taxpayer at any time after termination of the office or employment in connection with a claim or proceeding of which the person has knowledge that was acquired during the term of office or employment. A violation of this section is a gross misdemeanor.

**Sec. 2. [270.022] [FILING OFFICERS.]**

The commissioner of revenue is the filing officer and custodian of the books, files, and records of the department of revenue. The commissioner may certify copies of the books, files, and records in the custody of the commissioner for all purposes in the same manner as other custodians of public records. The commissioner may authorize other officers or employees of the department of revenue to certify books, files, and records in the custody of the commissioner. The authorization must be made by a written order stating the documents that may be certified and must be filed with the secretary of state.

**Sec. 3. [270.0601] [TAX COURT APPEALS.]**

The powers of examination, investigation, and subpoena, and the power to administer oaths and take testimony granted to the commissioner of revenue and officers and employees of the department of revenue in section 270.06 do not apply to a matter that has been appealed to the tax court.

Sec. 4. Minnesota Statutes 1988, section 270.07, subdivision 1, is amended to read:

Subdivision 1. (a) The commissioner of revenue shall prescribe the form of all blanks and books required under this chapter and shall hear and determine all matters of grievance relating to taxation. Except as otherwise provided by law, the commissioner shall have power to grant such reduction or abatement of gross tax capacities or taxes and of any costs, penalties or interest thereon as the commissioner may deem just and equitable, and to order the refundment, in whole or in part, of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid. Application therefor shall be submitted with a statement of facts in the case and the favorable recommendation of the county board or of the board of abatement of any city where any such board exists, and the county auditor of the county wherein such tax was levied or paid. In the case of gross earnings taxes the application may be made directly to the commissioner without the favorable action of the county board and county auditor, and the commissioner shall direct that any gross earnings taxes which may have been erroneously or unjustly paid shall be applied against unpaid taxes due from the applicant for such refundment. In the case of taxes other than gross earnings taxes, the order may be made only on application and approval as provided in this paragraph. No reduction, abatement, or refundment of any special assessments made or levied by any municipality for local improvements shall be made unless it is also approved by the board of review or similar taxing authority of such municipality.

(b) The commissioner has the power to grant reductions or abatements of gross earnings tax. An application for reduction of gross earnings taxes may be made directly to the commissioner without the favorable action of the county board and county auditor. The commissioner shall direct that any gross earnings taxes that may have been erroneously or unjustly paid be applied against unpaid taxes due from the applicant.

(c) The commissioner shall forward to the county auditor a copy of the order made by the commissioner in all cases in which the approval of the county board is required.

(d) The commissioner may refer any question that may arise in reference to the true construction of this chapter to the attorney general, and the decision thereon shall be in force and effect until annulled by the judgment of a court of competent jurisdiction. The commissioner shall forward to the county auditor a copy of the order by the commissioner made in all cases in which the approval of the county board is required.

(e) The commissioner may by written order abate, reduce, or refund any penalty or interest imposed by any law relating to taxation, if in the commissioner's opinion the failure to timely pay

the tax or failure to timely file the return is due to reasonable cause. ~~Such order shall, in the case of real and personal property taxes, be made only on application and approval as provided in this section; in the case of all other taxes, such~~ The order shall be made on application of the taxpayer to the commissioner and.

(f) ~~If the an order issued under this subdivision~~ is for an abatement, reduction or refund of over \$5,000, it shall be valid only if approved in writing by the attorney general.

(g) An appeal may not be taken to the tax court from any order of the commissioner of revenue made in the exercise of the discretionary authority granted in ~~this subdivision~~ paragraph (a) with respect to the reduction or abatement of real or personal property taxes in response to a taxpayer's application for an abatement, reduction or refund of taxes, gross tax capacities, costs, penalties or interest.

Sec. 5. Minnesota Statutes 1988, section 270.10, is amended by adding a subdivision to read:

Subd. 1a. [NOTIFICATION TO TAXPAYER.] At the same time that notice of the assessment, determination, or order of the commissioner is given to a taxpayer, the taxpayer must be notified in writing of the right to appeal to the tax court, and if applicable, to the small claims division. In any notice of assessment, determination, or order dealing with property valuation or assessment for property tax purposes by the commissioner of revenue or a local unit of government, the taxpayer must be notified in writing that a taxpayer must appeal to the town or city board of equalization and to the county board of equalization before appealing to the small claims division of the tax court, except for those taxpayers whose original assessments are determined by the commissioner of revenue.

Sec. 6. Minnesota Statutes 1988, section 271.01, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP, APPOINTMENT, QUALIFICATIONS.] There is hereby created a tax court as an independent agency of the executive branch of the government. The tax court is a court of record. The tax court shall consist of three judges, each of whom shall be a citizen of the state, appointed by the governor, by and with the advice and consent of the senate, for a term of six years commencing at the expiration of the preceding term. Any vacancy shall be filled by the governor for the unexpired term, subject to confirmation by the senate. The terms of the judges shall end on the first Monday in January. The terms of the judges shall be staggered. The initial three terms to be filled pursuant to Laws 1977, chapter 307 will expire on the first Monday in January in the following years: 1979, 1981, and 1983, the term of one judge expiring on the first Monday of each odd-numbered year. Judges may serve until

their successors are appointed and qualify. They shall be selected on the basis of their experience with and knowledge of taxation and tax laws. The judges of the tax court must be learned in the law and shall be subject to the provisions of the Minnesota Constitution, article VI, section 6, the jurisdiction of the commission on judicial standards, as provided in sections 490.15 and 490.16, and the provisions of the code of judicial conduct.

Sec. 7. Minnesota Statutes 1988, section 271.01, subdivision 5, is amended to read:

Subd. 5. [JURISDICTION.] The tax court shall have statewide jurisdiction. Except for an appeal to the supreme court or any other appeal allowed under this subdivision, the tax court shall be the sole, exclusive, and final authority for the hearing and determination of all questions of law and fact arising under the tax laws of the state, as defined in this subdivision, in those cases that have been appealed to the tax court and in any case that has been transferred by the district court to the tax court. The tax court shall have no jurisdiction in any case that does not arise under the tax laws of the state or in any criminal case or in any case determining or granting title to real property or in any case that is under the jurisdiction of the probate court. The small claims division of the tax court shall have no jurisdiction in any case dealing with property valuation or assessment for property tax purposes until the taxpayer has appealed the valuation or assessment to the town or city board of equalization and to the county board of equalization, except for those taxpayers whose original assessments are determined by the commissioner of revenue. The tax court shall have no jurisdiction in any case involving an order of the state board of equalization unless a taxpayer contests the valuation of property. Only the taxes, aids and related matters contained in chapters 60A, 69, 124, 270, 272, 273, 274, 275, 276, 277, 278, 279, 285, 287, 288, 290, 290A, 291, 292, 293, 294, 295, 296, 297, 297A, 297B, 297C, 297D, 298, 299, 299F, 473, 473F, and 477A shall be considered tax laws of this state subject to the jurisdiction of the tax court. This subdivision shall not be construed to prevent an appeal, as provided by law, to an administrative agency, board of equalization, or to the commissioner of revenue. Wherever used in this chapter, the term commissioner shall mean the commissioner of revenue, unless otherwise specified.

Sec. 8. Minnesota Statutes 1988, section 271.02, is amended to read:

#### 271.02 [OFFICERS.]

The judges of the tax court shall choose a chief judge of the tax court. The chief judge of the tax court shall appoint one of the judges to serve as the administrator, who shall be custodian of the court's files and records and shall coordinate and make hearing assignments. The administrator may, and appoint employees who shall be

in the unclassified service. The chief judge who is appointed the administrator may delegate administrative duties to the employees appointed and may select one employee to act in the administrator's place as the assistant administrator. The court administrator of district court in each county shall be the court administrator of the tax court in that county. Filing fees and library fees deposited with the court administrator of district court in the capacity of court administrator of the tax court and in cases originally commenced in district court and transferred to the tax court shall be retained by the court administrator of district court. The court administrator of the tax court in each county shall be subject to the supervision of the administrator in tax court matters.

Sec. 9. Minnesota Statutes 1988, section 271.04, is amended to read:

271.04 [HEARINGS.]

The tax court shall hold hearings and meetings as may be prescribed by the rules of the tax court. The principal office of the tax court shall be at the capitol in Saint Paul, but it shall hold hearings at any other place within the state, so that taxpayers may appear before the court with as little inconvenience and expense to the taxpayer as is practicable. The tax court shall be allowed to use the district court and county court room in all of the counties. The administrator of the tax court shall consult with the court administrator of the district and county court judges involved before a schedule of court room to be used by the tax court is established. Each tax court judge may hear and decide cases. Upon petition by a party to a case, or upon a motion by a tax court judge, and approval by a majority of the tax court, a case may be tried before the entire tax court. When an appeal is taken by a resident taxpayer from an order of the commissioner, not involving property taxes, venue for the case shall be, at the election of the taxpayer, in Ramsey county or in the district court judicial district in which the taxpayer resides. Venue shall be in Ramsey county for an appeal taken by a nonresident taxpayer from an order of the commissioner. Venue for all other cases arising under the tax laws of the state shall be in the same judicial district as if the case was being tried in district court.

Sec. 10. Minnesota Statutes 1988, section 271.06, subdivision 1, is amended to read:

Subdivision 1. [MANNER.] Except as otherwise provided by in section 270.07, subdivision 1, paragraph (a), or any other law, an appeal to the tax court may be taken, in the manner herein provided, from any official order of the commissioner of revenue respecting any tax, fee, or assessment, or any matter pertaining thereto, including the imposition of interest and penalty, or any matter concerning the tax laws listed in section 271.01, subdivision 5, by any person directly interested therein or affected thereby, or by any political



subdivision of the state, directly or indirectly, interested therein or affected thereby, or by the attorney general in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the attorney general, upon request, shall refuse to appeal. Notwithstanding subdivision 2, when an appeal is taken to the tax court in any case dealing with property valuation, assessment, or taxation for property tax purposes, the provisions of section 274.19, subdivisions 4 and 5, section 277.011, and chapter 278 shall apply as if the appeal had been taken to the district court.

Sec. 11. Minnesota Statutes 1988, section 271.06, subdivision 2, is amended to read:

Subd. 2. [TIME; NOTICE; INTERVENTION.] Except as otherwise provided by law, within 60 days after notice of the making and filing of an order of the commissioner of revenue, the appellant, or the appellant's attorney, shall serve a notice of appeal upon the commissioner and file the original, with proof of such service, with the tax court administrator or with the court administrator of district court acting as court administrator of the tax court; provided, that a the tax court judge, for cause shown, may by written order extend the time for appealing for an additional period not exceeding 30 days. The notice of appeal shall be in the form prescribed by the tax court. Within five days after receipt, the commissioner shall transmit a copy of the notice of appeal to the attorney general in all cases where the amount at issue exceeds \$100. The attorney general shall represent the commissioner, if requested, upon all such appeals except in cases where the attorney general has appealed in behalf of the state, or in other cases where the attorney general deems it against the interests of the state to represent the commissioner, in which event the attorney general may intervene or be substituted as an appellant in behalf of the state at any stage of the proceedings.

Upon a final determination of any other matter concerning the tax laws listed in section 271.01, subdivision 5, the taxpayer or the taxpayer's attorney shall file a petition or notice of appeal as provided by law with the court administrator of district court, acting in the capacity of court administrator of the tax court, with proof of service of the petition or notice of appeal as required by law and within the time required by law. As used in this subdivision, "final determination" includes a notice of assessment and equalization for the year in question received from the local assessor, an order of the local board of equalization, or an order of a county board of equalization.

The tax court shall prescribe a filing system so that the notice of appeal or petition filed with the district court administrator acting as court administrator of the tax court is forwarded to the tax court administrator. In the case of an appeal or a petition concerning property valuation for which the assessor, a local board of equalization, a county board of equalization or the commissioner of revenue

has issued an order, the officer issuing the order shall be notified of the filing of the appeal. The notice of appeal or petition shall be in the form prescribed by the tax court.

Sec. 12. Minnesota Statutes 1988, section 271.06, subdivision 3, is amended to read:

Subd. 3. [PLEADINGS.] Within 20 30 days after the service and filing of the notice of appeal, unless the appeal be theretofore dismissed, the commissioner or the appropriate unit of government shall make, certify, and file with the tax court a return comprising composed of a copy of any application or petition by which the proceeding was instituted and of any other material paper preceding the order of the commissioner or the appropriate unit of government, a copy of the order appealed from, a statement of each finding of fact and ruling of law made by the commissioner or the appropriate unit of government in the matter, all relevant correspondence or other communication, and a denial, admission, or explanation with respect to each allegation of fact in the notice so far as not covered by the order or findings; provided, that any judge of the tax court, for cause shown, may extend the time for filing such return for an additional period not exceeding 30 days. Where the commissioner is required to transmit a copy of the notice of appeal to the attorney general, the commissioner shall, within ten days after service of the notice of appeal upon the commissioner, transmit to the attorney general a complete copy of all papers required for the return. Allegations of new matter in the return shall be deemed to be denied by the appellant.

Sec. 13. Minnesota Statutes 1988, section 271.06, subdivision 7, is amended to read:

Subd. 7. [RULES.] The rules of evidence and civil procedure for the district court of Minnesota shall govern the procedures in the tax court, where practicable. The rules of the tax court in effect on July 1, 1977 shall govern until superseded. The tax court may make additional rules when the law or special circumstances so require, provided that before any additional rule is adopted, the tax court first holds a public hearing thereon, affording all affected interests an opportunity to participate, and gives notice of its intention to hold a hearing at least 30 days prior to the date set for the hearing by United States mail, to representatives of associations or other interested groups or persons who have registered their names with the court for that purpose and in the state register. The notice in the state register shall include the full text of the rule proposed for adoption. The tax court shall make available at least one free copy of the proposed rule to any person requesting it. At the public hearing the tax court shall make an affirmative presentation of facts establishing the need for and reasonableness of the rule proposed for adoption and fulfilling any relevant substantive or procedural requirements imposed on the tax court by law. After the

hearing ends, 20 days shall be allowed for written material to be submitted and recorded in the hearing record. If the tax court approves the rule, the tax court shall promptly publish a notice of adoption in the state register. A rule is effective five working days after the notice of adoption is published in the state register unless a later date is specified in the rule. Any rule adopted after July 1, 1977, which is not published in the state register, shall be of no effect. The tax court is exempt from the administrative procedure act but, to the extent authorized by law to adopt rules, may use the provisions of section 14.38, subdivisions 5 to 9 The tax court may adopt rules under chapter 14. The rules in effect on January 1, 1989, apply until superseded.

Sec. 14. Minnesota Statutes 1988, section 271.07, is amended to read:

271.07 [STENOGRAPHIC REPORT; TRANSCRIPT.]

Except in the small claims division, the tax court shall provide for a verbatim stenographic report of all proceedings had before it upon appeals, as required by the laws relating to proceedings in district court. In case of a review by the supreme court of an order of the tax court, transcripts of the proceedings before the tax court shall be furnished to the tax court, the commissioner, and the attorney general upon request, and the cost thereof shall be paid out of funds appropriated therefor upon such terms as the tax court may prescribe. Transcripts shall be furnished to other parties by the reporter at the same legal rates applicable at the time to the district court reporters of the county in which the case was tried, but no transcript shall be made for or delivered to such other party unless the party shall deposit the estimated cost thereof, in advance, with the court administrator, subject to payment of the actual cost therefrom as soon as determined.

Sec. 15. Minnesota Statutes 1988, section 271.13, is amended to read:

271.13 [MAY COMPEL ATTENDANCE OF WITNESSES.]

The commissioner of revenue, The tax court, and each judge of the tax court shall, respectively, have power to subpoena and compel the attendance of witnesses and the production of books, records, papers, and documents at any hearing or investigation at any place within the state in any matter within the scope of their authority, and shall also have power to administer oaths to witnesses and to take testimony under oath. Disobedience of an order of the tax court or any subpoena or refusal by any witness to be sworn or to testify upon any material matter at any such hearing or investigation shall be punishable in like manner as a contempt of the district court, in proceedings instituted upon complaint of the authority issuing the order or subpoena in the district court of the county where the order

was made or the subpoena was made returnable. Subpoenas for witnesses or the production of documentary evidence shall be issued at the request of any party to the proceeding. Subpoenas may be signed by the commissioner or by a judge of the tax court or by the administrator or the court administrator of the tax court in on behalf of the tax court, as the case may be. The commissioner of revenue shall no longer exercise this power in any matter that has been appealed to the tax court.

Sec. 16. Minnesota Statutes 1988, section 271.15, is amended to read:

#### 271.15 [WHO MAY ADMINISTER OATHS.]

The commissioner of revenue, Each judge of the tax court, the administrator and court administrators of the tax court, and all other officers and employees of the department and of the tax court shall, respectively, have power to administer oaths and to take and certify acknowledgments so far as they may deem necessary to the proper discharge of their respective duties, and may authenticate the same with the seal of the department or the tax court, as the case may be. The commissioner of revenue and any officer and employee of the department shall no longer exercise this power in any matter that has been appealed to the tax court.

Sec. 17. Minnesota Statutes 1988, section 271.17, is amended to read:

#### 271.17 [FILING OFFICERS.]

The commissioner of the department of revenue and The tax court administrator and the district court administrators of the tax court shall be the filing officers and custodians of the books, files, and records of their respective agencies the tax court. The commissioner, administrator, and clerks, and their deputies shall, respectively, have power to certify and authenticate copies of the books, files, and records in their custody for all purposes in like manner and with like effect as other custodians of public records. Any other officer or employee of the department thereto authorized by the commissioner by written order filed with the secretary of state shall have like power to certify and authenticate copies of any books, files, and records of the department specified in the order, other than those of the tax court. A judge of the tax court and any other officer or employee of the tax court thereto authorized by the tax court by written order filed with the administrator of the tax court shall also have like power to certify and authenticate copies of any books, files, and records of the tax court specified in the order.

Sec. 18. Minnesota Statutes 1988, section 271.18, is amended to read:

**271.18 [EX OFFICERS AND EX EMPLOYEES EX JUDGES  
NOT TO REPRESENT CLIENTS; EXCEPTION; VIOLATION.]**

No officer, judge, or employee of the department of revenue, or the tax court, except referees appointed for the small claims division, shall, within one year after the office or employment has terminated, act as counsel, attorney, or agent for a taxpayer in connection with any claim or proceeding pending in the department of revenue or in the tax court at the time of termination. No officer, judge, referee, or employee shall, at any time after the termination of the office or employment, act as counsel, attorney, or agent in connection with any claim or proceeding of which the person terminated has knowledge which was acquired in the course of a term of office or employment in the department or in the tax court. Any violation of the provisions of this section shall be a gross misdemeanor.

Sec. 19. Minnesota Statutes 1988, section 271.21, subdivision 2, is amended to read:

Subd. 2. At the election of the taxpayer, the small claims division shall have jurisdiction only in the following matters:

(a) any case concerning the in cases involving valuation, assessment, or taxation of residential property homesteaded by the taxpayer real or personal property, if the taxpayer has satisfied the requirements of section 271.01, subdivision 5, and in the case of nonhomestead property, the assessor's estimated market value is less than \$100,000; or

(b) any other case concerning the tax laws as defined in section 271.01, subdivision 5, in which the amount in controversy does not exceed \$5,000, including penalty and interest.

Sec. 20. Minnesota Statutes 1988, section 271.21, subdivision 10, is amended to read:

Subd. 10. Whenever the small claims division trial docket becomes congested with appeals involving valuation, classification, and assessment of property for tax purposes, the judges of the tax court may appoint referees to hear the property tax cases appealed to the small claims division. Each referee shall have authority to hear and decide the cases heard as small claims referee. Each referee shall be a citizen of Minnesota and shall have experience with and knowledge of tax law or property taxation and property values, depending on the case at issue. A referee shall be paid at a rate of 80 percent of the salary of the judges of the county district court in that county, prorated by the length of time served as a referee. Each referee shall receive actual and necessary expenses paid or incurred in the performance of duties.

Sec. 21. Minnesota Statutes 1988, section 277.011, subdivision 7, is amended to read:

Subd. 7. [PENALTIES AND INTEREST.] If the tax be sustained in full as levied, the judgment shall include any penalties or interest which have then accrued thereon for failure to pay the same, or any part thereof, at the time required by law. If the tax is increased, the judgment must include penalty and interest on the unpaid part of the original tax assessment, but not on the amount of the increase in tax. If the tax be reduced, no penalties and interest shall be included in the judgment because of the failure to pay such reduced tax prior to the entry thereof. The judgment shall be subject to such interest or penalties as would under the law attach to the tax embraced therein after the entry thereof.

Sec. 22. Minnesota Statutes 1988, section 278.01, subdivision 1, is amended to read:

Subdivision 1. [DETERMINATION OF VALIDITY.] Any person having any estate, right, title, or interest in or lien upon any parcel of land, who claims that such property has been partially, unfairly, or unequally assessed in comparison with other property in the city or county, or that the parcel has been assessed at a valuation greater than its real or actual value, or that the tax levied against the same is illegal, in whole or in part, or has been paid, or that the property is exempt from the tax so levied, may have the validity of the claim, defense, or objection determined by the district court of the county in which the tax is levied or by the tax court by serving two copies of a petition for such determination upon the county auditor and, one copy each on the county treasurer and the county attorney and filing the same, and one copy on the county treasurer. In counties where the office of county treasurer has been combined with the office of county auditor, the petitioner must serve the number of copies required by the county. The petitioner must file the copies with proof of service, in the office of the court administrator of the district court before the 16th day of May of the year in which the tax becomes payable. The county auditor shall immediately forward one copy of the petition to the appropriate governmental authority in a home rule charter or statutory city or town in which the property is located if that city or town employs its own certified assessor. A copy of the petition shall also be sent to the school board of the school district in which the property is located. A petition for determination under this section may be transferred by the district court to the tax court. An appeal may also be taken to the tax court under chapter 271 at any time following receipt of the valuation notice required by section 273.121 but prior to May 16 of the year in which the taxes are payable.

Sec. 23. Minnesota Statutes 1988, section 278.02, is amended to read:

## 278.02 [PETITION MAY INCLUDE SEVERAL PARCELS.]

Such petition need not be in any particular form, but shall clearly identify the land involved and shall set forth in concise language the claim, defense, or objection asserted. Several parcels of land in or upon which the petitioner has an estate, right, title, interest, or lien may be included in the same petition, but only if they are in the same city or town, except that contiguous property overlapping city or town boundaries may be included in one petition.

Sec. 24. Minnesota Statutes 1988, section 278.05, subdivision 4, is amended to read:

Subd. 4. [SALES RATIO STUDIES AS EVIDENCE.] The sales ratio studies published by the department of revenue, or any part of the studies, or any copy of the studies or records accumulated to prepare the studies which is prepared by the commissioner of revenue for use in determining school aids shall be admissible in evidence as a public record without the laying of a foundation if the sales prices used in the study are adjusted for the terms of the sale to reflect market value and are adjusted to reflect the difference in the date of sale compared to the assessment date. In addition to the study published by the department of revenue, the tax court may use a study developed for a particular region of a county or counties. Additional evidence relevant to the sales ratio study is also admissible. No sales ratio study received into evidence shall be conclusive or binding on the court and evidence of its reliability or unreliability may be introduced by any party including, but not limited to, evidence of inadequate adjustment of sale prices for terms of financing, inadequate adjustment of sales prices to reflect the difference in the date of sale compared to the assessment date, and inadequate sample size.

No reduction in value on the grounds of discrimination shall be granted on the basis of a sales ratio study published by the department of revenue or another study used by the tax court unless

(a) the sales prices are adjusted for the terms of the sale to reflect market value,

(b) the sales prices are adjusted to reflect the difference in the date of sale compared to the assessment date, and

(c) there is an adequate sample size.

Sec. 25. Minnesota Statutes 1988, section 278.08, subdivision 1, is amended to read:

Subdivision 1. [TAXES DUE INTEREST; PENALTY.] Whether or not the tax is sustained in full as levied or increased and section

278.03 notwithstanding, the judgment shall include any interest which has accrued on the taxes for failure to pay the taxes or any part of the taxes as provided in sections 279.01 and 279.03. If the tax is reduced, no penalty shall be included in the judgment because of the failure to pay the reduced tax prior to entry of judgment. After the judgment is entered, it shall be subject to interest and penalty at the rates provided in chapter 279 for delinquent payment of property taxes. The judgment must include the following interest:

(1) if the tax is sustained in full, interest on the unpaid part of the tax computed under section 279.03;

(2) if the tax is increased, interest on the unpaid part of the tax as originally assessed computed under section 279.03;

(3) if the tax is reduced, interest on the difference between the tax as recomputed and the amount previously paid computed under section 279.03.

If the tax is sustained or increased, penalty on the unpaid part of the tax as originally assessed computed under section 279.01 must be included in the judgment.

Sec. 26. Minnesota Statutes 1988, section 297.43, subdivision 1, is amended to read:

Subdivision 1. [PENALTY ON UNPAID TAX.] If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061, there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Sec. 27. Minnesota Statutes 1988, section 297C.14, subdivision 1, is amended to read:

Subdivision 1. [PENALTY ON UNPAID TAX.] If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061, there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax unpaid during each additional



30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Sec. 28. [REPEALER.]

(a) Minnesota Statutes 1988, sections 271.01, subdivision 6; 271.21, subdivision 4; and 271.22, are repealed.

(b) Minnesota Statutes 1988, sections 60A.151 and 271.061, are repealed.

Sec. 29. [EFFECTIVE DATE.]

Sections 26, 27, 28, paragraph (b), are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to judicial procedure; clarifying, modifying, and recodifying tax court powers and procedures; making technical corrections and eliminating redundant and unnecessary language and obsolete references; amending Minnesota Statutes 1988, sections 270.07, subdivision 1; 270.10, by adding a subdivision; 271.01, subdivisions 1 and 5; 271.02; 271.04; 271.06, subdivisions 1, 2, 3, and 7; 271.07; 271.13; 271.15; 271.17; 271.18; 271.21, subdivisions 2 and 10; 277.011, subdivision 7; 278.01, subdivision 1; 278.02; 278.05, subdivision 4; 278.08, subdivision 1; 297.43, subdivision 1; and 297C.14, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 270; repealing Minnesota Statutes 1988, sections 60A.151; 271.01, subdivision 6; 271.061; 271.21, subdivision 4; and 271.22."

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

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 534, A bill for an act relating to groundwater; establishing best management practices and water resources protection requirements; regulating pollution limits; changing various requirements and procedures concerning fertilizer, soil amendments, and plant amendments; requiring a study of sustainable agriculture; changing certain pesticide laws; requiring a pesticide management plan; providing for responses to pesticide and fertilizer incidents; establishing a safe drinking water account; imposing an annual fee; reorganizing and revising laws on water wells, exploratory boring, and elevator shafts; establishing a water information committee;

providing for local water resources protection and management; establishing water appropriation priorities; establishing a legislative commission on water; appropriating money; amending Minnesota Statutes 1988, sections 17.713; 17.714, subdivisions 1, 3, 6, and by adding a subdivision; 17.715, subdivisions 1, 2, 4, and by adding subdivisions; 17.7155; 17.716, subdivisions 1, 2, and 4; 17.717; 17.718; 17.719, subdivisions 1, 2, 3, 4, and by adding subdivisions; 17.72; 17.721, by adding a subdivision; 17.722; 17.723; 17.725, subdivision 2, and by adding subdivisions; 17.728, subdivision 1, and by adding subdivisions; 17.7285; 17.73, subdivisions 3 and 5; 18B.01, subdivisions 5, 12, 15, 19, 21, 23, 26, 30, and by adding subdivisions; 18B.03, by adding a subdivision; 18B.04; 18B.07, subdivisions 2, 3, 4, 5, 6, and 7; 18B.08, subdivisions 1, 3, and 4; 18B.15; 18B.17, subdivision 2; 18B.18; 18B.20, by adding a subdivision; 18B.21; 18B.26, subdivisions 1, 3, 5, and by adding a subdivision; 18B.31, subdivisions 3 and 5; 18B.32, subdivision 2; 18B.33, subdivisions 1, 3, and 7; 18B.34, subdivisions 1, 2, and 5; 18B.36; 18B.37, subdivisions 1, 2, 3, and 4; 105.41, subdivision 1a; 105.418; 110B.35, subdivision 3; 115.093, subdivision 5; 116C.40, by adding subdivisions; 116C.41, subdivision 1; 116E.02, subdivision 1; 116E.03, subdivision 9; 156A.01; 156A.02; 156A.03; 156A.05; 156A.06; 156A.071; 156A.075; 156A.08; and 326.37; proposing coding for new law as Minnesota Statutes, chapters 110C and 115D; proposing coding for new law in Minnesota Statutes, chapters 3; 17; 18B; 105; 115; 116C; 116E; 144; and 156A; repealing Minnesota Statutes 1988, sections 17.714, subdivisions 4, 4a, and 4b; 17.715, subdivision 3; 17.721; 17.726; 17.727; 17.728, subdivisions 4 and 5; 17.729; 17.73, subdivision 5, paragraph (d); 18B.16; 18B.19; 18B.20, subdivision 6; 156A.02, subdivision 3; 156A.031; 156A.04; 156A.07; 156A.10; and 156A.11.

Reported the same back with the following amendments:

Page 32, line 36, delete the new language and insert "OB-TAINING EVIDENCE"

Page 33, line 5, after "acts," insert "issue subpoenas to and"

Page 33, line 6, delete "issue subpoenas,"

Page 33, line 8, delete everything after the period

Page 33, line 9, delete "person" and insert "If a person fails" and delete "on the"

Page 33, line 10, delete everything before the first "to" and insert "a witness refuses" and delete the second "to"

Page 33, line 15, delete "therein" and insert "in the court"

Page 33, line 27, delete "Any" and insert "A"

Page 33, line 32, delete "such" and insert "the"

Page 33, line 33, delete "such" and insert "a"

Page 33, line 36, after "section" insert "as soon as practicable" and delete "such" and insert "a"

Page 34, line 1, delete "pursuant to" and insert "because of"

Page 34, line 4, delete "such"

Page 34, line 6, delete "such" and insert "that"

Page 34, line 9, delete "ORDER" and insert "REFUSAL TO PERMIT ENTRY"

Page 34, lines 13 and 14, delete "that permits" and insert "to compel a person with authority to permit"

Page 38, line 24, delete "Any" and insert "A"

Page 39, line 33, delete "DUTY TO RESPOND" and insert "CONTESTED ORDER" and before "service" insert "personal"

Page 44, line 4, delete "LIABILITY" and insert "RESPONSIBILITY FOR COSTS"

Page 44, line 5, delete "LIABILITY" and insert "RESPONSIBLE PARTY" and after "(a)" insert "Liability may be imposed on the manufacturer, formulator, packager, or repackager of the fertilizer, soil amendment, or plant amendment and, to the extent provided by law, on any other responsible party."

(b)"

Page 44, line 11, delete "(b)" and insert "(c)"

Page 46, delete lines 19 to 27, and insert:

"Sec. 53. Minnesota Statutes 1988, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified positions are held by employees who are:

(a) chosen by election or appointed to fill an elective office;

(b) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;

(c) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a;

(d) the confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;

(e) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;

(f) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the office of the adjutant general;

(g) employees of the Washington, D.C., office of the state of Minnesota;

(h) employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;

(i) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal economic opportunity act work study program in the school and resource center for the arts, state universities and community colleges, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;

(j) officers and enlisted persons in the national guard;

(k) attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

(l) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

(m) members of the state patrol; provided that selection and

appointment of state patrol troopers shall be made in accordance with applicable laws governing the classified service;

(n) chaplains employed by the state;

(o) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards;

(p) student workers; and

(q) employees unclassified pursuant to other statutory authority; and

(r) intermittent employees employed by the department of agriculture to perform duties related to pesticide, fertilizer, and seed regulation.

Sec. 54. Minnesota Statutes 1988, section 604.02, subdivision 1, is amended to read:

Subdivision 1. When two or more persons are jointly liable, contributions to awards shall be in proportion to the percentage of fault attributable to each, except that each is jointly and severally liable for the whole award. Except in cases where liability arises under chapters 17 - fertilizer regulations, 18B - pesticide control, 115 - water pollution control, 115A - waste management, 115B - environmental response and liability, 115C - leaking underground storage tanks, and 299E - pipeline safety, public nuisance law for damage to the environment or the public health, any other environmental or public health law, or any environmental or public health ordinance or program of a municipality as defined in section 466.01, a person whose fault is 15 percent or less is liable for a percentage of the whole award no greater than four times the percentage of fault, including any amount reallocated to that person under subdivision 2.

If the state or a municipality as defined in section 466.01 is jointly liable, and its fault is less than 35 percent, it is jointly and severally liable for a percentage of the whole award no greater than twice the amount of fault, including any amount reallocated to the state or municipality under subdivision 2."

Page 52, delete section 13

Page 59, line 28, after "acts," insert "issue subpoenas to and"

Page 59, line 29, delete "issue subpoenas,"

Page 60, line 27, delete "SUBPOENA OF DEPARTMENTAL EMPLOYEES" and insert "EXEMPTIONS FROM SUBPOENA AUTHORITY"

Page 60, line 30, delete "expert" and insert "inquiry into any inspection except in enforcement proceedings brought under this chapter"

Page 60, line 31, delete everything before the period

Page 61, line 8, delete "17" and insert "16"

Page 62, line 1, after "(a)" insert "Liability may be imposed on the person who registered the pesticide with the United States Environmental Protection Agency, the manufacturer, formulator, packager, or repackager and, to the extent provided by law, on any other responsible party."

(b)"

Page 62, line 8, delete "(b)" and insert "(c)"

Page 62, line 9, delete "(a)" and insert "(b)"

Page 74, line 8, delete "not to exceed five pages"

Page 74, line 9, delete the new language and after "application" insert "except a map may be attached to identify treated areas. For the rights-of-way and wood preservative categories, the required record may not exceed five pages"

Page 74, delete line 10

Page 74, line 11, delete everything before the period

Page 89, line 3, after "geologist" insert "or hydrogeologist"

Page 89, line 4, before the period insert "the American Institute of Hydrologists, the National Water Well Association, or other organizations approved by the commissioner"

Page 92, line 7, after "or" insert "other" and delete "geologist" and insert "professional"

Page 98, line 33, delete everything after "property"

Page 98, line 34, delete "and quartile"

Page 99, line 3, after "property" insert "or a person authorized to act on behalf of the seller. If a seller fails to provide a well certificate, a buyer or a person authorized to act on behalf of the seller, may sign a well certificate based on the information provided on the disclosure required by this section or based on other available information"

Page 99, line 12, delete everything after the comma and insert "and knew or had reason to know of the existence of a well, the seller or transferor is liable to the buyer for costs and damages related to the sealing of a well and reasonable attorney fees."

Page 99, delete lines 13 to 15

Page 106, delete lines 2 to 14

Page 106, line 15, delete "8" and insert "6"

Page 106, line 20, delete "9" and insert "7"

Page 128, delete section 1 and insert:

"Section 1. [105.406] [NEW ONCE-THROUGH PERMITS PROHIBITED.]

No new water use permits may be issued for once-through cooling systems constructed after the effective date of this act. The renewal or amendment of existing permits shall be allowed.

Sec. 2. [CONSUMPTIVE WATER USE STUDY.]

The commissioner of natural resources shall conduct a study of consumptive water use and its impact on existing aquifers. The commissioner shall review methods of reducing consumptive water use, including the conversion of once-through cooling systems to alternative systems. The commissioner shall report to the legislature by January 1, 1990, the commissioner's recommendations for alternatives to the once-through heating and cooling systems including potential uses for discharge water from the systems, the environmental and economic implications of the alternatives, and other uses for the discharge water. The report shall also describe the relative impact on affected aquifers, establish efficiency standards for once-through cooling systems, and make recommendations for corrective action on inefficient systems. The corrective action shall include either upgrading such systems or the conversion to an alternative system within a time schedule to be recommended by the commissioner of natural resources, but not later than January 2, 1994."

Page 133, line 10, delete "37" and insert "36"

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 28, delete everything after the semicolon

Page 1, line 29, delete "subdivision;"

Page 1, line 36, after the first semicolon insert "43A.08, subdivision 1;"

Page 1, line 41, delete "and" and after "326.37;" insert "and 604.02, 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.

McEachern from the Committee on Education to which was referred:

H. F. No. 643, A bill for an act relating to education; requiring school boards to report certain teacher discharges and resignations to the board of teaching; providing for immunity from liability; amending Minnesota Statutes 1988, section 125.09, by adding subdivisions.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 125.09, is amended by adding a subdivision to read:

Subd. 1a. [MANDATORY REPORTING.] A school board shall report to the board of teaching, the state board of education, or the state board of vocational technical education, whichever has jurisdiction over the teacher's license, when its teacher is discharged or resigns from employment after a charge is filed with the school board under section 125.17, subdivisions 4, clauses (1), (2), and (3), and 5, or after charges are filed that are ground for discharge under section 125.12, subdivision 8, clauses (a), (b), (c), (d), and (e), or when a teacher is suspended or resigns while an investigation is pending under section 125.12, subdivision 8, clauses (a), (b), (c), (d), and (e); 125.17, subdivisions 4, clauses (1), (2), and (3), and 5; or 626.556. The report must be made to the board within ten days after the



discharge, suspension, or resignation has occurred. The board to which the report is made shall investigate the report for violation of subdivision 1 and the reporting school board shall cooperate in the investigation. Any data transmitted to any board under this section shall be private data under section 13.02, subdivision 12, notwithstanding any other classification of the data when it was in the possession of any other agency.

Sec. 2. Minnesota Statutes 1988, section 125.09, is amended by adding a subdivision to read:

Subd. 1b. [IMMUNITY FROM LIABILITY.] A school board, its members in their official capacity, and employees of the school district run by the board are immune from civil or criminal liability for reporting or cooperating as required under section 1, if their actions required under section 1 are done in good faith and with due care."

With the recommendation that when so amended the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 654, A bill for an act relating to education; proposing a formula allowance and general education tax capacity rate for fiscal year 1991; amending Minnesota Statutes 1988, sections 124A.22, subdivision 2; and 124A.23, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

## "ARTICLE 1

### GENERAL EDUCATION AID

Section 1. Minnesota Statutes 1988, section 121.904, subdivision 4a, is amended to read:

Subd. 4a. [LEVY RECOGNITION.] (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district, including distributions made pursuant to section 279.37, subdivision 7, and excluding the amount levied pursuant to section 275.125, subdivision 9a, and Laws 1976, chapter 20, section 4.

(b) In June of each year, the school district shall recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the June and July school district tax settlement revenue received in that calendar year; or

(2) the sum of the state aids and credits enumerated in section 124.155, subdivision 2, which are for the fiscal year payable in that fiscal year plus 27.8 percent of the amount of the levy certified in the prior calendar year according to section 124A.03, subdivision 2, plus or minus auditor's adjustments, not including levy portions that are assumed by the state; or

(3) 27.8 percent of the amount of the levy certified in the prior calendar year, plus or minus auditor's adjustments, not including levy portions that are assumed by the state, which remains after subtracting, by fund, the amounts levied for the following purposes:

(i) reducing or eliminating projected deficits in the reserved fund balance accounts for unemployment insurance and bus purchases;

(ii) statutory operating debt pursuant to section 275.125, subdivision 9a, and Laws 1976, chapter 20, section 4; and

(iii) retirement and severance pay pursuant to section sections 124.4945 and 275.125, subdivision 6a, and Laws 1975, chapter 261, section 4; and

(iv) amounts levied for bonds issued and interest thereon, amounts levied for debt service loans and capital loans, and amounts levied pursuant to section 275.125, subdivision 14a.

(c) In July of each year, the school district shall recognize as revenue that portion of the school district tax settlement revenue received in that calendar year and not recognized as revenue for the previous fiscal year pursuant to clause (b).

(d) All other school district tax settlement revenue shall be recognized as revenue in the fiscal year of the settlement. Portions of the school district levy assumed by the state, including prior year adjustments and the amount to fund the school portion of the reimbursement made pursuant to section 273.425, shall be recognized as revenue in the fiscal year beginning in the calendar year for which the levy is payable.

Sec. 2. Minnesota Statutes 1988, section 124.17, subdivision 1b, is amended to read:

Subd. 1b. [AFDC PUPIL UNITS.] In a district in which the number of pupils from families receiving aid to families with

dependent children on October 1 of the previous school last even-numbered year in the last biennium equals six percent or more of the actual pupil units in the district for the same year to be funded, as computed in subdivision 1, each such pupil shall be counted as an additional one-tenth of a pupil unit for each percent of concentration over five percent of such pupils in the district. The percent of concentration shall be rounded down to the nearest whole percent. In a district in which the percent of concentration is less than six, additional pupil units may not be counted for such pupils. A pupil may not be counted as more than .6 additional pupil unit under this subdivision. The weighting in this subdivision is in addition to the weighting provided in subdivision 1.

Information on a pupil, other than summary data, that identifies a pupil as a member of a family receiving aid to families with dependent children is private data under section 13.46, subdivision 2.

Sec. 3. Minnesota Statutes 1988, section 124.19, subdivision 5, is amended to read:

Subd. 5. [SCHEDULE ADJUSTMENTS.] (a) It is the intention of the legislature to encourage efficient and effective use of staff and facilities by school districts. School districts are encouraged to consider both cost and energy saving measures.

(b) Notwithstanding the provisions of subdivision 1 or 4, any district, including a district operating a program pursuant to sections 120.59 to 120.67 or 129B.42 to 129B.47, or operating a commissioner-designated area learning center program under section 129B.56, may adjust the annual school schedule for that program throughout the calendar year so long as the number of instructional hours in the year is not less than the number of instructional hours per day specified in the rules of the state board multiplied by the minimum number of instructional days required by subdivision 1.

Sec. 4. Minnesota Statutes 1988, section 124A.02, is amended by adding a subdivision to read:

Subd. 25. [DEFINITION.] For the purposes of sections 124.17, 124A.03, 124A.034, 124A.035, 124A.036, 124A.04, 124A.22, 124A.23, 124A.26, 124A.27, 124A.28, 124A.29, and 124A.31, unless otherwise specified "district" means either "school district" as defined in section 120.02, subdivision 1, or "qualifying education district" as defined in article 6, section 6, subdivision 2a; "school board" means either "school board" as defined in section 123.33 or "education district board" as defined in section 122.92.

Sec. 5. Minnesota Statutes 1988, section 124A.03, subdivision 2, is amended to read:

Subd. 2. [REFERENDUM LEVY.] (1) The levy authorized by section 124A.23, subdivision 2, may be increased in ~~any~~ an amount that is approved by the voters of the district at a referendum called for the purpose subject to the limit of section 6. The referendum may be called by the school board or shall be called by the school board upon written petition of qualified voters of the district. The referendum shall be held on a date set by the school board. Only two elections may be held to approve a levy increase that will commence in a specific school year. The ballot shall state the maximum amount of the increased levy in mills, the amount that will be raised by that tax capacity rate in the first year it is to be levied, and that the tax capacity rate shall be used to finance school operations. The ballot may designate a specific number of years for which the referendum authorization shall apply. The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

(a) For a school district, "Shall the increase in the levy proposed by (petition to) the board of . . . . ., School District No. . . , be approved?"

(b) For a qualifying education district, "Shall the increase in the levy by (petition to) the board of . . . . ., Education District No. . . , be approved?"

If approved, the amount provided by the approved tax capacity rate applied to each year's gross tax capacity shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(2) A referendum on the question of revoking or reducing the increased levy amount authorized pursuant to clause (1) may be called by the school board and shall be called by the school board upon the written petition of qualified voters of the district. A levy approved by the voters of the district pursuant to clause (1) must be made at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one such revocation or reduction election may be held to revoke or reduce a levy for any specific year and for years thereafter.

(3) A petition authorized by clause (1) shall be effective if signed by a number of qualified voters in excess of 15 percent, or (a) for a school district, ten percent if the school board election is held in conjunction with a general election, of the average number of voters at the two most recent district wide school elections; (b) for a qualifying education district, the average number of voters at the two most recent school districtwide school elections in all the member school districts. A referendum invoked by petition shall be held within three months of submission of the petition to the school board.

(4) A petition authorized by clause (2) shall be effective if signed by a number of qualified voters in excess of five percent of the residents of the school district as determined by the most recent census. A revocation or reduction referendum invoked by petition shall be held within three months of submission of the petition to the school board.

(5) Notwithstanding any law to the contrary, the approval of 50 percent plus one of those voting on the question is required to pass a referendum.

(6) Within 30 days after the district holds a referendum pursuant to this clause, the district shall notify the commissioner of education of the results of the referendum.

#### Sec. 6. [124A.0301] [REFERENDUM LEVY LIMITATIONS.]

Subdivision 1. [LIMITS.] Beginning with taxes payable in 1990, a district's referendum levy authority is subject to the limits in this section.

Subd. 2. [TOTAL AUTHORITY.] A district may not certify a referendum levy in excess of the greater of (a) \$250,000, (b) the product of the district's actual pupil units for the fiscal year to which the levy is attributable times 20 percent of the formula allowance for the fiscal year before the fiscal year to which the levy is attributable, or (c) the amount of the district's referendum authority on June 1, 1989, plus the growth factor. The growth factor is equal to three percent of the formula allowance times the district's actual pupil units for the fiscal year to which the levy is attributable.

In no case may a district certify a referendum levy in excess of its levy authority under section 124A.03.

Subd. 3. [REFERENDUM EQUALIZATION AID REDUCTION.] A district must reduce its referendum levy certification amount by the amount of referendum equalization aid it receives for that fiscal year.

Subd. 4. [REFERENDUM; FUND BALANCE REDUCTION.] A district's referendum levy authority must be reduced if the net unappropriated operating fund balance as of June 30 in the year before the last fiscal year is more than \$750 times the actual pupil units in the year before the last fiscal year. The amount of the reduction is equal to 0.5 times the amount of the excess.

Subd. 5. [ELECTIONS AMOUNTS.] Beginning July 1, 1989, no referendum election may be held for an amount to exceed \$200 times the district's actual pupil units for that year.

## Sec. 7. [124A.0302] [REFERENDUM EQUALIZATION AID.]

Subdivision 1. [REFERENDUM EQUALIZATION REVENUE.] A district's referendum equalization revenue equals the lesser of (1) the district's certified referendum levy or (2) the product of the district's actual pupil units for that year times the equalizing factor for that year times 1.4 percent.

Subd. 2. [REFERENDUM EQUALIZATION LEVY.] A district's referendum equalization levy is equal to the product of the district's referendum equalization revenue times the lesser of one, or the ratio of the district's adjusted gross tax capacity per pupil unit to 60 percent of the equalizing factor.

Subd. 3. [REFERENDUM EQUALIZATION AID.] A district's referendum equalization aid is equal to its referendum equalization revenue minus its referendum equalization levy.

Referendum equalization aid must be reduced by the amount of other referendum equalization aid that is received by the district.

Sec. 8. Minnesota Statutes 1988, section 124A.035, subdivision 2, is amended to read:

Subd. 2. [PERMANENT SCHOOL FUND.] The amount of money received by a school district as income from the permanent school fund for any year, shall be deducted from the general education aid earned by the district for the same year or from aid earned from other state sources.

Sec. 9. Minnesota Statutes 1988, section 124A.035, subdivision 4, is amended to read:

Subd. 4. [COUNTY APPORTIONMENT DEDUCTION.] Each year the amount of money apportioned to a school district for that year pursuant to section 124.10, subdivision 2, shall be deducted from the general education aid earned by that district for the same year.

## Sec. 10. [124A.215] [AID FOR REDUCED CLASS SIZE.]

Subdivision 1. [PURPOSE.] The purpose of sections 10 to 12 is to improve the education of public school pupils by (1) reducing class sizes in kindergarten through grade three to help each pupil develop socially and emotionally and in knowledge, skills, and attitudes related to school performance; and (2) improving program offerings throughout a local school district.

Subd. 2. [DEFINITION.] "Teacher" in this section means a public employee licensed by the board of teaching whose duties are

full-time classroom instructional or the equivalent, excluding a teacher for which categorical aids are received pursuant to sections 124.273 and 124.32. In this section, teacher does not include supervisory and support personnel, as defined in section 125.03, subdivision 4, librarians, school psychologists, school social workers, audio-visual directors and coordinators, recreation personnel, media generalists, media supervisors, or speech therapists. A teacher whose duties are less than full-time classroom instructional must be included as an equivalent only for the number of hours of classroom instruction.

Subd. 3. [STATE AID CRITERIA.] The state shall pay aid as provided in section 11 to districts that work to achieve or maintain a class size of no more than 15 elementary pupils per classroom session in kindergarten and grade one for each teacher in each school within the school district and no more than 17 elementary pupils in grades two and three for each teacher in each school within the school district. A district must reduce the class sizes in kindergarten and grade one before it reduces the class sizes in grades two and three unless the district has a compelling reason to reduce the class sizes in kindergarten through grade 3 concurrently. A district must not increase the class sizes in grades two and three in any school in the district as a result of reducing class sizes in kindergarten and grade one. A district must not increase the district wide class size per teacher in grades four through eight as a result of reducing class sizes in kindergarten through grade three.

A district must develop a districtwide plan to work to achieve or maintain the specified class sizes based upon the recommendations of the district's elementary school councils described in section 11. The plan must be approved by the commissioner of education. If a local district has achieved and is maintaining the specified class sizes, it must use the aid it receives under section 12 to work to improve program offerings throughout the district, or the education district of which the district is a member, based upon a plan developed by the local district's curriculum advisory committee. The amount of aid must be allocated to each school in proportion to the ratio of the school's kindergarten through grade 3 population to the district's kindergarten through grade 3 population.

Sec. 11. [124A.216] [AID AMOUNT.]

Of a district's basic revenue under section 124A.22, subdivision 2, an amount equal to 2.2 percent times the number of actual pupil units must be reserved and may be used only to achieve or maintain class sizes or improve program offerings according to section 10, subdivision 3.

Sec. 12. [124A.217] [SCHOOL DISTRICT PARTICIPATION.]

Subdivision 1. [ESTABLISHMENT OF COUNCIL; PURPOSE.]

An elementary school council in each elementary school is created with the following members: (a) the elementary school principal; (b) representatives of teachers of kindergarten through grade three selected by those teachers at the school; (c) other school personnel serving pupils in kindergarten through grade three selected by those personnel at the school; and (d) parents of pupils in kindergarten through grade three attending the school, selected by the parents. A majority of the members of the council must be parents.

The purpose of the council is to (1) develop a written plan enabling the school to work to achieve or maintain the class sizes specified in section 10, subdivision 3, and to make recommendations for implementing the plan to the school board; and (2) participate in implementing the plan, including overseeing school budget items relating to reductions in class size.

The council shall specify the terms and method of replacement of the council members and council chair. The council is not permitted to receive expenses or per diem payments.

If an existing committee or council meets the criteria of this subdivision, or if an existing committee or council may be modified to meet the criteria of this subdivision, then that committee or council may be used to accomplish the purpose of this section.

Subd. 2. [COUNCIL AND SCHOOL DISTRICT PLANS.] To be eligible to receive aid under section 11, districts must submit to the commissioner of education a districtwide plan to reduce class sizes based upon the recommendations of the district's elementary school councils. Plans must be submitted by a date specified by the commissioner, in the form and manner prescribed by the commissioner, and must include any other information requested by the commissioner. The commissioner must review and approve or disapprove each district's plan within 45 days of receiving the plan. Any action by the commissioner must conform with widely published criteria for evaluating districts' plans; the criteria must include a definition of "work to achieve or maintain." Only approved plans are eligible for aid under section 11. At the request of a school board and the district's elementary school councils, the commissioner shall provide technical assistance to a district implementing an approved plan.

If a local school district has already achieved and is maintaining the class sizes specified in section 10, subdivision 3, the district must develop a plan in cooperation with the local district's curriculum advisory committee to improve program offerings throughout the district, or throughout the education district of which the district is a member. The commissioner must use the same review procedure to approve or disapprove a district's plan to improve program offerings.



## Sec. 13. [124A.218] [REPORT.]

The commissioner of education shall monitor and evaluate the effectiveness of districts' reduced class sizes and efforts to improve program offerings and shall report to the education committees in the legislature before March 1 of each school year.

Sec. 14. Minnesota Statutes 1988, section 124A.22, subdivision 2, is amended to read:

Subd. 2. [BASIC REVENUE.] The basic revenue for each district equals the formula allowance times the actual pupil units for the school year. The formula allowance is \$2,755 for the 1988-1989 school year. The formula allowance is ~~\$2,800~~ \$2,808 for fiscal year 1990. The formula allowance is \$2,945 for the 1990-1991 school year.

Sec. 15. Minnesota Statutes 1988, section 124A.22, subdivision 4, is amended to read:

Subd. 4. [TRAINING AND EXPERIENCE REVENUE.] The training and experience revenue for each district equals the greater of zero or the result of the following computation:

(a) Subtract 1.6 from the training and experience index.

(b) Multiply the result in clause (a) by the product of \$700 times the actual pupil units for the school year.

The training and experience index for each qualifying education district equals the weighted average of the ratios assigned to the full-time equivalent teachers in each qualifying education district.

Sec. 16. Minnesota Statutes 1988, section 124A.22, subdivision 9, is amended to read:

Subd. 9. [DEFINITIONS FOR SUPPLEMENTAL REVENUE.] (a) The definitions in this subdivision apply only to subdivision 8.

(b) "1987-1988 revenue" means the sum of the following categories of revenue for a school district for the 1987-1988 school year means the sum of the following categories of revenue, and for a qualifying education district means the sum of the following categories of revenue for each member district for the 1987-1988 school year:

(1) basic foundation revenue, tier revenue, and declining pupil unit revenue, according to Minnesota Statutes 1986, as supplemented by Minnesota Statutes 1987 Supplement, chapter 124A,

plus any reduction to second tier revenue, according to Minnesota Statutes 1986, section 124A.08, subdivision 5;

(2) teacher retirement and FICA aid, according to Minnesota Statutes 1986, sections 124.2162 and 124.2163;

(3) chemical dependency aid, according to Minnesota Statutes 1986, section 124.246;

(4) gifted and talented education aid, according to Minnesota Statutes 1986, section 124.247;

(5) arts education aid, according to Minnesota Statutes 1986, section 124.275;

(6) summer program aid and levy, according to Minnesota Statutes 1986, sections 124A.03 and 124A.033;

(7) programs of excellence grants, according to Minnesota Statutes 1986, section 126.60; and

(8) liability insurance levy, according to Minnesota Statutes 1986, section 466.06.

For the purpose of this subdivision, intermediate districts and other employing units, as defined in Minnesota Statutes 1986, section 124.2161, shall allocate the amount of their teacher retirement and FICA aid for fiscal year 1988 among their participating school districts.

(c) "Minimum allowance" for a district means:

(1) the school district's or qualifying education district's 1987-1988 revenue, according to subdivision 1; divided by

(2) the district's 1987-1988 actual pupil units, adjusted for the change in secondary pupil unit weighting from 1.4 to 1.35 made by Laws 1987, chapter 398; plus

(3) \$105 \$113 for the 1989-1990 school year and \$250 for the 1990-1991 school year.

Sec. 17. Minnesota Statutes 1988, section 124A.23, subdivision 1; is amended to read:

Subdivision 1. [GENERAL EDUCATION TAX CAPACITY RATE.] The commissioner of revenue shall establish the general education tax capacity rate and certify it to the commissioner of education by September 1 of each year for levies payable in the following year. The general education tax capacity rate shall be a rate, rounded up to the

nearest tenth of a mill, that, when applied to the adjusted gross tax capacity for all districts, raises the amount specified in this subdivision. The general education tax capacity rate for the 1990 fiscal year shall be the rate that raises \$1,100,580,000. The general education tax capacity rate for the 1991 fiscal year is the rate that raises \$1,149,000,000. The general education tax capacity rate certified by the commissioner of revenue may not be changed due to changes or corrections made to a district's adjusted gross tax capacity after the tax capacity rate has been certified.

Sec. 18. Minnesota Statutes 1988, section 124A.28, subdivision 1, is amended to read:

Subdivision 1. [USE OF THE REVENUE.] The compensatory education revenue under section 124A.22, subdivision 3, may be used to meet the educational needs of pupils whose educational achievement is below the level that is appropriate for pupils of their age. These needs may be met by providing at least some of the following:

(1) remedial instruction in reading, language arts, and mathematics to improve the achievement level of these pupils;

(2) additional teachers and teacher aides to provide more individualized instruction to these pupils;

(3) summer programs that enable these pupils to improve their achievement or that reemphasize material taught during the regular school year;

(4) in-service education for teachers, teacher aides, principals, and other personnel to improve their ability to recognize these pupils and provide appropriate responses to the pupils' needs;

(5) for instructional material for these pupils including: textbooks, workbooks, periodicals, pamphlets, photographs, reproductions, filmstrips, prepared slides, prerecorded video programs, sound recordings, desk charts, games, study prints and pictures, desk maps, models, learning kits, blocks and cubes, flashcards, instructional computer software programs, pencils, pens, crayons, notebooks, duplicating fluids, and papers;

(6) programs to reduce truancy, encourage completion of high school, enhance self-concept, provide health services, provide nutrition services, provide a safe and secure learning environment, provide coordination for pupils receiving services from other governmental agencies, provide psychological services to determine the level of social, emotional, cognitive, and intellectual development, increase individual parental involvement in the educational devel-

opment of their children, and provide counseling services, guidance services, and social work services; and

(7) bilingual programs, bicultural programs, and programs for pupils of limited English proficiency.

Sec. 19. Minnesota Statutes 1988, section 124A.31, is amended to read:

124A.31 [EQUITABLE COMPENSATION PENALTY.]

Subdivision 1. [IMPLEMENTATION.] A school district subject to sections 471.991 to 471.999 shall implement the plan to establish equitable compensation relationships set forth in its report to the commissioner of employee relations. The plan shall be implemented by December 31, 1991, unless a later date is approved by the commissioner. If a report was filed before October 1, 1987, and had an implementation date after December 31, 1991, the date in the report shall be approved by the commissioner.

Subd. 2. [AID REDUCTION FOR ADMINISTRATION COSTS.] By October 1, 1992, the commissioner of employee relations shall certify to the commissioner of education the school districts that have not complied with subdivision 1. For each of these school districts, the commissioner of education shall reduce general education aid for fiscal year 1993 by an amount equal to five percent of the district's administration costs for the 1990-1991 school year. If the reduction exceeds the district's general education aid, the reduction shall be made from other aids paid to the district.

Subd. 3. [ADJUSTMENT OF YEARS.] The commissioners of employee relations and education shall adjust the years designated in subdivision 2 for school districts with implementation dates after December 31, 1991.

Subd. 4. [EXTENSIONS.] The commissioner of employee relations must extend an implementation date upon a finding that failure to implement was attributable to severe hardship or to circumstances beyond the control of the district.

Sec. 20. [INSTRUCTIONS TO THE DEPARTMENT OF EDUCATION FOR 1989 LEVY LIMITS.]

Notwithstanding sections 14 and 16, or any other law to the contrary, the department shall determine for the 1989-1990 school year only, levies under Minnesota Statutes, chapter 124A as they were authorized before the enactment of this article.

Sec. 21. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [GENERAL AND SUPPLEMENTAL EDUCATION AID.] For general and supplemental education aid:

\$1,176,210,000 ..... 1990

\$1,304,092,000 ..... 1991

The 1990 appropriation includes \$174,824,000 for 1989 and \$1,001,386,000 for 1990.

The 1991 appropriation includes \$174,032,000 for 1990 and \$1,130,060,000 for 1991.

Subd. 3. [REFERENDUM EQUALIZATION AID.] For referendum equalization aid:

\$17,681,000 ..... 1991

The 1991 appropriation includes \$0 for 1990 and \$17,681,000 for 1991.

The 1991 appropriation is based on a formula entitlement of \$20,801,000.

Sec. 22. [EFFECTIVE DATE.]

Sections 7, 10, 11, and 12 are effective for the 1990-1991 school year.

The addition of the cooperative secondary facilities severance levy is added to the list of nonshifted levies effective the day following final enactment.

Sec. 23. [REPEALER.]

Minnesota Statutes 1988 sections 124.217, and 275.125, subdivision 6f, are repealed July 1, 1989.

## ARTICLE 2

### TRANSPORTATION

Section 1. Minnesota Statutes 1988, section 123.39, is amended by adding a subdivision to read:

Subd. 14. The board may provide transportation within the district to pupils who are custodial parents and to their children between the pupils' home and the provider of child care services for the pupils' children.

Sec. 2. Minnesota Statutes 1988, section 124.223, is amended to read:

124.223 [TRANSPORTATION AID AUTHORIZATION.]

School transportation and related services for which state transportation aid is authorized are:

(1) [TO AND FROM SCHOOL; BETWEEN SCHOOLS.] (a) Transportation or board of resident elementary pupils who reside one mile or more from the public schools which they could attend; transportation or board of resident secondary pupils who reside two miles or more from the public schools which they could attend; transportation to and from schools the resident pupils attend according to a program approved by the commissioner of education, or between the schools the resident pupils attend for instructional classes; transportation of resident elementary pupils who reside one mile or more from a nonpublic school actually attended; transportation of resident secondary pupils who reside two miles or more from a nonpublic school actually attended; but with respect to transportation of pupils to nonpublic schools actually attended, only to the extent permitted by sections 123.76 to 123.79; transportation of pupils who are custodial parents to and from the provider of child care services for the pupil's child, within the attendance area of the school the pupil attends; transportation, within the attendance area of the school they attend, of pupils who are custodial parents, between the pupils' home and the provider of child care services for the pupils' children.

For the purposes of this clause, a district may designate a licensed day care facility, a location where ongoing day care is provided to children of a single family, or the residence of a relative as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian and if that facility or residence is within the attendance area of the school the pupil attends;

(b) Transportation to and from school of an elementary pupil who moves during the school year within an area designated by the district as a mobility zone, but only for the remainder of the school year.

The attendance areas of schools in a mobility zone must be contiguous. To be in a mobility zone, a school must meet both of the following requirements:

(1) more than 50 percent of the pupils enrolled in the school are eligible for free or reduced school lunch; and

(2) the pupil withdrawal rate for the last year is more than 12 percent.

A pupil withdrawal rate is determined by dividing (i) the sum of the number of pupils who withdraw from the school, during the school year, and the number of pupils enrolled in the school as a result of transportation provided under this paragraph, by (ii) the number of pupils enrolled in the school.

The district may establish eligibility requirements for individual pupils to receive transportation in the mobility zone.

(c) Notwithstanding clauses (a) and (b), beginning July 1, 1990, state transportation aid is not authorized for noon transportation to and from school for kindergarten pupils attending half-day sessions.

(2) [OUTSIDE DISTRICT.] Transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school; the pupils may attend a classified secondary school in another district and shall receive board and lodging in or transportation to and from a district having a classified secondary school at the expense of the district of the pupil's residence;

(3) [SECONDARY VOCATIONAL CENTERS.] Transportation to and from a state board approved secondary vocational center for secondary vocational classes for resident pupils of any of the districts who are members of or participating in programs at that center;

(4) [HANDICAPPED.] Transportation or board and lodging of a handicapped pupil when that pupil cannot be transported on a regular school bus, the conveying of handicapped pupils between home and school and within the school plant, necessary transportation of handicapped pupils from home or from school to other buildings, including centers such as developmental achievement centers, hospitals and treatment centers where special instruction or services required by section 120.17 are provided, within or outside the district where services are provided, and necessary transportation for resident handicapped pupils required by section 120.17, subdivision 4a. Transportation of handicapped pupils between home and school shall not be subject to any distance requirement for children not yet enrolled in kindergarten or to the requirement in clause (1) that elementary pupils reside at least one mile from school and secondary pupils reside at least two miles from school in order for the transportation to qualify for aid;

(5) [BOARD AND LODGING; NONRESIDENT HANDI-

CAPPED.] When necessary, board and lodging for nonresident handicapped pupils in a district maintaining special classes;

(6) [SHARED TIME.] Transportation from one educational facility to another within the district for resident pupils enrolled on a shared time basis in educational programs, and necessary transportation required by section 120.17, subdivision 9, for resident handicapped pupils who are provided special instruction and services on a shared time basis;

(7) [FARIBAULT STATE ACADEMIES.] Transportation for residents to and from the Minnesota state academy for the deaf or the Minnesota state academy for the blind;

(8) [SUMMER INSTRUCTIONAL PROGRAMS.] Services described in clauses (1) to (7), (9), and (10) when provided in conjunction with a summer program that meets the requirements of section 124A.27, subdivision 9;

(9) [COOPERATIVE ACADEMIC AND VOCATIONAL.] Transportation to, from or between educational facilities located in any of two or more school districts jointly offering academic classes or secondary vocational classes not provided at a secondary vocational center for resident pupils of any of these districts; and

(10) [NONPUBLIC SUPPORT SERVICES.] Necessary transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123.935.

Sec. 3. Minnesota Statutes 1988, section 124.225, is amended to read:

#### 124.225 [TRANSPORTATION AID ENTITLEMENT.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, the terms defined in this subdivision have the meanings given to them.

(a) "FTE" means a transported full-time equivalent pupil whose transportation is authorized for aid purposes by section 124.223.

(b) "Authorized cost for regular transportation" means the sum of:

(1) all expenditures for transportation in the regular category, as defined in clause (e)(1), for which aid is authorized in section 124.223, plus

(2) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 12½ percent per year of the cost of the fleet, plus



(3) an amount equal to one year's depreciation on district school buses reconditioned by the department of corrections computed on a straight line basis at the rate of  $33\frac{1}{3}$  percent per year of the cost to the district of the reconditioning, plus

(4) an amount equal to one year's depreciation on the district's type three school buses, as defined in section 169.44, subdivision 15, which were purchased after July 1, 1982, for authorized transportation of pupils, with the prior approval of the commissioner, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses.

(c) "Adjusted authorized predicted cost per FTE" means the authorized cost predicted by a multiple regression formula determined by the department of education, and adjusted pursuant to subdivision 7a.

(d) "Aid entitlement per FTE" means the adjusted authorized predicted cost per FTE, inflated pursuant to subdivision 7b.

(e) "Transportation category" means a category of transportation service provided to pupils.

(1) For the purposes of this section, transportation categories for the 1986-1987 and 1987-1988 school years are as follows:

(i) regular transportation is transportation services provided during the regular school year under section 124.223, clauses (1) and (2), excluding transportation between schools under section 124.223, clause (1); and

(ii) nonregular transportation is transportation services provided between schools under section 124.223, clause (1); and transportation services provided under section 124.223, clauses (3), (4), (5), (6), (7), (8), (9), and (10).

(2) For purposes of this section, for the 1988-1989 school year and after:

(i) (1) regular transportation is transportation services provided during the regular school year under section 124.223, clauses (1) and (2), excluding the following transportation services provided under section 124.223, clause (1): transportation between schools; noon transportation to and from school for kindergarten pupils attending half-day sessions in fiscal year 1990 only; late transportation home from school for pupils involved in after school activities; transportation of pupils to and from schools located outside their normal attendance areas under the provisions of a plan for desegregation mandated by the state board of education or under court order; and

(ii) (2) nonregular transportation is transportation services provided under section 124.223, clause (1), that are excluded from the regular category, and transportation services provided under section 124.223, clauses (3), (4), (5), (6), (7), (8), (9), and (10);

(3) excess transportation is transportation to and from school for secondary pupils residing at least one mile but less than two miles from the public school they could attend or from the nonpublic school actually attended, and transportation to and from school for pupils residing less than one mile from school who are transported because of extraordinary traffic hazards; and

(4) desegregation transportation is transportation of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the state board or under court order.

(f) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123.932, subdivision 9.

(g) "Current year" means the school year for which aid will be paid.

(h) "Base year" means the second school year preceding the school year for which aid will be paid.

(i) "Base cost" for the 1984-1985 and 1985-1986 base years means the authorized regular transportation cost per FTE in the base year in the regular transportation category, excluding summer school transportation. Base cost for the 1986-1987 and 1987-1988 base year and after years means the ratio of:

(1) the sum of:

(i) the authorized cost in the base year for regular transportation as defined in clause (b), plus

(ii) the actual cost in the base year for transportation to and from school of secondary pupils who live more than one mile but less than two miles from the public school that they could attend or from the nonpublic school actually attended, plus

(iii) the actual cost in the base year for transportation costs which are necessary because of extraordinary traffic hazards,

(2) to the sum of:

(i) the number of FTE pupils transported in the regular category in the base year, plus

(ii) the number of secondary FTE pupils transported to and from school in the base year who live more than one mile but less than two miles from the public school that they could attend or from the nonpublic school actually attended, plus

(iii) the number of FTE pupils residing less than one mile from school who were transported to and from school in the base year because of extraordinary traffic hazards.

(j) Base cost for the 1988-1989 base year and later years means the ratio of:

(1) the sum of the authorized cost in the base year for regular transportation as defined in clause (b) plus the actual cost in the base year for excess transportation as defined in clause (e);

(2) to the sum of the number of weighted FTE pupils transported in the regular and excess categories in the base year.

⊕ (k) "Predicted base cost" for the 1986-1987 and 1987-1988 base years means the base cost as predicted by subdivision 3.

"Predicted base cost" for the 1988-1989 base year and later years means the predicted base cost as computed in subdivision 3b.

(l) "Pupil weighting factor" for the excess transportation category for a school district means the lesser of one or of the result of the following computation:

(i) divide the square mile area of the school district by the number of FTE pupils transported in the regular and excess categories in the base year;

(ii) raise the result in clause (i) to the one-fifth power;

(iii) divide four-tenths by the result in clause (ii).

The pupil weighting factor for the regular transportation category is one.

(m) "Weighted FTE's" means the number of FTE's in each transportation category multiplied by the pupil weighting factor for that category.

(n) "Sparsity index" for a school district means the greater of .005 or the ratio of the square mile area of the school district to the sum

of the number of weighted FTE's transported by the district in the regular and excess categories in the base year.

(o) "Density index" for a school district means the greater of one or the result obtained by subtracting the product of the district's sparsity index times 20 from two.

(p) "Contract transportation index" for a school district means the greater of one or the result of the following computation:

(i) multiply the district's sparsity index by 20;

(ii) select the greater of one or the result in clause (i);

(iii) multiply the district's percentage of regular FTE's transported using vehicles that are not owned by the school district by the result in clause (ii).

(q) "Adjusted predicted base cost" for the 1988-1989 base year and after means the predicted base cost as computed in subdivision 3a as adjusted under subdivision 7a.

(r) "Regular transportation allowance" for 1990-1991 and after means the adjusted predicted base cost, inflated and adjusted under subdivision 7b.

(s) "Minimum regular transportation allowance" for 1990-1991 and after means the result of the following computation:

(i) compute the sum of the district's basic transportation aid for the 1989-1990 school year according to subdivision 8a and the district's excess transportation levy for the 1989-1990 school year according to section 275.125, subdivision 5e, clause (a);

(ii) divide the result in clause (i) by the sum of the number of weighted FTE's transported by the district in the regular and excess transportation categories in the 1989-1990 school year;

(iii) select the lesser of the result in clause (ii) or the district's base cost for the 1989-1990 base year according to subdivision 1, clause (b)(1).

(t) "School district" means either school district, as defined in section 120.02, subdivision 1, or qualifying education district as defined in section 122.91, subdivision 2a. Where base year data for formula computations are required that do not exist for education districts, the department of education shall compute the necessary figures using data from member districts.

Subd. 3. [FORMULA.] For each school year, the state shall pay to each school district for all pupil transportation and related services for which the district is authorized by law to receive state aid an amount determined according to this section. The department of education shall conduct multiple regression analysis using the terms specified in subdivision 4b for each school year the 1986-1987 and 1987-1988 base years to predict the base cost for each district. Each year The department shall use a formula shall be derived based upon the regression analysis, and shall be used to determine a predicted base cost for each district. The amount determined for each district shall be adjusted according to the provisions of subdivisions 7a and 7b.

Subd. 3a. [PREDICTED BASE COST.] A district's predicted base cost for the 1988-1989 base year and later years equals the result of the following computation:

(a) Multiply the transportation formula allowance by the district's sparsity index raised to the one-fourth power. The transportation formula allowance is \$406 for the 1988-1989 base year.

(b) Multiply the result in clause (a) by the district's density index raised to the 35/100 power.

(c) Multiply the result in clause (b) by the district's contract transportation index raised to the  $\frac{1}{20}$  power.

Subd. 4b. [FORMULA TERMS.] (a) To predict the logarithm of the base cost for each district pursuant to subdivision 3 for the 1985-1986 base year, the multiple regression formula shall use the following terms for each district:

(1) the logarithm of the lesser of (a) the number of authorized FTE's per square mile transported by the district in the regular transportation category, or (b) 200;

(2) whether the district is nonrural, based upon criteria established by the department of education; and

(3) the logarithm of the percentage of all FTE's transported in the regular category using buses that are not owned by the district.

(b) To predict the logarithm of the base cost for each district according to subdivision 3 for the 1986-1987 and 1987-1988 base year and thereafter, years the multiple regression formula shall use the following terms for each district:

(1) the logarithm of the lesser of:

(A) 200; or

(B) the quotient obtained by dividing the sum of:

(i) the number of FTE pupils transported in the regular category in the base year, plus

(ii) the number of secondary FTE pupils transported to and from school in the base year who live more than one mile but less than two miles from the public school that they could attend or from the nonpublic school actually attended, plus

(iii) the number of FTE pupils residing less than one mile from school who were transported to and from school in the base year because of extraordinary traffic hazards,

(C) by the area of the district in square miles;

(2) whether the district is nonrural, based upon criteria established by the department of education; and

(3) the logarithm of the percentage of all FTE's transported in the regular category using buses that are not owned by the district.

Subd. 7a. [BASE YEAR SOFTENING FORMULA.] Each district's predicted base cost determined for each school year the 1986-1987 and 1987-1988 base years according to subdivision 3 shall be adjusted as provided in this clause to determine the district's adjusted authorized predicted cost per FTE for that year.

(a) If the base cost of the district is within five percent of the predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to the base cost.

(b) If the base cost of the district is more than five percent greater than the predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to 105 percent of the predicted base cost, plus 40 percent of the difference between (i) the base cost, and (ii) 105 percent of the predicted base cost. However, in no case shall a district's adjusted authorized predicted cost per FTE be less than 80 percent of base cost.

(c) If the base cost of the district is more than five percent less than the predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to 95 percent of the predicted base cost, minus 40 percent of the difference between (i) 95 percent of predicted base cost, and (ii) the base cost. However, in no case shall a district's adjusted authorized predicted cost per FTE be more than 120 percent of base cost.

(d) For the 1988-1989 base year and later years, each district's predicted base cost determined according to subdivision 3a must be

adjusted as provided in this subdivision to determine the district's adjusted predicted base cost for that year. The adjusted predicted base cost equals 50 percent of the district's base cost plus 50 percent of the district's predicted base cost, but the adjusted predicted base cost cannot be less than 80 percent, nor more than 110 percent, of the base cost.

Subd. 7b. [INFLATION FACTORS.] The adjusted authorized predicted cost per FTE determined for a district under subdivision 7a for the base year shall be increased by 6.0 percent to determine the district's aid entitlement per FTE for the 1986-1987 school year, by 4.9 percent to determine the district's aid entitlement per FTE for the 1987-1988 school year, and by 4.1 percent to determine the district's aid entitlement per FTE for the 1988-1989 school year, and by 6.4 percent to determine the district's aid entitlement per FTE for the 1989-1990 school year. The adjusted predicted base cost determined for a district under subdivision 7a for the base year must be increased by 6.3 percent to determine the district's regular transportation allowance for the 1990-1991 school year, but the regular transportation allowance for a district cannot be less than the district's minimum regular transportation allowance according to subdivision 1, clause (r).

Subd. 7c. [TRANSPORTATION REVENUE.] Beginning in the 1990-1991 school year, the transportation revenue for each district equals the sum of the district's regular transportation revenue and the district's nonregular transportation revenue.

(a) The regular transportation revenue for each district equals the district's regular transportation allowance according to subdivision 7b times the sum of the number of FTE's transported by the district in the regular and desegregation categories in the current school year.

(b) The nonregular transportation revenue for each district equals the district's actual cost in the current school year for nonregular transportation services, minus the amount of regular transportation revenue attributable to FTE's transported in the desegregation category in the current school year.

Subd. 8a. [TRANSPORTATION AID.] (a) For the 1988-1989 school year and thereafter 1989-1990 school years, a district's transportation aid is equal to the sum of its basic transportation aid under subdivision 8b, its nonregular transportation aid under subdivision 8i, and its nonregular transportation levy equalization aid under subdivision 8j, minus its contracted services aid reduction under subdivision 8k and minus its basic transportation levy limitation for the levy attributable to that school year under section 275.125, subdivision 5.

(b) For 1990-1991 and later school years, a district's transportation aid equals the product of:

(1) the difference between the transportation revenue and the sum of:

(i) the maximum basic transportation levy for that school year under section 275.125, subdivision 5, plus

(ii) the maximum nonregular transportation levy for that school year under section 275.125, subdivision 5c, plus

(iii) the contracted services aid reduction under subdivision 8k,

(2) times the ratio of the sum of the actual amounts levied under section 275.125, subdivisions 5 and 5c, to the sum of the maximum levies under section 275.125, subdivisions 5 and 5c.

(c) If the total appropriation for transportation aid for any fiscal year is insufficient to pay all districts the full amount of aid earned, the department of education shall reduce each district's aid in proportion to the number of resident pupils in average daily membership in the district to the state total average daily membership, and shall reduce the transportation levy of off-formula districts in the same proportion.

Subd. 8b. [BASIC AID COMPUTATION.] A district's basic transportation aid pursuant to this section for each school year the 1988-1989 and 1989-1990 school years shall equal the district's aid entitlement per FTE determined according to subdivision 7b, times the total number of authorized FTE's transported in the regular category in the district in the current school year.

Subd. 8i. [NONREGULAR TRANSPORTATION AID.] (a) A district's nonregular transportation aid shall be determined according to this subdivision.

(b) For the 1986-1987 and 1987-1988 school years, nonregular transportation aid shall equal (1) 20 percent of the first \$10 of actual cost in the current year for nonregular transportation services per total pupil unit, plus 40 percent of the next \$10 of actual cost in the current year for nonregular transportation services per total pupil unit, plus 60 percent of the actual cost in the current year for nonregular transportation services per total pupil unit which exceeds \$20, times (2) the number of total pupil units in the district in the current year.

(c) For the 1988-1989 and 1989-1990 school year and thereafter years, nonregular transportation aid equals (1) 60 percent of the actual cost in the current year for nonregular transportation ser-



vices per total pupil unit which exceeds \$30, times (2) the number of total pupil units in the district in the current year.

Subd. 8j. [NONREGULAR TRANSPORTATION LEVY EQUALIZATION AID.] For the 1984-1985 school year and each year thereafter 1988-1989 and 1989-1990 school years, a district's nonregular transportation levy equalization aid shall be determined pursuant to this subdivision.

(a) Unreimbursed nonregular transportation revenue shall equal the actual cost in the current school year for nonregular transportation services, minus the district's nonregular transportation aid computed pursuant to subdivision 8i.

(b) The nonregular transportation levy is the levy authorized by section 275.125, subdivision 5c.

(c) Nonregular transportation levy equalization aid for a district shall equal the product of (1) its unreimbursed nonregular transportation revenue, minus the nonregular transportation levy limitation for that year, times (2) the ratio of the district's actual nonregular transportation levy to its nonregular transportation levy limitation.

Subd. 8k. [CONTRACTED SERVICES AID REDUCTION.] (a) For the 1984-1985 school year and each year thereafter, each district's transportation aid shall be reduced according to the provisions of this subdivision, if the district contracted for some or all of the transportation services provided in the regular category.

(b) For the 1988-1989 and 1989-1990 school years, the department of education shall compute this subtraction by conducting the multiple regression analysis specified in subdivision 3 and computing the district's aid under two circumstances, once including the coefficient of the factor specified in subdivision 4b, clause (3), and once excluding the coefficient of that factor. The aid subtraction shall equal the difference between the district's aid computed under these two circumstances.

(c) For 1990-1991 and later school years, the department of education shall determine the subtraction by computing the district's regular transportation revenue under two circumstances, once including the factor specified in subdivision 3a, clause (c), and once excluding the factor. The aid subtraction equals the difference between the district's revenue computed under the two circumstances.

Subd. 8l. [ALTERNATIVE ATTENDANCE PROGRAMS.] A district that serves nonresident pupils in programs under sections 120.062, 120.075, 120.0751, 120.0752, 123.3515, 126.22, and 129B.52 to 129B.55 shall provide authorized transportation to the

pupil within the attendance area for the school that the pupil attends. The state shall pay transportation aid attributable to the pupil to the serving district according to this section. The district of the pupil's residence need not provide or pay for transportation between the pupil's residence and the district's border.

Subd. 9. [DISTRICT REPORTS.] Each district shall report data to the department as required by the department to implement the transportation aid formula. If a district's final transportation aid payment is adjusted after the final aid payment has been made to all districts, the adjustment shall be made by increasing or decreasing the district's aid for the next fiscal year.

Subd. 10. [DEPRECIATION.] Any school district which owns school buses or mobile units shall transfer annually from the undesignated fund balance account in its transportation fund to the reserved fund balance account for bus purchases in its transportation fund at least an amount equal to 12½ percent of the original cost of each type one or type two bus or mobile unit until the original cost of each type one or type two bus or mobile unit is fully amortized, plus 20 percent of the original cost of each type three bus included in the district's authorized cost under the provisions of subdivision 1, clause (b)(4), until the original cost of each type three bus is fully amortized, plus 33⅓ percent of the cost to the district as of July 1 of each year for school bus reconditioning done by the department of corrections until the cost of the reconditioning is fully amortized; provided, if the district's transportation aid is reduced pursuant to subdivision 8a because the appropriation for that year is insufficient, this amount shall be reduced in proportion to the reduction pursuant to subdivision 8a as a percentage of the sum of

(1) the district's total transportation aid without the reduction pursuant to subdivision 8a, plus

(2) the district's basic transportation levy limitation under section 275.125, subdivision 5, plus

(3) the district's contract services aid reduction under subdivision 8k, plus

(4) the district's nonregular transportation levy limitation under section 275.125, subdivision 5e district's transportation revenue.

Sec. 4. Minnesota Statutes 1988, section 275.125, subdivision 5, is amended to read:

Subd. 5. [BASIC TRANSPORTATION LEVY.] Each year, a school district may levy for school transportation services an amount not to exceed the amount raised by the basic transportation tax capacity rate times the adjusted gross tax capacity of the district for the

preceding year. The commissioner of revenue shall establish the basic transportation tax capacity rate and certify it to the commissioner of education by September 1 of each year for levies payable in the following year. The basic transportation tax capacity rate shall be a rate, rounded up to the nearest hundredth of a mill percent, that, when applied to the adjusted gross tax capacity of taxable property for all districts, raises the amount specified in this subdivision. The basic transportation tax capacity rate for transportation for the 1990 fiscal year shall be the rate that raises \$72,681,200. The basic transportation tax capacity rate for the 1991 fiscal year is the rate that raises \$82,063,200. The basic transportation tax capacity rate certified by the commissioner of revenue must not be changed due to changes or corrections made to a district's adjusted gross tax capacity after the tax capacity rate has been certified.

Sec. 5. Minnesota Statutes 1988, section 275.125, subdivision 5b, is amended to read:

Subd. 5b. [TRANSPORTATION LEVY OFF-FORMULA ADJUSTMENT.] (a) ~~In any the 1989 and 1990 fiscal year years, if the basic transportation levy under subdivision 5 in a district attributable to a particular the fiscal year exceeds the transportation aid computation under section 124.225, subdivisions 8b, 8i, 8j, and 8k, the district's levy limitation shall be adjusted as provided in this subdivision. In the year following each next fiscal year, the district's transportation levy shall be reduced by an amount equal to the difference between (1) the amount of the basic transportation levy under subdivision 5, and (2) the sum of the district's transportation aid computation pursuant to section 124.225, subdivisions 8b, 8i, 8j, and 8k, and the amount of any subtraction made from special state aids pursuant to section 124.2138, subdivision 2, less the amount of any aid reduction due to an insufficient appropriation as provided in section 124.225, subdivision 8a.~~

(b) For 1991 and later fiscal years, in a district if the basic transportation levy under subdivision 5 attributable to that fiscal year is more than the difference between (1) the district's transportation revenue under section 124.225, subdivision 7c, and (2) the sum of the district's maximum nonregular levy under subdivision 5c and the district's contracted services aid reduction under section 124.225, subdivision 8k, the district's transportation levy in the next fiscal year must be reduced by the amount of the excess.

Sec. 6. Minnesota Statutes 1988, section 275.125, subdivision 5c, is amended to read:

Subd. 5c. [NONREGULAR TRANSPORTATION LEVY.] A school district may also make a levy for unreimbursed nonregular transportation costs pursuant to this subdivision. The amount of the levy shall not exceed the product of:

(a) the district's unreimbursed nonregular transportation revenue determined pursuant to section 124.225, subdivision 8j, clause (a), times

(b) the lesser of

(i) one, or

(ii) the ratio of the district's adjusted gross tax capacity for the preceding year per total pupil unit in the school year to which the levy is attributable, to \$83,800. be the result of the following computation:

(a) multiply

(1) the amount of the district's nonregular transportation revenue under section 124.225, subdivision 7c that is more than the product of \$30 times the district's actual pupil units, by

(2) 60 percent;

(b) subtract the result in clause (a) from the district's total nonregular transportation revenue;

(c) multiply the result in clause (b) by the lesser of one or the ratio of (i) the quotient derived by dividing the adjusted gross tax capacity of the district for the year before the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to (ii) \$9,722.

Sec. 7. Minnesota Statutes 1988, section 275.125, subdivision 5e, is amended to read:

Subd. 5e. [EXCESS TRANSPORTATION LEVY.] A school district may make a levy for excess transportation costs according to this subdivision. The amount of the levy shall be the result of the following computation:

(a) Multiply the lesser of (1) the regular transportation allowance for the fiscal year to which the levy is attributable, or (2) base cost computed using data for the current school fiscal year according to section 124.225, subdivision 1, paragraph (i) to which the levy is attributable, by the sum of the number of secondary FTE pupils transported to and from school in the current year who live more than one mile but less than two miles from the public school which they could attend or the nonpublic school actually attended, plus the number of FTE pupils residing less than one mile from school who were transported to and from school in the current year due to extraordinary traffic hazards number of weighted FTE pupils trans-

ported in the excess category in the district in the current school year.

(b) Add to the result in paragraph (a) the actual cost in the current fiscal year to which the levy is attributable of other related services that are necessary because of extraordinary traffic hazards.

(c) Add to the result in paragraph (b) the actual cost in the fiscal year to which the levy is attributable of noon transportation to and from school for kindergarten pupils attending half-day sessions.

Sec. 8. Minnesota Statutes 1988, section 275.125, is amended by adding a subdivision to read:

Subd. 5h. [TRANSPORTATION LEVY; QUALIFYING EDUCATION DISTRICT.] For the purposes of subdivisions 5, 5b, 5c, 5e, 5f, and 5g of this section, "school district" means either school district as defined in section 120.02, subdivision 1, or qualifying education district as defined in section 122.91, subdivision 2a. Where base year data for formula computations are required that do not exist for education districts, the department of education shall compute the necessary figures using data from member districts.

#### Sec. 9. [APPROPRIATION.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [TRANSPORTATION AID.] For transportation aid:

\$92,758,000        .....        1990

\$95,811,000        .....        1991

The 1990 appropriation includes \$12,773,000 for 1989 and \$79,985,000 for 1990.

The 1991 appropriation includes \$14,115,000 for 1990 and \$81,696,000 for 1991.

Subd. 3. [TRANSPORTATION AID FOR POST-SECONDARY ENROLLMENT OPTIONS.] For transportation of pupils attending post-secondary institutions according to Minnesota Statutes, section 123.3514, subdivision 8:

\$50,000        .....        1990

\$50,000        .....        1991

Subd. 4. [TRANSPORTATION AID FOR ENROLLMENT OPTIONS.] For transportation of pupils attending nonresident districts according to Minnesota Statutes, section 120.0621, subdivision 9, or section 123.3515, subdivision 6:

\$50,000        .....        1990

\$50,000        .....        1991

### ARTICLE 3 SPECIAL PROGRAMS

Section 1. Minnesota Statutes 1988, section 120.17, subdivision 3, is amended to read:

Subd. 3. [RULES OF THE STATE BOARD.] The state board shall promulgate rules relative to qualifications of essential personnel, courses of study, methods of instruction, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and any other rules it deems necessary for instruction of handicapped children. These rules shall provide standards and procedures appropriate for the implementation of and within the limitations of subdivisions 3a and 3b. These rules shall also provide standards for the discipline, control, management and protection of handicapped children. The state board shall not adopt rules for pupils served in level 1, 2, or 3, as defined in Minnesota Rules, part 3525.2340, establishing either case loads or the maximum number of pupils that may be assigned to special education teachers. The state board, in consultation with the departments of health and human services, shall adopt permanent rules for instruction and services for children under age five and their families. ~~Until June 30, 1988, a developmental achievement center under contract to a school district to provide special instruction and services is eligible for variance from rules relating to personnel licensure. Until June 30, 1988, the licensure variance for a developmental achievement center shall be granted according to the same procedures and criteria used for granting a variance to a school district. The state board shall adopt rules to determine eligibility for special education services. The rules shall include procedures and standards by which to grant variances for experimental eligibility criteria. The state board shall, according to section 14.05, subdivision 4, notify a district applying for a variance from the rules within 45 calendar days of receiving the request whether the request for the variance has been granted or denied. If a request is denied, the board shall specify the program standards used to evaluate the request and the reasons for denying the request.~~

Sec. 2. Minnesota Statutes 1988, section 120.17, subdivision 3b, is amended to read:

Subd. 3b. [PROCEDURES FOR DECISIONS.] Every district shall utilize at least the following procedures for decisions involving identification, assessment, and educational placement of handicapped children:

(a) Parents and guardians shall receive prior written notice of:

(1) any proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) a proposed placement of their child in, transfer from or to, or denial of placement in a special education program; or

(3) the proposed provision, addition, denial or removal of special education services for their child;

(b) The district shall not proceed with the initial formal assessment of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent or guardian. The refusal of a parent or guardian to consent may be overridden by the decision in a hearing held pursuant to clause (d) at the district's initiative;

(c) Parents and guardians shall have an opportunity to meet with appropriate district staff in at least one conciliation conference if they object to any proposal of which they are notified pursuant to clause (a). The conciliation process shall not be used to deny or delay a parent or guardian's right to a due process hearing. If the parent or guardian refuses efforts by the district to conciliate the dispute with the school district, the requirement of an opportunity for conciliation shall be deemed to be satisfied;

(d) Parents, guardians, and the district shall have an opportunity to obtain an impartial due process hearing initiated and conducted in the school district ~~where the child resides~~ responsible for assuring that an appropriate program is provided in accordance with state board rules, if the parent or guardian continues to object to:

(1) a proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) the proposed placement of their child in, or transfer of their child to a special education program;

(3) the proposed denial of placement of their child in a special

education program or the transfer of their child from a special education program;

(4) the proposed provision or addition of special education services for their child; or

(5) the proposed denial or removal of special education services for their child.

At least five calendar days before the hearing, the objecting party shall provide the other party with a brief written statement of the objection and the reasons for the objection.

The hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parent or guardian. If the school board and the parent or guardian are unable to agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. The hearing officer shall not be a school board member or employee of the school district where the child resides or of the child's school district of residence, an employee of any other public agency involved in the education or care of the child, or any person with a personal or professional interest which would conflict with the person's objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. If the hearing officer requests an independent educational assessment of a child, the cost of the assessment shall be at district expense. The proceedings shall be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

(e) The decision of the hearing officer pursuant to clause (d) shall be rendered not more than 45 calendar days from the date of the receipt of the request for the hearing. A hearing officer may grant specific extensions of time beyond the 45-day period at the request of either party. The decision of the hearing officer shall be binding on all parties unless appealed to the hearing review officer by the parent, guardian, or the school board of the district where the child resides pursuant to clause (f).

The local decision shall:

(1) be in writing;

(2) state the controlling facts upon which the decision is made in sufficient detail to apprise the parties and the hearing review officer of the basis and reason for the decision;

(3) state whether the special education program or special education services appropriate to the child's needs can be reasonably



provided within the resources available to the responsible district or districts;

(4) state the amount and source of any additional district expenditure necessary to implement the decision; and

(5) be based on the standards set forth in subdivision 3a and the rules of the state board.

(f) Any local decision issued pursuant to clauses (d) and (e) may be appealed to the hearing review officer within 30 calendar days of receipt of that written decision, by the parent, guardian, or the school board of the district where the child resides responsible for assuring that an appropriate program is provided in accordance with state board rules.

If the decision is appealed, a written transcript of the hearing shall be made by the school district and shall be accessible to the parties involved within five calendar days of the filing of the appeal. The hearing review officer shall issue a final decision based on an impartial review of the local decision and the entire record within 30 calendar days after the filing of the appeal. The hearing review officer shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument; provided any hearing held to seek additional evidence shall be an impartial due process hearing but shall be deemed not to be a contested case hearing for purposes of chapter 14. The hearing review officer may grant specific extensions of time beyond the 30-day period at the request of any party.

The final decision shall:

(1) be in writing;

(2) include findings and conclusions; and

(3) be based upon the standards set forth in subdivision 3a and in the rules of the state board.

(g) The decision of the hearing review officer shall be final unless appealed by the parent or guardian or school board to the court of appeals. The judicial review shall be in accordance with chapter 14.

(h) The commissioner of education, having delegated general supervision of special education to the appropriate staff, shall be the hearing review officer except for appeals in which:

(1) the commissioner has a personal interest in or specific involvement with the student who is a party to the hearing;

(2) the commissioner has been employed as an administrator by the district that is a party to the hearing;

(3) the commissioner has been involved in the selection of the administrators of the district that is a party to the hearing;

(4) the commissioner has a personal, economic, or professional interest in the outcome of the hearing other than the proper administration of the federal and state laws, rules, and policies;

(5) the appeal challenges a state or local policy which was developed with substantial involvement of the commissioner; or

(6) the appeal challenges the actions of a department employee or official.

For any appeal to which the above exceptions apply, the state board of education shall name an impartial and competent hearing review officer.

In all appeals, the parent or guardian of the handicapped student or the district that is a party to the hearing may challenge the impartiality or competence of the proposed hearing review officer by applying to the state board of education.

(i) Pending the completion of proceedings pursuant to this subdivision, unless the district and the parent or guardian of the child agree otherwise, the child shall remain in the child's current educational placement and shall not be denied initial admission to school.

(j) The child's school district of residence, if different from the district where the child actually resides, or providing district shall receive notice of and may be a party to any hearings or appeals pursuant to this subdivision.

Sec. 3. Minnesota Statutes 1988, section 120.17, is amended by adding a subdivision to read:

Subd. 3d. [INTERVENTIONS BEFORE REFERRAL.] A district must document two instructional strategies, alternatives, or interventions while a pupil is in the regular classroom before referring the pupil for a special education assessment. The multidisciplinary assessment team may waive this requirement for a student in crisis. This requirement must not be used to deny or delay a pupil's right to a special education assessment.

Sec. 4. Minnesota Statutes 1988, section 124.273, subdivision 1b, is amended to read:

Subd. 1b. [TEACHERS SALARIES.] Each year the state shall pay a ~~school~~ district a portion of the salary, calculated from the date of hire, of one full-time equivalent teacher for each 45 pupils of limited English proficiency enrolled in the district. Notwithstanding the foregoing, the state shall pay a portion of the salary, calculated from the date of hire, of one-half of a full-time equivalent teacher to a district with 22 or fewer pupils of limited English proficiency enrolled. The portion for a full-time teacher shall be the lesser of 61 percent of the salary or \$17,000. The portion for a part-time or limited-time teacher shall be the lesser of 61 percent of the salary or the product of \$17,000 times the ratio of the person's actual employment to full-time employment.

Sec. 5. Minnesota Statutes 1988, section 124.273, subdivision 4, is amended to read:

Subd. 4. [APPLICATION DATES.] (a) A district that expects to enroll pupils in educational programs for pupils of limited English proficiency during the next fiscal year shall submit an initial application for aid by October 15 and June 1. The district shall submit an amended application by ~~February~~ November 15 or and by ~~June~~ February 15 if the number of enrolled pupils of limited English proficiency has changed since filing a previous application. ~~Districts which do~~ A district that does not submit an initial application by ~~October 15~~ June 1 but ~~enroll~~ enrolls pupils of limited English proficiency after that date may need not wait until November 15 or February 15 to submit an initial application by February 15 or by June 15. A final report for the last fiscal year with actual salary and enrollment information shall be submitted by August 15 for calculation of the final payment.

(b) All applications shall be submitted to the department in the manner prescribed by the commissioner. Each application shall include (1) the number of pupils ~~or additional pupils~~ enrolled who meet the criteria in section 126.262, subdivision 2; (2) ~~the number, dates of hire,~~ full-time equivalency, and salaries of essential licensed personnel or additional essential licensed personnel employed in the district's educational program for pupils of limited English proficiency who meet the criteria in section 126.262, subdivision 3; and (3) any other information deemed necessary by the commissioner to implement this section. School districts may submit joint applications for aid pursuant to this section and may share essential instructional personnel employed in educational programs for pupils of limited English proficiency.

Sec. 6. Minnesota Statutes 1988, section 124.273, subdivision 5, is amended to read:

Subd. 5. [NOTIFICATION; AID PAYMENTS.] The department shall inform each applicant district of the amount of aid it will

receive pursuant to this section within a ~~month~~ 45 days after the application deadline.

Sec. 7. Minnesota Statutes 1988, section 124.273, subdivision 7, is amended to read:

Subd. 7. [MONEY FROM OTHER SOURCES.] A school district providing a program for pupils of limited English proficiency shall be eligible to receive moneys for these programs from other government agencies and from private sources when these moneys are available.

Sec. 8. Minnesota Statutes 1988, section 124.273, is amended by adding a subdivision to read:

Subd. 8. [DEFINITION.] In this section, unless otherwise specified "district" means either "school district" as defined in section 120.02, subdivision 1, or "qualifying education district" as defined in article 6, section 6, subdivision 2a; "school board" means either "school board" as defined in section 123.33 or "education district board" as defined in section 122.92.

Sec. 9. Minnesota Statutes 1988, section 124.32, subdivision 1b, is amended to read:

Subd. 1b. [TEACHERS SALARIES.] Each year the state shall pay to a district a portion of the salary of each essential person employed in the district's program for handicapped children during the regular school year, whether the person is employed by one or more districts. The portion for a full-time person shall be an amount not to exceed the lesser of ~~66 60~~ percent of the salary or ~~\$18,400~~ \$16,727. The portion for a part-time or limited-time person shall be an amount not to exceed the lesser of ~~66 60~~ percent of the salary or the product of ~~\$18,400~~ \$16,727 times the ratio of the person's actual employment to full-time employment.

Sec. 10. Minnesota Statutes 1988, section 124.32, subdivision 1d, is amended to read:

Subd. 1d. [CONTRACT SERVICES.] For special instruction and services provided to any pupil by contracting with public, private, or voluntary agencies other than school districts or qualifying education districts, the state shall pay each district 52 percent of the difference between the amount of the contract and the basic revenue of the district for that pupil for the amount of time the pupil receives services under the contract.

Sec. 11. Minnesota Statutes 1988, section 124.32, is amended by adding a subdivision to read:

Subd. 1f. [DEFINITION.] In this section, unless otherwise specified, "district" means either "school district" as defined in section 120.02, subdivision 1, or "qualifying education district" as defined in article 6, section 6, subdivision 2a; "school board" means either "school board" as defined under section 123.33 or "education district board" as defined under section 122.92.

Sec. 12. Minnesota Statutes 1988, section 124.573, subdivision 2b, is amended to read:

Subd. 2b. [SECONDARY VOCATIONAL AID.] For 1988-1989 1989-1990 and later school years, a district's or cooperative center's "secondary vocational aid" for secondary vocational education programs for a school year equals the sum of the following amounts for each program:

(a) the greater of zero, or 75 percent of the difference between:

(1) the salaries paid to essential, licensed personnel in that school year for services rendered in that district's or cooperative center's approved secondary vocational education programs program, and

(2) 50 percent of the general education revenue attributable to secondary pupils for the number of hours that the pupils are enrolled in secondary vocational courses that program; and

(b) 30 percent of approved expenditures for the following:

(1) contracted services provided by a public or private agency other than a Minnesota school district or cooperative center under section 124.573, subdivision 3a;

(2) necessary travel between instructional sites by licensed secondary vocational education personnel;

(3) necessary travel by licensed secondary vocational education personnel for vocational student organization activities held within the state for instructional purposes;

(4) curriculum development activities that are part of a five-year plan for improvement based on program assessment;

(5) necessary travel by licensed secondary vocational education personnel for noncollegiate credit bearing professional development; and

(6) specialized vocational instructional supplies.

Sec. 13. Minnesota Statutes 1988, section 124.573, is amended by adding a subdivision to read:

Subd. 2d. [ADMINISTRATION.] In making the computation in subdivision 2b, paragraph (a), clause (1), the salaries of the administrator and support service facilitator must be apportioned among programs based on the number of full-time-equivalent instructors in each program.

Sec. 14. Minnesota Statutes 1988, section 124.573, is amended by adding a subdivision to read:

Subd. 5a. [DISTRICT REPORTS.] Each district or cooperative center shall report data to the department for all secondary vocational education programs as required by the department to implement the secondary vocational aid formula.

Sec. 15. Minnesota Statutes 1988, section 124.574, subdivision 1, is amended to read:

Subdivision 1. The purpose of this section is to provide a method to fund programs for secondary vocational education for handicapped children. As used in this section, the term "handicapped children" shall have the meaning ascribed to it in section 120.03.

For the purposes of this section, unless otherwise specified, "district" means either "school district" as defined in section 120.02, subdivision 1, or "qualifying education district" as defined in article 6, section 6, subdivision 2a; "school board" means either "school board" as defined under section 123.33 or "education district board" as defined under section 122.92.

Sec. 16. Minnesota Statutes 1988, section 124.574, subdivision 4, is amended to read:

Subd. 4. [AID FOR CONTRACTED SERVICES.] In addition to the provisions of subdivisions 2b and 3, a school district may contract with a public or private agency other than a Minnesota school district, qualifying education district, or cooperative center for the provision of secondary vocational education programs for handicapped children. The formula for payment of aids for these contracts shall be that provided in section 124.32, subdivision 4b 1d. The state board shall promulgate rules relating to approval procedures and criteria for these contracts and aid shall be paid only for contracts approved by the commissioner of education. For the purposes of subdivision 6, the district or cooperative center contracting for these services shall be construed to be providing these services.

Sec. 17. Minnesota Statutes 1988, section 124.574, subdivision 5, is amended to read:

Subd. 5. The aid provided pursuant to this section shall be paid only for services rendered as designated in subdivision 2 or for the

costs designated in subdivision 3 which are incurred in secondary vocational education programs for handicapped children which are approved by the commissioner of education and operated in accordance with rules promulgated by the state board. These rules shall be subject to the restrictions provided in section 124.573, subdivision 3. The procedure for application for approval of these programs shall be as provided in section 124.32, subdivisions 7 and 10 and the application review process shall be conducted jointly by the ~~division of special and compensatory education and the division of vocational technical education section~~ of the state department.

Sec. 18. [124.85] [STATE REVENUE FOR AMERICAN INDIAN SCHOOLS.]

Subdivision 1. [AUTHORIZATION.] Each year each American Indian-controlled contract school authorized by the United States Code, title 25, section 450f that is located on a reservation within the state is eligible to receive general education revenue subject to the requirements in this subdivision.

(a) The school must plan, conduct, and administer an education program that complies with the requirements of chapters 120, 121, 122, 123, 124, 124A, 125, 126, 129, 129A, and 129B.

(b) The school must comply with all other state statutes governing independent school districts.

(c) The state general education revenue must be used to supplement, and not to replace, the money for American Indian education programs provided by the federal government.

Subd. 2. [REVENUE AMOUNT.] For 1989-1990 and later school years, an American Indian-controlled contract school that is located on a reservation within the state and that complies with the requirements in subdivision 1 is eligible to receive general education revenue. The amount of revenue is derived by:

(1) multiplying the formula allowance under section 124A.22, subdivision 2, times the actual pupil units as defined in section 124A.02, subdivision 19, in attendance during the fall count week, but not including pupil units for which the school has received reimbursement under sections 123.933 and 126.23 for the school for the current school year;

(2) subtracting from the result in clause (1) the amount of money allotted to the school by the federal government through the Indian School Equalization Program of the Bureau of Indian Affairs, according to Code of Federal Regulations, title 25, part 39, subparts A to E, for the basic program as defined by section 39, 11, b but not money allotted through subparts F to L for contingency funds,

school board training, student training, interim maintenance and minor repair, interim administration cost, prekindergarten, and operation and maintenance, and the amount of money that is received according to section 126.23;

(3) dividing the result in clause (2) by the actual pupil units; and

(4) multiplying the actual pupil units by the lesser of \$1,500 or the result in clause (3).

Subd. 3. [LAW WAIVER.] Notwithstanding subdivision 1, paragraphs (a) and (b), a contract school:

(1) is not subject to the Minnesota election law;

(2) has no authority under this section to levy for property taxes, issue and sell bonds, or incur debt; and

(3) may request through its managing tribal organization a recommendation of the state board of education, for consideration of the legislature, that a contract school not be subject to specified statutes related to independent school districts.

Sec. 19. Minnesota Statutes 1988, section 126.151, subdivision 2, is amended to read:

Subd. 2. [ACCOUNTS OF THE ORGANIZATION.] The state boards of education and vocational technical education may retain dues and other money collected on behalf of students participating in approved vocational student organizations and may deposit the money in separate accounts. The money in these accounts shall be available for expenditures for state and national activities related to specific organizations. Administration of money collected under this section is not subject to the provisions of chapters 15, 16A, and 16B, and may be deposited outside the state treasury. Money shall be administered under the policies of the applicable state board or agency relating to post-secondary or secondary vocational student organizations and is subject to audit by the legislative auditor. Any unexpended money shall not cancel but may be carried forward to the next fiscal year.

Sec. 20. Minnesota Statutes 1988, section 275.125, subdivision 8c, is amended to read:

Subd. 8c. [SPECIAL EDUCATION LEVY.] (a) Each year, a school district, excluding an intermediate school district Nos. 287, 916, and 917, and any qualifying education district, may levy an amount that may not exceed 66 percent of salaries paid to essential personnel in that school district, intermediate district, or qualifying education district minus the amount of state aid and any federal aid, if



applicable, paid to that school district, intermediate district, or qualifying education district for salaries of these essential personnel under sections 124.32, subdivisions 1b and 10, and 124.574, subdivision 2b, plus 61 percent of salaries paid to essential personnel in that school district, intermediate district, or qualifying education district minus the amount of state aid and any federal aid, if applicable, paid to that school district, intermediate district, or qualifying education district for salaries of these essential personnel under section 124.273, subdivision 1b, for the year to which the levy is attributable.

(b) For purposes of this subdivision, a special education cooperative ~~or an intermediate school district~~ each year shall allocate an amount equal to 66 percent of salaries paid to essential personnel in that ~~intermediate district or cooperative~~ minus the amount of state aid and any federal aid, if applicable, paid to that ~~intermediate district or cooperative~~ for salaries of these essential personnel under sections 124.32, subdivisions 1b and 10, and 124.574, subdivision 2b, plus 61 percent of salaries paid to essential personnel in that ~~intermediate district or cooperative~~ minus the amount of state aid and any federal aid, if applicable, paid to that ~~intermediate district or cooperative~~ for salaries of these essential personnel under section 124.273, subdivision 1b, for the year to each of the participating school districts or qualifying education districts of the cooperative ~~or the intermediate district~~. The participating school districts or qualifying education districts may make a levy in the amount of the costs allocated to them by the cooperative ~~or intermediate district~~.

Special education cooperatives and ~~intermediate school districts~~ that allocate unreimbursed portions of salaries of special education essential personnel among participating school districts or qualifying education districts, for purposes of the participating school districts or qualifying education districts making a levy under this subdivision, shall provide information to the department of education on the amount of unreimbursed costs of salaries they allocated to the participating school districts or qualifying education districts.

(c) An intermediate district or qualifying education district shall allocate an amount equal to 66 percent of salaries paid to essential personnel in that intermediate district or qualifying education district minus the amount of state aid and any federal aid, if applicable, paid to that intermediate district or qualifying education district for salaries of these essential personnel under sections 124.32, subdivisions 1b and 10, and 124.574, subdivision 2b, plus 61 percent of salaries paid to essential personnel in that intermediate district or qualifying education district minus the amount of state aid and any federal aid, if applicable, paid to that intermediate district or qualifying education district for salaries of these essential personnel under section 124.273, subdivision 1b, for the year to each of the participating school districts that are not members of the intermediate district or qualifying education district. The partici-

participating nonmember school districts may make a levy in the amount of the costs allocated to them by the intermediate district or qualifying education district.

Intermediate districts and qualifying education districts that allocate unreimbursed portions of salaries of special education essential personnel among participating nonmember school districts, for the purposes of the participating nonmember school districts making a levy under this subdivision, shall provide information to the department of education on the amount of unreimbursed costs of salaries they allocated to the participating nonmember districts.

A qualifying education district or intermediate district and a member school district must not levy for the same costs under this subdivision.

The department of education may require information from a school district, qualifying education district, or intermediate district to verify that a qualifying education district and a member school district or intermediate district and participating school district do not levy for the same costs under this subdivision.

#### Sec. 21. [LEVY ADJUSTMENT.]

The department of education shall adjust the 1989 levy for each school district by the amount of the increase in the district's special education levy for fiscal year 1990 according to Minnesota Statutes, section 275.125, subdivision 8c, resulting from the changes in the special education aid formula under section 9. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy shall be recognized as revenue for fiscal year 1990.

#### Sec. 22. [HANDICAPPED CHILDREN UNDER AGE 5; REPORT.]

The department of education and the association of Minnesota counties shall jointly prepare a report describing the responsibilities of county boards and school districts to provide services for handicapped children under age five and their families.

The report shall include at least the following:

- (1) a description of current procedures used to determine county and school district responsibilities;
- (2) a summary of problems of the current delivery system;
- (3) recommendations for improving the efficiency and quality of services; and

(4) recommendations for funding services.

## Sec. 23. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [SPECIAL EDUCATION AID.] For special education aid:

\$160,331,000 ..... 1990

\$165,870,000 ..... 1991

The 1990 appropriation includes \$23,074,000 for 1989 and \$137,257,000 for 1990.

The 1991 appropriation includes \$24,222,000 for 1990 and \$141,648,000 for 1991.

Subd. 3. [SPECIAL PUPIL AID.] For special education aid under Minnesota Statutes, section 124.32, subdivision 6, for pupils with handicaps placed in residential facilities within the district boundaries for whom no district of residence can be determined:

\$284,000 ..... 1990

\$158,000 ..... 1991

Subd. 4. [SUMMER SPECIAL EDUCATION AID.] For special education aid for summer school programs:

\$5,836,000 ..... 1990

\$5,766,000 ..... 1991

The 1990 appropriation is for 1989 summer school programs.

The 1991 appropriation is for 1990 summer school programs.

Subd. 5. [TRAVEL FOR HOME-BASED SERVICES.] For aid for teacher travel for home-based services for handicapped children under age five and their families.

\$51,000 ..... 1990

\$51,000 ..... 1991

The 1990 appropriation includes \$8,000 for 1989 and \$43,000 for 1990.

The 1991 appropriation includes \$8,000 for 1990 and \$43,000 for 1991.

Subd. 6. [RESIDENTIAL FACILITIES AID.] For aid under Minnesota Statutes, section 124.32, subdivision 5:

\$1,398,000        .....        1990

\$1,374,000        .....        1991

Subd. 7. [LIMITED ENGLISH PROFICIENCY PUPILS PROGRAM AID.] For aid to educational programs for pupils of limited English proficiency according to Minnesota Statutes, section 124.273:

\$3,270,000        .....        1990

\$3,374,000        .....        1991

The 1990 appropriation includes \$454,000 for 1989 and \$2,816,000 for 1990.

The 1991 appropriation includes \$497,000 for 1990 and \$2,877,000 for 1991.

Subd. 8. [AMERICAN INDIAN SCHOLARSHIPS.] For American Indian scholarships under Minnesota Statutes, section 124.48:

\$1,582,000        .....        1990

\$1,582,000        .....        1991

Any unexpended balance remaining in the first year does not cancel but is available for fiscal year 1991.

Subd. 9. [AMERICAN INDIAN POST-SECONDARY PREPARATION GRANTS.] For American Indian post-secondary preparation grants according to Minnesota Statutes, section 124.481:

\$857,000        .....        1990

\$857,000        .....        1991

Subd. 10. [AMERICAN INDIAN LANGUAGE AND CULTURE PROGRAMS.] For grants to American Indian language and culture

education programs according to Minnesota Statutes, section 126.54, subdivision 1:

\$590,000 ..... 1990

\$590,000 ..... 1991

The 1990 appropriation includes \$89,000 for 1989 and \$501,000 for 1990.

The 1991 appropriation includes \$89,000 for 1990 and \$501,000 for 1991.

Subd. 11. [AMERICAN INDIAN EDUCATION.] For certain American Indian education programs in school districts there is appropriated:

\$176,000 ..... 1990

\$176,000 ..... 1991

The 1990 appropriation includes \$27,000 for 1989 and \$149,000 for 1990.

The 1991 appropriation includes \$27,000 for 1990 and \$149,000 for 1991.

These appropriations are available for expenditure with the approval of the commissioner of education.

The commissioner must not approve the payment of any amount to a school district under this subdivision unless that school district is in compliance with all applicable laws of this state.

Up to the following amounts may be distributed to the following school districts for each fiscal year: \$54,800 to independent school district No. 309, Pine Point School; \$9,700 to independent school district No. 166; \$14,900 to independent school district No. 432; \$14,100 to independent school district No. 435; \$42,200 to independent school district No. 707; and \$39,100 to independent school district No. 38. These amounts shall be spent only for the benefit of American Indian pupils and to meet established state educational standards or statewide requirements.

These appropriations are available only if operation support funds from the federal Bureau of Indian Affairs under the Johnson-O'Malley Act, Public Law Number 73-167, or Code of Federal Regulations, title 25, section 273.31, or equivalent money from the same or another source are not available for the districts enumerated in this subdivision for the applicable school year.

Before a district can receive money under to this subdivision, the district must submit to the commissioner of education evidence that it has:

(1) complied with the uniform financial accounting and reporting standards act, Minnesota Statutes, sections 121.90 to 121.917. For each school year, compliance with Minnesota Statutes, section 121.908, subdivision 3a, shall require the school district to prepare one budget including the amount available to the district under this subdivision and one budget that does not include the available amount. The budget of that school district for the 1989-1990 school year prepared according to Minnesota Statutes, section 121.908, subdivision 3a, shall be submitted to the commissioner of education at the same time as 1988-1989 budgets and shall not include money appropriated in this subdivision;

(2) conducted a special education needs assessment and prepared a proposed service delivery plan according to Minnesota Statutes, section 120.03 and 120.17; Public Law Number 94-142, an act of the 94th Congress of the United States cited as the "Education for All Handicapped Children Act of 1975"; and applicable state board of education rules; and

(3) compiled accurate daily pupil attendance records.

Before approving payment of any amount to a school district under this subdivision, the commissioner shall review and evaluate each affected district's compliance with clauses (1), (2), and (3), and any other applicable laws, and each affected district's need for the money. Each affected district's net unappropriated fund balance in all operating funds as of June 30 of the previous school year shall be taken into consideration.

Subd. 12. [SECONDARY VOCATIONAL EDUCATION AID.] For secondary vocational education aid according to Minnesota Statutes, section 124.573:

\$11,471,000        .....        1990

\$11,720,000        .....        1991

The 1990 appropriation includes \$1,525,000 for 1989 and \$9,946,000 for 1990.

The 1991 appropriation includes \$1,755,000 for 1990 and \$9,965,000 for 1991.

Subd. 13. [SECONDARY VOCATIONAL HANDICAPPED.] For aid for secondary vocational education for handicapped pupils according to Minnesota Statutes, section 124.574:

\$5,735,000        .....        1990

\$6,745,000        .....        1991

The 1990 appropriation includes \$645,000 for 1989 and \$5,090,000 for 1990.

The 1991 appropriation includes \$899,000 for 1990 and \$5,846,000 for 1991.

Subd. 14. [TRIBAL CONTRACT SCHOOLS.]

For tribal contract school aid:

\$200,000        .....        1990

\$200,000        .....        1991

Sec. 24. [APPROPRIATION.]

Subdivision 1. [STATE BOARD OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the state board of education for the fiscal years designated.

Subd. 2. [GRANTS FOR INDIAN TEACHERS.] For grants to assist Indian people to become teachers and to provide additional education for American Indian teachers:

\$71,000        .....        1990

\$71,000        .....        1991

The state board may award joint grants for a cooperative program to:

(a) the University of Minnesota, Duluth, and independent school district No. 709, Duluth;

(b) Bemidji State University and independent school district No. 38, Red Lake; and

(c) Moorhead State University and the White Earth Tribal Council.

To obtain the joint grant, a joint application must be submitted to the state board of education. The application must be developed with the participation of the district parent advisory committee established according to Minnesota Statutes, section 126.51.

The application must set forth (a) the in-kind services to be provided by the University of Minnesota, Duluth; Bemidji State University or Moorhead State University; (b) the coordination and mentorship services to be provided by these grants; and (c) recommended criteria for selecting individual scholarship recipients and criteria for scholarship amounts, that may include tuition, fees, books, and living expenses for ten months. The part of the scholarship attributable to living expenses may be in the form of a loan to be forgiven if the recipient teaches in independent school district No. 709, Duluth, independent school district No. 38, Red Lake, or a school operated by the White Earth Tribal Council, for five years. If, however, the recipient is placed on unrequested leave of absence by independent school district No. 709, Duluth, independent school district No. 38, Red Lake, or a school operated by the White Earth Tribal Council, the loan may be forgiven if the recipient teaches in another Minnesota school district for an amount of time that, when added to the amount of time taught in Duluth, Red Lake, or at a school operated by the White Earth Tribal Council, equals five years. The loan forgiveness program must be developed in consultation with the higher education coordinating board.

Only the following American Indian people may receive scholarships:

(1) students entering the University of Minnesota, Duluth, Bemidji State University, or Moorhead State University, who intend to become teachers in Minnesota;

(2) teacher aides who are employees of independent school district No. 709, Duluth, independent school district No. 38, Red Lake, or a school operated by the White Earth Tribal Council, and who intend to obtain a teaching license; and

(3) licensed employees of independent school district No. 709, independent school district No. 38, Red Lake, or a school operated by the White Earth Tribal Council, who begin a master of education program.

The joint application must be submitted to the Minnesota Indian scholarship committee for review and comment.

The state board may award a joint grant in the amount it determines appropriate. Scholarship money must be included in the amount of the joint grant.

#### ARTICLE 4

#### COMMUNITY AND ADULT EDUCATION

Section 1. Minnesota Statutes 1988, section 121.88, subdivision 2, is amended to read:



Subd. 2. [ADVISORY COUNCIL.] Each board shall provide for an advisory council to consist of members who represent: various service organizations; churches; public and nonpublic schools; local government including elected officials; public and private nonprofit agencies serving youth and families; parents; youth; park, recreation or forestry services of municipal or local government units located in whole or in part within the boundaries of the school district; and any other groups participating in the community education program in the school district.

Sec. 2. Minnesota Statutes 1988, section 121.88, subdivision 5, is amended to read:

Subd. 5. [SUMMER PROGRAMS.] Notwithstanding any law to the contrary, during the summer a school district may offer community education programs to elementary and secondary pupils. The district may use community education revenue received pursuant to sections 124.271 and 275.125, subdivision 8 and charge fees for the cost of the programs.

Sec. 3. Minnesota Statutes 1988, section 121.882, subdivision 2, is amended to read:

Subd. 2. [PROGRAM CHARACTERISTICS.] Early childhood family education programs are programs for children in the period of life from birth to kindergarten, for the parents of such children, and for expectant parents. The programs may include the following:

- (1) programs to educate parents about the physical, mental, and emotional development of children;
- (2) programs to enhance the skills of parents in providing for their children's learning and development;
- (3) learning experiences for children and parents;
- (4) activities designed to detect children's physical, mental, emotional, or behavioral problems that may cause learning problems;
- (5) activities and materials designed to encourage self-esteem, skills, and behavior that prevent sexual and other interpersonal violence;
- (6) educational materials which may be borrowed for home use;
- (6) (7) information on related community resources; or
- (7) (8) other programs or activities.

The programs shall not include activities for children that do not require substantial involvement of the children's parents. The programs shall be reviewed periodically to assure the instruction and materials are not racially, culturally, or sexually biased. The programs shall encourage parents to be aware of practices that may affect equitable development of children.

Sec. 4. Minnesota Statutes 1988, section 121.882, subdivision 4, is amended to read:

Subd. 4. [PARTICIPANTS' FEES.] A district may charge a reasonable fee but it shall waive the fee for a participant unable to pay. The commissioner of education shall adopt rules by January 1, 1990, to determine the responsibility of parents or guardians to pay for ECFE programs. The rules shall include a waiver of fees for participants unable to pay. The amount of the payment must not be more than the amount of the program cost.

Sec. 5. Minnesota Statutes 1988, section 121.912, subdivision 1, is amended to read:

Subdivision 1. [LIMITATIONS.] Except as provided in this subdivision, sections 121.9121, 123.36, 124.243, 475.61, and 475.65, a school district may not permanently transfer money from (1) an operating fund to a nonoperating fund; (2) a nonoperating fund to another nonoperating fund; or (3) a nonoperating fund to an operating fund. Permanent transfers may be made from any fund to any other fund to correct for prior fiscal years' errors discovered after the books have been closed for that year. Permanent transfers may be made from the general fund to any other operating funds if the resources of the other fund are not adequate to finance approved expenditures from that other fund. Permanent transfers may also be made from the general fund to eliminate deficits in another fund when that other fund is being discontinued. Each year a permanent transfer must be made from the general fund to the community service fund to reimburse the community service fund for TRA and FICA expenditures made for community education activities. The amount to be transferred is the lesser of the amount received by the district in the community education fund in fiscal year 1987-1988 from the teacher retirement revenue, or the amount needed to meet the district TRA and FICA obligations in the current year, as described in Laws 1986, First Special Session chapter 1, article 9, section 5.

When a district discontinues operation of a district-owned bus fleet or a substantial portion of a fleet, permanent transfers may be made from the fund balance account entitled "pupil transportation fund reserved for bus purchases" to the capital expenditure fund, with the approval of the commissioner. The levy authorized pursuant to sections 124.243 and 124.244, shall be reduced by an amount equal to the amount transferred. Any school district may transfer

any amount from the undesignated fund balance account in its transportation fund to any other operating fund or to the reserved fund balance account for bus purchases in its transportation fund.

Sec. 6. Minnesota Statutes 1988, section 123.702, subdivision 1, is amended to read:

**123.702 [SCHOOL BOARD RESPONSIBILITIES.]**

Subdivision 1. Every school board shall provide for a voluntary program of early childhood health and developmental screening for children once before entering kindergarten. This screening program shall be established either by one board, by two or more boards acting in cooperation, by educational cooperative service units, by early childhood family education programs, or by other existing programs. No school board may make this screening examination a mandatory prerequisite to enroll a student. The school districts are encouraged to reduce the costs of preschool health screening programs by utilizing volunteers in implementing the program.

Sec. 7. Minnesota Statutes 1988, section 123.702, subdivision 1a, is amended to read:

Subd. 1a. [COMPONENTS.] A screening program shall include at least the following components to the extent the school board determines they are financially feasible: developmental assessments, hearing and vision screening, review of health history and immunization status, and assessments of height and weight. All screening components shall be consistent with the standards of the state commissioner of health for early and periodic screening programs. No child shall be required to submit to any component of this screening program to be eligible for any other component. No screening program shall provide laboratory tests, a health history or a physical examination exam to any child who has been provided with those laboratory tests or a health history or physical examination exam within the previous 12 months. The school district shall request the results of any laboratory test, health history or physical examination exam within the 12 months preceding a scheduled screening clinic. A school board may offer additional components such as nutritional, physical and dental assessments, blood pressure, and laboratory tests. State aid shall not be paid for additional components.

Sec. 8. Minnesota Statutes 1988, section 123.702, is amended by adding a subdivision to read:

Subd. 1b. [EXPANDED EARLY CHILDHOOD SCREENING.] Beginning in the 1989-1990 school year, districts must begin a process to make screening readily available to all three year old children, targeting those at-risk and unlikely to be served by other programs. After July 1, 1993, a district shall make available

voluntary health and developmental screening to all three year old children in the district. Districts shall collaborate with public and private community-based resources to deliver and finance early childhood screening.

Sec. 9. Minnesota Statutes 1988, section 123.702, is amended by adding a subdivision to read:

Subd. 1c. [EARLY CHILDHOOD SCREENING COMPONENTS.]  
After July 1, 1993, early childhood screening must include:

- (1) developmental screening;
- (2) vision and hearing tests;
- (3) a height and weight assessment;
- (4) immunization and an immunization review;
- (5) a review of the child's health and family history;
- (6) identification of additional risk factors that may inhibit learning;
- (7) a review of screening results with the child's parent or guardian;
- (8) referral for assessment as needed;
- (9) referral to appropriate programs;
- (10) a nutrition assessment;
- (11) a physical exam;
- (12) laboratory tests;
- (13) an oral inspection and dental referral; and
- (14) any other component listed under medical assistance rules in Minnesota Rules, parts 9505.0275 and 9505.1693 to 9505.1748.

Sec. 10. Minnesota Statutes 1988, section 123.702, subdivision 2, is amended to read:

Subd. 2. If any child's screening indicates a condition which requires diagnosis or treatment, the child's parents shall be notified of the condition and the school board shall ensure that an appropriate follow-up and referral process is available, in accordance with

procedures established pursuant to under section 123.703, subdivision 1.

Sec. 11. Minnesota Statutes 1988, section 123.702, subdivision 3, is amended to read:

Subd. 3. The school board shall actively encourage participation in the screening program. As a precondition for receiving aid under section 123.705, subdivision 3, the board shall establish an advisory group of representatives of early childhood family education, head start, early special education, the local interagency early learning committee, local public health agencies, social service agencies, and other agencies that provide services to children.

If an existing committee or council meets the criteria of this subdivision, or if an existing committee or council may be modified to meet the criteria of this subdivision, then that committee or council may be used to accomplish the purpose of this section.

Sec. 12. Minnesota Statutes 1988, section 123.702, subdivision 4, is amended to read:

Subd. 4. Every school board shall contract with or purchase service from an approved early and periodic screening program in the area provider or other provider wherever possible.

Sec. 13. Minnesota Statutes 1988, section 123.702, is amended by adding a subdivision to read:

Subd. 5a. [VOLUNTEERS.] After July 1, 1993, volunteers may assist with the screening components in this subdivision that are permitted in Minnesota Rules, parts 3530.3000 to 3530.4300, except that the only volunteers authorized to perform the developmental screening are those who hold the necessary credentials.

Sec. 14. Minnesota Statutes 1988, section 123.703, is amended by adding a subdivision to read:

Subd. 4. [GUIDELINES.] The commissioner of education shall establish guidelines that set a minimum number or percentage of three year old children for whom screening will be readily available.

Sec. 15. Minnesota Statutes 1988, section 123.703, is amended by adding a subdivision to read:

Subd. 5. [STATE AGENCY COOPERATION.] The commissioner of education shall consult regularly with the commissioners of human services, health, and jobs and training to ensure maximum participation in the screening programs and in follow-up services. The commissioner of education and the commissioner of human

services shall provide each district with a list identifying all children between the ages of three and six within the district who are eligible for or covered by medical assistance or the children's health plan.

Sec. 16. Minnesota Statutes 1988, section 123.705, subdivision 1, is amended to read:

Subdivision 1. [AID AMOUNTS.] The state shall pay each school district for the cost of screening services provided according to sections 123.701 to 123.705 an amount equal to \$8.15 per child over the age of three who is screened.

Sec. 17. Minnesota Statutes 1988, section 123.705, is amended by adding a subdivision to read:

Subd. 3. [AID FOR THREE YEAR OLD CHILDREN.] Beginning January 1, 1990, a district is eligible to receive aid under this section provided that it:

(1) meets the criteria under section 123.702, subdivision 1c;

(2) meets or exceeds the commissioner's guidelines under section 123.703, subdivision 4;

(3) is in compliance with rules for the early periodic screening, diagnosis, and treatment program in Minnesota Rules, parts 9505.0275 and 9505.1693 to 9505.1748;

(4) provides assurance that no portion of any age cohort has been denied the opportunity for screening; and

(5) documents that children are not rescreened without professional justification.

Eligible districts shall receive:

(1) for each three-year old screened who is not covered by medical assistance, the children's health plan or other medical insurance plan that will reimburse the district for the cost of screening the child, \$30; and

(2) for each three-year old screened who is covered by a medical insurance plan that will reimburse the district for some or all of the cost of screening the child, the difference between the amount of reimbursement for the cost of screening the child provided to the district by the insurance plan and \$30, plus \$4.

Those districts receiving \$30 or more in reimbursement will receive \$4 per child for administrative costs. Each district must seek

payment from a medical insurance plan for the costs of screening those children who are covered by a medical insurance plan.

Districts that are enrolled in the medical assistance program as providers of early periodic screening, diagnosis, and treatment services as of June 30, 1989, that meet the criteria under section 123.702 and that meet or exceed the commissioner's guidelines for screening established under section 7, may receive aid under this subdivision beginning July 1, 1989.

Sec. 18. Minnesota Statutes 1988, section 124.26, is amended by adding a subdivision to read:

Subd. 8. [DEFINITION.] In this section, unless otherwise specified "district" means either "school district" as defined in section 120.02, subdivision 1, or "qualifying education district" as defined in article 6, section 6, subdivision 2a; "school board" means either "school board" as defined in section 123.33, or "education district board" as defined in section 122.92.

Sec. 19. Minnesota Statutes 1988, section 124.271, is amended by adding a subdivision to read:

Subd. 2d. [REVENUE.] (a) Each fiscal year a district that has established a community education advisory council under section 121.88 and operates a community education program is eligible to receive community education revenue.

(b) For fiscal year 1990, the revenue for a school district without an approved youth development plan shall be an amount equal to the greater of 1,335 or the population of the district times \$5.50.

(c) For fiscal year 1990, the revenue for a school district with an approved youth development plan is an amount equal to the greater of 1,335 or the population of the district, times \$6.

(d) For 1991 and later fiscal years, the revenue for a school district without an approved youth development plan is an amount equal to the greater of 1,335 or the population of the district, times \$6.05.

(e) For fiscal year 1991 and later fiscal years, the revenue for a school district with an approved youth development plan is an amount equal to the greater of 1,335 or the population of the district, times \$6.55.

(f) For 1991 and each year thereafter, the revenue for a qualifying education district without an approved youth development plan is an amount equal to the greater of 1,335 times the number of member school districts or the population of the qualifying education district, times \$6.05.

(g) For 1991 and later fiscal years, the revenue for a qualifying education district with an approved youth development plan is an amount equal to the greater of 1,335 times the number of member school districts in the qualifying education district or the population of the qualifying education district, times \$6.55.

Sec. 20. Minnesota Statutes 1988, section 124.271, is amended by adding a subdivision to read:

Subd. 2e. [LEVY.] To obtain community education revenue, a district must levy according to section 275.125, subdivision 8, or section 30.

Sec. 21. Minnesota Statutes 1988, section 124.271, is amended by adding a subdivision to read:

Subd. 2f. [AID.] The community education aid for a district equals its community education revenue minus its community education levy times the ratio of the actual amount levied to the permitted levy.

Sec. 22. Minnesota Statutes 1988, section 124.271, is amended by adding a subdivision to read:

Subd. 2g. [USES OF REVENUE.] Community education revenue must be used for community education including nonvocational adult programs, recreation and leisure-time activity programs, and programs authorized by sections 121.85 to 121.882.

Sec. 23. Minnesota Statutes 1988, section 124.271, is amended by adding a subdivision to read:

Subd. 8. [DEFINITION.] In this section and section 121.88, unless otherwise specified "district" means either "school district" as defined in section 120.02, subdivision 1, or "qualifying education district" as defined in article 6, section 6, subdivision 2a; "school board" means either "school board" as defined in section 123.33, or "education district board" as defined in section 122.92.

Sec. 24. Minnesota Statutes 1988, section 124.2711, subdivision 1, is amended to read:

Subdivision 1. [MAXIMUM REVENUE.] (a) The maximum revenue for early childhood family education programs for a school year the 1989 and 1990 fiscal years for a school district is the amount of revenue derived by multiplying \$84.50 times the greater of 150 or the number of people under five years of age residing in the school district on September 1 of the preceding school year.

(b) For 1991 and later fiscal years, the maximum revenue for



early childhood family education programs for a school district is the amount of revenue earned by multiplying \$91 times the greater of:

(1) 150; or

(2) the number of people under five years of age residing in the school district on September 1 of the last school year.

(c) For 1991 and later fiscal years, the maximum revenue for early childhood family education programs for a qualifying education district is the amount of revenue earned by multiplying \$91 times the greater of:

(1) 150 times the number of member school districts in the qualifying education district; or

(2) the number of people under five years of age residing in the qualifying education district on September 1 of the last year.

Sec. 25. Minnesota Statutes 1988, section 124.2711, subdivision 3, is amended to read:

Subd. 3. [AID.] If a district complies with the provisions of section 121.882, it shall receive early childhood family education aid equal to:

(a) the difference between the maximum revenue, according to subdivision 1, and the permitted levy attributable to the same school year, according to section 275.125, subdivision 8b, or section 30, times

(b) the ratio of the district's actual levy to its permitted levy attributable to the same school year, according to section 275.125, subdivision 8b, or section 30.

In fiscal year 1990 only, a district receiving early childhood family education aid under this subdivision or levy under section 275.125, subdivision 8b, shall receive an additional amount of aid equal to \$4.50 times the number of people under five years of age residing in the district on September 1 of the last school year.

Sec. 26. Minnesota Statutes 1988, section 124.2711, subdivision 4, is amended to read:

Subd. 4. [USE OF REVENUE RESTRICTED.] The proceeds of the aid authorized by this section and the levy authorized by section 275.125, subdivision 8b, or section 30 shall be used only for early childhood family education programs.

Sec. 27. Minnesota Statutes 1988, section 124.2711, is amended by adding a subdivision to read:

Subd. 5. [DEFINITION.] In this section and section 121.882, unless otherwise specified "district" means either "school district" as defined in section 120.02, subdivision 1, or "qualifying education district" as defined in article 6, section 6, subdivision 2a; "school board" means either "school board" as defined in section 123.33, or "education district board" as defined in section 122.92.

Sec. 28. Minnesota Statutes 1988, section 275.125, subdivision 8, is amended to read:

Subd. 8. [COMMUNITY EDUCATION LEVY.] (a) Each year, a school district, excluding any school district belonging to a qualifying education district levying for this purpose, without a youth development plan that has established a community education advisory council under section 121.88, may levy the amount raised by .8 mill 0.8 percent times the most recent adjusted gross tax capacity of the district, but no more than the greater of

(1) \$7,340, or

(2) \$5.50 times the population of the district 1,335 or the population of the school district, times \$6.05.

(b) Each year, a school district, excluding any school district belonging to a qualifying education district levying for this purpose, with an approved youth development plan, or a district that intends to approve a youth development plan for the 1988-1989 school year, that has established a community education advisory council under section 121.88, may levy the amount raised by .8 mill 0.8 percent times the most recent adjusted gross tax capacity of the district, but no more than the greater of

(1) \$8,000, or

(2) \$6 times the population of the district 1,335 or the population of the school district, times \$6.55.

(c) In addition to the levy authorized in paragraph (a) or (b), each year a school district, excluding any school district belonging to a qualifying education district levying for this purpose, may levy an additional amount for community education programs equal to the amount authorized under Minnesota Statutes 1986, section 275.125, subdivision 8, clause (2).

(d) A school district, excluding any school district belonging to a qualifying education district levying for this purpose, having an approved adult basic and continuing education program, according

to section 124.26, may levy an amount not to exceed the amount raised by ~~1~~ mill 0.16 percent times the adjusted gross tax capacity of the district for the preceding year.

(e) A school district, excluding any school district belonging to a qualifying education district levying for this purpose, having an approved program and budget may levy for a handicapped adult program. The levy amount may not exceed the lesser of: (1) the actual expenditures for approved programs for the fiscal year beginning in the calendar year after the levy is certified minus the amount of state aid paid for the same year, or (2) \$30,000 for one program. In the case of a program offered by a group of school districts, the levy amount shall be divided among the school districts according to the agreement submitted to the department. The proceeds of the levy shall be used only for a handicapped adult program.

(f) The levies authorized in this subdivision shall be used for community education, including nonvocational adult programs, recreation and leisure time activity programs, and programs authorized by sections 121.85 to 121.882. A school district may levy pursuant to this subdivision only after it has filed a certificate of compliance with the commissioner of education. The certificate of compliance shall certify that the governing boards of the county, municipality and township in which the school district or any part thereof is located have been sent 15 working days written notice of a meeting and that a meeting has been held to discuss methods of increasing mutual cooperation between such bodies and the school board. The failure of a governing board of a county, municipality or township to attend the meeting shall not affect the authority of the school district to levy pursuant to this subdivision.

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

Sec. 29. Minnesota Statutes 1988, section 275.125, subdivision 8b, is amended to read:

Subd. 8b. [EARLY CHILDHOOD FAMILY EDUCATION LEVY.] A school district, excluding any school district belonging to a qualifying education district levying for this purpose, may levy for its early childhood family education program. The amount levied shall not exceed the lesser of:

(a) ~~5~~ mill 0.44 percent times the adjusted gross tax capacity of the school district for the year preceding the year the levy is certified, or

(b) the maximum revenue as defined in section 124.2711, subdivision 1, for the school year for which the levy is attributable.

Sec. 30. [275.1255] [TAX LEVY; QUALIFYING EDUCATION DISTRICTS.]

Subdivision 1. [COMMUNITY EDUCATION LEVY.] (a) Each year, a qualifying education district without a youth development plan that has established a community education advisory council under section 1, may levy the amount raised by 0.8 percent times the most recent adjusted gross tax capacity of the education district but no more than the greater of 1,335 times the number of member school districts in the qualifying education districts or the population of the qualifying education district, times \$6.05.

(b) Each year, a qualifying education district with an approved youth development plan that has established a community education advisory council under section 121.88, may levy the amount raised by 0.8 percent times the most recent adjusted gross tax capacity of the qualifying education district but no more than the greater of 1,335 times the number of member school districts in the qualifying education districts or the population of the qualifying education district, times \$6.55.

(c) A qualifying education district having an approved adult basic and continuing education program, according to section 124.26, may levy an amount not more than the amount raised by 0.16 percent times the adjusted gross tax capacity of the qualifying education district for the preceding year.

(d) A qualifying education district having an approved program and budget may levy for a handicapped adult program. The levy amount must not exceed the lesser of:

(1) the actual expenditures for approved programs for the fiscal year beginning in the calendar year after the levy is certified minus the amount of state aid paid for the same year; or

(2) \$30,000 for one program. The proceeds of the levy may be used only for a handicapped adult program.

(e) The levies authorized in this subdivision must be used for community education, including nonvocational adult programs, recreation, and leisure time activity programs, and programs authorized by sections 121.85 to 121.882. A qualifying education district may levy under this subdivision only after it has filed a certificate of compliance with the commissioner of education. The certificate of compliance shall certify that the governing boards of the county, municipality, and township in which the qualifying education district or any part of it is located have been sent 15 working days' written notice of a meeting and that a meeting has been held to discuss methods of increasing mutual cooperation between the bodies and the qualifying education district board. The failure of a governing board of a county, municipality, or township

to attend the meeting does not affect the authority of the qualifying education district to levy under this subdivision.

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

Subd. 2. [EARLY CHILDHOOD FAMILY EDUCATION LEVY.] A qualifying education district may levy for its early childhood family education program. The amount levied must not be more than the lesser of:

(1) 0.44 percent times the adjusted gross tax capacity of the qualifying education district for the year before the year the levy is certified; or

(2) the maximum revenue as defined in section 124.2711, subdivision 1, for the school year for which the levy is attributable.

#### Sec. 31. [PROGRAM REPORTING.]

Based on information provided by the districts, the commissioner of education shall report annually to the legislature, beginning December 1, 1990, on the number, ages, and characteristics of the children screened, the per child screening costs, the resources leveraged, including the amount of reimbursement received from medical insurance providers, the results of the screening, and the adequacy of follow-up services as described in section 10. By December 1, 1991, the commissioner shall report whether screening aid levels should be adjusted.

#### Sec. 32. [APPROPRIATION.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [ADULT BASIC AND CONTINUING EDUCATION.] For adult basic and continuing education aid according to Minnesota Statutes, section 124.26:

\$4,780,000        : : : : :        1990

\$5,043,000        : : : : :        1991

The 1990 appropriation includes \$638,000 for 1989 and \$4,142,000 for 1990.

The 1991 appropriation includes \$731,000 for 1990 and \$4,312,000 for 1991.

Up to \$360,000 in 1990 and \$410,000 in 1991 may be used for contracts with private, nonprofit organizations for approved programs.

The appropriation includes \$200,000 each year for programs to assist inmates in state correctional institutions in obtaining a high school diploma or its equivalent.

Subd. 3. [ADULT HANDICAPPED PROGRAM AID.] For aid for handicapped adult programs under Minnesota Statutes, section 124.271:

\$610,000        .....        1990

\$670,000        .....        1991

Any unexpended balance from the appropriation for fiscal year 1990 does not cancel and is available for fiscal year 1991.

Subd. 4. [COMMUNITY EDUCATION.] For community education programs:

\$3,281,000        .....        1990

\$3,352,000        .....        1991

The 1990 appropriation includes \$516,000 for 1989 and \$2,765,000 for 1990.

The 1991 appropriation includes \$489,000 for 1990 and \$2,863,000 for 1991.

Subd. 5. [COMMUNITY EDUCATION ADVISORY TASK FORCE.] For the activities of the community education advisory task force:

\$25,000        .....        1990

This appropriation is available until June 30, 1991.

Subd. 6. [ECFE.] For early childhood family education programs:

\$10,689,000        .....        1990

\$10,215,000        .....        1991

The 1990 appropriation includes \$1,235,000 for 1989 and \$9,454,000 for 1990.

The 1991 appropriation includes \$1,669,000 for 1990 and \$8,547,000 for 1991.

Up to \$50,000 each year may be used to develop outcome measures and evaluate district ECFE programs.

Subd. 7. [DEVELOPMENTAL SCREENING.] For early childhood health and developmental screening:

\$ 676,000        .....        1990

\$1,152,000        .....        1991

The 1990 appropriation includes \$60,000 for 1989 and \$616,000 for 1990.

The 1991 appropriation includes \$109,000 for 1990 and \$1,043,000 for 1991.

Up to \$25,000 of the appropriation available in fiscal year 1990 may be used for start-up training and technical assistance.

Any unexpended balance in the first year does not cancel and is available in the second year.

Subd. 8. [EVALUATION OF BASIC SKILLS PROGRAMS.] For continuing an independent statewide evaluation of basic skills programs:

\$75,000        .....        1990

\$75,000        .....        1991

The department may contract for these services.

Subd. 9. [GED AND LEARN TO READ ON TV.] For statewide purchase of broadcast costs, publicity, and coordination of the GED on TV series and the learn to read on TV series:

\$100,000        .....        1990

\$100,000        .....        1991

The department may contract for these services.

Subd. 10. [HEARING IMPAIRED ADULTS.] For programs for hearing impaired adults according to Minnesota Statutes, section 121.201:

\$70,000        1990

\$70,000        1991

Sec. 33. [REPEALER.]

Minnesota Statutes 1988, section 123.702, subdivisions 1a, 5, 6, and 7, are repealed effective July 1, 1993.

Minnesota Statutes 1988, sections 129B.48 and 124.271, subdivision 26, are repealed.

## ARTICLE 5

### FACILITIES AND EQUIPMENT

Section 1. Minnesota Statutes 1988, section 124.243, subdivision 3, is amended to read:

Subd. 3. [CAPITAL EXPENDITURE FACILITIES LEVY.] To obtain capital expenditure facilities revenue, a district may levy an amount not to exceed the capital expenditure facilities revenue determined in subdivision 2 multiplied by the lesser of one, or the ratio of:

(1) the quotient derived by dividing the adjusted gross tax capacity of the district for the year preceding the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to

(2) ~~75 percent of the equalizing factor for the school year to which the levy is attributable~~ \$7,292.

Sec. 2. Minnesota Statutes 1988, section 124.243, is amended by adding a subdivision to read:

Subd. 11. [INSTALLMENT PURCHASE CONTRACTS.] An installment contract to purchase a facility in excess of \$400,000 is subject to the review and comment provisions of section 121.15.

Sec. 3. Minnesota Statutes 1988, section 124.244, subdivision 2, is amended to read:

Subd. 2. [CAPITAL EXPENDITURE EQUIPMENT LEVY.] To



obtain capital expenditure equipment revenue, a district may levy an amount not to exceed the district's capital expenditure equipment revenue as determined in subdivision 1 multiplied by the lesser of one, or the ratio of:

(1) the quotient derived by dividing the adjusted gross tax capacity of the district for the year preceding the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to

(2) 75 percent of the equalizing factor for the school year to which the levy is attributable \$7,292.

Sec. 4. [124.2442] [CAPITAL EXPENDITURE PRORATION.]

Subdivision 1. [INSUFFICIENT FUNDS.] If the total appropriation for capital expenditure equipment aid or capital expenditure facilities aid for any fiscal year is insufficient to pay all districts the full amount of aid earned, the department of education shall reduce each district's capital expenditure facilities and equipment revenue according to the calculations in subdivisions 2 to 4.

Subd. 2. [ALLOWANCE REDUCTION.] If there are insufficient capital expenditure equipment and facility aid funds, the department must recompute the capital expenditure equipment and facility revenue by reducing the formula allowances to the levels that eliminate the deficiencies. The levy amounts must not be recomputed.

Subd. 3. [AID REDUCTION.] A district's proration aid reduction is equal to the lesser of zero, or the difference of the existing aid calculation minus the aid amount computed under subdivision 2.

Subd. 4. [LEVY REDUCTION.] If a district's proration aid reduction is less than its revenue reduction, its capital expenditure levy authority for the following year must be reduced by the amount of the difference between its revenue reduction and its aid reduction.

Sec. 5. Minnesota Statutes 1988, section 124.245, subdivision 3b, is amended to read:

Subd. 3b. [HAZARDOUS SUBSTANCE REVENUE AND AID.] (a) A district's "hazardous substance revenue" for fiscal year 1989 equals the approved cost of the hazardous substance plan for the school fiscal year to which the levy is attributable, minus the unexpended portion of levies certified and aids earned by the district in earlier years under section sections 124.245, subdivision 3, and 275.125, subdivision 11c.

(b) A district's "hazardous substance levy limitation" means its

levy limitation computed according to section 275.125, subdivision 11c.

(c) A district's "hazardous substance aid" for 1988-1989 and later school years equals:

(i) the difference between its hazardous substance revenue and its hazardous substance levy limitation for the levy for that school year, multiplied by

(ii) the ratio of the amount actually levied to the amount of its hazardous substance levy limitation.

(d) Aid paid under this subdivision may be used only for the purposes for which the proceeds of the levy authorized in section 275.125, subdivision 11c, may be used.

(e) In the event that the aid available for any year is prorated, a district having its aid prorated may levy an additional amount equal to the amount not paid by the state due to proration.

Sec. 6. Minnesota Statutes 1988, section 124.43, subdivision 1, is amended to read:

Subdivision 1. [REVIEW BY COMMISSIONER.] (a) The commissioner may, ~~after review and a favorable recommendation by the state board of education, recommend to the legislature capital loans to school districts only after receiving both a favorable site recommendation under section 7 and after review and a favorable recommendation by the state board.~~ Proceeds of the loans shall be used only for sites for school buildings and for acquiring, bettering, furnishing, or equipping school buildings under contracts to be entered into within 12 months from and after the date on which each loan is granted.

(b) Any school board that intends to submit an application for a capital loan shall submit a proposal to the commissioner for review and comment pursuant to section 121.15 by September 1 of any year, and the commissioner shall prepare a review and comment on the proposed facility, regardless of the amount of the capital expenditure required to construct the facility. The state board shall not make a favorable recommendation on an application for a capital loan for any facility unless:

(1) the facility receives a positive review and comment pursuant to section 121.15; and

(2) the state board determines that

(A) the facilities are needed to replace facilities dangerous to the

health and safety of pupils, or to provide for pupils for whom no adequate facilities exist;

(B) the facilities could not be made available through dissolution and attachment of the district to another district or through pairing, interdistrict cooperation, or consolidation with another district, or through the purchase or lease of facilities from existing institutions within the area. The preference of the school district regarding reorganization shall not be a criterion used by the state board in determining whether the facilities could be made available through reorganization;

(C) the facilities are comparable in size and quality to facilities recently constructed in other districts of similar enrollment; and

(D) (C) the district's need for the facilities is comparable to needs that comparable districts are meeting through local bond issues.

The state board may recommend that the loan be approved in a reduced amount in order to meet the foregoing criteria. If the state board recommends that a loan not be approved, the commissioner shall not recommend approval of the loan. If the state board recommends that the loan be approved in a reduced amount, the commissioner shall not recommend approval of a loan larger than that recommended by the state board.

(c) As part of reviewing an application for a capital loan, the commissioner of education shall prepare estimated yearly repayments by the school district and the estimated amount of principal and interest that may be forgiven after the term of the loan. These estimates shall assume no growth in gross tax capacity over the term of the loan, shall assume a levy equal to 16 mills times the adjusted gross tax capacity, and shall be prepared using a methodology approved by the commissioner of finance. The commissioner of education shall use a discount factor provided by the commissioner of finance in determining the present value of the estimated amount of interest and principal which may be forgiven after the term of the loan.

(d) No loan shall be recommended for approval for any district exceeding the greater of 50 percent of the total cost of the project or an amount computed as follows:

(1) The amount requested by the district under subdivision 2;

(2) Plus the aggregate principal amount of general obligation bonds of the district outstanding on June 30 of the year following the year the application was received, not exceeding the limitation on net debt of the district in section 475.53, subdivision 4, or 24 percent of the adjusted gross tax capacity, whichever is less;

(3) Less the maximum net debt permissible for the district on December 1 of the year the application is received, under the limitation in section 475.53, subdivision 4, or 24 percent of the most recent adjusted gross tax capacity available at the time of application, whichever is less; and

(4) Less any amount by which the amount voted exceeds the total cost of the facilities for which the loan is granted, as estimated in accordance with subdivision 4, provided that the loan may be approved in an amount computed as provided in clauses (1) to (3), subject to subsequent reduction in accordance with this clause.

Sec. 7. Minnesota Statutes 1988, section 124.43, is amended by adding a subdivision to read:

Subd. 1a. [SITE RECOMMENDATION.] In addition to the review and comment, the state board must also provide the commissioner with a favorable site recommendation. To issue a favorable site recommendation, the state board must find that facilities could not be made available through:

- (1) consolidation;
- (2) dissolution and attachment;
- (3) interdistrict cooperation;
- (4) purchase or lease of facilities from existing institutions; or
- (5) any other state facilities funding program.

The preference of the school district regarding reorganization must not be a criterion used by the state board in determining whether the facilities could be made available through reorganization.

The state board may reject a proposal or request that a district change its proposal if some form of interdistrict cooperation would lead to a more efficient use of school facilities.

Sec. 8. Minnesota Statutes 1988, section 124.83, subdivision 3, is amended to read:

Subd. 3. [HEALTH AND SAFETY REVENUE.] A district's health and safety revenue for a fiscal year equals the approved cost of the health and safety program for the school year to which the levy is attributable, minus the unexpended portion of levies certified by the district in earlier years under section 275.125, subdivision 11e.

(1) The sum of (a) the total approved cost of the district's hazardous substance plan for fiscal years 1985 through 1989, plus (b) the total approved cost of the district's health and safety program for fiscal year 1990 through the fiscal year to which the levy is attributable, minus

(2) the sum of (a) the district's total hazardous substance aid and levy for fiscal years 1985 through 1989 under sections 124.245 and 275.125, subdivision 11c, plus (b) the district's health and safety revenue under this subdivision, for years before the fiscal year to which the levy is attributable, plus (c) the amount of other federal, state, or local receipts for the district's hazardous substance or health and safety programs for fiscal year 1985 through the fiscal year to which the levy is attributable.

Sec. 9. Minnesota Statutes 1988, section 124.83, subdivision 4, is amended to read:

Subd. 4. [HEALTH AND SAFETY LEVY.] To receive health and safety revenue, a district may levy an amount equal to the district's health and safety revenue as defined in subdivision 3 multiplied by the lessor of one, or the ratio of:

(1) the quotient derived by dividing the adjusted gross tax capacity of the district for the year preceding the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to

(2) 75 percent of the equalizing factor for the school year to which the levy is attributable \$7,292.

Sec. 10. Minnesota Statutes 1988, section 124.83, subdivision 6, is amended to read:

Subd. 6. [USES OF HEALTH AND SAFETY REVENUE.] Health and safety revenue may be used only for approved expenditures necessary to correct fire safety hazards, life safety hazards, or for the removal or encapsulation of asbestos from school buildings or property, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property, or the cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296.01.

Sec. 11. Minnesota Statutes 1988, section 275.125, subdivision 11d, is amended to read:

Subd. 11d. [EXTRA CAPITAL EXPENDITURE LEVY FOR LEASING BUILDINGS.] When a district finds it economically advantageous to rent or lease a building for a secondary vocational

cooperative program or an area learning center and it determines that the capital expenditure facilities revenues authorized under section 124.243 are insufficient for this purpose, it may apply to the commissioner for permission to make an additional capital expenditure levy for this purpose. An application for permission to levy under this subdivision must contain financial justification for the proposed levy, the terms and conditions of the proposed lease, and a description of the space to be leased and its proposed use. The criteria for approval of applications to levy under this subdivision must include: the reasonableness of the price, the appropriateness of the space to the proposed activity, the feasibility of transporting pupils to the leased building, conformity of the lease to the laws and rules of the state of Minnesota, and the appropriateness of the proposed lease to the space needs and the financial condition of the district. The commissioner must not authorize a levy under this subdivision in an amount greater than the cost to the district of renting or leasing a building for approved purposes. The proceeds of this levy must not be used for leasing or renting a facility owned by a district or for custodial or other maintenance services.

#### Sec. 12. [HANDICAPPED ACCESSIBILITY LEVY: INDEPENDENT SCHOOL DISTRICT NO. 228.]

For handicapped accessibility improvements, independent school district No. 228, Harmony, may levy an amount not more than the lesser of \$100,000 or the costs of the handicapped accessibility improvements. The levy is available for taxes payable in 1990 only.

#### Sec. 13. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [CAPITAL EXPENDITURE FACILITIES AID.] For capital expenditure facilities aid under Minnesota Statutes, section 124.243:

<u>\$38,002,000</u>	.....	<u>1990</u>
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<u>\$44,858,000</u>	.....	<u>1991</u>
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The 1990 appropriation includes \$0 for 1989 and \$38,002,000 for 1990.

The 1991 appropriation includes \$6,706,000 for 1990 and \$38,151,000 for 1991.

Subd. 3. [CAPITAL EXPENDITURE EQUIPMENT AID.] For

capital expenditure equipment aid under Minnesota Statutes, section 124.243:

\$19,417,000 ..... 1990

\$22,921,000 ..... 1991

The 1990 appropriation includes \$0 for 1989 and \$19,417,000 for 1990.

The 1991 appropriation includes \$3,427,000 for 1990 and \$19,494,000 for 1991.

Subd. 4. [HEALTH AND SAFETY AID.] For health and safety aid under Minnesota Statutes, section 124.83:

\$ 8,728,000 ..... 1990

\$12,334,000 ..... 1991

The 1990 appropriation includes \$0 for 1989 and \$8,728,000 for 1990.

The 1991 appropriation includes \$1,540,000 for 1990 and \$10,794,000 for 1991.

Subd. 5. [MAXIMUM EFFORT SCHOOL LOAN FUND.] For the maximum effort school loan fund:

\$ 893,000 ..... 1990

\$1,565,000 ..... 1991

The 1990 appropriation does not cancel and is available until July 1, 1991.

Subd. 6. [CAPITAL EXPENDITURE HAZARDOUS MATERIAL AID.] For the final payment of capital expenditure hazardous material aid under Minnesota Statutes, section 124.245:

\$9,000 ..... 1990

The 1990 appropriation is for the 1989 final payment.

Subd. 7. [CAPITAL EXPENDITURE REGULAR AID.] For the final payment of capital expenditure regular aid under Minnesota Statutes, section 124.245:

\$5,628,000 ..... 1990

The 1990 appropriation is for the 1989 final payment.

Sec. 14. [REPEALER.]

Minnesota Statutes 1988, section 124.243, subdivision 4, is repealed.

## ARTICLE 6

### EDUCATION ORGANIZATION AND COOPERATION

Section 1. Minnesota Statutes 1988, section 121.908, subdivision 5, is amended to read:

Subd. 5. All governmental units formed by joint powers agreements entered into by districts pursuant to section 120.17, 123.351, 471.59, or any other law and all educational cooperative service units and education districts shall be subject to the provisions of this section.

Sec. 2. Minnesota Statutes 1988, section 122.23, is amended by adding a subdivision to read:

Subd. 13a. [CONSOLIDATION IN AN EVEN-NUMBERED YEAR.] (a) Notwithstanding subdivision 13, or any other law to the contrary, school districts may consolidate during an even-numbered year if the school board and the exclusive bargaining representative of the teachers in each affected district mutually agree to the effective date of the consolidation. The agreement must be in writing and submitted to the commissioner of education.

(b) Notwithstanding any other law to the contrary, until a new contract is executed between the newly elected school board and the exclusive bargaining representative of the new district, the school boards and the exclusive bargaining representatives of the teachers in the preexisting districts may mutually agree that the terms and conditions of the new employing district are temporarily governed by a contract executed by a preexisting district and its exclusive bargaining representative.

Sec. 3. Minnesota Statutes 1988, section 122.43, subdivision 1, is amended to read:

Subdivision 1. Any organized school district not a part of an independent school district maintaining classified elementary and secondary schools, grades 1 through 12 is dissolved, unless the district has made an agreement with another district or districts as



provided in ~~section sections~~ 122.535 ~~or~~, 122.541, 10, or the cooperative secondary facilities grant act.

Sec. 4. Minnesota Statutes 1988, section 122.532, subdivision 4, is amended to read:

Subd. 4. Except as provided in this section, the provisions of section 125.12 or 125.17 shall apply to the employment of each teacher by the new employing district on the same basis as they would have applied to the employment if the teacher had been employed by that new district before the effective date of the consolidation or dissolution and attachment. For the purpose of applying the provisions of subdivision 3, clause (b), and the provisions of section 125.12, subdivision 6b, ~~pursuant to under this section, a teacher's date of first employment shall be the date of beginning continuous employment in the preexisting district which employed the teacher is considered identical for all teachers who were first employed in any of the preexisting districts at the beginning of the same school year.~~

Sec. 5. Minnesota Statutes 1988, section 122.541, subdivision 5, is amended to read:

Subd. 5. If compatible plans are not negotiated pursuant to subdivision 4 before the March 1 preceding any year of the agreement permitted by subdivision 1, the cooperating districts shall be governed by the provisions of this subdivision. Insofar as possible, teachers who have acquired continuing contract rights and whose positions are discontinued as a result of the agreement shall be employed by a cooperating district or assigned to teach in a cooperating district as exchange teachers pursuant to section 125.13. If necessary, teachers whose positions are discontinued as a result of the agreement and who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed in the inverse order in which they were employed by a cooperating district, according to a combined seniority list of teachers in the cooperating districts.

For the purpose of applying this subdivision, a teacher's date of first employment is considered identical for all teachers who were first employed in any of the cooperating districts at the beginning of the same school year.

Sec. 6. Minnesota Statutes 1988, section 122.91, is amended to read:

#### 122.91 [EDUCATION DISTRICT ESTABLISHMENT.]

Subdivision 1. [PURPOSE.] The purpose of an education district is to increase educational opportunities for pupils learners by increas-

ing cooperation and coordination among school districts and post-secondary institutions.

Subd. 2. [AGREEMENT.] School boards meeting the requirements of subdivision 3 may enter into a written agreement to establish an education district. The agreement and subsequent amendments must be adopted by majority vote of the full membership of each board.

Subd. 2a. [AGREEMENT; SPECIAL PROVISIONS.] The education district agreement may contain the following special provisions adopted by the vote of a majority of the full membership of each of the boards of the member school districts.

(a) The agreement may contain a provision to allow the education district board to levy for and receive aid for any of the following:

(1) general education under chapter 124A;

(2) community education programs under sections 124.271 and 275.125, subdivision 8;

(3) early childhood family education programs under sections 124.2711 and 275.125, subdivision 8b;

(4) limited English proficiency programs under section 124.273;

(5) secondary vocational handicapped programs under section 124.574;

(6) special education programs under sections 124.32 and 275.125, subdivision 8c; and

(7) transportation under sections 124.225 and 275.125, subdivisions 5, 5b, 5c, 5e, 5f, and 5g.

A "qualifying education district" is any education district with the authority to levy under this subdivision.

(b) The agreement may contain a provision to allow a post-secondary institution to become a member of the education district.

Subd. 3. [REQUIREMENTS FOR FORMATION.] An education district must have one of the following at the time of formation:

(1) at least five districts;

(2) at least four districts with a total of at least 5,000 pupils in average daily membership; or

(3) at least four districts with a total of at least 2,000 square miles;  
or

(4) a variance received from the state board of education according to subdivision 3a.

Subd. 3a. [VARIANCE.] The state board of education must establish criteria for education district eligibility for a group of districts that do not qualify as an education district under subdivision 3, clause (1), (2), or (3).

A school board may apply to the state board for a variance from education district formation requirements. The state board must approve or disapprove an application within 60 days of receiving it from the school boards.

Subd. 3b. [MEETING WITH REPRESENTATIVES.] Before entering into an agreement, the school board of each member district must meet and confer with the exclusive representatives of the teachers of each school district proposing to enter the education district.

Subd. 4. [NOTICE AND HEARING.] Before entering into an agreement, the school board of each member district shall publish at least once in a newspaper of general circulation in the district a summary of the proposed agreement and its effect upon the district. The board shall conduct a public hearing on the proposed agreement not more than ten days after the notice and at least 30 days before entering into an agreement.

Subd. 5. [JOINDER AND WITHDRAWAL.] A process for a district to join or withdraw from an education district shall be included in the education district agreement.

If a member school district withdraws from an education district before the beginning of a school year for which an education district levy under section 124.2721 has been certified, a payment of revenue must be made to the school district from the education district. The amount of the payment is equal to the tax rate that was levied for the education district times the tax capacity of the school district. The payment must be made by December 31 of the calendar year following the year of certification.

A member district that has notified the education district board of its intent to withdraw from the education district must not be considered a member district for the certification of any education district levies.

A member district that has been considered a member district of a qualifying education district for the purpose of certifying a general

education levy, community education levy, early childhood family education levy, or special education levy must not withdraw from the qualifying education district until the end of the school year for which a levy has been certified.

Subd. 6. [EDUCATIONAL COOPERATIVE SERVICE UNITS.] If requested, educational cooperative service units shall provide assistance to districts in establishing education districts. The assistance may include determination of appropriate boundaries of the education district and development of the agreement. The educational cooperative service units may provide any other services requested by the education district.

Subd. 7. [REVENUE.] An education district may be eligible for education district revenue under section 124.2721.

An education district may be eligible for the following revenue if authorized in the education district agreement under subdivision 2a of this section:

(1) general education revenue under chapter 124A;

(2) community education revenue under sections 124.271 and 275.125, subdivision 8;

(3) early childhood family education revenue under sections 124.2711 and 275.125, subdivision 8b;

(4) limited English proficiency revenue under section 124.273;

(5) secondary vocational handicapped revenue under section 124.574;

(6) special education revenue under sections 124.32 and 275.125, subdivision 8c; and

(7) transportation under sections 124.225 and 275.125, subdivisions 5, 5b, 5c, 5e, 5f, and 5g.

Notwithstanding any other law to the contrary, if a qualifying education district receives revenue stated in any of clauses (1) to (5), its member school districts must not receive revenue for the same program.

A qualifying education district and a member school district must not receive revenue for the same costs under clauses (6) and (7).

Subd. 8. [LAWS GOVERNING INDEPENDENT SCHOOL DISTRICTS APPLICABLE.] As of the effective date of the establishment of an education district, the organization, operation,

maintenance, and conduct of the affairs of the education district shall be governed, when not otherwise provided, by the general laws relating to independent school districts of the state.

Sec. 7. Minnesota Statutes 1988, section 122.92, is amended to read:

122.92 [EDUCATION DISTRICT BOARD.]

Subdivision 1. [SCHOOL DISTRICT REPRESENTATION.] The education district board shall be composed of at least one representative appointed by the school board of each member district. The Each representative shall reside in the school district must be a member of the appointing school board. The Each representative shall serve at the pleasure of the appointing school board and may be recalled by a majority vote of the appointing school board. Each representative shall serve for the term that is specified in the agreement. The board shall select its officers from among its members and shall determine the terms of the officers. The board shall adopt bylaws for the conduct of its business.

Subd. 2. [POST-SECONDARY REPRESENTATION.] The education district board may appoint a representative from one or more member post-secondary institutions as a member of the education district board. Each post-secondary representative shall serve at the pleasure of the education district board and may be recalled by a majority vote of the education district board. A post-secondary representative must not vote on levy certification. The education district agreement may specify other issues on which a post-secondary representative must not vote.

Sec. 8. Minnesota Statutes 1988, section 122.93, subdivision 2, is amended to read:

Subd. 2. [PERSONNEL.] The board may employ personnel as necessary to provide and support the programs and services of the education district. Education district staff shall participate in retirement programs. Notwithstanding section 123.34, subdivision 9, a member district of an education district may contract with the education district for the services of a superintendent. The person to provide the services need not be employed by the education district at the time the contract is entered into.

Sec. 9. Minnesota Statutes 1988, section 122.93, is amended by adding a subdivision to read:

Subd. 7. [BUDGET.] The education district board must adopt a budget for the expenditure of revenue received by the education district. The budget must be included in the five-year plan required under section 13.

Sec. 10. Minnesota Statutes 1988, section 122.93, is amended by adding a subdivision to read:

Subd. 8. [DISCONTINUING GRADES.] The board of a school district that is a member of an education district may discontinue any of kindergarten through grade 12 or part of those grades and provide instruction for those grades or parts of grades through the education district.

Sec. 11. Minnesota Statutes 1988, section 122.94, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] An education district board shall adopt a comprehensive agreement for continuous learning. The agreement must address methods to improve the educational opportunities available in the education district. It must be submitted for review by all the educational cooperative service units serving unit within which the majority of the education district membership lies. The education district board shall review the agreement annually and propose necessary amendments to the member districts.

Sec. 12. Minnesota Statutes 1988, section 122.94, is amended by adding a subdivision to read:

Subd. 6. [COMMON ACADEMIC CALENDAR.] For 1990-1991 and later school years, the agreement must require a common academic calendar for all member districts of an education district. For purposes of this subdivision, a common academic calendar must include at least the following:

- (1) the number of days of instruction;
- (2) the first and last days of instruction in a school year; and
- (3) the specific days reserved for staff development.

Before the 1990-1991 school year, each education district must report to the state board of education on ways that other components of the academic calendar in each member district will affect the implementation of the five-year plan described in section 13. Other components include the length of the school day, the time the school day begins and ends, and the number of periods in the day.

Sec. 13. [122.945] [EDUCATION DISTRICT PLAN.]

Subdivision 1. [FIVE-YEAR PLAN.] Each education district must develop a five-year plan to increase educational opportunities for all learners. The plan must give priority to the mandated programs and services under section 122.94, subdivision 2, with an emphasis on

new, improved, or expanded programs or services. The plan must emphasize the integration of all aspects of education, including community education. Teachers must be involved in developing the plan. The plan must include at least the following components:

(1) a detailed description of the proposed increased educational opportunities for pupils resulting from the new, improved, or expanded programs or services;

(2) a budget for the current fiscal year and an estimated budget for the next fiscal year;

(3) an estimate of the number of school districts and pupils affected by program and service expenditures; and

(4) any other information required by the state board.

Subd. 2. [SUBMISSION AND APPROVAL OF FIVE-YEAR PLAN.] Each education district must submit a five-year plan developed according to subdivision 1 to the state board of education. An education district established before January 1, 1990, must submit a plan by a date specified by the state board. An education district established after December 31, 1989, must submit a plan to the state board by August 1. The board must approve or disapprove the plan within 60 days of receiving it from the education district.

Subd. 3. [UPDATING EDUCATION DISTRICT PLAN.] The state board of education may require education districts to submit updated five-year plans.

Subd. 4. [EDUCATION DISTRICT REVENUE.] An education district must receive state board of education approval of its five-year plan to be eligible for education district revenue under section 124.2721, subdivision 6.

Subd. 5. [EVALUATION OF FIVE-YEAR PLAN.] The state board of education must annually evaluate the programs and services in a selected number of education districts to determine compliance with the five-year plan and any updated plans submitted to the board under this section.

Sec. 14. Minnesota Statutes 1988, section 122.95, is amended by adding a subdivision to read:

Subd. 1a. [FILLING POSITIONS; NEGOTIATED AGREEMENTS.] The school boards in all member districts and exclusive bargaining representatives of the teachers in all member districts may negotiate a plan for filling positions resulting from implementation of the education district agreement. If the plan is negotiated among the member school districts and the exclusive bargaining

representative of each member school district and unanimously agreed upon, in writing, the education district shall include the plan in the education district agreement. If a plan is not negotiated, the education district is governed by subdivision 2.

Sec. 15. Minnesota Statutes 1988, section 122.95, subdivision 2, is amended to read:

Subd. 2. [FILLING POSITIONS.] (a) When an education district board or a member board is filling a position resulting from implementation of the agreement, the board may offer the position to a teacher currently employed by a member district according to the exchange teacher provisions of section 125.13.

(b) If the position is not filled by a currently employed teacher, the board shall offer the position to an available teacher in the order of seniority in fields of licensure on a combined seniority list of all available teachers in the member districts. An available teacher is a teacher in a member district who:

(1) was placed on unrequested leave of absence by a member district, according to section 125.12, subdivision 6a or 6b, or was terminated according to section 125.17, subdivision 11, not more than one year before the initial formation of an education district as a result of an intention to enter into an education district agreement;

(2) was placed on unrequested leave of absence by a member district, according to section 125.12, subdivision 6a or 6b, or was terminated according to section 125.17, subdivision 11, as a result of implementing the education district agreement, after the formation of the education district; or

(3) is placed on unrequested leave of absence by a member district, according to section 125.12, subdivision 6a or 6b, or is terminated according to section 125.17, subdivision 11, as a result of implementing the education district, in the same year the position is filled.

(c) If no currently employed teacher or available teacher accepts the position, the board may fill the position with any other teacher.

(d) Any teacher who has been placed on unrequested leave of absence or who has been terminated has a right to a position only as long as the teacher has a right to reinstatement in a member district under section 125.12, subdivision 6a or 6b, or 125.17, subdivision 11.

(e) For the purpose of this section, a teacher's date of first employment is considered identical for all teachers who were first employed in any of the member school districts at the beginning of the same school year.



Sec. 16. Minnesota Statutes 1988, section 124.2721, is amended to read:

**124.2721 [EDUCATION DISTRICT REVENUE.]**

Subdivision 1. [ELIGIBILITY.] An education district is eligible for education district revenue if the department certifies that it meets the requirements of section 122.91, subdivisions 3 and 4, and section 13. The pupil units of a school district that is a member of intermediate district No. 287, 916, or 917 may not be used to obtain revenue under this section. The pupil units of a school district may not be used to obtain revenue under this section and section 124.575.

Subd. 2. [REVENUE.] Education district revenue is \$60 per actual pupil unit in each school district that is a member of an education district.

Subd. 3. [LEVY.] To obtain education district revenue, an eligible education district may levy the lesser of its education district revenue or the amount raised by 1.3 mills times 1.5 percent of the adjusted gross tax capacity of each participating member district for the preceding year. Each year, the education district board shall certify to the county auditor or county auditors the amount of taxes to be levied under this section.

Subd. 4. [AID.] The aid for an education district equals its education district revenue minus its education district levy, times the ratio of the actual amount levied to the permitted levy.

Subd. 4a. [AID ADJUSTMENT.] An education district's education district aid under subdivision 4 must be recomputed if a school district withdraws from the education district before the beginning of a school year but after the education district levy has been certified. The recomputed education district aid is equal to the difference between:

(1) \$60 times the actual pupil units in the school districts that remain in the education district; and

(2) the education district levy tax rate times the tax capacity of the remaining member school districts of the education district.

Subd. 5. [USES OF REVENUE.] Education district revenue is under the control of the education district board. Education district revenue must be used by the education district board to provide educational programs according to the agreement adopted by the education district board, as required by section 122.94.

The education district board may pay to member school districts a part of the education district revenue received by the education

district under this section only for programs that are (1) available to all member districts, and (2) included in the five-year plan under section 13.

Subd. 6. [CONSOLIDATION.] If all member districts of an education district receiving revenue under this section or a group of member districts of an education district receiving revenue under this section that would qualify as an education district under section 122.91, subdivision 3, consolidate into a single independent school district by proceedings taken in accordance with section 122.23, that consolidated district may continue to receive education district revenue according to this section.

Sec. 17. Minnesota Statutes 1988, section 124.494, subdivision 2, is amended to read:

Subd. 2. [REVIEW BY COMMISSIONER.] (a) Any group of districts that submits an application for a grant shall submit a proposal to the commissioner for review and comment under section 121.15, and the commissioner shall prepare a review and comment on the proposed facility, regardless of the amount of the capital expenditure required to acquire, construct, remodel or improve the secondary facility. The commissioner must not approve an application for an incentive grant for any secondary facility unless the facility receives a favorable review and comment under section 121.15 and the following criteria are met:

(1) a minimum of three or more districts, with kindergarten to grade 12 enrollments in each district of no more than 1,000 pupils, enter into a joint powers agreement;

(2) a joint powers board representing all participating districts is established under section 471.59 to govern the cooperative secondary facility;

(3) the planned secondary facility will result in the joint powers district meeting the requirements of Minnesota Rules, parts 3500.2010 and 3500.2110;

(4) at least 240 pupils would be served in grades 10 to 12, 320 pupils would be served in grades 9 to 12, or 480 pupils would be served in grades 7 to 12;

(5) no more than one superintendent is employed by the joint powers board as a result of the cooperative secondary facility agreement;

(6) a statement of need is submitted, that may include reasons why the current secondary facilities are inadequate, unsafe or inaccessible to the handicapped;

(7) an educational plan is prepared, that includes input from both community and professional staff;

(8) a combined seniority list for all participating districts is developed by the joint powers board;

(9) an education program is developed that provides for more learning opportunities and course offerings for students than is currently available in any single member district; and

(10) a plan is developed for providing instruction of any resident students in other districts when distance to the secondary education facility makes attendance at the facility unreasonably difficult or impractical.

(b) To the extent possible, the joint powers board is encouraged to provide for severance pay or for early retirement incentives under section 125.611, for any teacher or administrator, as defined under section 125.12, subdivision 1, who is placed on unrequested leave as a result of the cooperative secondary facility agreement.

(c) For the purposes of this section, a teacher's date of first employment is considered identical for all teachers who were first employed in any participating district at the beginning of the same school year.

Sec. 18. Minnesota Statutes 1988, section 124.575, subdivision 3, is amended to read:

Subd. 3. [LEVY.] To obtain secondary vocational cooperative revenue, an eligible secondary vocational cooperative may levy the lesser of its secondary vocational cooperative revenue or the amount raised by .4 mills times 0.6 percent of the adjusted gross tax capacity of each member district for the preceding year. Each year, the secondary vocational cooperative board must certify the amount of taxes to be levied under this section to the county auditor or county auditors.

Sec. 19. [124A.245] [GENERAL EDUCATION LEVY REDUCTION; EDUCATION DISTRICT REVENUE.]

If a school district withdraws from an education district that receives revenue under section 124.2721, a reduction in the school district's general education levy for the year after withdrawal must be made. The amount of the levy reduction equals the education district revenue paid by the education district to the school district according to section 6, subdivision 5. The levy reduction does not affect a school district's general education aid computation.

Sec. 20. Minnesota Statutes 1988, section 136D.27, subdivision 1, is amended to read:

Subdivision 1. [LEVIES FOR CERTAIN PROGRAMS.] Each year the joint school board may certify to each participating school district tax levies that shall not in any year exceed .6 mills on each dollar the greater of:

(a) the amount per pupil in the participating districts certified for taxes payable in 1989; or

(b) the lesser of (1) the sum of 0.5 percent of adjusted gross tax capacity for special education and .7 mills on each dollar 0.6 percent of adjusted gross tax capacity for expenses for secondary vocational education, or (2) \$60 times the pupil units in the participating districts for that year. Each participating school district shall include these tax levies in the next tax roll which it shall certify to the county auditor or auditors, and shall remit the collections of such levies to the board promptly when received. These levies shall not be included in computing the limitations upon the levy of any participating district. The board may, any time after these levies have been certified to the participating school districts, issue and sell certificates of indebtedness in anticipation of the collection of such levies, but in aggregate amounts such as will not exceed the portion of the levies which is then not collected and not delinquent.

Sec. 21. Minnesota Statutes 1988, section 136D.74, subdivision 2, is amended to read:

Subd. 2. [TAX LEVY.] Each year the intermediate school board may certify to each county auditor of each county in which said intermediate school district shall lie, as a single taxing district, tax levies that shall not in any year exceed .6 mills on each dollar the greater of:

(a) the amount per pupil in the participating districts certified for taxes payable in 1989; or

(b) the lesser of (1) the sum of 0.5 percent of adjusted gross tax capacity for expenses for special education and .7 mills on each dollar 0.6 percent of adjusted gross tax capacity for expenses for secondary vocational education, or (2) \$60 times the pupil units in the participating districts for that year. Said annual tax levies shall be certified pursuant to section 275.07. Upon such certification the county auditor or auditors and other appropriate county officials shall levy and collect such levies and remit the proceeds of collection thereof to the intermediate school district as in the case with independent school districts. Such levies shall not be included in computing the limitations upon the levy of any of the participating districts.

Sec. 22. Minnesota Statutes 1988, section 136D.87, subdivision 1, is amended to read:

Subdivision 1. [LEVIES FOR CERTAIN PROGRAMS.] Each year the joint school board may certify to each participating school district tax levies that shall not in any year exceed ~~6 mills on each dollar the greater of:~~

(a) the amount per pupil in the participating district certified for taxes payable in 1989; or

(b) the lesser of (1) the sum of 0.5 percent of adjusted gross tax capacity for expenses for special education and 7 mills on each dollar 0.6 percent of adjusted gross tax capacity for expenses for secondary vocational education, or (2) \$60 times the pupil units in the participating districts for that year. Each participating school district shall include these tax levies in the next tax roll which it shall certify to the county auditor or auditors and shall remit the collections of these levies to the board promptly when received. These levies shall not be included in computing the limitations upon the levy of any participating district. The board may, any time after these levies have been certified to the participating school districts, issue and sell certificates of indebtedness in anticipation of the collection of levies, but in aggregate amounts that will not exceed the portion of the levies which is then not collected and not delinquent.

Sec. 23. Minnesota Statutes 1988, section 275.125, subdivision 8e, is amended to read:

Subd. 8e. [INTERDISTRICT COOPERATION LEVY.] (a) This subdivision does not apply to special school district No. 1, independent school district No. 11, 625, or 709, or to a district that is a member of intermediate school district No. 287, 916, or 917.

(b) A district may levy each year under this subdivision if it:

(1) is a member of an education district, under sections 122.91 to 122.96, and the education district of which the district is a member does not receive revenue under section 124.2721; or

(2) has a cooperation agreement with other districts to expand curricular offerings in mathematics in grades 10 to 12, science in grades 10 to 12, foreign languages for two years, computer usage, or other programs recommended by the state board.

(c) The levy must not exceed the amount raised by one mill times lesser of \$50 times the actual pupil units for the school year or 0.8 percent times the adjusted gross tax capacity of the district for the preceding year.

(d) A district that is a member of a secondary vocational cooperative that levies under section 124.575, may levy the difference between the lesser amount raised by one mill times the adjusted gross tax capacity of the district under paragraph (c) for the preceding year and the amount levied under section 124.575. The proceeds of the levy may be used only to pay for instructional and administrative costs incurred in providing the curricular offerings under this section. A district may not spend more than five percent of the amount of the levy for administration.

#### Sec. 24. [ADVISORY COUNCIL REPORT.]

The advisory council on uniform financial accounting and reporting standards must report to the state board of education on the impact of education districts receiving revenue under section 6, subdivision 7, clauses (1) to (7).

#### Sec. 25. [APPROPRIATION.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [EDUCATION DISTRICT AID.] For education district aid:

\$4,653,000        .....        1990

\$3,967,000        .....        1991

The 1990 appropriation includes \$0 for 1989 and \$4,652,000 for 1990.

The 1991 appropriation includes \$822,000 for 1990 and \$3,145,000 for 1991.

Subd. 3. [SECONDARY VOCATIONAL COOPERATIVE AID.] For secondary vocational cooperative aid:

\$495,000        .....        1990

\$224,000        .....        1991

The 1990 appropriation includes \$0 for 1989 and \$495,000 for 1990.

The 1991 appropriation includes \$88,000 for 1990 and \$136,000 for 1991.

Subd. 4. [BLUE EARTH SCHOOL DISTRICT GRANT.] For a grant to independent school district No. 240, Blue Earth, for the cost of a communication link between Blue Earth and Mankato:

\$4,500        .....        1990

The appropriation is available until June 30, 1991.

Subd. 5. [TELECOMMUNICATIONS GRANT.] For a grant to independent school district Nos. 353, 356, 440, 441, 444, 676, 678, 682, and 690, to develop a cooperative educational technology program:

\$300,000        .....        1990

The appropriation is available until June 30, 1991.

Sec. 26. [REPEALER.]

Minnesota Statutes 1988, section 129B.11, is repealed July 1, 1989.

## ARTICLE 7

### ACCESS TO EXCELLENCE

Section 1. Minnesota Statutes 1988, section 120.06, is amended by adding a subdivision to read:

Subd. 2a. [EDUCATION OF HOMELESS.] Notwithstanding subdivision 1, a school district must not deny free admission to a homeless person of school age solely because the school district cannot determine that the person is a resident of the school district.

Sec. 2. Minnesota Statutes 1988, section 124.261, is amended to read:

#### 124.261 [ADULT HIGH SCHOOL GRADUATION AID.]

Adult high school graduation aid for eligible pupils age 21 or over, equals an allowance of ~~65 percent of the general education formula allowance~~ \$1,820 times the average daily membership under section 124.17, subdivision 2e. Adult high school graduation aid must be paid in addition to any other aid to the district. Average daily membership of eligible pupils must not be used in the computation of pupil units under section 124.17, subdivision 1, for any purpose other than the computation of adult high school graduation aid.

Sec. 3. [124.325] [SUPPLEMENTAL INSTRUCTION PROGRAM FOR LOW-ACHIEVING PUPILS.]

Subdivision 1. [DEFINITIONS.] In this section, "low-achieving pupil" means (a) a pupil who has not attained the learner outcomes required for the pupil's age group and grade; or (b) a pupil who is achieving below the pupil's age group and grade as measured on a standardized national, state or local test.

Subd. 2. [PROGRAM REQUIREMENTS.] An instruction program for low-achieving pupils in grades 4, 5, and 6 must provide supplemental instruction to improve pupils' performance in and understanding of mathematics and communications.

Subd. 3. [PROGRAM APPROVAL.] A district receiving aid under this section must have a plan approved by the commissioner of education. The plan must:

(1) describe specific instructional services that will be available to low-achieving pupils who are not receiving comparable services through limited English proficiency, bilingual, or special education programs;

(2) describe measurement techniques for determining pupil's eligibility for supplemental instruction;

(3) describe measurement techniques for monitoring pupils' progress toward attaining learner outcomes;

(4) indicate compliance with Chapter I and other education assistance programs; and

(5) have a budget that includes an accounting of personnel.

Subd. 4. [REPORT.] The department of education shall report to the legislature by February 1, 1992, on districts' success in improving the performance and understanding of low-achieving pupils participating in the supplemental instruction program.

Subd. 5. [SUPPLEMENTAL INSTRUCTION PROGRAM AID.] Beginning in the 1990-1991 school year, a district with an approved plan under this section is eligible for supplemental instruction program aid for low-achieving pupils of \$45 times the number of fourth, fifth, and sixth grade pupils in weighted average daily membership.

Sec. 4. Minnesota Statutes 1988, section 124A.036, is amended by adding a subdivision to read:



Subd. 1a. [REPORTING; REVENUE FOR HOMELESS.] For all school purposes, unless otherwise specifically provided by law, a homeless pupil must be considered a resident of the school district that enrolls the pupil.

Sec. 5. Minnesota Statutes 1988, section 126.23, is amended to read:

**126.23 [AID FOR PRIVATE ALTERNATIVE PROGRAMS.]**

If a pupil enrolls in a nonsectarian alternative program operated by a private organization that has contracted with a school district to provide educational services for high school dropouts or other eligible students under section 126.22, subdivision 2, the resident district must reimburse the provider an amount equal to at least 50 to 80 percent of the basic revenue of the district for each pupil. Pupils for whom a district provides reimbursement may not be counted by the district for any purpose other than computation of basic revenue, according to section 124A.22, subdivision 2.

Sec. 6. Laws 1988, chapter 718, article 7, section 61, subdivision 1, is amended to read:

**Subdivision 1. [PROGRAM ESTABLISHED FOR TWO YEARS.]** A program is established to designate learning year program sites for providing instruction throughout the entire year. The learning year programs may begin June 9, 1988, and end June 9, 1990. The programs must permit students in grades 9 one through 12 to receive instruction throughout the entire year.

Students may participate in the program if they reside in:

(1) a district that has been designated a learning year program site under subdivision 2;

(2) a district that is a member of the same education district as a program site; or

(3) a district that participates in the same area learning center program as a program site.

Sec. 7. Laws 1988, chapter 718, article 7, section 61, subdivision 2, is amended to read:

**Subd. 2. [STATE BOARD DESIGNATION.]** Up to five ten districts may be designated learning year program sites by the state board of education. To be designated, a district must demonstrate to the commissioner of education that the district will:

(1) provide a program of instruction that permits students in grades 9 one through 12 to receive instruction throughout the entire year; and

(2) maintain a record system that, for purposes of section 124.17, permits identification of membership attributable to students participating in the program. The purpose for identifying this membership is to ensure that a district will not be able to increase the total number of pupil units attributable to an individual student by providing a learning year program. The commissioner of education shall consult with the director of the education aids and levies section of the department of education when determining whether the record system of a participating district is adequate for this purpose.

Sec. 8. Laws 1988, chapter 718, article 7, section 61, subdivision 3, is amended to read:

Subd. 3. [HOURS OF INSTRUCTION.] Students participating in a program must be able to receive ~~4,200~~ 16,200 hours of instruction so that they are able to complete the requirements of grades 9 one through 12. If a student has not completed the graduation requirements of the district after completing ~~4,200~~ 16,200 hours of instruction, the student may continue to enroll in courses needed for graduation until either the student meets the graduation requirements or the student is 21 years old, whichever occurs first.

For the purposes of Minnesota Statutes, section 120.101, subdivision 5, 1,020 hours of instruction shall constitute 170 days of instruction. Hours of instruction that occur between June 9 and June 30 shall be attributed to the fiscal year following the days of actual instruction.

#### Sec. 9. [APPROPRIATION.]

Subdivision 1. [APPROPRIATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [ADULT GRADUATION AID.] For adult graduation aid:

\$1,223,000        .....        1990

\$1,501,000        .....        1991

The 1990 appropriation includes \$0 for 1989 and \$1,223,000 for 1990.

The 1991 appropriation includes \$216,000 for 1990 and \$1,285,000 for 1991.

Subd. 3. [AREA LEARNING CENTERS AID.] For area learning centers aid:

\$150,000        .....        1990

\$150,000        .....        1991

Any unexpended balance remaining in the first year does not cancel and is available in the second year.

Subd. 4. [ARTS PLANNING GRANTS.] For arts planning grants:

\$38,000        .....        1990

\$38,000        .....        1991

Any unexpended balance remaining in the first year does not cancel and is available in the second year.

Subd. 5. [PER PROCESS AID.] For PER process aid:

\$1,038,000        .....        1990

\$1,046,000        .....        1991

Subd. 6. [INSTRUCTION PROGRAM AID.] For instructional programs for low-achieving pupils:

\$6,868,000        .....        1991

The 1991 appropriation includes \$0 for 1990 and \$6,867,000 for 1991.

The 1991 appropriation is based on a formula entitlement of \$8,080,000.

Subd. 7. [STAFF DEVELOPMENT.] For the department of education to provide staff development to assist teachers and paraprofessionals working with low achieving pupils:

\$100,000        .....        1990

The staff development must include:

(a) instructional strategies to assist low-achieving pupils in attaining learner outcomes;

(b) instructional strategies to assist pupils from various cultural and ethnic groups in attaining learner outcomes;

(c) measurement techniques to monitor and improve pupil progress in attaining learner outcomes; and

(d) collaborative decision making that involves parents, paraprofessionals and other teachers.

This appropriation is available until June 30, 1991.

## ARTICLE 8

### OTHER EDUCATION PROGRAMS

Section 1. Minnesota Statutes 1988, section 124.195, subdivision 8, is amended to read:

Subd. 8. [PAYMENT PERCENTAGE FOR REIMBURSEMENT AIDS.] One hundred percent of the aid for the last fiscal year must be paid for the following aids: ~~abatement aid according to section 124.214, subdivision 2;~~ special education residential aid according to section 124.32, subdivision 5; special education summer school aid, according to section 124.32, subdivision 10; and planning, evaluating, and reporting process aid according to section 124.274.

#### Sec. 2. [124.6472] [SCHOOL BREAKFAST PROGRAM.]

Subdivision 1. [BREAKFAST REQUIRED.] A school district shall offer a school breakfast program in every school building in which:

(1) at least 40 percent of the school lunches served during the 1989-1990 school year were served free or at a reduced price; or

(2) at least 35 percent of the parents responding to a survey conducted by the district indicate an interest in having their children participate in the program.

Subd. 2. [EXEMPTION.] Subdivision 1 does not apply to a school in which fewer than 25 pupils are expected to take part in the program.

#### Sec. 3. [SCHOOL BREAKFAST SURVEY.]

Subdivision 1. [SURVEY REQUIRED.] By September 1, 1990, a school district shall complete a survey of parents of pupils enrolled in each school to determine the number of parents who are interested in having their children participate in a school breakfast program.

Subd. 2. [APPLICABILITY.] This section does not apply to a school building.

(1) that has a school breakfast program; or

(2) that is subject to section 2, subdivision 1, clause (1).

Subd. 3. [REPORTS.] Each school district shall report the survey results to the commissioner of education by September 3, 1990. By January 1, 1991, the commissioner shall report to the education committees of the legislature about the results of the surveys, efforts by the commissioner to encourage expansion of the school breakfast program, and technical assistance provided by the commissioner to districts starting or expanding participation in the school breakfast program.

Sec. 4. [127.45] [SEXUAL HARASSMENT AND VIOLENCE POLICY.]

Each school board shall adopt before September 1, 1990, a written sexual harassment and sexual violence policy that is clear and understandable, and conforms with sections 363.01 to 363.15. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections 127.27 to 127.39. The policy must be conspicuously posted in each school building and included in each school's student handbook on school policies.

Sec. 5. Minnesota Statutes 1988, section 129.121, is amended by adding a subdivision to read:

Subd. 6. [SEXUAL HARASSMENT AND VIOLENCE POLICY AND RULES.] The board of the league shall adopt a policy, rules, penalties, and recommendations addressing sexual harassment and sexual violence toward and by participants in league activities.

Sec. 6. Minnesota Statutes 1988, section 363.06, subdivision 3, is amended to read:

Subd. 3. [TIME FOR FILING CLAIM.] A claim of an unfair discriminatory practice must be brought as a civil action pursuant to section 363.14, subdivision 1, clause (a), filed in a charge with a local commission pursuant to section 363.116, or filed in a charge with the commissioner within one year after the occurrence of the practice. The running of the one-year limitation period is suspended during the time a potential charging party and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this chapter, including

arbitration, conciliation, mediation or grievance procedures pursuant to a collective bargaining agreement or statutory, charter, or ordinance provisions for a civil service or other employment system or a school board sexual harassment or sexual violence policy. A potential respondent who participates in such a process with a potential charging party before a charge is filed or a civil action is brought shall notify the department and the charging party in writing of the participation in the process and the date the process commenced and shall also notify the department and the charging party of the ending date of the process. A respondent who fails to provide this notification is barred from raising the defense that the statute of limitations has run unless one year plus a period of time equal to the suspension period has passed.

Sec. 7. [363.16] [SEXUAL HARASSMENT AND VIOLENCE POLICY FOR EDUCATIONAL INSTITUTIONS.]

The commissioner of education, in consultation with the commissioner of human rights, shall develop and maintain a model sexual harassment and violence policy that may be used by school boards. The commissioner of education shall consult with other affected organizations when developing or modifying the policy. The model policy shall address the requirements of section 4 and must be completed by January 1, 1990.

Sec. 8. [SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY; REPORT.]

By September 1, 1990, each school board shall submit to the commissioner of education a copy of the sexual harassment and sexual violence policy the board has adopted.

The commissioner of education shall report to the education committees of the legislature by December 1, 1990, the following:

- (1) the boards that have adopted policies;
- (2) the boards that have not adopted policies; and
- (3) review of and comments about the policies.

Sec. 9. [PARENTAL INVOLVEMENT; REPORT.]

Independent school district No. 625, St. Paul, and special school district No. 1, Minneapolis, in order to promote parental involvement in the educational development of their children, must establish a written collaborative agreement with community-based agencies serving at risk populations within the community. The agreement may include activities such as:

(1) developing and disseminating information on parental involvement in the educational development of their children;

(2) developing seminars or workshops on parent education or parental involvement in the development of children; and

(3) establishing within the schools parent resource centers or parent networks to encourage parental involvement in the educational development of their children.

The districts may seek matching funds and in-kind contributions from public and private community-based sources. Descriptions of the district's experience with parental involvement activities under this section must be included in a report to be submitted to the legislature by December 30, 1990.

#### Sec. 10. [SPECIAL LEVY.]

Independent school district No. 232, Peterson, may levy an amount not more than \$150,000 for taxes payable in 1990, for purposes of retiring operating debt.

#### Sec. 11. [APPROPRIATIONS.]

Subdivision 1. [APPROPRIATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

##### Subd. 2. [ABATEMENT AID.] For abatement aid:

\$5,111,000            .....      1990

\$6,018,000            .....      1991

The 1990 appropriation includes \$0 for 1989 and \$5,111,000 for 1990.

The 1991 appropriation includes \$902,000 for 1990 and \$5,116,000 for 1991.

##### Subd. 3. [INTEGRATION GRANTS.] For integration grants:

\$15,514,000            .....      1990

\$15,514,000            .....      1991

The grant includes \$1,268,738 each year for independent school district No. 709, Duluth; \$7,683,246 each year for special school

district No. 1, Minneapolis; and \$6,561,971 each year for independent school district No. 625, St. Paul.

A district receiving an integration grant may spend a part of the grant on metropolitan desegregation efforts.

Subd. 4. [NONPUBLIC PUPIL AID.] For nonpublic pupil aid:

\$8,524,000        .....        1990

\$8,847,000        .....        1991

The 1990 appropriation includes \$1,229,000 for 1989 and \$7,295,000 for 1990.

The 1991 appropriation includes \$1,288,000 for 1990 and \$7,559,000 for 1991.

Subd. 5. [SCHOOL LUNCH PROGRAM.] For the school lunch program:

\$4,625,000        .....        1990

\$4,625,000        .....        1991

Subd. 6. [SCHOOL MILK PROGRAM.] For the school milk program:

\$800,000        .....        1990

\$800,000        .....        1991

Subd. 7. [TOBACCO USE PREVENTION.] For the tobacco use prevention program:

\$565,000        .....        1990

\$672,000        .....        1991

The 1990 appropriation includes \$0 for 1989 and \$565,000 for 1990.

The 1991 appropriation includes \$100,000 for 1990 and \$572,000 for 1991.

Subd. 8. [WEST ST. PAUL.] For a grant to independent school district No. 197, West St. Paul:

\$500,000        .....        1989



The proceeds of this grant must be deposited in the district's debt redemption fund.

Sec. 12. [APPROPRIATION; ALCOHOL-IMPAIRED DRIVER EDUCATION.]

\$910,000 in fiscal year 1990 and \$915,000 in fiscal year 1991 are appropriated from the alcohol-impaired driver education account to the department of education for alcohol-impaired driver education programs.

Sec. 13. [EFFECTIVE DATE.]

Section 1 is effective September 1, 1991. Section 11, subdivision 8, is effective the day after its final enactment.

ARTICLE 9

MISCELLANEOUS

Section 1. Minnesota Statutes 1988, section 120.062, subdivision 4, is amended to read:

Subd. 4. [PUPIL APPLICATION PROCEDURES.] In order that a pupil may attend a school or program in a nonresident district, the pupil's parent or guardian must submit an application to the nonresident district. Before submitting an application, the pupil and the pupil's parent or guardian must explore with a school guidance counselor, or other appropriate staff member employed by the district the pupil is currently attending, the pupil's academic or other reason for applying to enroll in a nonresident district. The pupil's application must identify the reason for enrolling in the nonresident district. The parent or guardian of a pupil residing in a district that does not have a desegregation plan approved by the state board of education must submit an application by January 1 for enrollment during the following school year. The parent or guardian of a pupil residing in a district that has a desegregation plan approved by the state board of education may apply to a district at any time. The application shall be on a form provided by the department of education. A particular school or program may be requested by the parent.

Sec. 2. Minnesota Statutes 1988, section 120.062, subdivision 6, is amended to read:

Subd. 6. [NONRESIDENT DISTRICT PROCEDURES.] Within 60 days of receiving an application, A district that does not exclude nonresident pupils, according to subdivision 3, shall notify the parent or guardian and the resident district in writing by February

1 whether the application has been accepted or rejected. If an application is rejected, the district must state in the notification the reason for rejection. The parent or guardian shall notify the nonresident district by February 15 that the pupil will enroll in the nonresident district. Notice of intent to enroll in the nonresident district obligates the pupil to attend the nonresident district during the following school year, unless the superintendents in the resident and the nonresident districts agree in writing to allow the pupil to transfer back to the resident district, or the pupil's parents or guardians change residence to another district. The nonresident district shall notify the resident district by March 1 of the pupil's intent to enroll in the nonresident district. The same procedures apply to a pupil who applies to transfer from one participating nonresident district to another participating nonresident district.

Sec. 3. Minnesota Statutes 1988, section 120.062, is amended by adding a subdivision to read:

Subd. 13. [ATHLETIC PARTICIPATION.] If a pupil enrolls in a nonresident district under this section, the pupil is ineligible to participate in the extracurricular varsity athletic activities of the nonresident district for one school year. During that year of ineligibility in the nonresident district, the pupil remains eligible to participate in the extracurricular varsity athletic activities of the pupil's resident district, or in the extracurricular varsity athletic activities of the nonpublic school the pupil attended before enrolling in a public school under this section. After the year of ineligibility expires, the pupil is eligible to participate in the extracurricular varsity athletic activities of the nonresident district and is no longer eligible to participate in the extracurricular varsity athletic activities of the resident district or nonpublic school. The same restrictions apply to a pupil who transfers from one participating nonresident district to another participating nonresident district.

The superintendents in the resident and nonresident districts may agree in writing to allow a nonresident pupil to participate in the extracurricular varsity athletic activities of the nonresident district during the year of ineligibility if the pupil demonstrates that the distance the pupil must travel between the resident and nonresident district prevents the pupil from participating in the extracurricular varsity athletic activities of the resident district. This subdivision does not apply to pupils who have been enrolled in the nonresident district during the 1988-1989 school year under an alternative enrollment options agreement.

Sec. 4. Minnesota Statutes 1988, section 123.3514, subdivision 2, is amended to read:

Subd. 2. [PURPOSE.] The purpose of this section is to promote rigorous academic pursuits and to provide a wider variety of options to public high school pupils by encouraging and enabling secondary

pupils to enroll full time or part time in nonsectarian and nonremedial courses or programs in eligible post-secondary institutions, as defined in subdivision 3.

Sec. 5. Minnesota Statutes 1988, section 123.3514, subdivision 4, is amended to read:

Subd. 4. [AUTHORIZATION; NOTIFICATION.] Notwithstanding any other law to the contrary, an 11th or 12th grade public school pupil may apply to an eligible institution, as defined in subdivision 3, to enroll in nonsectarian and nonremedial courses offered at that post-secondary institution. If an institution accepts a secondary pupil for enrollment under this section, the institution shall send written notice to the pupil, the pupil's school district, and the commissioner of education within ten days of acceptance. The notice shall indicate the course and hours of enrollment of that pupil. If the pupil enrolls in a course for post-secondary credit, the institution shall notify the pupil about payment in the customary manner used by the institution. Acceptance for enrollment is not a guarantee of registration into a particular course. The pupil must comply with the institution's standards, prerequisites, and procedures to register for a course.

During the time a pupil is enrolled at a post-secondary institution under this section, the post-secondary institution must periodically inform the pupil, the pupil's parents or guardian, and the pupil's secondary school of the pupil's progress in the courses or programs taken for secondary credit.

Sec. 6. Minnesota Statutes 1988, section 123.3514, subdivision 4c, is amended to read:

Subd. 4c. [LIMIT ON PARTICIPATION.] A pupil who first enrolls in grade 11 may not enroll in post-secondary courses under this section for secondary credit for more than the equivalent of two academic years. A pupil who first enrolls in grade 12 may not enroll in post-secondary courses under this section for secondary credit for more than the equivalent of one academic year. If a pupil in grade 11 or 12 first enrolls in a post-secondary course for secondary credit during the school year, the time of participation shall be reduced proportionately. A pupil who has graduated from high school cannot participate in a program under this section. A pupil who has completed course requirements for graduation but who has not received a diploma may participate in the program under this section.

Sec. 7. Minnesota Statutes 1988, section 123.3514, subdivision 5, is amended to read:

Subd. 5. [CREDITS.] A pupil may enroll in a course under this section for either secondary credit or post-secondary credit. At the

time a pupil enrolls in a course, the pupil shall designate whether the course is for secondary or post-secondary credit. A pupil taking several courses may designate some for secondary credit and some for post-secondary credit. A pupil must not audit a course under this section.

A school district shall grant academic credit to a pupil enrolled in a course for secondary credit if the pupil successfully completes the course. Nine quarter or six semester college credits equal at least one full year of high school credit. Fewer college credits may be prorated. A school district shall also grant academic credit to a pupil enrolled in a course for post-secondary credit if secondary credit is requested by a pupil. If no comparable course is offered by the district, the district shall, as soon as possible, notify the state board of education which shall determine the number of credits that shall be granted to a pupil who successfully completes a course. If a comparable course is offered by the district, the school board shall grant a comparable number of credits to the pupil. If there is a dispute between the district and the pupil regarding the number of credits granted for a particular course, the pupil may appeal the school board's decision to the state board of education. The state board's decision regarding the number of credits shall be final.

The secondary credits granted to a pupil shall be counted toward the graduation requirements and subject area requirements of the school district. Evidence of successful completion of each course and secondary credits granted shall be included in the pupil's secondary school record. A pupil must provide the school with a copy of the pupil's grade in each course taken under this section. Upon the request of a pupil, the pupil's secondary school record shall also include evidence of successful completion and credits granted for a course taken for post-secondary credit. In either case, the record shall indicate that the credits were earned at a post-secondary institution.

If a pupil enrolls in a post-secondary institution after leaving secondary school, the post-secondary institution shall award post-secondary credit for any course successfully completed for secondary credit at that institution. Other post-secondary institutions may award, after a pupil leaves secondary school, post-secondary credit for any courses successfully completed under this section. An institution may not charge a pupil for the award of credit.

Sec. 8. Minnesota Statutes 1988, section 123.3514, subdivision 7, is amended to read:

Subd. 7. [FEES; TEXTBOOKS; MATERIALS.] A post-secondary institution that receives reimbursement for a pupil under subdivision 6 may not charge that pupil for fees, textbooks, materials, or other necessary costs of the course or program in which the pupil is enrolled if the charge would be prohibited under section 120.74,

except for equipment purchased by the pupil that becomes the property of the pupil. An institution may require the pupil to pay for fees, textbooks, and materials for a course taken for post-secondary credit.

Sec. 9. Minnesota Statutes 1988, section 123.3514, subdivision 10, is amended to read:

Subd. 10. [LIMIT; STATE OBLIGATION.] The provisions of subdivisions 6, 7, 8, and 9 shall not apply for any post-secondary courses in which a pupil is enrolled in addition to being enrolled full time in that pupil's district or for any post-secondary course in which a pupil is enrolled for post-secondary credit. The pupil is enrolled full time if the pupil attends credit-bearing classes in the high school or high school program for all of the available hours of instruction.

Sec. 10. [126.1995] [SAFETY REQUIREMENT GUIDELINES.]

Subdivision 1. [DEVELOPING AND IMPLEMENTING GUIDELINES.] The department of education, in cooperation with the Minnesota fire marshal's division, shall develop guidelines for school lab safety. The guidelines shall include a list of safety requirements and an explanation of the minimum state and national laws, codes, and standards affecting school lab safety the Minnesota fire marshal considers necessary for schools to implement.

The state department of education shall send the guidelines on school lab safety to district superintendents before September 1, 1989. The district superintendent must ensure that every school lab within the district complies with the school lab safety requirements. Each district superintendent must inform the department by January 1, 1990, of its efforts to comply with the safety requirements. Lack of funding is not an excuse for noncompliance.

Subd. 2. [REPORT TO LEGISLATURE.] The department of education and the state fire marshal shall report to the chairs of the education finance division in the house and senate by February 1, 1990, on district and state compliance with school lab safety requirements.

Sec. 11. Minnesota Statutes 1988, section 126.67, subdivision 8, is amended to read:

Subd. 8. [CAREER INFORMATION; APPROPRIATION.] The department of education, through the Minnesota career information system, may provide career information to school districts and educational systems organizations, employment and training services, human service agencies, libraries, and families. The department may shall collect reasonable fees for subscriptions to necessary

to recover all expenditures related to the operation of the Minnesota career information service. Grants may be accepted and used for the improvement or operation of the program.

Money collected from the sale of these products and services is annually appropriated to the department of education for the Minnesota career information system.

Sec. 12. Minnesota Statutes 1988, section 141.35, is amended to read:

141.35 [EXEMPTIONS.]

None of the provisions of sections 141.21 to 141.36 shall apply to the following:

(a) Colleges authorized by the laws of Minnesota or of any other state or foreign country to grant degrees;

(b) Schools of nursing accredited by the state board of nursing or an equivalent public board of another state or foreign country;

(c) Public schools as defined in section 120.05;

(d) Private schools complying with the requirements of section 120.10, subdivision 2;

(e) Private and parochial nonprofit schools exempt from taxation under the constitution of Minnesota;

(f) Courses taught to students in a valid apprenticeship program taught by or required by a trade union;

(g) Schools exclusively engaged in training physically or mentally handicapped persons for the state of Minnesota;

(h) Schools now or hereafter licensed by boards authorized under Minnesota law to issue such licenses;

(i) Schools and educational programs, or training programs, conducted by persons, firms, corporations, or associations, for the training of their own employees, for which no fee is charged the employee;

(j) Schools engaged exclusively in the teaching of purely avocational or recreational, or remedial subjects as determined by the commissioner. Private schools teaching a method or procedure to increase the speed with which a student reads are not within this exemption;

(k) Driver training schools and instructors as defined in section 171.33, subdivisions 1 and 2;

(l) Classes, courses, or programs conducted by a bona fide trade, professional, or fraternal organization, solely for that organization's membership;

(m) Courses of instruction in the fine arts provided by organizations exempt from taxation pursuant to section 290.05 and registered with the Minnesota department of commerce pursuant to chapter 309. "Fine arts" means activities resulting in artistic creation or artistic performance of works of the imagination which are engaged in for the primary purpose of creative expression rather than commercial sale or employment. In making this determination the commissioner may seek the advice and recommendation of the Minnesota board of the arts;

(n) Classes, courses, or programs intended to fulfill the continuing education requirements for licensure or certification in a profession, which classes, courses, or programs have been approved by a legislatively or judicially established board or agency responsible for regulating the practice of the profession, and which are offered primarily to a person who currently practices the profession;

(o) Classes, courses, or programs to prepare students for undergraduate, graduate, postgraduate, or occupational licensing and occupational entrance examinations;

(p) Classes, courses, or programs taught as seminars containing 16 or fewer hours of instruction;

(q) Classes, courses, or programs to prepare persons for careers in modeling or acting; or

(r) Education programs in which one instructor teaches one student.

Sec. 13. Minnesota Statutes 1988, section 354.094, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT CONTRIBUTIONS.] A member granted an extended leave of absence pursuant to section 125.60 or 136.88; ~~except as provided in subdivision 1a or 1b,~~ may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter, for each year of the leave provided the member and the employing board make the required employer contribution in any proportion they may agree upon, during the period of the leave which shall not exceed five years. ~~Except as provided in subdivision 1a or 1b,~~ The state shall not pay employer contributions into the fund for any year for which a

member is on extended leave. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave. Payments for the years for which a member is receiving service credit while on extended leave shall be made on or before the later of June 30 of each fiscal year for which service credit is received or within 30 days after first notification of the amount due, if requested by the member, is given by the association. No payment is permitted after the following September 30. Payments received after June 30 must include six percent interest from June 30 through the end of the month in which payment is received.

Sec. 14. Minnesota Statutes 1988, section 354.094, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP; RETENTION.] Notwithstanding section 354.49, subdivision 4, clause (3), a member on extended leave whose employee and employer contributions are paid into the fund pursuant to subdivisions subdivision 1 and 1a shall retain membership in the association for as long as the contributions are paid, under the same terms and conditions as if the member had continued to teach in the district, the community college system or the state university system.

Sec. 15. Minnesota Statutes 1988, section 354.66, subdivision 4, is amended to read:

Subd. 4. [RETIREMENT CONTRIBUTIONS.] Notwithstanding any provision to the contrary in this chapter relating to the salary figure to be used for the determination of contributions or the accrual of service credit, a teacher assigned to a part-time position pursuant to this section shall continue to make employee contributions to and to accrue allowable service credit in the retirement fund during the period of part-time employment on the same basis and in the same amounts as would have been paid and accrued if the teacher had been employed on a full-time basis provided that, ~~except as provided in subdivision 4a,~~ prior to June 30 each year, or within 30 days after notification by the association of the amount due, whichever is later, the member and the employing board make that portion of the required employer contribution to the retirement fund, in any proportion which they may agree upon, that is based on the difference between the amount of compensation that would have been paid if the teacher had been employed on a full-time basis and the amount of compensation actually received by the teacher for the services rendered in the part-time assignment. The employing unit shall make that portion of the required employer contributions to the retirement fund on behalf of the teacher that is based on the amount of compensation actually received by the teacher for the services rendered in the part-time assignment in the manner described in section 354.43, subdivision 3. The employee and em-



ployer contributions shall be based upon the rates of contribution prescribed by section 354.42. Full accrual of allowable service credit and employee contributions for part-time teaching service pursuant to this section and section 354A.094 shall not continue for a period longer than ten years.

Sec. 16. Minnesota Statutes 1988, section 354A.091, subdivision 1, is amended to read:

Subdivision 1. [RETIREMENT CONTRIBUTIONS.] Notwithstanding any provision to the contrary of this chapter or the articles of incorporation or bylaws of an association relating to the salary figure to be used for the determination of contributions or the accrual of service credit, ~~except as provided in subdivision 1a or 1b,~~ an elementary, secondary or technical institute teacher in the public schools of a city of the first class who is granted an extended leave of absence pursuant to section 125.60, may pay employee contributions to the applicable association and shall be entitled to receive allowable service credit in that association for each year of leave, provided the member and the employing board make the required employer contributions, in any proportion they may agree upon, to that association during the period of leave which shall not exceed five years. ~~Except as provided in subdivision 1a or 1b~~ The state shall not make an employer contribution on behalf of the teacher. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354A.12 as applied to a salary figure equal to the teacher's actual covered salary for the plan year immediately preceding the leave. Payment of the employee and employer contributions authorized pursuant to this section shall be made on or before June 30 of the fiscal year for which service credit is to be received. No allowable service with respect to a year of extended leave of absence shall be credited to a teacher until payment of the required employee and employer contributions has been received by the association.

Sec. 17. Minnesota Statutes 1988, section 354A.091, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP RETENTION.] A teacher on extended leave pursuant to section 125.60 whose employee and employer contributions are made to the applicable teachers retirement fund association pursuant to ~~subdivisions~~ subdivision 1 and 1a shall retain membership in the association for each year during which the contributions are made, under the same terms and conditions as if the teacher had continued to teach in the district.

Sec. 18. Minnesota Statutes 1988, section 354A.094, subdivision 4, is amended to read:

Subd. 4. [RETIREMENT CONTRIBUTIONS.] Notwithstanding any provision to the contrary in this chapter or the articles of

incorporation or bylaws of an association relating to the salary figure to be used for the determination of contributions or the accrual of service credit, a teacher assigned to a part-time position pursuant to this section shall continue to make employee contributions to and to accrue allowable service credit in the applicable association during the period of part-time employment on the same basis and in the same amounts as would have been paid and accrued if the teacher had been employed on a full-time basis provided that, ~~except as provided in subdivision 4a,~~ prior to June 30 each year the member and the employing board make that portion of the required employer contribution to the applicable association in any proportion which they may agree upon, that is based on the difference between the amount of compensation that would have been paid if the teacher had been employed on a full-time basis and the amount of compensation actually received by the teacher for services rendered in the part-time assignment. The employer contributions to the applicable association on behalf of the teacher shall be based on the amount of compensation actually received by the teacher for the services rendered in the part-time assignment in the manner described in section 354.43, subdivisions 1 and 5. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354A.12. Full membership, accrual of allowable service credit and employee contributions for part-time teaching service by a teacher pursuant to this section and section 354.66 shall not continue for a period longer than ten years.

#### Sec. 19. [STAFF EXCHANGE PROGRAM.]

Subdivision 1. [ESTABLISHMENT] A staff exchange program for the 1989-1990 and 1990-1991 school years is established to allow local school districts to arrange temporary and voluntary exchanges between members of their kindergarten through grade 12 instructional and administrative staffs. The purpose of the program is to provide participants with an understanding of the educational concerns of other local school districts, including concerns of class organization, curriculum development, instructional practices, and characteristics of the student population.

The educational needs and interests of the host school district and the training, experience, and interests of the participants shall determine the assignment of the participants in the host district. Participants may teach courses, provide counseling and tutorial services, work with teachers to better prepare students for future educational experiences, serve an underserved population in the district, or assist with administrative functions. The assignments participants perform for the host district must be comparable to the assignments the participants perform for the district employing the participants. Participation in the exchange program need not be limited to one school or one school district and may involve other education organizations including education districts and ECSUs.

Subd. 2. [PROGRAM REQUIREMENTS.] All staff exchanges made under this section are subject to the requirements in this subdivision.

(a) A school district employing a participating staff member must not adversely affect the staff member's salary, seniority, or other employment benefits, or otherwise penalize the staff member for participating in the program.

(b) Upon completion or termination of an exchange, a school district employing a participating staff member must permit the staff member to return to the same assignment the staff member performed in the district before the exchange.

(c) A school district employing a participating staff member must continue to provide the staff member's salary and other employment benefits during the period of the exchange.

(d) A participant must be licensed and tenured.

(e) Participation in the program must be voluntary.

(f) The length of participation in the program must be no less than one-half of a school year and no more than one school year, and any premature termination of participation must be upon the mutual agreement of the participant and the participating school districts.

(g) A participant is responsible for transportation to and from the host school district.

This subdivision does not abrogate or change rights of staff members participating in the staff exchange program or the terms of an agreement between the exclusive representative of the school district employees and the school district. Participating school districts may enter into supplementary agreements with the exclusive representative of the school district employees to accomplish the purpose of this section.

Subd. 3. [APPLICATION PROCEDURES.] The school board of a school district must decide by resolution to participate in the staff exchange program. A staff member wishing to participate in the exchange program must submit an application to the school district employing the staff member. The district must, in a timely and appropriate manner, provide to the exclusive bargaining representatives of teachers in the state the number and names of prospective participants within the district, the assignments available within the district, and the length of time for each exchange. The exclusive bargaining representatives are requested to cooperatively participate in the coordination of exchanges to facilitate exchanges across all geographical regions of the state. Prospective participants must

contact teachers and districts with whom they are interested in making an exchange. The prospective participants must make all arrangements to accomplish their exchange and the superintendents of the participating districts must approve of the arrangements for the exchange in writing.

Subd. 4. [REPORT.] By January 1, 1991, the school districts participating in the staff exchange program shall report to the commissioner of education on the number and location of staff members participating in the exchange, the assignments of the participants, and other matters of interest, including the advisability of continuing the exchange. The commissioner shall compile the information provided by the districts and present the compiled information to the education committees of the legislature by February 1, 1991.

#### Sec. 20. [REPORT.]

The commissioner of education shall provide an interim report to the education committees of the legislature by February 1, 1990, describing the experiences of parents, pupils, and school districts with the enrollment options program. The commissioner shall provide a final report to the committees by February 1, 1991, evaluating experiences of parents, pupils, and school districts with the program.

#### Sec. 21. [REPEALER.]

Minnesota Statutes 1988, section 120.062, subdivision 8, is repealed effective for the 1989-1990 school year.

#### Sec. 22. [EFFECTIVE DATES.]

Section 19 is effective for the 1989-1990 school year. Sections 1 and 2 are effective for the 1990-1991 school year and thereafter. Section 3 is effective for the 1989-1990 school year and thereafter.

### ARTICLE 10

#### LIBRARIES

Section 1. Minnesota Statutes 1988, section 134.33, subdivision 1, is amended to read:

Subdivision 1. An establishment grant as described in section 134.32, subdivision 2, shall be made to any regional public library system for the first two state fiscal years after a board of county commissioners has contracted to join that system and has agreed

that the county will provide the levels of support for public library service specified in this section. In the first year of participation 1990, the county shall provide an amount of support equivalent to ~~3 mill times 0.25 percent of the adjusted gross tax capacity of the taxable property of the county as determined by the commissioner of revenue for the second year preceding that calendar year or two-thirds of the per capita amount established under the provisions of section 134.34, subdivision 1, whichever amount is less.~~ In the second year of participation 1991 and in each year thereafter, the county shall provide an amount of support equivalent to ~~4 mill times 0.41 percent of the adjusted gross net tax capacity of the taxable property of the county as determined by the commissioner of revenue for the second year preceding that calendar year or the per capita amount established under the provisions of section 134.34, subdivision 1, whichever is less.~~ The minimum level of support shall be certified annually to the county by the department of education. In no event shall the department of education require any county to provide a higher level of support than the level of support specified in this section in order for a system to qualify for an establishment grant. This section shall not be construed to prohibit any county from providing a higher level of support for public libraries than the level of support specified in this section.

Sec. 2. Minnesota Statutes 1988, section 134.34, subdivision 1, is amended to read:

Subdivision 1. [LOCAL SUPPORT LEVELS.] A regional library basic system support grant shall be made to any regional public library system where there are at least three participating counties and where each participating city and county, except in the first year of participation as provided in section 134.33, is providing for public library service support the lesser of (a) an amount equivalent to ~~4 mill times 0.33 percent of the adjusted gross tax capacity of the taxable property of that city or county, as determined by the commissioner of revenue for the second year preceding that calendar year in 1990 and an amount equivalent to .41 percent of the net tax capacity of the taxable property of that city or county, as determined by the commissioner of revenue for the second year preceding that calendar year in 1991 and later years or~~ (b) a per capita amount calculated under the provisions of this subdivision. The per capita amount is established for calendar year 1980 1990 as \$3 \$3.62. In succeeding calendar years, the per capita amount shall be increased by a percentage equal to one-half of the percentage by which the total state adjusted gross net tax capacity of property as determined by the commissioner of revenue for the second year preceding that calendar year increases over that total adjusted gross net tax capacity for the third year preceding that calendar year. The minimum level of support shall be certified annually to the participating cities and counties by the department of education. A city which is a part of a regional public library system shall not be required to provide this level of support if the property of that city is

already taxable by the county for the support of that regional public library system. In no event shall the department of education require any city or county to provide a higher level of support than the level of support specified in this section in order for a system to qualify for a regional library basic system support grant. This section shall not be construed to prohibit a city or county from providing a higher level of support for public libraries than the level of support specified in this section.

Sec. 3. Minnesota Statutes 1988, section 134.34, subdivision 2, is amended to read:

Subd. 2. [REQUIRED INCREASES; LIMIT.] Notwithstanding the provisions of section 134.33 and subdivision 1 of this section, after the second year of participation by a city or county, the dollar amount of the minimum level of support for that city or county shall not be required to increase by more than ten percent over the dollar amount of the minimum level of support required of it in the previous year. If a participating city or county which has been providing for public library service support in an amount equivalent to .67 mill times the gross tax capacity of the taxable property of that city or county for the year preceding that calendar year would be required to increase the dollar amount of such support by more than ten percent to reach the equivalent of .4 mill times the adjusted gross tax capacity of the taxable property of that participating city or county as determined by the commissioner of revenue for the second year preceding that calendar year or the per capita amount calculated under the provisions of subdivision 1, it shall only be required to increase the dollar amount of such support by ten percent per year until such time as it reaches an amount equivalent to .4 mill times the adjusted gross tax capacity of that taxable property as determined by the commissioner of revenue for the second year preceding that calendar year or the per capita amount calculated under the provisions of subdivision 1.

Sec. 4. Minnesota Statutes 1988, section 134.34, subdivision 3, is amended to read:

Subd. 3. [REGIONAL DESIGNATION.] Regional library basic system support grants shall be made only to those regional public library systems officially designated by the state board of education as the appropriate agency to strengthen, improve and promote public library services in the participating areas. The state board of education shall designate no more than one such regional public library system located entirely within any single development region existing under sections 462.381 to 462.396 462.398 or chapter 473.

Sec. 5. Minnesota Statutes 1988, section 134.34, subdivision 4, is amended to read:

Subd. 4. [MAINTENANCE OF EFFORT.] A regional library basic system support grant shall not be made to a regional public library system for a participating city or county which decreases the dollar amount provided for support for operating purposes of public library service below the amount provided by it for the preceding year. This subdivision shall not apply to participating cities or counties where the adjusted gross or net tax capacity of that city or county has decreased, if the dollar amount of the reduction in support is not greater than the dollar amount by which support would be decreased if the reduction in support were made in direct proportion to the decrease in adjusted gross or net tax capacity.

Sec. 6. Minnesota Statutes 1988, section 134.35, subdivision 5, is amended to read:

Subd. 5. [SEVENTEEN AND ONE-HALF PERCENT.] Seventeen and one-half percent of the available grant funds shall be distributed to regional public library systems which contain counties whose adjusted gross or net tax capacity per capita were below the state average adjusted gross or net tax capacity per capita for the second year preceding the fiscal year for which the grant is made. Each system's entitlement shall be calculated as follows:

(a) subtract the adjusted gross or net tax capacity per capita for each eligible county or participating portion of a county from the statewide average adjusted gross or net tax capacity per capita;

(b) multiply the difference obtained in clause (a) for each eligible county or participating portion of a county by the population of that eligible county or participating portion of a county;

(c) for each regional public library system, determine the sum of the results of the computation in clause (b) for all eligible counties or portions thereof in that system;

(d) determine the sum of the result of the computation in clause (b) for all eligible counties or portions thereof in all regional public library systems in the state;

(e) for each system, divide the result of the computation in clause (c) by the result of the computation in clause (d) to obtain the allocation factor for that system;

(f) multiply the allocation factor for each system as determined in clause (e) times the amount of the remaining grant funds to determine each system's dollar allocation pursuant to this subdivision.

Sec. 7. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [BASIC SUPPORT GRANTS.] For basic support grants under Minnesota Statutes, sections 134.32 to 134.35:

\$5,179,000        .....        1990

\$5,215,000        .....        1991

The 1990 appropriation includes \$747,000 for 1989 and \$4,432,000 for 1990.

The 1991 appropriation includes \$783,000 for 1990 and \$4,432,000 for 1991.

Subd. 3. [MULTICOUNTY, MULTITYPE LIBRARY SYSTEMS.] For grants to multicounty, multitype library systems under Minnesota Statutes, sections 134.353 and 134.354:

\$234,000        .....        1990

\$240,000        .....        1991

The 1990 appropriation includes \$34,000 for 1989 and \$200,000 for 1990.

The 1991 appropriation includes \$36,000 for 1990 and \$204,000 for 1991.

Subd. 4. [STATE AGENCY ON-LINE SYSTEM.] For the ongoing cost of operating a computer library catalog system in state agency libraries:

\$46,000        .....        1990

This appropriation is available until June 30, 1991.

Subd. 5. [MATERIALS FOR LIBRARIANS.] To update materials on library information and services available to librarians through the department of education:

\$20,000        .....        1990

This appropriation is available until June 30, 1991.

Sec. 8. [REPEALERS.]



Subdivision 1. [JULY 1, 1989.] Minnesota Statutes, section 134.34, subdivision 5, is repealed July 1, 1989.

Subd. 2. [JULY 1, 1991.] Minnesota Statutes, section 134.33, subdivision 1, is repealed July 1, 1991.

## ARTICLE 11

### EDUCATION AGENCY SERVICES

Section 1. Minnesota Statutes 1988, section 121.935, subdivision 6, is amended to read:

Subd. 6. [FEES.] Regional management information centers may charge fees to affiliated districts for the cost of services provided to the district and the district's proportionate share of outstanding regional debt. If a district uses a state approved alternative finance system for processing its detailed transactions or transfers to another region, the district is liable for its contracted proportionate share of the outstanding regional debt. The district is not liable for any additional outstanding regional debt that occurs after written notice is given to transfer or use an alternative finance system. ~~In no event shall the annual fee of a district participating in a state pilot program of an alternative financial management information system exceed the annual fee chargeable to the district in the absence of the pilot program.~~ A regional management information center must not charge a district for transferring the district's summary financial data and essential data elements to the state. The regional management information center may charge the district for any service it provides to, or performs on behalf of, a district to render the data in the proper format for reporting to the state.

Sec. 2. Minnesota Statutes 1988, section 123.58, subdivision 6, is amended to read:

Subd. 6. [DUTIES AND POWERS OF ECSU BOARD OF DIRECTORS.] The board of directors shall have authority to maintain and operate an ECSU. Subject to the availability of necessary resources, the powers and duties of this board shall include the following:

(a) The board of directors shall submit within 90 days after the filing of the initial petition with the state board of education and by June 1 of each year thereafter to the state board of education and to each participating school district an annual plan which describes the objectives and procedures to be implemented in assisting in resolution of the educational needs of the ECSU. In formulating the plan the board is encouraged to consider: (1) the number of dropouts of school age in the ECSU area and the reasons for the dropouts; (2) existing programs within participating districts for dropouts and

potential dropouts; (3) existing programs of the ECSU for dropouts and potential dropouts and (4) program needs of dropouts and potential dropouts in the area served by the ECSU.

(b) The ECSU board of directors may provide adequate office, service center, and administrative facilities by lease, purchase, gift, or otherwise, subject to the review of the state board of education as to the adequacy of the facilities proposed.

(c) The ECSU board of directors may employ a central administrative staff and other personnel as necessary to provide and support the agreed upon programs and services. The board may discharge staff and personnel pursuant to provisions of law applicable to independent school districts. ECSU staff and personnel may participate in retirement programs and any other programs available to public school staff and personnel.

(d) The ECSU board of directors may appoint special advisory committees composed of superintendents, central office personnel, building principals, teachers, parents and lay persons.

(e) The ECSU board of directors may employ service area personnel pursuant to licensure standards developed by the state board of education and the board of teaching.

(f) The ECSU board of directors may enter into contracts with school boards of local districts including school districts outside the ECSU area.

(g) The ECSU board of directors may enter into contracts with other public and private agencies and institutions which may include, but are not limited to, contracts with Minnesota institutions of higher education to provide administrative staff and other personnel as necessary to furnish and support the agreed upon programs and services.

(h) The ECSU board of directors shall exercise all powers and carry out all duties delegated to it by participating local school districts under provisions of the ECSU bylaws. The ECSU board of directors shall be governed, when not otherwise provided, by the provisions of law applicable to independent school districts of the state.

(i) The ECSU board of directors shall submit an annual evaluation report of the effectiveness of programs and services to the school districts and nonpublic school administrative units within the ECSU and the state board of education by September 1 of each year following the school year in which the program and services were provided.

(j) The ECSU board is encouraged to establish cooperative, working relationships with post-secondary educational institutions in the state.

(k) The ECSU board of directors may issue certificates of indebtedness or notes subject to the requirements of sections 124.71 to 124.76.

Sec. 3. Minnesota Statutes 1988, section 124.71, subdivision 1, is amended to read:

Subdivision 1. School district as used in sections 124.71 to 124.76 means any school district in the state of Minnesota, however organized and wherever located. For the purpose of aid anticipation borrowing, school district, as used in sections 124.71 to 124.76, means education cooperative service unit, as defined in section 123.58.

Sec. 4. Minnesota Statutes 1988, section 126.56, subdivision 4, is amended to read:

Subd. 4. [ELIGIBLE PROGRAMS INSTITUTIONS.] A scholarship may be used only for an eligible program. An eligible program shall be approved by the state board of education. An eligible program shall be sponsored by at an eligible institution. A Minnesota public post-secondary institution is an eligible institution. A private post-secondary institution that is eligible if it:

- (1) is accredited by the North Central Association of Colleges;
- (2) offers at least an associate or baccalaureate degree program approved under section 136A.65, subdivision 1; and
- (3) is located in Minnesota.

An eligible program shall, as its primary purpose, provide academic instruction for student enrichment in curricular areas including, but not limited to, communications, humanities, social studies, social science, science, mathematics, art, or foreign language. The program shall not be offered for credit to post-secondary students. It shall not provide remedial instruction. Additional requirements for eligibility may be established by the state board of education and the higher education coordinating board.

Sec. 5. Minnesota Statutes 1988, section 126.56, is amended by adding a subdivision to read:

Subd. 4a. [ELIGIBLE PROGRAMS.] A scholarship may be used only for an eligible program. To be eligible, a program must:

(1) provide, as its primary purpose, academic instruction for student enrichment in curricular areas including, but not limited to, communications, humanities, social studies, social science, science, mathematics, art, or foreign languages;

(2) not be offered for credit to post-secondary students;

(3) not provide remedial instruction;

(4) meet any other program requirements established by the state board of education and the higher education coordinating board; and

(5) be approved by the state board of education.

#### Sec. 6. [APPROPRIATION.]

Subdivision 1. [HIGHER EDUCATION COORDINATING BOARD.] The sums indicated in this section are appropriated from the general fund to the higher education coordinating board for the fiscal years designated.

Subd. 2. [SUMMER PROGRAM SCHOLARSHIPS.] For scholarship awards for 1990 and 1991 summer programs, according to Minnesota Statutes, section 126.56:

\$214,000        : : : : :        1990

\$214,000        : : : : :        1991

Of this appropriation, the amount required may be used for the higher education coordinating board's cost of administering the program.

#### Sec. 7. [APPROPRIATIONS.]

Subdivision 1. [BOARD OF TEACHING.] The sums indicated in this section are appropriated from the general fund to the board of teaching for the fiscal years designated. Any unexpended balance from the appropriations in this section in the first year does not cancel and is available for the second year.

Subd. 2. [ASSESSMENT OF TEACHER PERFORMANCE.] For designing an assessment procedure for the plan required in Laws 1985, First Special Session chapter 12, article 8, section 48:

\$166,000        : : : : :        1990

\$166,000        : : : : :        1991

Subd. 3. [EXEMPLARY TEACHER EDUCATION PROGRAM.] For development of exemplary teacher education programs under Minnesota Statutes, section 126.81, and dissemination and replication of program models:

\$135,000        .....        1990

\$135,000        .....        1991

Subd. 4. [TEACHER CENTERS.] For grants to develop plans for establishing and operating teacher centers:

\$100,000        .....        1990

\$100,000        .....        1991

Sec. 8. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [TEACHER MENTORSHIP.] For grants to develop mentoring programs in school districts according to Minnesota Statutes, section 125.231:

\$250,000        .....        1990

\$250,000        .....        1991

Any unexpended balance in the first year does not cancel and is available for the second year.

Subd. 3. [ADMINISTRATOR'S ACADEMY.] For the administrator's academy:

\$168,000        .....        1990

\$168,000        .....        1991

\$24,000 must be used each year for the school management assessment center at the University of Minnesota.

Subd. 4. [OFFICE ON TRANSITION SERVICES.] For the inter-agency office on transition service under Minnesota Statutes, section 120.183:

\$80,000        .....        1990

\$80,000        .....        1991

Subd. 5. [EDUCATIONAL COOPERATIVE SERVICE UNITS.] For educational cooperative service units:

\$749,000        .....        1990

\$749,000        .....        1991

The 1990 appropriation includes \$113,000 for 1989 and \$636,000 for 1990.

The 1991 appropriation includes \$113,000 for 1990 and \$636,000 for 1991.

Subd. 6. [MANAGEMENT INFORMATION CENTERS.] For management information centers according to Minnesota Statutes, section 121.935, subdivision 5:

\$5,319,000        .....        1990

\$5,319,000        .....        1991

Subd. 7. [STATE PER ASSISTANCE.] For state assistance for planning, evaluating, and reporting:

\$601,000        .....        1990

\$601,000        .....        1991

Subd. 8. [EDUCATIONAL EFFECTIVENESS.] For educational effectiveness programs according to Minnesota Statutes, sections 121.608 and 121.609:

\$600,000        .....        1990

\$600,000        .....        1991

Subd. 9. [CURRICULUM AND TECHNOLOGY INTEGRATION.] For curriculum and technology integration services:

\$722,000        .....        1990

\$722,000        .....        1991

Subd. 10. [TECHNOLOGY INFORMATION DISSEMINATION.] To collect and disseminate information on emerging uses of technologies in education:

\$20,000        .....        1990

\$20,000        .....        1991

Subd. 11. [COMPREHENSIVE ARTS PLANNING PROGRAM.] For the technical assistance for the comprehensive arts planning program according to Minnesota Statutes, section 129B.21:

\$38,000        .....        1990

\$38,000        .....        1991

Subd. 12. [ACADEMIC EXCELLENCE FOUNDATION.] For the academic excellence foundation under Minnesota Statutes, section 121.612:

\$175,000        .....        1990

\$175,000        .....        1991

Sec. 9. [APPROPRIATION.]

Subdivision 1. [STATE UNIVERSITY BOARD.] The sums indicated in this section are appropriated from the general fund to the state university board for the fiscal years designated.

Subd. 2. [FACULTY EXCHANGE.] For expenses incurred by elementary and secondary teachers participating in the faculty education exchange:

\$25,000        .....        1990

The appropriation is available until June 30, 1991.

Sec. 10. [APPROPRIATION.]

Subdivision 1. [BOARD OF REGENTS.] The sums indicated in this section are appropriated from the general fund to the board of regents of the University of Minnesota for the fiscal years designated.

Subd. 2. [FACULTY EXCHANGE.] For expenses incurred by elementary and secondary teachers participating in the faculty education exchange:

\$25,000        .....        1990

The appropriation is available until June 30, 1991.

Sec. 11. [REPEALER.]

Laws 1988, chapter 718, article 5, section 4, is repealed.

ARTICLE 12  
STATE AGENCIES

Section 1. Minnesota Statutes 1988, section 43A.08, subdivision 1a, is amended to read:

Subd. 1a. [ADDITIONAL UNCLASSIFIED POSITIONS.] Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the departments of administration; agriculture; commerce; corrections; jobs and training; education; employee relations; trade and economic development; finance; health; human rights; labor and industry; natural resources; office of administrative hearings; public safety; public service; human services; revenue; transportation; and veterans affairs; the housing finance, state planning, and pollution control agencies; the state board of investment; the waste management board; the offices of the secretary of state, state auditor, and state treasurer; the state board of vocational technical education; the ~~school and~~ Minnesota resource center for the arts education; and the Minnesota zoological board.

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

(1) the designation of the position would not be contrary to other law relating specifically to that agency;

(2) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;

(3) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;

(4) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;

(5) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with the governor and the agency head, or the employing constitutional officer;

(6) the position would be at the level of division or bureau director or assistant to the agency head; and

(7) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.



Sec. 2. Minnesota Statutes 1988, section 128A.09, is amended to read:

128A.09 [SERVICE, SEMINAR, AND CONFERENCE FEES.]

Subdivision 1. [~~DEPOSIT; CREDIT RENTAL INCOME; APPROPRIATION.~~] Fees and Rental income, excluding rent for land and living residences, collected by the academies for services, seminars, and conferences must be deposited in the state treasury and credited to the a revolving fund of the academies. Money in the revolving fund for rental income is annually appropriated to the academies for staff development purposes. Payment from the revolving fund for rental income may be made only according to vouchers authorized by the administrator of the academies.

Subd. 2. [ADMINISTRATOR'S VOUCHERS FEES; APPROPRIATION.] Payment may be made from the revolving fund only according to vouchers authorized by the administrator of the academies. Income from fees for conferences, seminars, nondistrict technical assistance, and production of instructionally-related materials must be deposited in the state treasury and credited to a revolving fund of the academies. Money in the revolving fund for fees from conferences, seminars, nondistrict technical assistance, and production of instructionally-related materials is annually appropriated to the academies to defray expenses of the services conferences, seminars, technical assistance, and conferences production of materials. Payment from the revolving fund for conferences and other fees may be made only according to vouchers authorized by the administrator of the academies.

Sec. 3. Minnesota Statutes 1988, section 129C.10, is amended to read:

129C.10 [MINNESOTA SCHOOL AND RESOURCE CENTER FOR THE ARTS EDUCATION.]

Subdivision 1. [GOVERNANCE.] The board of the Minnesota school and resource center for the arts education shall consist of 15 persons. The members of the board shall be appointed by the governor with the advice and consent of the senate. At least one member must be appointed from each congressional district.

Subd. 2. [TERMS, COMPENSATION, AND OTHER.] The membership terms, compensation, removal of members, and filling of vacancies shall be as provided for in section 15.0575. A member may serve not more than two consecutive terms.

Subd. 3. [POWERS AND DUTIES OF BOARD.] (a) The board has the powers necessary for the care, management, and control of the Minnesota school and resource center for the arts education and all

its real and personal property. The powers shall include, but are not limited to, those listed in this subdivision.

(b) The board may employ and discharge necessary employees, and contract for other services to ensure the efficient operation of the school and resource center.

(c) The board may establish a charitable foundation and accept, in trust or otherwise, any gift, grant, bequest, or devise for educational purposes and hold, manage, invest, and dispose of them and the proceeds and income of them according to the terms and conditions of the gift, grant, bequest, or devise and its acceptance.

(d) The board may establish or coordinate evening, continuing education, extension, and summer programs through the resource center for teachers and pupils.

(e) The board may identify pupils in grades 9 to 12 who have artistic talent, either demonstrated or potential, in dance, literary arts, media arts, music, theater, and visual arts, or in more than one art form.

(f) The board shall educate pupils with artistic talent by providing:

(1) a pilot interdisciplinary academic and arts program for pupils in the 11th and 12th grades, beginning with 135 pupils in the 11th grade in September 1989, and 135 pupils in the 11th grade and 135 pupils in the 12th grade in September 1990;

(2) (1) intensive arts seminars for one or two weeks for 9th and 10th to 12th grade pupils;

(3) (2) summer arts institutes for pupils in grades 9 to 12;

(4) (3) artist mentor and extension programs in regional sites; and

(5) (4) teacher education programs for indirect curriculum delivery.

(g) The board may determine the location for the Minnesota school and resource center for the arts and any additional facilities related to the school, including the authority to lease a temporary facility education and related facilities.

(h) The board must plan for the enrollment of pupils on an equal basis from each congressional district.

(i) (h) The board may establish task forces as needed to advise the board on policies and issues. The task forces expire as provided in section 15.059, subdivision 6.

(+) (i) The board may request the commissioner of education for assistance and services.

(\*) (j) The board may enter into contracts with other public and private agencies and institutions for residential and building maintenance services if it determines that these services could be provided more efficiently and less expensively by a contractor than by the board itself. The board may also enter into contracts with public or private agencies and institutions, school districts or combinations of school districts, or educational cooperative service units to provide supplemental educational instruction and services.

(+) The board may provide or contract for services and programs by and for the arts high school, including a school store, operating in connection with the school; theatrical events; and other programs and services that, in the determination of the board, serve the purposes of the arts high school.

(\*) (k) The board may provide for transportation of pupils to and from the school and resource center for the arts for all or part of the school year education, as the board considers advisable and subject to its rules. Notwithstanding any other law to the contrary, the board may charge a reasonable fee for transportation of pupils. Every driver providing transportation of pupils under this paragraph must possess all qualifications required by the state board of education. The board may contract for furnishing authorized transportation under rules established by the commissioner of education and may purchase and furnish gasoline to a contract carrier for use in the performance of a contract with the board for transportation of pupils to and from the school and resource center for the arts education. When transportation is provided, scheduling of routes, establishment of the location of bus stops, the manner and method of transportation, the control and discipline of pupils, and any other related matter is within the sole discretion, control, and management of the board.

(\*) (l) The board may provide room and board for its pupils.

(\*) (m) The board may establish and set fees for services and programs without regard to chapter 14. If the board sets fees not authorized or prohibited by the Minnesota public school fee law, it may do so without complying with the requirements of section 120.75, subdivision 1.

Subd. 3a. [ARTS HIGH SCHOOL RESOURCE CENTER FOR ARTS EDUCATION FUND APPROPRIATION.] There is established in the state treasury an arts high school a resource center for arts education fund. All money collected by the board shall be deposited in the fund. Money in the fund, including interest earned, is annually appropriated to the board for the operation of its services and programs.

Subd. 4. [EMPLOYEES.] (a)(1) The board shall appoint a director of the school and resource center for the arts education who shall serve in the unclassified service.

(2) The board shall employ, upon recommendation of the director, a coordinator of the resource center who shall serve in the unclassified service.

(3) (2) The board shall employ, upon recommendation of the director, up to six department chairs who shall serve in the unclassified service. The chairs shall be licensed teachers unless no licensure exists for the subject area or discipline for which the chair is hired.

(4) (3) The board may employ other necessary employees, upon recommendation of the director.

(5) (4) The board shall employ, upon recommendation of the director, an executive secretary for the director, who shall serve in the unclassified service.

(b) The employees hired under this subdivision and other necessary employees hired by the board shall be state employees in the executive branch.

Subd. 4a. [ADMISSION AND CURRICULUM REQUIREMENTS GENERALLY.] (a) The board may adopt rules for admission to and discharge from the school and rules regarding the operation of the school and resource center, including transportation of its pupils. Rules covering admission and discharge are governed by chapter 14. Rules regarding the operation of the school are not governed by chapter 14.

(b) Proceedings concerning admission to or discharge from the school, a pupil's program at the school, and a pupil's progress at the school are governed by the rules adopted by the board and are not contested cases governed by chapter 14.

Subd. 5. [RESOURCE CENTER.] The resource center shall offer programs that are directed at improving arts education in elementary and secondary schools throughout the state. The programs offered shall include at least summer institutes offered to pupils in various regions of the state, in-service workshops for teachers, and leadership development programs for teachers. The board shall establish a resource center advisory council composed of elementary and secondary arts educators, representatives from post-secondary educational institutions, department of education, state arts board, regional arts councils, educational cooperative service units, school district administrators, parents, and other organizations involved in arts education. The advisory council shall include representatives

from a variety of arts disciplines and from various areas of the state. The advisory council shall advise the board about the activities of the center. Programs offered through the resource center shall promote and develop arts education programs offered by school districts and arts organizations and shall assist school districts and arts organizations in developing innovative programs. The board may contract with arts organizations to provide programs through the resource center. The advisory council shall advise the board on contracts and programs related to the operation of the resource center.

Subd. 6. [PUBLIC POST-SECONDARY INSTITUTIONS; PROVIDING SPACE.] Public post-secondary institutions shall provide space for programs offered by the Minnesota school and resource center for the arts education at no cost to the Minnesota school and resource center for the arts education to the extent that space is available at the public post-secondary institutions.

#### Sec. 4. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund, unless otherwise indicated, to the department of education for the fiscal years designated.

The approved complement is:

	<u>1990</u>	<u>1991</u>
<u>State</u>	<u>262.5</u>	<u>263.5</u>
<u>Federal</u>	<u>128.1</u>	<u>129.1</u>
<u>Other</u>	<u>28.1</u>	<u>28.1</u>
<u>Total</u>	<u>418.7</u>	<u>420.7</u>

The commissioner of education, with the approval of the commissioner of finance, may transfer unencumbered balances among the programs during the biennium. Transfers must be reported immediately to the house education finance division and the senate education funding division. During the biennium, the commissioner may transfer money among the various objects of expenditure categories and activities within each program, unless restricted by executive order.

The commissioner of education, with the approval of the commissioner of finance, may transfer complement among funds if necessary. The commissioner must report material changes to the house

education finance division and the senate education funding division.

Subd. 2. [EDUCATIONAL SERVICES.]

\$7,400,000       .....       1990

\$7,407,000       .....       1991

\$21,000 each year is from the trunk highway fund.

\$100,000 each year is from the alcohol-impaired driver account.

The federal complement of the community education section is increased by 3.0.

The federal complement of the institutional approval section recognizes a reduction of 0.3 from the 1989 base.

The state complement of the equal educational opportunities section is reduced by 0.5 and the federal complement for the section recognizes a reduction of 1.0 from the 1989 base.

The state complement of the Indian education section is increased by 4.0 and the federal complement recognizes a reduction of 4.0 from the 1989 base.

The state complement of the assessment section is increased by 4.5 and the federal complement recognizes a reduction of 2.5 from the 1989 base.

The federal complement of the curriculum services section is increased by 2.0.

The federal complement of the special education section is increased by 1.0 in 1991.

The state complement includes 2.0 for the office of restructuring and the federal complement includes 3.0 for the office of restructuring.

Subd. 3. [ADMINISTRATION AND FINANCIAL SERVICES.]

\$9,212,000       .....       1990

\$9,050,000       .....       1991

The state complement of the education finance and analysis section is increased by 2.0 for processing pupil enrollment transfers.

The state complement of the education data systems section is increased by 8.0 in 1990 and 1.0 additional in 1991. The federal complement recognizes a reduction of 6.0 from the 1989 base.

\$1,988,000 in 1990 and \$1,824,000 in 1991 are for the education data systems section. \$15,000 each year of these amounts are for the expenses of the ESV computer council. Any unexpended balance remaining in the first year does not cancel and is available for the second year.

The child nutrition section is reduced by \$30,000 each year.

\$14,000 each year is for internal audit.

The commissioner shall maintain no more than five total complement in the categories of commissioner, deputy commissioner, assistant commissioner, assistant to the commissioner, or executive assistant.

The state complement for the executive management section is reduced by 2.0. This reduction includes the position of assistant commissioner for management effectiveness.

The state complement for the administrative support section is increased by 2.5 including 0.5 for affirmative action and 2.0 for publications. The federal complement recognizes a reduction of 3.5 from the 1989 base.

The state complement of the Minnesota academic excellence foundation is increased by 0.5.

\$168,000 each year is for the state board of education. The state complement for the state board is increased by 1.0.

#### Sec. 5. [FARIBAULT ACADEMIES APPROPRIATION.]

The sums indicated in this section are appropriated to the department of education for the Faribault Academies:

\$7,123,000        .....        1990

\$7,123,000        .....        1991

\$115,000 each year is for an extended year program.

Any unexpended balance in the first year does not cancel and is available for the second year.

The approved complement is:

	<u>1990</u>	<u>1991</u>
<u>State</u>	<u>185.6</u>	<u>185.6</u>
<u>Federal</u>	<u>8.0</u>	<u>8.0</u>
<u>Total</u>	<u>193.6</u>	<u>193.6</u>

Sec. 6. [RESOURCE CENTER FOR ARTS EDUCATION APPROPRIATION.]

The sums indicated in this section are appropriated from the general fund to the resource center for arts education for the fiscal years designated:

\$2,708,000      : : : :      1990

\$2,708,000      : : : :      1991

The approved complement is:

	<u>1990</u>	<u>1991</u>
<u>State</u>	<u>15.0</u>	<u>15.0</u>
<u>Total</u>	<u>15.0</u>	<u>15.0"</u>

Delete the title and insert:

"A bill for an act relating to education; providing for general education revenue, transportation, special programs, community education, school facilities and equipment, education organization and cooperation, access to education excellence, school breakfast programs, sexual harassment and violence policies, parental involvement programs, libraries, state education agencies and education agency services, providing for limits on open enrollment and post-secondary options; appropriating money; amending Minnesota Statutes 1988, sections 43A.08, subdivision 1a; 120.06, by adding a subdivision; 120.062, subdivisions 4, 6, and by adding a subdivision; 120.17, subdivisions 3, 3b, and by adding a subdivision; 121.88, subdivisions 2 and 5; 121.882, subdivisions 2 and 4; 121.904, subdivision 4a; 121.908, subdivision 5; 121.912, subdivision 1; 121.935, subdivision 6; 122.23, by adding a subdivision; 122.43, subdivision 1; 122.532, subdivision 4; 122.541, subdivision 5; 122.91; 122.92; 122.93, subdivision 2, and by adding subdivisions; 122.94, subdivision 1, and by adding a subdivision; 122.95, subdivision 2, and by adding a subdivision; 123.3514, subdivisions 2, 4, 4c, 5, 7, and 10; 123.39, by adding a subdivision; 123.58, subdivision 6; 123.702, subdivisions 1, 1a, 2, 3, 4, and by adding subdivisions;



123.703, by adding subdivisions; 123.705, subdivision 1, and by adding a subdivision; 124.17, subdivision 1b; 124.19, subdivision 5; 124.195, subdivision 8; 124.223; 124.225; 124.243, subdivision 3, and by adding a subdivision; 124.244, subdivision 2; 124.245, subdivision 3b; 124.26, by adding a subdivision; 124.261; 124.271, by adding subdivisions; 124.2711, subdivisions 1, 3, 4, and by adding a subdivision; 124.2721; 124.273, subdivision 1b; 4, 5, 7, and by adding a subdivision; 124.32, subdivisions 1b, 1d, and by adding a subdivision; 124.43, subdivision 1, and by adding a subdivision; 124.494, subdivision 2; 124.573, subdivision 2b, and by adding subdivisions; 124.574, subdivisions 1, 4, and 5; 124.575, subdivision 3; 124.71, subdivision 1; 124.83, subdivisions 3, 4, and 6; 124A.02, by adding a subdivision; 124A.03, subdivision 2; 124A.035, subdivisions 2 and 4; 124A.036, by adding a subdivision; 124A.22, subdivisions 2, 4, and 9; 124A.23, subdivision 1; 124A.28, subdivision 1; 124A.31; 126.151, subdivision 2; 126.23; 126.56, subdivision 4, and by adding a subdivision; 126.67, subdivision 8; 128A.09; 129.121, by adding a subdivision; 129C.10; 134.33, subdivision 1; 134.34, subdivisions 1, 2, 3, and 4; 134.35, subdivision 5; 136D.27, subdivision 1; 136D.74, subdivision 2; 136D.87, subdivision 1; 141.35; 275.125, subdivisions 5, 5b, 5c, 5e, 8, 8b, 8c, 8e, 11d, and by adding a subdivision; 354.094, subdivisions 1 and 2; 354.66, subdivision 4; 354A.091, subdivisions 1 and 2; 354A.094, subdivision 4; and 363.06, subdivision 3; Laws 1988, chapter 718, article 7, section 61, subdivisions 1, 2, and 3; proposing coding for new law in Minnesota Statutes, chapters 122; 124; 124A; 126; 127; 275; and 363; repealing Minnesota Statutes 1988, sections 120.062, subdivision 8; 123.702, subdivisions 1a, 5, 6, and 7; 124.217; 124.243, subdivision 4; 124.271, subdivision 26; 129B.11; 129B.48; 134.33, subdivision 1; 134.34, subdivision 5; and 275.125, subdivision 6f; Laws 1988, chapter 718, article 5, section 4."

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

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 839, A bill for an act relating to retirement; excluding members of the Columbia Heights fire department from membership in the public employees retirement association; providing for refunds.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
VOLUNTEER FIRE

Section 1. Minnesota Statutes 1988, section 423A.01, subdivision 2, is amended to read:

Subd. 2. [OPERATION OF LOCAL RELIEF ASSOCIATION UPON MODIFICATION OF RETIREMENT COVERAGE FOR NEWLY HIRED POLICE OFFICERS AND FIREFIGHTERS.] The following provisions shall govern the operation of a local relief association upon the modification of retirement coverage for newly hired police officers or firefighters:

(1) The minimum obligation of a municipality in which the retirement coverage for newly hired police officers or salaried firefighters has been modified pursuant to subdivision 1 with respect to the local relief association shall be determined and governed in accordance with the provisions of sections 69.77, 356.215 and 356.216, except that the normal cost calculation for the relief association shall be computed as a percentage of the compensation paid to the active members of the relief association. The compensation paid to persons with retirement coverage modified pursuant to subdivision 1 shall not be included in any of the computations made in determining the obligation of the municipality with respect to the local relief association.

(2) The contribution rate of members of the local relief association shall be governed by section 69.77, unless a special law establishing a greater member contribution rate is applicable whereupon it shall continue to govern. The member contribution rate of persons with retirement coverage modified pursuant to subdivision 1 shall be governed by section 353.65.

(3) Unless otherwise provided for by law, when every active member of the local relief association retires or terminates from active duty, the local relief association shall cease to exist as a legal entity and the assets of the special fund of the relief association shall be transferred to a trust fund to be established by the appropriate municipality for the purpose of paying service pensions and retirement benefits to recipient beneficiaries. Recipient beneficiaries who are competent to act on their own behalf shall be entitled to select the prescribed number of trustees of the trust fund as provided in this clause, subject to the approval of the governing body of the municipality. If there are at least five recipient beneficiaries, the trust fund shall be managed by a board of trustees composed of five persons selected by the recipient beneficiaries of the fund. When there are fewer than five recipient beneficiaries, the number of trustees selected by the recipient beneficiaries shall be equal to the number of the remaining recipient beneficiaries. The governing

body of the municipality shall select the additional trustees. The term of the elected members of the board of trustees shall be indefinite and shall continue until a vacancy occurs in one of the board of trustee member positions. Board of trustee members shall not be compensated for their services, but shall be reimbursed for any expenses actually and necessarily incurred as a result of the performance of their duties in their capacity as board of trustee members. The municipality shall perform whatever services are necessary to administer the trust fund. When all obligations of the trust fund are paid, the balance of the assets remaining in the trust fund shall revert to the municipality for expenditure for law enforcement or firefighting purposes, whichever is applicable.

(4) The financial requirements of the trust fund and the minimum obligation of the municipality with respect to the trust fund shall be determined in accordance with sections 69.77, 356.215 and 356.216 until the unfunded accrued liability of the trust fund is fully amortized in accordance with section 69.77, subdivision 2b. The municipality shall provide in its annual budget for at least the aggregate amount of service pensions, disability benefits, survivorship benefits and refunds which are projected as payable for the following calendar year, as determined by the board of trustees of the trust fund, less the amount of assets in the trust fund as of the end of the most current calendar year for which figures are available, valued pursuant to section 356.20, subdivision 4, clause (1)(a), if the difference between those two figures is a positive number.

(5) In calculating the amount of service pensions and other retirement benefits payable from the local relief association and in calculating the amount of any automatic post retirement increases in those service pensions and retirement benefits based on the salary paid or payable to active members or escalated in any fashion, the salary for use as the base for the service pension or retirement benefit calculation and the post retirement increase calculation for the local relief association shall be the salary for the applicable position as specified in the articles of incorporation or bylaws of the relief association as of the date immediately prior to the effective date of the modification of retirement coverage for newly hired personnel pursuant to subdivision 1, as the applicable salary is reset by the municipality periodically, irrespective of whether retirement coverage for persons holding the applicable position used in calculations is provided by the relief association or by the public employees police and fire fund. If for a local salaried firefighters relief association, the specified position no longer exists because of a reorganization of the fire department as a volunteer fire department, the percentage increase in the salary of the position of a top grade patrol officer in the police department of the municipality must be the basis for service pension and retirement benefit postretirement increase calculations.

(6) If the modification of retirement coverage implemented pursu-

ant to subdivision 1 is applicable to a local police relief association, the police state aid received by the municipality shall be disbursed pursuant to section 69.031, subdivision 5, clause (2)(c). If the modification of retirement coverage implemented pursuant to subdivision 1 is applicable to a local firefighters' relief association, the fire state aid received by the applicable municipality shall be disbursed as the municipality at its option may elect. The municipality may elect: (a) to transmit the total fire state aid to the treasurer of the local relief association for immediate deposit in the special fund of the relief association; or (b) to apply the total fire state aid toward the employer contribution of the municipality to the public employees police and fire fund pursuant to section 353.65, subdivision 3; or (c) to allocate the total fire state aid proportionately between the special fund of the local relief association and employer contribution of the municipality to the public employees police and fire fund on the basis of the respective number of active full time salaried firefighters receiving retirement coverage from each.

Sec. 2. Minnesota Statutes 1988, section 424A.01, subdivision 2, is amended to read:

Subd. 2. [STATUS OF SUBSTITUTE OR PROBATIONARY VOLUNTEER FIREFIGHTERS.] No person who is serving as a substitute or a probationary volunteer firefighter shall be deemed to be a firefighter for purposes of chapter 69 or this chapter nor shall be authorized to be a member of any volunteer firefighters' relief association governed by chapter 69 or this chapter.

Sec. 3. Minnesota Statutes 1988, section 424A.02, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] Any A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches the age of 50 years; (3) completes at least ten five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least ten five years of active membership with the relief association prior to before separation from active service; and (5) complies with any additional conditions as to age, service, and membership which that are prescribed by the bylaws of the relief association. The service pension may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for fire state aid under chapter 69. In the case of a member who has completed at least ten five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least ten five years of active membership with the relief association prior to before separation from active

service may be waived by the board of trustees of the relief association if the member completes at least ~~ten~~ five years of inactive membership with the relief association ~~prior to before~~ the payment of the service pension. During the period of inactive membership, the member ~~shall~~ is not be entitled to receive ~~any~~ disability benefit coverage, ~~shall~~ is not be entitled to receive ~~any~~ additional service credit towards computation of a service pension, and ~~shall be deemed is considered~~ is considered to have the status of a person entitled to a deferred service pension ~~pursuant to under~~ subdivision 7.

No municipality or nonprofit firefighting corporation is ~~autho-~~ authorized to may delegate the power to take final action in setting a service pension or ancillary benefit amount or level to the board of trustees of the relief association or to approve in advance a service pension or ancillary benefit amount or level equal to the maximum amount or level ~~which~~ that this chapter would allow rather than a specific dollar amount or level.

No relief association as defined in section 424A.001, subdivision 4, ~~shall may~~ pay a service pension or disability benefit to ~~any~~ a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated.

For the purposes of this chapter, "to separate from active service" means to cease to perform fire suppression duties and to cease to supervise fire suppression duties.

Sec. 4. Minnesota Statutes 1988, section 424A.02, subdivision 2, is amended to read:

Subd. 2. [NONFORFEITABLE PORTION OF SERVICE PENSION.] If the articles of incorporation or bylaws of a relief association so provide, a relief association may pay a reduced service pension to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 1.

The amount of the reduced service pension ~~shall~~ may not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the bylaws times the applicable nonforfeitable percentage of pension. The ~~applicable~~ nonforfeitable percentage of pension amounts are as follows:

Completed Years of Service	Nonforfeitable Percentage of Pension Amount
5	40 percent
6	44 percent
7	48 percent
8	52 percent
9	56 percent
10	60 percent
11	64 percent
12	68 percent
13	72 percent
14	76 percent
15	80 percent
16	84 percent
17	88 percent
18	92 percent
19	96 percent
20 and thereafter	100 percent

Sec. 5. Minnesota Statutes 1988, section 424A.02, subdivision 7, is amended to read:

Subd. 7. [DEFERRED SERVICE PENSIONS.] A member of a relief association to which this section applies is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least ~~ten~~ five years of active membership in the relief association; and

(3) separates from active service and membership ~~prior to~~ before reaching the age of 50 years or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than the age of 50 years. The deferred service pension ~~shall commence~~ starts when the former member reaches the age of 50 years or the minimum age specified in the bylaws governing the relief association if that age is greater than the age of 50 years and when the former member makes a valid written application. ~~Any A~~ relief association which that provides a lump sum service pension may, when its governing bylaws so provide, pay interest on the deferred lump sum service pension during the period of deferral. If provided for, interest ~~shall~~ must be paid at the rate actually earned by the relief association, but not to exceed the interest rate specified in section 356.215, subdivision 4d, and ~~shall~~ must be compounded annually based on calendar year balances. The deferred service pension ~~shall be~~ is governed by and ~~shall~~ must be calculated ~~pursuant to any under the~~ general statute, special law, relief association articles of incorpora-

tion, or relief association bylaw provisions applicable as of on the date on which the member separated from active service with the fire department and active membership in the relief association.

Sec. 6. Minnesota Statutes 1988, section 424A.02, subdivision 13, is amended to read:

Subd. 13. [COMBINED SERVICE PENSIONS.] If the articles of incorporation or bylaws of the associations so provide, a volunteer firefighter with total service credit of ten years or more, if every affected relief association does not require only a five-year service vesting requirement, or five years or more, if every affected relief association requires only a five-year service vesting requirement, as a member of two or more relief associations is entitled, when otherwise qualified, to a prorated service pension from each association in which the member has two years one year or more of service credit. The prorated service pension must be based on the service pension amount in effect for the relief association on the date volunteer firefighting services covered by that relief association terminate. To receive a service pension under this subdivision, the firefighter must become a member of the second or succeeding association and give notice of membership to the prior association within two years of termination of active service with the prior association. The notice must be attested to by the association secretary.

Sec. 7. Minnesota Statutes 1988, section 424A.10, is amended to read:

424A.10 [STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.]

Subdivision 1. [DEFINITION.] For purposes of this section, "qualified recipient" means an individual who receives an involuntary a lump sum distribution of pension or retirement benefits from a firefighters' relief association for service performed as a volunteer firefighter.

Subd. 2. [PAYMENT OF SUPPLEMENTAL BENEFIT.] Upon the payment by a firefighters' relief association of an involuntary a lump sum distribution to a qualified recipient, the association must pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary, the relief association may pay the supplemental benefit out of its special fund. The amount of this benefit equals ten percent of the regular involuntary lump sum distribution that is paid on the basis of service as a volunteer firefighter. In no case may the amount of the supplemental benefit exceed \$1,000.

Subd. 3. [STATE REIMBURSEMENT.] By February 15 of each year, the relief association shall apply to the commissioner of revenue for state reimbursement of the amount of supplemental

benefits paid under subdivision 2 during the preceding calendar year. By March 15 the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid to qualified recipients. The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement. The reimbursement payment must be deposited in the special fund of the relief association.

Subd. 4. [IN LIEU OF INCOME TAX EXCLUSION.] The supplemental benefit provided by this section is in lieu of the state income tax exclusion for involuntary lump sum distributions of retirement benefits paid to volunteer firefighters. If the law is modified to exclude or exempt volunteer firefighters' lump sum distributions from state income taxation, the supplemental benefits under this section may no longer be paid beginning with the first calendar year in which the exclusion or exemption is effective. This subdivision does not apply to exemption of all or part of a lump sum distribution under section 290.032 or 290.0802.

Sec. 8. [REPEALER.]

Minnesota Statutes 1988, section 424A.01, subdivision 3a, is repealed.

ARTICLE 2

POLICE AND FIRE

Section 1. Minnesota Statutes 1988, section 353.64, is amended by adding a subdivision to read:

Subd. 9. [PENSION COVERAGE FOR CERTAIN SHERIFF'S ASSOCIATION EMPLOYEES.] A former member of the association who is an employee of the Minnesota sheriff's association may elect to be a police and fire fund member with respect to service with the sheriff's association, if written election to be covered is delivered to the board within 60 days after the effective date of this section or within 60 days after commencement of employment, whichever is later.

Employee and employer contributions for past service are the obligation of the employee, except that the Minnesota sheriff's association may pay the employer contributions. The employer shall, in any event, deduct necessary future contributions from the employee's salary and remit all contributions to the association as required by this chapter.



Persons who become association members under this section shall not be eligible for election to the board of trustees.

Sec. 2. Laws 1955, chapter 151, section 13, as amended by Laws 1963, chapter 271, section 7; Laws 1971, chapter 549, section 2; Laws 1980, chapter 600, section 14; and Laws 1983, chapter 47, section 1, is amended to read:

Sec. 13. The association shall pay a pension to the surviving spouse or any child under 18 years of age of any pensioned and retired member, or to the surviving spouse or any child under 18 years of age of any member who dies while in the service of the city police department, or to the surviving spouse or any child under 18 years of age of any member who, after being a member of the city police department for not less than 20 years, severs his or her connection with the department, and dies before attaining the age of 50 years. The association shall pay to any such surviving spouse a pension of 20 not less than  $22\frac{1}{2}$  units nor more than  $27\frac{1}{2}$  units per month, as the bylaws of the association provide, subject to Minnesota Statutes, section 69.77, subdivision 2i. The association shall pay to any such child under 18 years of age a pension of five units per month until the child attains the age of 18 years, provided, however, that if such child is married at the time of the death of the member or marries or becomes legally adopted after the death of the member, the child shall not be entitled to such benefits. If the surviving spouse and children reside together, the pension payable to the children shall be paid to the surviving spouse and shall be used for the support of the children. If a surviving spouse remarries, the pension immediately ceases and the association shall not make any further pension payments; provided further that if the remarriage terminates for any reason, the surviving spouse, whose benefit terminated solely because of remarriage, shall be entitled upon reapplication to a surviving spouse's benefit; provided, however, that such person shall not be entitled to retroactive payments for any period of time, prior to the effective date of this act or reapplication, whichever is later. For the purposes of this section, all provisions governing a child under 18 shall be extended to include a full time student under the age of 23.

Sec. 3. [AMENDMENT AUTHORIZED.]

Subdivision 1. [AUTHORIZATION.] Subject to Minnesota Statutes, section 69.77, subdivision 2i, the Mankato fire department relief association may amend its constitution and bylaws to provide for payment of disability benefits to active regular salaried firefighters who, because of medically determinable sickness or injury, are unable to perform their duties as firefighters, regardless of whether the sickness was caused in the performance of duty or the injury occurred while on duty.

Subd. 2. [REGULAR SALARIED FIREFIGHTER NONDUTY

DISABILITY BENEFIT AMOUNT.] The nonduty disability benefit for regular salaried firefighters must not exceed the amount of the duty disability benefit.

Sec. 4. Laws 1982, chapter 574, section 5, as amended by Laws 1985, chapter 261, section 16, is amended to read:

Sec. 5. [VIRGINIA POLICE; BENEFIT CHANGES FOR PARTICIPANTS.]

If the bylaws so authorize, the following changes shall be effective:

(a) The service pension payable to persons who retired from the police department on or before January 12, 1966, shall be supplemented by \$100 \$200 per month.

(b) For any participant who terminated employment after 20 ~~or more~~ years of service, the amount of the monthly service pension payable after the participant has attained the age of at least 50 years shall be equal to ~~one-half~~ 50 percent of the prevailing pay of a police officer of the rank and position held by the participant for a period of at least six months prior to termination of service, or to the rank and position most analogous thereto, plus an additional one percent for each full year of service in excess of 20 years to a maximum of 60 percent, payable by the police department in each month during which the retired participant receives a service pension.

(c) The amount of a monthly disability pension shall be equal to one-half of the prevailing pay of a police officer of the rank and position held by the participant for a period of at least six months prior to his or her disability or the rank and position most analogous thereto, payable by the police department in each month during the period of the participant's disability, subject to any integration of benefits. Disability pensions payable for disabilities incurred on or before January 11, 1967, are increased by \$100 per month.

(d) The benefit paid to the surviving spouse of a participant who died on or before January 11, 1967, shall be increased by \$50 \$100 per month, with benefits payable until the surviving spouse's death or remarriage.

(e) The benefit paid to a surviving child shall be increased to \$50 per child per month, subject to any limitation placed on the total amount of survivor's benefits.

Sec. 5. [MINNETONKA VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION; INCREASED NONFORFEITABLE SERVICE PENSION PERCENTAGE.]

Notwithstanding any provision of Minnesota Statutes, section

424A.02, subdivision 2, to the contrary, if the articles of incorporation or the bylaws of the relief association so provide, subject to Minnesota Statutes, section 424A.02, subdivision 10, the Minnetonka volunteer firefighters relief association may pay a service pension to a retiring member who meets the minimum age, service, and other requirements of Minnesota Statutes, section 424A.02, subdivision 1. The amount of the service pension is that portion of a service pension payable with 20 years of service that full years of service credited by the relief association bear to 20 years of service.

**Sec. 6. [EVELETH POLICE AND FIREFIGHTERS; BENEFIT INCREASE.]**

Notwithstanding any general or special law to the contrary, in addition to other benefits payable, retirement benefits payable to retired police officers and firefighters and their surviving spouses by the Eveleth police and fire trust fund may be increased by \$100 a month. Increases may be made retroactive to January 1, 1989.

**Sec. 7. [BLOOMINGTON VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION; DUTY DISABILITY BENEFIT.]**

Notwithstanding any provision of Minnesota Statutes, section 424A.02, subdivision 9, or any other law to the contrary, the Bloomington firefighters relief association may provide a duty disability benefit to a volunteer firefighter who:

(1) becomes disabled from a medically determinable injury or illness arising out of or occurring in the course of the line of duty;

(2) is not entitled to the immediate receipt of a service pension equal to the amount of a service pension payable to a retiring firefighter with 20 years of service; and

(3) complies with any other requirement specified in the bylaws of the association.

The duty disability benefit must be equal to the amount of the service pension payable to a retiring firefighter with 20 years of service.

A Bloomington volunteer firefighter who has received a duty-related disability benefit and who returns to active firefighting duties with the Bloomington fire department must accrue service credit towards a service pension for the period of the receipt of the duty-related disability benefit.

**Sec. 8. [NONDUTY DISABILITY BENEFIT.]**

The Bloomington firefighters relief association may provide a

volunteer firefighter who becomes disabled from an injury or illness not arising out of or not occurring in the course of the line of duty with a disability benefit as the bylaws of the relief association specify, subject to the provisions of Minnesota Statutes, section 424A.02, subdivision 9.

Sec. 9. Laws 1965, chapter 446, section 2, is amended to read:

Sec. 2. [DUTY-RELATED DEATH SURVIVOR BENEFITS.]

Notwithstanding Minnesota Statutes, section 424A.02, subdivision 9, or any other provision of law to the contrary and in lieu of the widows pension surviving spouse benefit provided in Minnesota Statutes, Section 424.24, the firemen's firefighters relief association in the city of Bloomington may provide a pension surviving spouse benefit to the widow surviving spouse of a volunteer fireman firefighter who dies as the result of an injury or illness arising out of or in the course of the line of duty, if the surviving spouse qualifies under the terms of Minnesota Statutes, Section 424.24, of not more than a sum. The surviving spouse benefit must not exceed an amount equal to one fourth of the salary as payable from time to time during the period of pension payment to policemen of the highest grade, not including officers of the police department, in the employ of the city, such pension to three-quarters of the amount of the service pension payable to a retiring firefighter with 20 years of service. The surviving spouse benefit must be paid as the bylaws of the association provide for her natural life; provided that if she remarries, such pension shall upon remarriage, the surviving spouse benefit must cease to accrue and terminate as of the date of her remarriage.

In event If there is a surviving child or there are surviving children of a deceased firefighter who suffered a duty-related death as provided in Minnesota Statutes, Section 424.24, the firemen's relief association of the city of Bloomington may provide for a pension of not more than four percent of the monthly salary as payable from time to time during the period of pension payment to policemen of the highest grade, not including officers of the department, in the employ of the city, surviving child benefit. The surviving child benefit must not exceed an amount equal to 12 percent of the amount of the service pension payable to a retiring firefighter with 20 years of service for each child up to the time each child reaches the age of not less than 16 years or more than 18 years as the bylaws of the association provide; provided, The total pension hereunder survivor benefits for the widow surviving spouse and children of the deceased member shall not exceed one third of the monthly salary of a policeman of the highest grade, not including officers of the police department, in the employ of the municipality the amount of the service pension payable to a retiring firefighter with 20 years of service during the period of the pension payment.

Sec. 10. Laws 1965, chapter 446, section 3, is amended to read:

Sec. 3. [DUTY-RELATED DEATH SURVIVING CHILD BENEFITS IN CERTAIN INSTANCES.] The firemen's Bloomington fire-fighters relief association of the city of Bloomington may provide a pension surviving child benefit for the child or the children of a deceased member with a duty-related death after the death of their mothers the surviving spouse, of such the amount as the board of trustees of the association shall deem considers necessary to properly support such the child or the children until they reach an the age of not more than 18, as the bylaws of the association provide; provided. The total pension hereunder surviving child benefit for the child or the children of the deceased member shall not exceed a sum an amount equal to one third of the monthly salary of a policeman of the highest grade, not including officers of the police department, in the employ of the municipality the amount of the service pension payable to a retiring firefighter with 20 years of service during the period of the pension survivor benefit payment.

Sec. 11. [NONDUTY-RELATED DEATH SURVIVOR BENEFITS.]

The Bloomington firefighters relief association may provide the surviving spouse, surviving child or surviving children of a volunteer firefighter who dies from an injury or illness not arising out of or not occurring in the course of the line of duty with a survivor benefit as the bylaws of the relief association specify, subject to the provisions of Minnesota Statutes, section 424A.02, subdivision 9.

Sec. 12. [BYLAW AMENDMENT.]

The St. Paul police relief association and the St. Paul fire department relief association shall amend their articles of incorporation and bylaws to ensure that retired members of the police department and fire department are represented on the board of directors of the St. Paul police relief association and the board of trustees of the St. Paul fire department relief association in the same proportion that the number of retired members in each relief association bears to the total membership of each relief association. However, retired members of the St. Paul police relief association and the St. Paul fire department relief association are never entitled under the articles of incorporation or bylaws to more seats on the board of directors than the active members of the respective associations.

Sec. 13. [REPEALER.]

Laws 1967, chapter 815; Laws 1978, chapter 683; and Laws 1981, chapter 224, sections 2 and 5, are repealed.

## Sec. 14. [EFFECTIVE DATES.]

Subdivision 1. Section 2 is effective upon approval by the St. Paul city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 2. Section 3 is effective upon approval by the Mankato city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 3. Section 4 is effective upon approval by the Virginia city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 4. Section 5 is effective upon approval by the governing body of the city of Minnetonka and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 5. Section 6 is effective upon approval by the Eveleth city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 6. Sections 7 to 11 are effective upon approval by the governing body of the city of Bloomington and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 7. Sections 12 and 13 are effective the day following final enactment.

Subd. 8. Section 1 is effective July 1, 1989.

## ARTICLE 3

## PARTIAL POSTRETIREMENT ADJUSTMENT

Section 1. Minnesota Statutes 1988, section 11A.18, subdivision 9, is amended to read:

Subd. 9. [CALCULATION OF POSTRETIREMENT ADJUSTMENT.] Annually, following June 30, the state board shall determine whether a postretirement adjustment shall be payable and shall determine the amount of any postretirement adjustment which shall be that is payable.

(1) The state board shall determine whether a postretirement adjustment shall be payable using the following procedure:

(a) The state board shall determine the amount of dividends, interest, accruals and realized capital gains or losses applicable to the most recent fiscal year ending June 30;

(b) The amount of reserves required for the annuity or benefit payable to an annuitant and benefit recipient of the participating

public pension plans or funds shall be determined by the commission-retained actuary as of the current June 30. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least ~~one year~~ 12 full months as of the current June 30 ~~shall be~~ is eligible to receive a full postretirement adjustment. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least one full month, but less than 12 full months as of the current June 30, is eligible to receive a partial postretirement adjustment. Each fund shall report separately the amount of the reserves for those annuitants and benefit recipients who are eligible to receive a full postretirement benefit adjustment ~~and~~. This amount is known as "eligible reserves." Each fund shall also report separately the amount of the reserves for those annuitants and benefit recipients who are not eligible to receive a postretirement adjustment shall be reported separately. This amount is known as "noneligible reserves." For an annuitant or benefit recipient who is eligible to receive a partial postretirement adjustment, each fund shall report separately as additional "eligible reserves" an amount that bears the same ratio to the total reserves required for the annuitant or benefit recipient as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The remainder of the annuitant's or benefit recipient's reserves shall be separately reported as additional "noneligible reserves." The amount of the "eligible" and "noneligible" required reserves shall be certified to the board by the commission-retained actuary as soon as is practical following the current June 30;

(c) The state board shall determine the amount of investment income required to equal five percent of the total amount of the required reserves as of the preceding June 30 adjusted by five percent of each transfer in or transfer out multiplied by the fraction of a year from the date of transfer to the current June 30. This amount of required investment income shall be subtracted from the actual amount of investment income determined according to clause (1)(a), to determine the amount of excess investment income. If this amount is positive, then a postretirement adjustment may be paid.

(2) The state board shall determine the amount of any postretirement adjustment which is payable using the following procedure:

(a) The state board shall determine the amount of excess investment income by the method indicated in clause (1);

(b) The total "eligible" required reserves as of the first of January next following the end of the fiscal year for the annuitants and benefit recipients eligible to receive ~~the~~ a full or partial postretirement adjustment as determined by clause (1)(b) shall be certified to the state board by the commission-retained actuary. The total "eligible" required reserves shall be determined by the commission-retained actuary on the assumption that all annuitants and benefit

recipients eligible to receive ~~the~~ a full or partial postretirement adjustment will be alive on the January 1 in question;

(c) If the state board determines that the book value of the assets of the fund is less than an amount equal to the total amount of the current June 30 required reserves, with the book value and required reserves to be determined after the adjustments provided for in subdivision 11, then the state board shall allocate five percent of the excess investment income as an asset of the fund. The excess investment income allocated as an asset of the fund shall not exceed the difference between book value and required reserves. The remaining amount shall be termed available for distribution. The book value of assets on any given date shall be the net assets at cost less the excess investment income determined pursuant to clause (1)(c);

(d) The resulting total amount available for distribution shall be increased by 2½ percent, and the result shall be stated as a percentage of the total amount of the required reserves pursuant to clause (2)(b), and if the percentage is equal to or greater than one percent, the amount shall be certified to each participating public pension fund or plan as the ~~amount of the full~~ postretirement adjustment amount. If the percentage is less than one percent, no postretirement adjustment shall be payable in that year and the amount otherwise available for distribution shall be credited to a separate reserve established for this purpose. The reserve shall be invested in the same manner as all other assets of the fund and shall be credited with any investment income as specified in clause (1)(a). Amounts credited to the reserve shall be utilized in determining a postretirement adjustment in the subsequent year. The amount of any full postretirement adjustment certified by the state board as payable to the participating public pension plans or funds shall be carried to five decimal places and stated as a percentage.

(e) A retirement annuity payable in the event of retirement before becoming eligible for social security benefits as provided in section 352.116, subdivision 3; 353.29, subdivision 6; or 354.35 must be treated as the sum of a period certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period certain retirement annuity plus the life retirement annuity shall be the annuity amount payable until age 62 or 65, whichever applies. A red 16:postretirement adjustment granted on the period certain retirement annuity must terminate when the period certain retirement annuity terminates.

Sec. 2. Minnesota Statutes 1988, section 11A.18, subdivision 10, is amended to read:

Subd. 10. [PAYMENT OF POSTRETIREMENT ADJUSTMENT.]  
Upon receiving the certification of the amount of the full postretirement adjustment from the state board, each participating public



pension fund or plan shall determine the amount of the postretirement adjustment payable to each eligible annuitant and benefit recipient. The dollar amount of the postretirement adjustment payable to each annuitant or benefit recipient shall be calculated by applying the certified postretirement adjustment percentage to the amount of the monthly annuity or benefit payable to each eligible annuitant or benefit recipient eligible for a full adjustment.

The dollar amount of the partial postretirement adjustment payable to each annuitant or benefit recipient eligible for a partial adjustment shall be calculated by first determining a partial percentage amount that bears the same ratio to the certified full adjustment percentage amount as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The partial percentage amount determined shall then be applied to the amount of the monthly annuity or benefit payable to each annuitant or benefit recipient eligible to receive a partial postretirement adjustment. The postretirement adjustment adjustments shall commence to be paid on January 1 following the calculations required pursuant to this section and shall thereafter be included in the monthly annuity or benefit paid to the recipient. Notwithstanding section 356.18, any adjustment adjustments pursuant to this section shall be paid automatically unless the intended recipient files a written notice with the applicable participating public pension fund or plan requesting that the adjustment not be paid.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment.

## ARTICLE 4

### HIGHER EDUCATION SUPPLEMENTAL PLAN

Section 1. Minnesota Statutes 1988, section 136.80, subdivision 1, is amended to read:

Subdivision 1. A The supplemental retirement plan for personnel employed by the state university board and the state board for community colleges who are in the unclassified service of the state commencing July 1 following the completion of the second year of their full time contract is hereby established and shall be governed pursuant to sections 136.81 to 136.85. ~~Any~~ An unclassified employee who is employed by the state university board or the state board for community colleges in subsidized on-the-job training, work experience, or public service employment as an enrollee under the federal comprehensive employment and training act shall ~~may~~ not be included in the supplemental retirement plan provided for in sec-

tions 136.81 to 136.85 ~~from and~~ after March 30, 1978, unless the unclassified employee has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement fund providing primary retirement coverage to meet the minimum vesting requirements for a deferred retirement annuity, or the board agrees in writing to make the employer contribution required by section 136.81 on account of that unclassified employee from revenue sources other than funds provided under the federal comprehensive employment and training act, or the unclassified employee agrees in writing to make the employer contribution required by section 136.81 in addition to the member contribution.

Sec. 2. Minnesota Statutes 1988, section 136.81, subdivision 1, is amended to read:

Subdivision 1. [DEDUCTIONS.] There shall be deducted. The state university board and the state board for community colleges shall deduct from the salary of each person described in section 136.80, subdivision 1, a sum equal to five percent of the portion of the person's annual salary paid between above \$6,000 and \$15,000. The deduction is to must be made in the same manner as other retirement deductions are made from the salary of the person only after the first \$6,000 has been paid in a fiscal year. The state employer shall make a contribution to the plan on behalf of every covered person in an amount equal to the deductions made from the salary of the person, but not to exceed \$450 a year unless an amount greater than \$450, but not to exceed \$2,000 a year, is specified in an agreement between a board and the exclusive representative of the persons employed by the board and described in section 136.80, subdivision 1. The moneys so money deducted and the state contribution shall must be deposited to the credit of the state university and community college supplemental retirement plan account of the teachers retirement fund. The account is hereby established and shall must be separate and distinct from other funds, accounts, or assets of the teachers retirement fund. The money required to meet the obligation of the state employer as provided in this subdivision shall must be contributed to the executive director of the teachers retirement association by the state employer.

Any Deductions which are taken from the salary of a person for the supplemental retirement plan in error shall must, upon discovery and verification, be refunded to the person. The retirement board shall establish a reserve which shall reflect reflecting any gains or losses realized due to the purchase and redemption of shares representing salary deductions and state employer contributions which were made in error. The balance of the reserve shall must be credited annually to the cancellation reserve established pursuant to under section 136.82, subdivision 1, clause (5).

If any payroll deductions which are required pursuant to under this section are omitted, the deductions shall must be remitted to

the supplemental retirement plan investment account of the teachers retirement association within one year from the end of the fiscal year in which the deductions were due, and, at the time of the receipt of the omitted deductions, the required state contribution shall then must be made.

Sec. 3. Minnesota Statutes 1988, section 356.24, is amended to read:

**356.24 [SUPPLEMENTAL PENSION OR DEFERRED COMPENSATION PLANS, RESTRICTIONS UPON GOVERNMENT UNITS.]**

(a) It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or contribute public funds to a supplemental pension or deferred compensation plan that is established, maintained, and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

(1) to a supplemental pension plan that was established, maintained, and operated before May 6, 1971;

(2) to a plan that provides solely for group health, hospital, disability, or death benefits, to the individual retirement account plan established by sections 354B.01 to 354B.04;

(3) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee; ~~or~~

(4) for employees other than personnel employed by the state university board or the community college board and covered by section 136.80, subdivision 1, to the state of Minnesota deferred compensation plan under section 352.96, if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of public employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year per employee; or

(5) for personnel employed by the state university board or the community college board and covered by section 136.80, subdivision 1, to the supplemental retirement plan under sections 136.80 to 136.85, if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of the covered employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year for each employee:

(b) No change in benefits or employer contributions in a supplemental pension plan to which this section applies after May 6, 1971, is effective without prior legislative authorization."

Delete the title and insert:

"A bill for an act relating to retirement; amending provisions governing volunteer firefighter relief associations; authorizing certain public employees retirement association membership; amending provisions governing certain local police and fire relief associations; providing for a partial postretirement adjustment; amending provisions governing the state university and community college supplemental plan; amending Minnesota Statutes 1988, sections 11A.18, subdivisions 9 and 10; 136.80, subdivision 1; 136.81, subdivision 1; 353.64, by adding a subdivision; 356.24; 423A.01, subdivision 2; 424A.01, subdivision 2; 424A.02, subdivisions 1, 2, 7, and 13; 424A.10; Laws of Minnesota 1955, chapter 151, section 13, as amended; Laws of Minnesota 1965, chapter 446, sections 2 and 3; Laws of Minnesota 1982, chapter 574, section 5, as amended; repealing Minnesota Statutes 1988, section 424A.01, subdivision 3a; Laws of Minnesota 1967, chapter 815; Laws of Minnesota 1978, chapter 683; and Laws of Minnesota 1981, chapter 224, sections 2 and 5."

With the recommendation that when so amended the bill pass.

The report was adopted.

Ogren from the Committee on Health and Human Services to which was referred:

H. F. No. 849, A bill for an act relating to human services; presuming paternity when blood tests are 99 percent positive; extending the time for bringing certain actions; excluding public assistance from income for maintenance and support determinations in divorce; establishing an administrative process to obtain and enforce support orders; appropriating money; amending Minnesota Statutes 1988, sections 256.87, subdivision 1a; 257.55, subdivision 1; 257.57, subdivision 1; 257.62, subdivision 5; 518.54, subdivision 6; 518.551, subdivision 10; 518.611, subdivision 4; and 518.613, subdivisions 1, 2, 4, and by adding a subdivision; repealing Minnesota Statutes 1988, sections 256.87, subdivision 4; and 518.613, subdivision 5.

Reported the same back with the following amendments:

Page 8, line 29, delete "May" and insert "November"

Page 8, line 31, delete "May" and insert "November"

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

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 878, A bill for an act relating to agriculture; providing drought emergency relief; establishing a program to reimburse farmers for reseeded of hay land and certain purchased hay, a damaged water well grant program, and a federal crop insurance grant program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 17.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

#### HAY FIELDS AND HAY FOR LIVESTOCK

##### Section 1. [DAMAGED OR DESTROYED HAY FIELDS.]

The commissioner of agriculture shall reimburse up to \$10 per acre the costs to a farmer of reseeding hay land damaged or destroyed by the 1988 drought. To be eligible for reimbursement, a farmer must have raised hay for the farmer's own use during 1988 and must have hay land that was destroyed or damaged to the extent of 50 percent or more by the 1988 drought. A farmer who reseeded destroyed or damaged hay land after August 1, 1988, is eligible for reimbursement under this section. The farmer must apply for reimbursement to the Minnesota extension service, which must review the application, investigate the farmer's circumstances, and certify to the commissioner of agriculture the applicant's eligibility for reimbursement under this section.

##### Sec. 2. [PURCHASE OF HAY.]

(a) The commissioner of agriculture shall reimburse a farmer for up to \$1,000 of the actual cost of hay the farmer must purchase to feed the farmer's livestock, if the farmer has no hay because of the 1988 drought. To be eligible for reimbursement, the farmer must have owned and been feeding livestock on January 1, 1989, and on the date of application. The farmer must be reimbursed in an amount up to \$1,000 for the purchase of hay for feed at maintenance levels for a four-week period for the number and type of livestock the

farmer owns and feeds as of January 1, 1989, or the date the farmer applies for the reimbursement, whichever is fewer.

(b) The farmer must apply for reimbursement to the Minnesota extension service, which must review the farmer's application, investigate the farmer's circumstances, and certify to the commissioner of agriculture the applicant's eligibility for reimbursement under this section.

### Sec. 3. [APPEALS.]

A farmer may appeal a decision of the commissioner of agriculture or the Minnesota extension service under the Minnesota administrative procedure act, Minnesota Statutes, chapter 14.

### Sec. 4. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

## ARTICLE 2

### PURCHASE OF FEDERAL CROP INSURANCE

#### Section 1. [17.752] [FINDING OF PUBLIC PURPOSE.]

The legislature finds that federal crop insurance represents the lowest cost, most economically feasible mechanism for protecting farm families from severe economic stress caused by drought and other natural disasters. The legislature further finds that costs to the state for rural disaster relief are greatly reduced when a majority of farmers carry federal crop insurance. In order to encourage all farmers to carry federal crop insurance, it is a valid public purpose for state funds to be used to make grants for a portion of the premium costs of the crop insurance.

#### Sec. 2. [17.754] [GRANTS FOR PARTIAL PAYMENT OF FEDERAL CROP INSURANCE.]

Subdivision 1. [ELIGIBLE CROPS.] Crops eligible for partial payment of federal crop insurance are barley, corn, flax, oats, soybeans, sugar beets, canning crops grown under contract, and wheat.

Subd. 2. [CERTIFICATION OF ELIGIBILITY.] An applicant for partial payment of the federal crop insurance premium on an eligible crop must apply to the federal crop insurance corporation for a certificate of eligibility. The federal crop insurance corporation

must certify the eligibility of each applicant and determine the total premium to be paid for crop insurance coverage on all eligible crops.

Subd. 3. [APPLICATION FOR STATE PAYMENT; REPORT.] The federal crop insurance corporation shall apply to the commissioner for payment of the state share of the premium on eligible crops. Before a state payment for crop insurance is authorized, the federal crop insurance corporation must report to the commissioner the following information:

(1) the total cost to the state for crop insurance premiums at the rate authorized in subdivision 5;

(2) the acreage of each eligible crop in each county;

(3) the participation rate for each eligible crop in each county; and

(4) other information the commissioner reasonably requires.

Subd. 4. [COMMISSIONER TO REPORT TO LEGISLATURE.] By June 1, 1989, and June 1 in each succeeding year, the commissioner shall report to the chairs of the house and senate committees on agriculture on the program of partial state payment for federal crop insurance. The report must include county costs and participation rates for each eligible crop and the commissioner's recommendations for changes in the program, if any.

Subd. 5. [COMMISSIONER TO MAKE PAYMENT.] From funds appropriated for this program, the commissioner shall make a payment to the federal crop insurance corporation in an amount equal to ten percent of the total annual farmer paid crop insurance premium on eligible crops covered by the application under subdivision 3.

Sec. 3. [17.756] [RULES.]

The commissioner of agriculture may adopt rules, including emergency rules, for purposes of sections 1 to 3.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following final enactment.

### ARTICLE 3

#### CHEESE MARKETING STUDY

Section 1. [INVESTIGATION OF CHEESE MARKETING; RE-

PORT.] (a) The commissioner shall conduct an investigation and economic analysis of cheese marketing practices within the state, the upper midwest region, and the United States. The purpose of the investigation is to evaluate the extent to which dairy farmers and cheese producers in Minnesota are benefited by local and regional institutions and practices through which cheese and cheese products are marketed.

(b) In conducting the investigation and economic analysis of cheese marketing practices and institutions, the commissioner shall, to the greatest practicable extent, solicit the cooperation and participation of dairy farmer producers, dairy processors, farm cooperatives, and agricultural businesses involved in the dairy industry.

(c) Not later than March 1, 1990, the commissioner shall report to the agriculture committees of the senate and the house of representatives the findings from the investigation and economic analysis of cheese marketing institutions and practices. The commissioner may also recommend legislation to improve cheese marketing conditions for Minnesota dairy farmers and cheese producers.

#### ARTICLE 4

Section 1. [169.801] [TRUCKS PARTICIPATING IN EMERGENCY HAYLIFT OPERATIONS.]

Subdivision 1. [COMPLIANCE.] The commissioners of transportation and public safety, and their agents, shall make every effort to comply with the provisions of this section.

Subd. 2. [EXEMPTION.] A motor vehicle being used to haul hay in an organized haylift operation is exempt from vehicle width limits if:

(1) the vehicle is operated by a person carrying a participation permit issued under subdivision 3;

(2) the load is firmly secured; and

(3) the vehicle and its load pose no undue risk to the operator or other persons.

Subd. 3. [CERTIFICATE OF PARTICIPATION.] The commissioner of agriculture shall provide to each motor vehicle operator participating in an organized haylift operation a certificate of participation including the approximate dates of participation.

Subd. 4. [LIMITATION.] A motor vehicle operator shall not be



eligible for exemption under subdivision 2 except while actually participating in an organized haylift program.

## ARTICLE 5

### DAMAGED HOMES

#### Section 1. [PURPOSE.]

Certain types of mineral soils respond in unanticipated ways to extraordinary environmental changes. When some clay soils dry out because of sustained drought, they shrink to a large degree. If foundations, footings, or house basements have been built into these mineral soils, costly repairs are necessitated by the shifting and cracking that results when the clay dries out. The 1988 drought has caused problems for owners of many of these homes in Minnesota. The purpose of this article is to make low-interest loans available to these victims of the drought so that their homes can be repaired.

#### Sec. 2. [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to this article.

Subd. 2. [AGENCY.] "Agency" means the Minnesota housing finance agency.

Subd. 3. [MUNICIPALITY.] "Municipality" means a statutory or home rule charter city or town.

Subd. 4. [HOMEOWNER.] "Homeowner" means one or more natural persons, regardless of income, who have at least a one-third interest in one of the following types of ownership in the home to be repaired:

(1) a fee title, excluding remaindermen subject to a life estate;

(2) a mutually binding contract for the purchase of the property where the borrower is rightfully in possession and the purchase price is payable in installments; or

(3) a life estate.

Subd. 5. [HOME.] "Home" means a residential structure containing no more than four units and which is the principal residence of the homeowner or will become the principal residence of the homeowner within 60 days after completion of the repairs and garage.

### Sec. 3. [DROUGHT DAMAGE REPAIR LOANS.]

Subdivision 1. [ELIGIBILITY.] A homeowner whose home was damaged as a result of the drought of 1988 so that a serious structural condition has resulted that must be repaired is eligible for a loan under this article, provided the homeowner is deemed to be a reasonable credit risk, as determined in the agency's sole option and discretion.

Subd. 2. [INDEBTEDNESS.] The total indebtedness secured by the home, including the loan under this article, must not exceed 100 percent of the after repair market value of the property, as determined by appraisal before the loan is made.

Subd. 3. [AGENCY'S DUTIES.] The agency shall make or purchase only loans secured with mortgages within available funds to eligible homeowners under subdivision 1. The maximum loan to a homeowner is \$25,000. The period over which the loan may be repaid shall be determined by the agency in its sole option and discretion.

Subd. 4. [LOCAL HOUSING INSPECTOR'S DUTIES.] The building inspector in a municipality, or an agent or contractor of the municipality without a financial interest in the making of repairs on the property, shall investigate the damage to the home of an applicant for a loan under this section to determine if the damage is a result of the drought of 1988. The building inspector, agent, or contractor shall certify his or her findings to the agency on forms prepared by the agency.

Subd. 5. [INTEREST; FEES.] The homeowner shall pay interest in an amount necessary to cover the administrative cost of providing periodic service on the loan. The owner shall also pay the costs of property value appraisals, escrow accounts, recording fees, mortgage registration tax, and credit investigation fees. The agency shall pay other costs related to the loan, including origination fees charged by originating lenders.

Subd. 6. [QUALITY CONTROL.] (a) Before the agency may make or purchase a loan under this article to a homeowner, the homeowner's municipality, or an agent or contractor of the municipality without a financial interest in the making of the repairs, must prepare a work order for only those repairs necessary to restore the home to its predrought condition.

(b) A homeowner may not make the required repairs. Only a contractor selected by the homeowner and competent to undertake the repairs shall be employed.

(c) The contractor must execute a contractor/homeowner warranty

in conformity with that required for rehabilitation loans described in section 462A.05, subdivision 14.

(d) The agency shall require that loan proceeds be deposited in an escrow account from which partial and full payments for completed repairs may be made.

Subd. 7. [ELIGIBLE USES OF PROCEEDS.] (a) Loan proceeds may be used to pay:

(1) the cost of an appraisal;

(2) management of an escrow account related to the loan; and

(3) repair of damage to the home resulting from the drought of 1988.

(b) Loan proceeds may not be used for improvements or repairs in addition to those necessary to restore the property to its predrought condition, or for the repair or purchase of personal property.

Sec. 4. [APPLICATION DEADLINE.]

No application for assistance under sections 1 to 4 is valid if received by the agency after June 30, 1990.

## ARTICLE 6

### MUNICIPAL WATER SUPPLIES

Section 1. [PURPOSE.]

Severe drought conditions during the spring, summer, and fall of 1988 caused water wells and surface water sources used by many Minnesota municipalities to produce inadequate supplies of water suitable for distribution in the municipal water utility. The purpose of this article is to provide state financial and technical assistance to affected municipalities so that water of sufficient quality and quantity will be available to municipal water utility customers.

Sec. 2. [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to this article.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of natural resources.

Subd. 3. [MUNICIPALITY.] "Municipality" means a statutory or home rule charter city or town having a population, according to the most recent census certified as reliable by the state planning

agency, of not more than 50,000 that operates a municipal water utility and relies on a single well or surface water source for 50 percent or more of the annual water supply distributed by the water utility.

### Sec. 3. [DUTIES OF THE COMMISSIONER.]

Subdivision 1. [CERTIFICATION OF MUNICIPAL ELIGIBILITY.] Upon written application by a municipality to the commissioner, the commissioner shall, in cooperation with the department of health, conduct an investigation to determine if the drought of 1988 caused the principal well or surface water source used by that municipality's water utility to be inadequate in quantity or quality to meet the needs of customers of the water utility, including a reasonable capacity reserve. If the commissioner determines that the adverse condition exists and was caused by the 1988 drought, the commissioner shall certify that the municipality qualifies for relief under this article.

Subd. 2. [TECHNICAL ASSISTANCE.] (a) From resources available to the commissioner, the commissioner must provide technical assistance to an eligible municipality to evaluate options and alternatives for providing adequate water supplies to water utility customers. Options to be evaluated must include cost-effective opportunities for water conservation.

(b) If a municipality adopts a municipal water supply enhancement plan approved by the commissioner, the commissioner shall make grants from available funds to eligible municipalities for up to 50 percent of the cost of implementing the approved plan. The maximum grant to a municipality is \$50,000.

## ARTICLE 7

### NOXIOUS WEED CONTROL

#### Section 1. [18.192] [LOCAL SUSPENSION OF NOXIOUS WEED CONTROL.]

During a drought, a town board may suspend the duty of owners and occupants of land and road maintenance personnel to control noxious weeds if the vegetation is to be harvested for livestock feed under sections 18.191 to 18.272, except under order by the commissioner or the local weed inspector.

## ARTICLE 8 APPROPRIATIONS

### Section 1. [RESEEDING HAY FIELDS.]

\$3,000,000 is appropriated from the general fund to the commissioner of agriculture for the purposes of article 1, section 1, to be available until June 30, 1991.

### Sec. 2. [HAY FOR LIVESTOCK.]

\$4,950,000 is appropriated from the general fund to the commissioner of agriculture for the purposes of article 1, section 2, to be available until June 30, 1991.

### Sec. 3. [ADMINISTRATION.]

\$50,000 is appropriated from the general fund to the Minnesota extension service for administration of article 1, to be available until June 30, 1991.

### Sec. 4. [FEDERAL CROP INSURANCE.]

\$5,000,000 is appropriated from the general fund to the commissioner of agriculture to make federal crop insurance payments under article 2. This appropriation is available until June 30, 1991. Of this appropriation, up to \$5,000 is available to the commissioner for administrative expenses of the program.

### Sec. 5. [AGRICULTURAL INTERPRETIVE CENTER.]

\$604,000 is appropriated from the general fund to the commissioner of agriculture to be disbursed to the Minnesota Agricultural Interpretive Center for operation of Farmamerica in Waseca county. One-half of the sum appropriated shall be disbursed in each of the fiscal years ending June 30, 1990, and June 30, 1991.

### Sec. 6. [TREE REPLANTING.]

\$ . . . . . is appropriated from the general fund to the board of water and soil resources for making grants to local soil and water conservation districts to assist in financing the replanting of trees planted during 1987 and 1988 under the conservation reserve program and lost to the drought.

### Sec. 7. [CHEESE MARKETING STUDY.]

\$15,000 is appropriated from the general fund to the commis-

sioner of agriculture for the study of cheese marketing institutions and practices under article 3.

Sec. 8. [EMERGENCY HAYLIFT PROGRAM.]

\$300,000 is appropriated from the general fund to the commissioner of agriculture to be available until March 1, 1990, to continue operation of the emergency haylift operation begun as a response to the 1988 drought. Any amount of this appropriation that remains unencumbered after March 1, 1990, cancels to the general fund.

Sec. 9. [PSEUDORABIES RESEARCH.]

\$500,000 is appropriated from the general fund to the commissioner of agriculture for further research on pseudorabies and the control or eradication of pseudorabies in Minnesota. Of this appropriation, \$250,000 is available for the first year and \$250,000 is available for the second year of the biennium ending June 30, 1991.

Sec. 10. [PSEUDORABIES CONTROL.]

\$1,000,000 is appropriated from the general fund to the board of animal health for the biennium ending June 30, 1991, to be used for continuing and expanding a control program for pseudorabies in swine. The program must be coordinated by board of animal health personnel. This appropriation is in addition to other appropriations to the board of animal health for pseudorabies control.

Sec. 11. [DAMAGED HOME LOANS.]

\$1,500,000 is appropriated from the general fund to the housing finance agency for the biennium ending June 30, 1991, to make loans to homeowners under article 5. Of this appropriation, up to \$100,000 may be used by the agency for administrative expenses and other costs related to the loans, including loan origination fees.

Sec. 12. [MUNICIPAL WATER UTILITY GRANTS.]

\$1,500,000 is appropriated to the commissioner of natural resources for the biennium ending June 30, 1991, to make grants under article 6. Of this amount, up to \$100,000 may be used by the commissioner for administrative expenses.

Sec. 13. [AGRICULTURE INFORMATION CENTERS.]

\$250,000 in fiscal year 1990 is appropriated from the general fund to the commissioner of agriculture for agriculture information centers. This appropriation is available until June 30, 1991.

Sec. 14. [EFFECTIVE DATES.]

Sections 1 to 4 and 8 are effective the day after final enactment."

Delete the title and insert:

"A bill for an act relating to agriculture; providing assistance for hay land restoration and hay for livestock; encouraging widespread purchase of federal crop insurance; directing a study of cheese marketing practices; authorizing state payment for crop insurance; providing a width exemption for motor vehicles used in emergency haylift operations; making low-interest loans available to homeowners to repair drought damage; providing state financial and technical assistance to municipalities for purposes of enhancing municipal water supplies; appropriating money; amending Minnesota Statutes 1988, section 17.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 17, 18, and 169."

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

The report was adopted.

Ogren from the Committee on Health and Human Services to which was referred:

H. F. No. 887, A bill for an act relating to human services; authorizing the commissioner to establish case management for people with brain injuries; proposing coding for new law in Minnesota Statutes, chapter 256B; repealing Minnesota Statutes 1988, section 256B.0625, subdivision 21.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [256B.093] [SERVICES FOR PERSONS WITH BRAIN INJURIES.]

Subdivision 1. [STATE COORDINATOR.] The commissioner of human services shall designate a full-time position within the long-term care management division of the department of human services to supervise and coordinate services for persons with brain injuries.

Subd. 2. [ELIGIBILITY.] The commissioner may contract with qualified agencies or persons to provide case management services to medical assistance recipients who are at risk of institutionalization and meet one of the following criteria:

(a) The person has a brain injury.

(b) The person is receiving home care services or is in an institution and has a discharge plan requiring the provision of home care services and meets one of the following criteria:

(1) the person suffers from a brain abnormality or degenerative brain disease resulting in significant destruction of brain tissue and loss of brain function that requires extensive services over an extended period of time;

(2) the person is unable to direct the person's own care;

(3) the person has medical home care costs that exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

(4) the person is eligible for medical assistance under the option for certain disabled children in section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA);

(5) the person receives home care from two or more providers who are unable to effectively coordinate the services; or

(6) the person has received or will receive home care services for longer than six months.

Subd. 3. [CASE MANAGEMENT DUTIES.] The department shall fund the case management contracts using medical assistance administrative funds. The contractor must:

(1) assess the person's individual needs for services required to prevent institutionalization;

(2) assure that a care plan that meets the person's needs is developed by the appropriate agency or individual;

(3) assist the person in obtaining services necessary to allow the person to remain in the community;

(4) coordinate home care services with other medical assistance services under section 256B.0625;

(5) assure cost effectiveness of medical assistance services;

(6) make recommendations to the commissioner on the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;



(7) assist the person with problems related to the provision of home care services;

(8) assure the quality of home care services; and

(9) reassess the person's need for and level of home care services at a frequency determined by the commissioner.

Subd. 4. [DEFINITIONS.] For purposes of this section, the following definitions apply:

(a) "Brain injury" means a sudden insult or damage to the brain or its coverings, not of a degenerative nature. The insult or damage may produce an altered state of consciousness or a decrease in mental, cognitive, behavioral, or physical functioning resulting in partial or total disability.

(b) "Home care services" means medical assistance home care services defined under section 256B.0625, subdivisions 6, 7, and 19.

Sec. 2. [REPEALER.]

Minnesota Statutes 1988, section 256B.0625, subdivision 21, is repealed.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective July 1, 1989."

Delete the title and insert:

"A bill for an act relating to human services; creating a state coordinator of services for people with brain injuries; authorizing the commissioner to establish case management for people with brain injuries; proposing coding for new law in Minnesota Statutes, chapter 256B; repealing Minnesota Statutes 1988, section 256B.0625, subdivision 21."

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

The report was adopted.

Ogren from the Committee on Health and Human Services to which was referred:

H. F. No. 903, A bill for an act relating to human services; establishing policy; changing the role of regional treatment centers; providing for community-based services for certain persons; amend-

ing Minnesota Statutes 1988, sections 245.463, by adding a subdivision; 245.476, by adding a subdivision; 245.94, subdivision 1; 246.18, subdivision 4; 246.36; 246.57, subdivision 1; 251.011, subdivision 4, and by adding a subdivision; 252.291, subdivision 2; 252.31; 252.41, subdivision 9; 252.50; 253.015; 253B.17, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 245; 246; 251; 252; 253; and 256E.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [FINDING.]

The legislature finds that it is beneficial to encourage the placement of persons requiring residential, health care, and treatment services in community-based facilities and in the residential treatment centers. It is the policy of the state to carry out measures that encourage the delivery of these services in a manner that ensures fair and equitable arrangements to protect the interests of the affected residents, family members, employees, providers, and communities.

Sec. 2. [245.073] [TECHNICAL TRAINING ASSISTANCE TO COMMUNITY-BASED PROGRAMS.]

In conjunction with the discharge of persons from regional treatment centers and their admission to state-operated and privately-operated community-based programs, the commissioner may provide technical training and assistance to the community-based programs. The commissioner is authorized to apply for and accept funds from any source including reimbursement charges from the community-based programs for reasonable costs of training. Funds received shall be deposited in the general fund of the state treasury and shall be appropriated annually to the department of human services for training under this subdivision.

Sec. 3. Minnesota Statutes 1988, section 245.463, is amended by adding a subdivision to read:

Subd. 3. [REVIEW OF FUNDING.] The commissioner shall complete a review of funding for mental health services and make recommendations of any changes needed. The commissioner shall submit a report on the review and recommendations to the legislature in 1991.

Sec. 4. Minnesota Statutes 1988, section 245.476, is amended by adding a subdivision to read:

Subd. 4. [REPORT ON PREADMISSION SCREENING.] The

commissioner shall review the statutory preadmission screening requirements for psychiatric hospitalization, both in the regional centers and other hospitals, to determine if changes in preadmission screening are needed. The commissioner shall deliver a report of the review to the legislature by January 31, 1990.

**Sec. 5. [245.65] [CHEMICAL DEPENDENCY SERVICES FOR REGIONAL TREATMENT CENTERS.]**

Subdivision 1. [PURPOSE.] The regional treatment centers shall provide services designed to end an individual's reliance on chemical use or an individual's chemical abuse and to increase effective and chemically-free functioning. Clinically effective programs shall be provided on a competitive basis and shall be financially supported through revenues rather than a state appropriation.

Subd. 2. [SERVICES OFFERED.] Services provided shall include, but not be limited to, the following:

(1) primary and extended residential care, including residential treatment programs of varied duration intended to deal with an individual's chemical dependency or chemical abuse problems;

(2) follow-up care to persons discharged from regional treatment center programs;

(3) outpatient treatment programs; and

(4) other treatment services, as appropriate and as provided under contract or shared service agreements.

Subd. 3. [PERSONS SERVED.] The regional treatment centers shall provide services primarily to adolescent and adult residents of the state.

Subd. 4. [SYSTEM LOCATIONS.] Programs shall be located in Anoka, Brainerd, Fergus Falls, Moose Lake, St. Peter, and Willmar.

**Sec. 6. Minnesota Statutes 1988, section 245.94, subdivision 1, is amended to read:**

**Subdivision 1. [POWERS.] (a) The ombudsman may prescribe the methods by which complaints to the office are to be made, reviewed, and acted upon. The ombudsman may not levy a complaint fee.**

**(b) The ombudsman may mediate or advocate on behalf of a client.**

**(c) The ombudsman may investigate the quality of services provided to clients and determine the extent to which quality assurance mechanisms within state and county government work to**

promote the health, safety, and welfare of clients, other than clients in acute care facilities who are receiving services not paid for by public funds.

(d) The ombudsman may also review and evaluate the operation and licensing of state facilities operated under the authority of the commissioner of human services.

(e) At the request of a client, or upon receiving a complaint or other information affording reasonable grounds to believe that the rights of a client who is not capable of requesting assistance have been adversely affected, the ombudsman may gather information about and analyze, on behalf of the client, the actions of an agency, facility, or program.

(f) The ombudsman may examine, on behalf of a client, records of an agency, facility, or program if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and the client is capable of providing consent, the ombudsman shall first obtain the client's consent. The ombudsman is not required to obtain consent for access to private data on clients with mental retardation or a related condition.

(g) The ombudsman may, at reasonable times in the course of conducting a review, enter and view premises within the control of an agency, facility, or program.

(h) The ombudsman may attend department of human services review board and special review board proceedings; proceedings regarding the transfer of patients or residents, as defined in section 246.50, subdivisions 4 and 4a, between institutions operated by the department of human services; and, subject to the consent of the affected client, other proceedings affecting the rights of clients. The ombudsman is not required to obtain consent to attend meetings or proceedings and have access to private data on clients with mental retardation or a related condition.

(i) The ombudsman shall have access to data of agencies, facilities, or programs classified as private or confidential as defined in section 13.02, subdivisions 12 and 13, regarding services provided to clients with mental retardation or a related condition.

(j) To avoid duplication and preserve evidence, the ombudsman shall inform relevant licensing or regulatory officials before undertaking a review of an action of the facility or program.

(k) Sections 245.91 to 245.97 are in addition to other provisions of law under which any other remedy or right is provided.

Sec. 7. Minnesota Statutes 1988, section 246.18, subdivision 4, is amended to read:

Subd. 4. [COLLECTIONS DEPOSITED IN MEDICAL ASSISTANCE ACCOUNT.] Except as provided in subdivision 2, all receipts from collection efforts for the regional treatment centers and state nursing homes, and other state facilities as defined in section 246.50, subdivision 3, must be deposited in the medical assistance account and are appropriated for that purpose. The commissioner shall ensure that the departmental financial reporting systems and internal accounting procedures comply with federal standards for reimbursement for program and administrative expenditures and fulfill the purpose of this paragraph.

Sec. 8. Minnesota Statutes 1988, section 246.36, is amended to read:

246.36 [ACCEPTANCE OF VOLUNTARY, UNCOMPENSATED SERVICES.]

Subdivision 1. [CONTRACTS WITH AGENCIES FOR VOLUNTARY SERVICES.] For the purpose of carrying out a duty, the commissioner of human services shall have authority to accept uncompensated and voluntary services and to enter into contracts or agreements with private or public agencies, or persons, for uncompensated and voluntary services, as the commissioner may deem practicable. The volunteer agencies, organizations, or persons who provide services to residents of state hospitals shall facilities operated under the authority of the commissioner are not be subject to the procurement requirements of chapters 16A and 16B. The agencies, organizations, or persons may purchase supplies, services, and equipment to be used in providing services to residents of state hospitals facilities through the department of administration.

Subd. 2. [REPORT OF VOLUNTARY SERVICES PROVIDED.] All county social service agencies, regional treatment centers, other state facilities, and private agencies entering into a contract or agreement with the commissioner under subdivision 1, shall compile and submit to the commissioner of human services an annual report of the number of volunteers, the services they performed, and the time they spent in voluntary service. The report shall be on a form prepared by the commissioner. The annual report shall be for the services provided during the period January 1 to December 31.

Subd. 3. [EVALUATION OF SERVICES.] The commissioner shall evaluate the effectiveness of the services performed by the volunteers.

Sec. 9. Minnesota Statutes 1988, section 246.57, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZED.] The commissioner of human services may authorize any ~~regional center or state operated nursing home~~ state facility operated under the authority of the commissioner to enter into agreement with other governmental entities and both nonprofit and profit health service organizations for participation in shared service agreements that would be of mutual benefit to the state, other governmental entities and health service organizations involved, and the public. Notwithstanding section 16B.06, subdivision 2, the commissioner of human services may delegate the execution of shared services contracts to the chief executive officers of the regional centers or state operated nursing homes. No additional employees shall be added to the legislatively approved complement for any ~~regional center or state nursing home~~ state facility under the authority of the commissioner as a result of entering into any shared service agreement. However, positions funded by a shared service agreement may be authorized by the commissioner of finance for the duration of the shared service agreement. The charges for the services shall be on an actual cost basis and all receipts shall be deposited in the general fund. The receipts are appropriated to the commissioner of human services for the duration of the shared service agreement to make expenditures under the agreement that are not covered by other appropriations.

Sec. 10. [246.70] [SERVICES TO FAMILIES.]

Subdivision 1. [INFORMATION ABOUT CHANGES.] (a) The commissioner shall publicize the planned changes to the facilities operated under the authority of the commissioner. A parent, other involved family member, or private guardian shall be notified of the changes planned for each regional center. For persons for whom new services shall be developed which require a move, the commissioner shall develop material for each parent, family member, and guardian that contains the following:

- (1) names and telephone numbers of state and county contacts;
- (2) types of services to be developed;
- (3) how the individual planning process works, including how alternative placements will be determined, and how family members can be involved;
- (4) the process to be followed when a parent, other family member, or guardian disagrees with the proposed services; and
- (5) a list of additional resources such as advocates, local volunteer coordinators, and family groups.

(b) At least one staff person in each regional treatment center or nursing home shall be available to provide information about:

- (1) community placements;
- (2) the opportunity for interested family members and guardians to participate in program planning; and
- (3) family support groups.

Subd. 2. [GUARDIANSHIPS.] (a) Pursuant to chapter 252A, public guardianship or conservatorship is considered to be the most restrictive form of guardianship or conservatorship and should be imposed only when no other acceptable alternative is available.

(b) The commissioner shall seek near relatives and other interested persons to assume private guardianship for persons with developmental disabilities who are currently under public guardianship.

(c) If an individual seeks private guardianship or conservatorship, costs may be reimbursable under section 525.703, subdivision 3, paragraph (b).

(d) Within the limits of the appropriations, the commissioner shall offer technical assistance to relatives, interested persons, and counties to pursue these private guardianships.

Sec. 11. Minnesota Statutes 1988, section 251.011, subdivision 4, is amended to read:

Subd. 4. [OAK TERRACE NURSING HOME.] Any portion or unit of Glen Lake Sanitarium not used for the treatment of tuberculosis patients may be used by the commissioner of human services for the care of geriatric patients, under the name of Oak Terrace Nursing Home.

The commissioner of administration may lease any portion or unit of Oak Terrace Nursing Home for the purpose of providing food and shelter for the homeless.

The facility at Oak Terrace shall be closed as soon as a reasonable plan for relocation of its residents can be safely implemented, and employee mitigation measures completed, but no later than July 1, 1992. Relocation of persons shall be carefully planned and take into account any remaining ties the person has to family or community, and available capacity in private and state-operated nursing homes. Relocation shall take into account personal choices and needs of the resident. Relocation shall be implemented according to Minnesota Rules, parts 4655.6810 to 4655.6830 and 9546.0010 to 9546.0060.

Sec. 12. Minnesota Statutes 1988, section 251.011, is amended by adding a subdivision to read:

Subd. 4a. [NURSING HOME BEDS AT REGIONAL CENTERS.] The commissioner shall operate nursing home beds at Brainerd, Faribault, and Fergus Falls regional centers and may operate nursing home beds at or in affiliation with other regional centers as necessary to provide an appropriate level of care for persons served at those centers.

Sec. 13. [251.012] [PROVISION OF RESIDENTIAL SERVICES.]

Subdivision 1. [RESIDENTIAL CARE.] The commissioner shall provide residential care to persons with mental illness and elderly persons who need skilled nursing care and cannot be adequately served in the community because they:

(1) are medically fragile or clinically challenging; or

(2) exhibit severe or challenging behaviors.

Persons shall be accepted for admission only after nursing home preadmission screening by the counties.

Subd. 2. [TECHNICAL ASSISTANCE.] Within the limits of its appropriation, the commissioner shall expand the capacity to provide technical assistance to community providers in handling the behavior problems of their patients, and with community placements for younger persons who have heavy nursing needs and behavior problems. Technical assistance may include site visits, consultation with providers, or provider training.

Subd. 3. [AUXILIARY SERVICES.] The nursing homes may enter into agreements according to section 246.57 to provide other services needed in the region that build on the services provided by the regional nursing homes and that are offered in conjunction with a community or community group.

Subd. 4. [RESPITE CARE.] Respite care may be offered when space is available if payment for the cost of care is guaranteed by the person, the person's family or legal representative, or a source other than a direct state appropriation to the nursing home, and if the individual meets the facility's admission criteria.

Sec. 14. Minnesota Statutes 1988, section 252.291, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] The commissioner of human services in coordination with the commissioner of health may approve a newly constructed or newly established publicly or privately operated community intermediate care facility for six or fewer persons with mental retardation or related conditions only when the following circumstances exist:



(a) when the facility is developed in accordance with a request for proposal approved by the commissioner of human services;

(b) when the facility is necessary to serve the needs of identified persons with mental retardation or related conditions who are seriously behaviorally disordered or who are seriously physically or sensorily impaired. At least 50 percent of the capacity of the facility specified in the proposal submitted to the commissioner must be used for persons coming being discharged from regional treatment centers; and

(c) when the commissioner determines that the need for increased service capacity cannot be met by the use of alternative resources or the modification of existing facilities.

Sec. 15. Minnesota Statutes 1988, section 252.31, is amended to read:

252.31 [ADVISORY TASK FORCE.]

The commissioner of human services may appoint an advisory task force for services to persons with mental retardation, related conditions, or physical handicaps. The task force shall advise the commissioner relative to those laws for which the commissioner is responsible to administer and enforce relating to mental retardation or related conditions and physical disabilities. The commissioner also may request the task force for advice on implementing a comprehensive plan of services necessary to provide for the transition of persons with mental retardation or related conditions from regional treatment centers services to community-based programs. The task force shall consist of persons who are providers or consumers of service for persons with mental retardation, related conditions, or physical handicaps, or who are interested citizens. The task force shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

Sec. 16. Minnesota Statutes 1988, section 252.41, subdivision 9, is amended to read:

Subd. 9. [VENDOR.] "Vendor" means a nonprofit legal entity that:

(1) is licensed under sections ~~245.781~~ 245A.01 to ~~245.812~~ 245A.16 and 252.28, subdivision 2, to provide day training and habilitation services to adults with mental retardation and related conditions; and

(2) does not have a financial interest in the legal entity that provides residential services to the same person or persons to whom it provides day training and habilitation services. This clause does not apply to regional treatment centers, state-operated, community-

based programs operating according to section 252.50 until the year 2000, or vendors licensed prior to April 15, 1983.

Sec. 17. Minnesota Statutes 1988, section 252.50, is amended to read:

**252.50 [STATE-OPERATED; COMMUNITY-BASED RESIDENTIAL PROGRAMS.]**

Subdivision 1. **[RESIDENTIAL COMMUNITY-BASED PROGRAMS ESTABLISHED.]** The commissioner ~~may~~ shall establish a system of ~~noninstitutional~~, state-operated, community-based residential services programs for persons with mental retardation or related conditions. For purposes of this section, "state-operated, community-based residential facility program" means a residential program administered by the state to provide treatment and habilitation in noninstitutional community settings to persons with mental retardation or related conditions. Employees of the facilities programs must be state employees under chapters 43A and 179A. The establishment of state-operated, community-based residential facilities programs must be within the context of a comprehensive definition of the role of state-operated services in the state. The role of state-operated services must be defined within the context of a comprehensive system of services for persons with mental retardation or related conditions. Services State-operated, community-based programs may include, but are not limited to, community group homes, foster care, supportive living arrangements services, day training and habilitation programs, and respite care arrangements. The commissioner may operate the pilot projects established under Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 6, and ~~may~~ shall, within the limits of available appropriations, establish additional state-operated, community-based services programs for regional treatment center residents persons with mental retardation or related conditions. Day program services for clients living in state-operated, community-based residential facilities must not be provided by a regional treatment center or a state-operated, community-based program. State-operated, community-based programs offering day program services may be provided for persons with mental retardation or related conditions who are living in state-operated, community-based residential programs until July 1, 2000. No later than 1990, the commissioner, together with family members, counties, advocates, employee representatives, and other interested parties shall begin planning so that by July 1, 2000, state-operated community-based programs will be in compliance with section 252.41, subdivision 9.

Subd. 2. **[AUTHORIZATION TO BUILD OR PURCHASE.]** Within the limits of available appropriations, the commissioner may build, purchase, or lease suitable buildings for state-operated, community-based residential facilities programs. Facilities Programs must be homelike and adaptable to the needs of persons with mental

retardation or related conditions and residential programs must be homelike.

Subd. 3. [ALTERNATIVE FUNDING MECHANISMS.] To the extent possible, the commissioner may amend the medical assistance home and community-based waiver and, as appropriate, develop special waiver procedures for targeting services to persons currently in state regional treatment centers.

Subd. 4. [COUNTIES.] State-operated, community-based ~~residential facilities~~ programs may be developed in conjunction with existing county responsibilities and authorities for persons with mental retardation or related conditions. Assessment, placement, screening, case management responsibilities, and determination of need procedures must be consistent with county responsibilities established under law and rule. Counties may enter into shared service agreements with state-operated programs.

Subd. 5. [LOCATION OF PROGRAMS.] (a) In determining the location of state-operated, community-based programs, the needs of the individual client shall be paramount. The commissioner shall also take into account:

(1) the personal preferences of the persons being served and their families as determined by Minnesota Rules, parts 9525.0015 to 9525.0165;

(2) location of the support services established by the individual service plans of the persons being served;

(3) the appropriate grouping of the persons served;

(4) the availability of qualified staff;

(5) the need for state-operated, community-based programs in the geographical region of the state; and

(6) a reasonable commuting distance from a regional treatment center or the residences of the program staff.

(b) State-operated, community-based programs must be located according to section 252.28.

Subd. 6. [RATES FOR STATE-OPERATED, COMMUNITY-BASED PROGRAMS FOR PERSONS WITH MENTAL RETARDATION.] For purposes of establishing reimbursement rates, state-operated, community-based programs that meet the definition of a facility in Minnesota Rules, part 9553.0020, subpart 19, are subject to Minnesota Rules, parts 9553.0010 to 9553.0080. For purposes of establishing reimbursement rates, state-operated, com-

munity-based programs that meet the definition of vendor in section 252.41, subdivision 9, are subject to the rate setting procedures in sections 252.41 to 252.47 and Minnesota Rules, parts 9525.1200 to 9525.1330. The commissioner is authorized to establish an advisory committee to consider amendments to Minnesota Rules, parts 9525.1200 to 9525.1330 and 9553.0010 to 9553.0080 to enable an increase in the wages of persons employed by private providers governed by those rules to provide those employees with wages comparable to those paid to persons employed in similar state-operated community programs. The commissioner shall report back to the legislature by January 1, 1990, on the progress of the advisory committee in formulating proposals to achieve wage equity between public and private providers.

This subdivision shall not operate to abridge the statutorily created pension rights of state employees or collective bargaining agreements reached pursuant to chapter 179A.

Subd. 7. [CRISIS SERVICES.] Within the limits of the appropriation, state-operated regional technical assistance shall be available in each region to assist counties, residential and day programming staff, and families to prevent or resolve crises that could lead to a shift in placement.

Technical assistance and consultation shall also be available in each region to providers and counties. Staff will be available to provide:

- (1) individual assessments;
- (2) program plan development and implementation assistance;
- (3) analysis of service delivery problems; and
- (4) assistance with transition planning, including technical assistance to counties and providers to develop new services, site such services, and assist with community acceptance.

By 1995, the commissioner shall develop crisis homes to be operated in conjunction with the regional technical assistance services. Crisis homes, not to exceed four beds per home, shall be developed at the regional treatment centers at Cambridge, Fergus Falls, Moose Lake, Willmar, and Faribault. These services will be available within the limits of the appropriation, when assistance at home is not possible or has failed.

Subd. 8. [REGIONAL TREATMENT CENTERS.] (a) The regional treatment centers shall provide services for persons for whom appropriate community services have not yet been identified or developed including:

(1) persons with developmental disabilities who are mentally ill;  
(2) persons with developmental disabilities with such medical fragility that skilled nursing is needed; and

(3) persons with severe aggressive behavior who are self-injurious or who place others at risk.

(b) By June 1993, the commissioner shall reduce the population of the regional treatment centers to the following levels:

(1) For persons who are medically fragile, up to 60 beds will be maintained at the Faribault regional center.

(2) For persons who are mentally retarded and mentally ill, up to 35 beds will be maintained at the St. Peter regional treatment center.

(c) The commissioner shall also maintain services for an additional 100 persons at Faribault regional center for whom adequate services could not be planned and implemented by June, 1993. This group of 100 people shall be moved into community placements as appropriate services are developed, with a goal of placing all of them by July 1, 1995.

(d) The commissioner shall maintain two 15-bed residential units at Willmar regional treatment center for persons with developmental disabilities and shall plan to move the remaining residential and habilitation services for persons with developmental disabilities from that facility to the community, by June 30, 1991.

(e) The commissioner shall plan to move residential and habilitation services for persons with developmental disabilities at Moose Lake regional treatment center to community-based services by June 30, 1991.

(f) The commissioner shall plan to move residential and habilitation services for persons with developmental disabilities at the regional centers at Cambridge, Brainerd, and Fergus Falls, to community-based services by June 30, 1992, and by that date, all persons with developmental disabilities at St. Peter regional center who are not dually diagnosed as mentally ill and mentally retarded will be discharged.

(g) The commissioner shall reassess the objectives and dates detailed in this subdivision as part of each biennial budget planning.

(h) No person will be discharged before an appropriate community placement is available.

Subd. 9. [SPIRITUAL CARE SERVICES.] An organized means for providing spiritual care services and follow-up shall be established as part of the comprehensive health care, congruent with the operational philosophy of the department of human services, to clients of state-operated residential group homes and former residents discharged to private facilities, by persons certified for ministry in specialized settings.

Subd. 10. [EVALUATION OF COMMUNITY-BASED SERVICES DEVELOPMENT.] The commissioner shall develop an integrated approach to assessing and improving the quality of community-based services, including state-operated programs for persons with developmental disabilities.

The commissioner shall evaluate the progress of the development and quality of community-based services to determine if further development can proceed. The commissioner shall report results of the evaluation to the legislature by January 31, 1991, and January 31, 1993.

Subd. 11. [RULES AND LICENSURE.] Each state-operated residential and day habilitation service site shall be separately licensed and movement of residents between them shall be governed by applicable rules adopted by the commissioner.

Subd. 12. [DISCHARGE OF PERSONS WITH MENTAL RETARDATION OR A RELATED CONDITION.] (a) Prior to discharge of persons with mental retardation or a related condition, a screening shall be conducted pursuant to section 256B.092, subdivision 8, and a plan developed pursuant to section 256B.092, subdivision 1a. The screening team shall determine that the services outlined in the plan can be made available in the community. For persons who have overriding health care needs or behaviors which cause injury to self or others, or cause damage to property which is an immediate threat to the physical safety of the persons or others, the following additional conditions must be met:

(1) For persons with overriding health care needs, a registered nurse or a licensed physician shall review the proposed community services to assure that the medical needs of the person have been planned for adequately.

(2) For persons with behaviors which cause injury to self or others, or cause damage to property which is an immediate threat to the physical safety of the person or others, a qualified mental retardation professional, as that term is defined in section 256B.092, subdivision 7, shall review the proposed community services to assure that the behavioral needs of the person have been planned for adequately. The qualified mental retardation professional must have one year of experience in the areas of assessment, planning,

implementation, and monitoring of individual habilitation plans which have used behavior intervention techniques.

(3) For purposes of this section, "overriding health care needs" means a medical condition that requires daily clinical monitoring by a licensed nurse.

(b) No person with mental retardation or a related condition may be discharged before an appropriate community placement is available to receive the person.

(c) A person, legal representative, or near relative may object to a proposed discharge by using the procedures in section 252.515.

#### Sec. 18. [252.51] [COMMUNITY PLANNING.]

Each community where there is a regional treatment center shall establish a group to work with and advise the commissioner and the counties to:

(1) ensure community input in the development of community services for persons with developmental disabilities;

(2) assure consideration of family concern about choice of service settings;

(3) assist counties in recruiting new providers, capitalizing, and siting new day services and residential programs;

(4) work with the surrounding counties to coordinate development of services for persons with developmental disabilities;

(5) facilitate community education concerning services to persons with developmental disabilities;

(6) assist in recruiting potential supported employment opportunities;

(7) assist in developing shared services agreements among providers of service;

(8) coordinate with the development of state-operated services; and

(9) seek to resolve local transportation issues for people with developmental disabilities.

Representatives shall meet at least monthly in fiscal year 1990

and quarterly in the following years to plan and coordinate services. Minutes of each meeting shall be available to the public.

Funds appropriated to the department of human services for this purpose shall be transferred to the city in which the regional treatment center is located upon receipt of evidence from the city that such a group has been constituted and designated. The funds shall be used to defray the expenses of the group.

The membership of each community group must reflect a broad range of community interests, including, at a minimum, families of persons with developmental disabilities, state employee unions, providers, advocates, and counties.

**Sec. 19. [252.515] [RIGHTS OF PARENTS AND NEAR RELATIVES.]**

(a) For purposes of this section, near relative means spouse, parent, adult sibling, or adult child.

(b) If the person, legal representative, or near relative of the person proposed to be discharged from a regional treatment center objects to the proposed discharge, the individual who objects to the discharge may request a review pursuant to section 256.045, subdivision 4a. The person shall not be transferred from a regional treatment center while a review or appeal is pending.

A resident of a regional treatment center may not be discharged to a community intermediate care facility with more than 15 beds. Effective July 1, 1993, a resident of a regional treatment center may not be discharged to a community intermediate care facility with more than ten beds.

(c) Within 30 days of the request for a review, the local agency shall conduct a conciliation conference and inform the individual who requested the review in writing of the action the local agency is going to take. The conciliation conference shall be conducted in a manner consistent with section 256.045, subdivision 4a.

(d) If the person, legal representative, or near relative of the person proposed to be discharged is not satisfied with the results of the conciliation conference, any of those individuals may submit to the commissioner a written request for a hearing before a state human services referee pursuant to section 256.045, subdivision 4a.

(e) The person, legal representative, or near relative of the person proposed to be discharged may appeal the order to the district court of the county responsible for furnishing assistance by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the commis-



sioner issued the order, and by filing the original notice and proof of service with the court administrator of the district court. Judicial review shall proceed pursuant to section 256.045, subdivisions 7 to 10.

Sec. 20. Minnesota Statutes 1988, section 253.015, is amended to read:

253.015 [LOCATION; MANAGEMENT; COMMITMENT; CHIEF EXECUTIVE OFFICER.]

Subdivision 1. [STATE HOSPITALS FOR PERSONS WITH MENTAL ILLNESS.] The state hospitals located at Anoka, Brainerd, Fergus Falls, Hastings, Moose Lake, Rochester, St. Peter, and Willmar shall constitute the state hospitals for mentally ill persons with mental illness, and shall be maintained under the general management of the commissioner of human services. The commissioner of human services shall determine to what state hospital persons with mental illness shall be committed from each county and notify the probate judge thereof, and of changes made from time to time. The chief executive officer of each hospital for persons with mental illness shall be known as the chief executive officer.

Subd. 2. [REPORT ON NEEDED REGIONAL TREATMENT CENTER SERVICES.] By January 31, 1991, the commissioner shall determine the need for providing services for persons in southeastern Minnesota who are mentally ill at the regional center in Faribault and submit a report to the legislature. The report shall also address the need to provide services to persons with closed head injuries at the Faribault regional center.

Sec. 21. [253.016] [PURPOSE OF REGIONAL TREATMENT CENTERS.]

The primary mission of the regional treatment centers is to provide inpatient psychiatric hospital services to persons with major mental illness. The regional treatment centers are part of a comprehensive mental health system, the focus of which shall be a commitment to community-based living for persons with mental illness. Regional treatment center services should be integrated into an array of services based on assessment of individual needs.

Sec. 22. [253.017] [TREATMENT PROVIDED BY REGIONAL TREATMENT CENTERS.]

Subdivision 1. [ACTIVE PSYCHIATRIC TREATMENT.] The regional treatment centers shall provide active psychiatric treatment according to contemporary professional standards. Treatment must be designed to:

(1) stabilize the individual and the symptoms that required hospital admission;

(2) restore individual functioning to a level permitting return to the community;

(3) strengthen family and community support; and

(4) facilitate discharge, after care, and follow-up as patients return to the community.

Subd. 2. [NEED FOR SERVICES.] The commissioner shall determine the need for the psychiatric services provided by the department based upon individual needs assessments of persons in the regional treatment centers as required by section 245.474, subdivision 2, and evaluation of its programs, programs needed in the region for persons who require hospitalization, and epidemiologic data. Throughout its planning and implementation, the assessment process will be discussed with the state advisory council on mental health in accordance with its duties under section 245.697. Ongoing assessment of this information will be used to plan for and implement change in state-operated programs and facilities for persons who are mentally ill. By January 31, 1990, the commissioner shall submit a proposal for renovation or new construction of the facility at Anoka serving the metropolitan area. By January 31, 1992, the commissioner shall submit a proposal for renovation or new construction of the facilities at Moose Lake and Fergus Falls. Expansion will be considered only after a thorough analysis of need and in conjunction with a comprehensive mental health plan.

Subd. 3. [DISSEMINATION OF ADMISSION AND STAY CRITERIA.] The commissioner shall periodically disseminate criteria for admission and continued stay in a regional treatment center and security hospital. The commissioner shall disseminate the criteria to the courts of the state and counties.

Sec. 23. [253.018] [PERSONS SERVED.]

The regional treatment centers shall primarily serve adults. Programs treating children and adolescents who require the clinical support available in a psychiatric hospital may be maintained on present campuses until adequate state-operated alternatives are developed off campus according to the criteria of section 253.28, subdivision 2.

Sec. 24. [253.28] [STATE-OPERATED, COMMUNITY-BASED PROGRAMS FOR PERSONS WITH MENTAL ILLNESS.]

Subdivision 1. [PROGRAMS FOR PERSONS WITH MENTAL ILLNESS.] The commissioner may establish a system of state-

operated, community-based programs for persons with mental illness. For purposes of this section, "state-operated, community-based program" means a program administered by the state to provide treatment and habilitation in community settings to persons with mental illness. Employees of the programs must be state employees under chapters 43A and 179A. The role of state-operated services must be defined within the context of a comprehensive system of services for persons with mental illness. Services may include, but are not limited to, community residential treatment facilities for children and adults.

Subd. 2. [LOCATION OF PROGRAMS FOR PERSONS WITH MENTAL ILLNESS.] In determining the location of state-operated, community-based programs, the needs of the individual clients shall be paramount. The commissioner shall take into account:

(1) the personal preferences of the persons being served and their families;

(2) location of the support services needed by the persons being served as established by an individual service plan;

(3) the appropriate grouping of the persons served;

(4) the availability of qualified staff;

(5) the need for state-operated, community-based programs in the geographical region of the state; and

(6) a reasonable commuting distance from a regional treatment center or the residences of the program staff.

Subd. 3. [EVALUATION OF COMMUNITY-BASED SERVICES DEVELOPMENT.] The commissioner shall develop an integrated approach to assessing and improving the quality of community-based services including state-operated programs to persons with mental illness. The commissioner shall evaluate the progress of the development and quality of the community-based services to determine if further development can proceed. The commissioner shall report results of the evaluation to the legislature by January 31, 1991, and January 31, 1993.

Sec. 25. [256E.14] [GRANTS FOR CASE MANAGEMENT FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.]

Subdivision 1. [PAYMENT TO COUNTIES FOR CASE MANAGEMENT.] To assist counties with increased case management and other administrative costs related to discharging persons with mental retardation or related conditions from regional treatment

centers to community services, the commissioner shall provide funds to counties as specified in this section.

(a) By September 30, 1989, the commissioner shall pay to each county a sum equal to 1,000 times the net decrease that occurred between July 1, 1980 and December 31, 1988, in the number of persons with mental retardation or related conditions, from that county, who were residing in a regional treatment center.

(b) On January 1, 1989, and on the first of January in succeeding years, until 1993, the commissioner shall determine, for each county, the number of persons from that county with mental retardation or related conditions who are residing in a regional treatment center. By September 30 of each year, through 1993, the commissioner shall pay to each county the sum of \$500 for each resident described in this paragraph.

(c) Beginning on January 1, 1990, and continuing until January 1, 1993, the commissioner shall conduct an annual census of the number of clients with mental retardation or related conditions from each county who are residing in a regional treatment center. The commissioner shall then determine, for each county, whether there has been a net decrease or increase from the previous January in the number of such persons residing in a regional treatment center.

(d) For a year in which it is determined under paragraph (c) that there has been a net decrease in the number of persons from a given county who have mental retardation or related conditions and who are residing in a regional treatment center, the commissioner shall pay to that county, by September 30 of that year, 1,000 times the net decrease in the number of such persons.

(e) For a year in which it is determined under paragraph (c) that there has been a net increase in the number of persons from a given county who have mental retardation or related conditions and who are residing in a regional treatment center, the amount due to a county for that year under paragraph (b) shall be reduced by a sum equal to 1,000 times the net increase in the number of such persons. If for any given year the amount to be deducted from a county payment exceeds the amount to be paid to the county under paragraph (b), then the difference shall be deducted from future amounts to be paid to the county under paragraphs (b) and (d). If any amount to be deducted from a county payment under paragraph (e) for the years 1990 to 1993 remains uncollected after September 30, 1993, then that amount shall be deducted from funds to be paid to the county under chapter 256E after January 1, 1994.

Subd. 2. [PRORATION OF PAYMENTS.] If the appropriation for any given year is insufficient to provide full funding, then payments under subdivision 1 shall be reduced proportionally. Similarly,

funds remaining at the end of the fiscal year shall be distributed proportionally to the June 30 measurement of net decrease provided in subdivision 1, paragraph (c).

Sec. 26. [AGREEMENT AUTHORIZED.]

The agreement between the commissioner of human services, the state negotiator, and the bargaining representatives of state employees, dated March 10, 1989, concerning the department of human services plan to restructure the regional treatment centers, is ratified, subject to approval by the legislative commission on employee relations."

Delete the title and insert:

"A bill for an act relating to human services; establishing policy; changing the role of regional treatment centers; providing for community-based services for certain persons; amending Minnesota Statutes 1988, sections 245.463, by adding a subdivision; 245.476, by adding a subdivision; 245.94, subdivision 1; 246.18, subdivision 4; 246.36; 246.57, subdivision 1; 251.011, subdivision 4, and by adding a subdivision; 252.291, subdivision 2; 252.31; 252.41, subdivision 9; 252.50; and 253.015; proposing coding for new law in Minnesota Statutes, chapters 245; 246; 251; 252; 253; and 256E."

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

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 932, A bill for an act relating to health; establishing a blood lead level screening program for children; requiring local health boards to conduct environmental inspections; providing subsidized lead abatement services; requiring a report on soil and blood lead; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 2, line 5, delete "less than"

Page 2, after line 36, insert:

"Medical laboratories performing blood lead analyses must provide copies of the laboratory report form for all blood levels of at

least ten micrograms per deciliter to the commissioner and to the board of health of the city or county in which the patient resides."

Page 3, line 13, after "blood" insert "lead"

Page 5, line 14, delete "to provide" and insert "of providing"

Page 5, line 23, delete "facilities" and insert "fountains"

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

The report was adopted.

Ogren from the Committee on Health and Human Services to which was referred:

H. F. No. 962, A bill for an act relating to health; requiring the physician to make a determination of viability; prohibiting abortions except those necessary to preserve the life or health of the mother; regulating the method of abortion of the viable fetus; requiring the presence of a second physician at the abortion of a viable unborn child; regulating the standard of care for the viable unborn child; according protection of law to the child born alive as a result of abortion; providing a penalty; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 4, line 2, after "mother." insert "None of the provisions of the bill shall apply to those cases in which congenital fetal anomalies exist which are incompatible with sustained survival."

Page 4, line 13, after the period insert "A physician's good faith exercise of reasonable medical judgment based on the particular facts of the case before the physician is conclusive evidence that this section has not been violated."

With the recommendation that when so amended the bill pass.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 982, A bill for an act relating to animals; establishing a study commission to report to the legislature on the feasibility of a

pilot program in the metropolitan area for reducing the population of unwanted dogs and cats through low-cost spaying and neutering.

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

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1008, A bill for an act relating to human services; clarifying and expanding the duties of the ombudsman for older Minnesotans; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 256.974; 256.9741, subdivisions 3 and 5, and by adding a subdivision; 256.9742; 256.9744, subdivision 1; and 256.975, subdivision 2.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 1040, A bill for an act relating to agriculture; allowing nuisance free, pollution free, aesthetic disposal of solid waste on agricultural land by a person engaged in farming; requiring the pollution control agency to notify the commissioner of agriculture and hold public hearings on rules affecting farming operations; amending Minnesota Statutes 1988, section 116.07, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 17.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 14.115, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] For purposes of this section, "small business" means a business entity, including farming and other agricultural operations and its affiliates, that (a) is independently owned and operated; (b) is not dominant in its field; and (c) employs fewer than 50 full-time employees or has gross annual sales of less than \$4,000,000. For purposes of a specific rule, an agency may define small business to include more employees if necessary to adapt the rule to the needs and problems of small businesses.

## Sec. 2. [17.135] [FARM DISPOSAL OF SOLID WASTE.]

A permit is not required from a state agency, except under sections 88.16 and 88.17, for a person who owns or operates land used for farming that buries, or burns and buries, solid waste generated from the person's household or as part of the person's farming operation if the burying is done in a nuisance free, pollution free, and aesthetic manner on the land used for farming. This exception does not apply if there is regularly scheduled pickup of solid waste established by the county.

Sec. 3. Minnesota Statutes 1988, section 115A.46, subdivision 2, is amended to read:

Subd. 2. [CONTENTS.] The plans shall describe existing collection, processing, and disposal systems, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems. The plans shall include an estimate of the land disposal capacity in acre-feet which will be needed through the year 2000, on the basis of current and projected waste generation practices. The plans shall require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste. The plans shall address at least waste reduction, separation, and resource recovery, and shall include objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste. The plans shall describe methods for identifying the portions of the waste stream such as leaves, grass, clippings, tree and plant residue, and paper for application and mixing into the soil and use in agricultural practices. The plans shall describe specific functions to be performed and activities to be undertaken to achieve the abatement objectives and shall describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The plans shall include a comparison of the costs of the activities to be undertaken, including capital and operating costs, and the effects of the activities on the cost to generators and on persons currently providing solid waste collection, processing, and disposal services. The plans shall include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established. The plans shall designate how public education shall be accomplished. The plans shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plans shall include criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. The plans shall establish a siting procedure and development program to assure the orderly location, develop-



ment, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten-year period, including estimated costs and implementation schedules, proposed procedures for operation and maintenance, estimated annual costs and gross revenues, and proposals for the use of facilities after they are no longer needed or usable. The plans shall describe existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management and shall describe existing and proposed regulation and enforcement procedures.

Sec. 4. Minnesota Statutes 1988, section 115A.48, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] The board shall assist and encourage the development of specific facilities, services, and uses needed to provide adequate, stable, and reliable markets for recyclable materials, solid waste suitable for land application, and compost generated in the state. In carrying out this duty the board shall coordinate and cooperate with the solid waste management efforts of other public agencies and political subdivisions.

Sec. 5. Minnesota Statutes 1988, section 115A.48, subdivision 2, is amended to read:

Subd. 2. [FACILITY DEVELOPMENT PROPOSALS.] In order to determine the feasibility and method of developing and operating specific types of facilities and services to use recyclable materials, solid waste suitable for land application, and compost generated in the state, the board shall request proposals from and may make grants to persons seeking to develop or operate the facilities or services. Grants may be made for the purposes in section 115A.156, subdivision 1, clauses (1) to (6). A grant must be matched by money or in-kind services provided by the grantee covering at least 50 percent of the project cost. In requesting proposals under this section the board shall follow the procedures provided in section 115A.158, subdivisions 1 and 2, as far as practicable.

Sec. 6. Minnesota Statutes 1988, section 115A.48, is amended by adding a subdivision to read:

Subd. 4. [LAND APPLICATION OF SOLID WASTE.] The board shall provide technical assistance and advice to political subdivisions on separating portions of the waste stream such as leaves, grass, clippings, tree and plant residue, and paper for application and mixing into the soil and for use in agricultural practices.

Sec. 7. Minnesota Statutes 1988, section 116.07, subdivision 4, is amended to read:

Subd. 4. [RULES AND STANDARDS.] Pursuant and subject to

the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the prevention, abatement, or control of air pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution. The agency shall adopt such rules and standards for sewage sludge, addressing the intrinsic suitability of land, the volume and rate of application of sewage sludge of various degrees of intrinsic hazard, design of facilities, and operation of facilities and sites. The agency shall promulgate emergency rules for sewage sludge pursuant to sections 14.29 to 14.36. Notwithstanding the provisions of sections 14.29 to 14.36, the emergency rules shall be effective until permanent rules are promulgated or March 1, 1982, whichever is earlier. Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to collection, transportation, processing, disposal, equipment, location, procedures, methods, systems or techniques or to any other matter relevant to the prevention, abatement or control of water, air, and land pollution which may be advised through the control of collection, transportation, processing, and disposal of solid waste and sewage sludge, and the deposit in or on land of any other material that may tend to cause pollution. By January 1, 1983, the rules for the management of sewage sludge shall include an analysis of the sewage sludge determined by the commissioner of agriculture to be necessary to meet the soil amendment labeling requirements of section 17.716.

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1971, chapter 727, for the prevention, abatement, or control of noise pollution. Any such rule

or standard may be of general application throughout the state, or may be limited as to times, places, circumstances or conditions in order to make due allowances for variations therein. Without limitation, rules or standards may relate to sources or emissions of noise or noise pollution, to the quality or composition of noises in the natural environment, or to any other matter relevant to the prevention, abatement, or control of noise pollution.

As to any matters subject to this chapter, local units of government may set emission regulations with respect to stationary sources which are more stringent than those set by the pollution control agency.

Pursuant to chapter 14, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of this chapter for generators of hazardous waste, the management, identification, labeling, classification, storage, collection, treatment, transportation, processing, and disposal of hazardous waste and the location of hazardous waste facilities. A rule or standard may be of general application throughout the state or may be limited as to time, places, circumstances, or conditions. In implementing its hazardous waste rules, the pollution control agency shall give high priority to providing planning and technical assistance to hazardous waste generators. The agency shall assist generators in investigating the availability and feasibility of both interim and long term hazardous waste management methods. The methods shall include waste reduction, waste separation, waste processing, resource recovery, and temporary storage.

The pollution control agency shall give highest priority in the consideration of permits to authorize disposal of diseased shade trees by open burning at designated sites to evidence concerning economic costs of transportation and disposal of diseased shade trees by alternative methods.

In addition to the provisions under section 14.115, before the pollution control agency adopts or repeals rules that affect farming operations, the agency must provide a copy of the proposed rule change and a statement of the effect of the rule change on farming operations to the commissioner of agriculture for review and comment and hold public meetings in agricultural areas of the state.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective the day after final enactment."

Delete the title and insert:

"A bill for an act relating to agriculture; allowing nuisance free,

pollution free, aesthetic burial of solid waste on agricultural land by a person engaged in farming; requiring solid waste management plans to describe methods for using leaves and other such waste for mixing into the soil; requiring the waste management board to encourage development of markets for solid waste suitable for land application and to provide technical assistance to political subdivisions on use of waste stream solid waste; requiring the pollution control agency to notify the commissioner of agriculture and hold public hearings on rules affecting farming operations; amending Minnesota Statutes 1988, sections 14.115, subdivision 1; 115A.46, subdivision 2; 115A.48, subdivisions 1, 2, and by adding a subdivision; and 116.07, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 17."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Environment and Natural Resources.

The report was adopted.

Battaglia from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1143, A bill for an act relating to taxation; permitting the city of Rochester to continue levying a general sales tax for flood control costs; amending Laws 1983, chapter 342, article 19, sections 4 and 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Laws 1983, chapter 342, article 19, section 4, is amended to read:

#### Sec. 4. [ALLOCATION OF REVENUES.]

(a) Revenues received from taxes authorized by sections 1 and 2 shall be used to pay the costs of collecting the taxes, capital and administrative costs of improvements to the city park and recreation system and flood control improvements for which the city voters at a special election held on November 2, 1982, approved the issuance of general obligation bonds, and to pay debt service on the bonds. The total capital and administrative expenditures payable from bond proceeds and revenues received from the taxes authorized by sections 1 and 2, excluding investment earnings thereon, shall not exceed \$16,000,000 for improvements to the city park and recreation system and \$16,000,000 for flood control improvements.

(b) Notwithstanding paragraph (a), if the city council elects to continue imposing the tax after \$16,000,000 has been collected for the park and recreation system and for flood control improvements, the revenues must be used to pay the city's share of the flood control project or for other flood control purposes, including additional construction or restoration, repairs, and maintenance of existing flood control improvements.

Sec. 2. Laws 1983, chapter 342, article 19, section 5, is amended to read:

Sec. 5. [TERMINATION OF TAXES.]

(a) The taxes imposed pursuant to sections 1 and 2 shall terminate on the first day of the second month next succeeding a determination by the city council that sufficient funds have been received from the taxes and bond proceeds to finance capital and administrative costs of \$16,000,000 for improvements to the city park and recreation system and \$16,000,000 for flood control improvements and to prepay or retire at maturity the principal, interest, and premium due on any bonds issued for the improvements. Any funds remaining after completion of the improvements and retirement or redemption of the bonds may be placed in the general fund of the city. If the city elects to extend the tax under paragraph (b), the funds must be allocated as provided in section 4, paragraph (b).

(b) Upon termination of the taxes under paragraph (a), the city council may, by resolution, continue to impose the taxes. If the city elects to continue imposing the taxes, the taxes terminate on December 31, 1992.

Sec. 3. [EFFECTIVE DATE.]

This act is effective upon compliance by the city council of the city of Rochester with Minnesota Statutes, section 645.021."

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

The report was adopted.

Ogren from the Committee on Health and Human Services to which was referred:

H. F. No. 1258, A bill for an act relating to health; defining the practice of traditional midwifery; providing for parental rights and informed consent disclosure statement; proposing coding for new law in Minnesota Statutes, chapter 148; repealing Minnesota Statutes 1988, sections 148.30; 148.31; and 148.32.

Reported the same back with the following amendments:

Page 1, line 11, delete "5" and insert "6"

Page 1, after line 11, insert:

"Subd. 2. [CERTIFIED TRADITIONAL MIDWIFE.] "Certified traditional midwife" means a person who:

(1) publicly professes to be a midwife or who regularly attends women in pregnancy, childbirth, and the postpartum period;

(2) practices traditional midwifery, as defined in subdivision 4; and

(3) meets the practical experience, educational, and other requirements listed in the standards of care and certification guide of the Minnesota midwives guild and who is certified by the Minnesota midwives guild as a certified traditional midwife.

The certified traditional midwife does not diagnose, treat, or care for any disease."

Page 1, line 12, delete "2" and insert "3"

Page 1, line 24, delete "preeclampsia" and insert "pre-eclampsia"

Page 1, delete lines 25 and 26

Page 2, delete lines 1 to 4

Page 2, lines 27 and 28, delete "PARENT INFORMED CONSENT DISCLOSURE STATEMENT" and insert "CERTIFIED TRADITIONAL MIDWIFE"

Page 2, line 29, before "Traditional" insert "Certified"

Page 3, line 14, before "INFORMED" insert "PARENT"

Page 3, lines 15 and 18, before "traditional" insert "certified"

Page 3, line 19, before "Traditional" insert "Certified"

Page 3, line 29, before "traditional" insert "certified"

Page 4, after line 9, insert:

"Sec. 6. [148.306] [REVIEW BY THE COMMISSIONER.]

The commissioner of health shall annually review the oversight of certified traditional midwives by the Minnesota midwives guild. At that time, the Minnesota midwives guild shall provide the commissioner with a list of names and addresses of traditional midwives certified by the guild and apprentice midwives registered by the guild. If the commissioner determines that the guild fails to ensure that certified traditional midwives meet the standards listed in the standards of care and certification guide, the commissioner shall study the regulation of traditional midwifery and report recommendations to the legislature."

Page 4, line 10, delete "6" and insert "7"

Amend the title as follows:

Page 1, line 3, after "rights" insert "; requiring an"

Page 1, line 4, delete "and" and after the semicolon insert "requiring an informed consent form; providing for review by the commissioner of health of certification of traditional midwives;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1295, A bill for an act relating to economic development; establishing a cold weather resource center at International Falls; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 116Q.

Reported the same back with the following amendments:

Page 3, line 6, delete "shall" and insert "may"

Page 3, line 32, delete "research" and insert "resource"

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

The report was adopted.

Ogren from the Committee on Health and Human Services to which was referred:

H. F. No. 1296, A bill for an act relating to occupations and

professions; changing licensure requirements for dental assistants; changing the procedure for setting the salary of the director of the board of dentistry; amending Minnesota Statutes 1988, sections 150A.06, subdivision 2a; and 214.04, subdivision 3; repealing Minnesota Statutes 1988, section 150A.06, subdivision 7.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1336, A bill for an act relating to metropolitan airport planning; requiring various actions, plans, and reports by the metropolitan council and the metropolitan airports commission; expanding the membership of the commission; establishing a state advisory council on metropolitan airport planning; amending Minnesota Statutes 1988, sections 473.604, subdivision 1; and 473.621, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapter 473.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [473.155] [AVIATION PLANNING.]

Subdivision 1. [AVIATION PLANNING ASSESSMENT.] By February 15 of each year, the council shall prepare a long-range assessment of air transportation trends and factors that may affect major airport development in the metropolitan area for a prospective 30-year period. The council shall involve the airports commission in preparing the assessment and shall take into consideration the airport development and operations plans and activities of the commission.

Subd. 2. [AVIATION PLAN.] By February 1, 1990, the council shall amend the aviation chapter of the metropolitan development guide to incorporate policies and strategies that will ensure a comprehensive, coordinated, continuing, thorough, and timely investigation and evaluation of alternatives for major airport development in the metropolitan area for a prospective 30-year period. The alternatives to be examined must include both the airport improvements and enhancements of capacity that may be necessary at the existing airport and the location and development of a new airport.



Subd. 3. [SEARCH AREA.] By January 1, 1992, the council, in consultation with the airports commission, shall designate an area within the metropolitan area as a search area for a major new airport.

Subd. 4. [LEGISLATIVE REPORTS.] (a) Until the activities required by section 3, subdivision 3, and section 4 are completed, the council shall report to the legislature by February 15 of each year on the results of the aviation planning activities of the council under this section. The report must include a summary of expenditures and sources of funding for the activities.

(b) By February 1, 1990, the council shall report to the legislature recommending methods and legislative actions that would be necessary to protect a new airport search area from conflicting development, to protect and control development on land at and around a site for a major new airport, and to inhibit land speculation and reduce incentives for land speculation in the airport and all surrounding areas.

(c) By March 1, 1990, after consulting with the airports commission, the federal aviation administration, industry representatives, and other persons, the council shall report to the legislature on assumptions and methods that will be used by the council to forecast demand related to the need for major airport facilities in the metropolitan area for a prospective 30-year period.

(d) By March 1, 1990, the council shall report to the legislature analyzing and making recommendations on long-range aviation goals for the major airport facility in the metropolitan area for a prospective 30-year period. The report must address goals for safety, environmental impact, and service, including ground access and service levels to other states and countries and to nonmetropolitan areas of the state. In preparing the report, the council shall consider regional growth patterns, economic development, economic impact, regional and statewide investment, and ground transportation.

(e) By February 1, 1991, the council shall report to the legislature on the general availability of suitable land in the metropolitan area for a new airport. If the council finds that sufficient land may not be available in the area, the council shall describe the legal and institutional changes that would be required to extend the search for a suitable site beyond the boundaries of the metropolitan area.

(f) By January 1, 1993, the council shall report to the legislature on policies for the reuse of the existing major airport site should a new major airport be developed.

Sec. 2. Minnesota Statutes 1988, section 473.604, subdivision 1, is amended to read:

Subdivision 1. The commission consists of:

(1) the mayor of each of the cities, or a qualified voter appointed by the mayor, for the term of office as mayor;

(2) a number of members appointed from precincts equal or nearest to but not exceeding half the number of districts which are provided by law for the selection of members of the metropolitan council in section 473.123. Each member shall be a resident of the precinct represented. The members shall be appointed by the governor as follows: a number as near as possible to one-fourth, for a term of one year; a similar number for a term of two years; a similar number for a term of three years; and a similar number for a term of four years, all of which terms shall commence on July 1, 1981. The successors of each member shall be appointed for four-year terms commencing in July of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult with each member of the legislature from the precinct for which the member is to be appointed, to solicit the legislator's recommendation on the appointment; and

(3) four members appointed from outside of the metropolitan area to reflect fairly the various regions and interests throughout the state that are affected by the operation of the commission's major airport and airport system. Two of these members must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as a key airport. The other two must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as an intermediate airport. The members must be appointed by the governor as follows: one for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. All of the terms start on July 1, 1989. The successors of each member must be appointed to four-year terms commencing on July 1 of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult each member of the legislature representing the municipality or county from which the member is to be appointed, to solicit the legislator's recommendation on the appointment; and

(4) a chair appointed by the governor for a term of four years. The chair may be removed at the pleasure of the governor.

### Sec. 3. [473.616] [COMPREHENSIVE AIRPORT PLANNING.]

Subdivision 1. [WOLD-CHAMBERLAIN PLAN.] (a) By January 1, 1991, the commission shall adopt a long-term comprehensive plan for the international airport at its existing location. The plan must describe:

- (1) aviation demand and air transportation needs;
- (2) airport capacity limits and potential;
- (3) facilities requirements;
- (4) a plan for physical development, including financial estimates and a tentative development schedule;
- (5) airport operational characteristics;
- (6) compatibility with metropolitan and local physical facility systems;
- (7) environmental effects;
- (8) safety; and
- (9) the effect on the neighboring communities.

The plan must satisfy the air transportation needs for a prospective 20-year period. At the same time, the commission shall adopt a concept plan for the airport, including an estimate of facilities requirements, to satisfy the air transportation needs for an additional ten-year period. The plans must be consistent with the development guide of the council. The plans must be updated at least every five years. The plans must be amended as necessary to reflect changes in trends and conditions, facilities requirements, and development plans and schedules. The plans are subject to sections 473.165 and 473.611.

(b) Until January 1, 1996, or until the commission has completed the activities required by subdivision 3 and section 4, whichever occurs first, the commission may construct a new runway or a new, substantially expanded, or relocated terminal facility if the commission determines that construction of the runway or facility is necessary and prudent, considering the economic, financial, environmental, and other costs and benefits of the new runway or facility, the current and long-term future need for major airport facilities, capacity constraints, and the time required to construct airport facilities. The commission shall make its determination by resolution, containing findings of fact and conclusions. Before making its determination, the commission shall hold a public hearing on the question. The hearing may be held separately or in conjunction with any other hearing required on the project, as the commission deems appropriate. The commission may plan, prepare designs and specifications, and conduct environmental review of a facility before the public hearing.

PLAN.] By March 1, 1990, the commission, in consultation with the council, shall complete a study of facilities requirements, airport functioning, and conceptual design for a major new airport. By January 1, 1991, the commission shall complete a conceptual design plan for a major new airport. The conceptual design study and plan must describe and satisfy air transportation needs for a prospective 30-year period and be consistent with the development guide of the council. The conceptual design plan must include an analysis of estimated costs, potential financing methods and sources of public and private funding, and cost allocation issues and options. The council shall use the design study and plan in evaluating areas for locating a new airport under section 1, subdivision 3.

Subd. 3. [NEW AIRPORT; SITE SELECTION; COMPREHENSIVE PLAN.] Within four years following the council's designation of a search area under section 1, the commission shall: (1) select a site for a major new airport in the search area designated by the council; (2) prepare a comprehensive plan and schedule, including financial plans, for the development of a major airport at that site for a prospective 20-year period following a decision to develop a new airport; (3) prepare an estimate of facilities requirements and a concept plan for development of the airport for an additional ten years; and (4) prepare and submit for administrative review the environmental documents that are required for site acquisition.

Subd. 4. [LEGISLATIVE REPORTS.] (a) Until the activities required by subdivision 3 and section 4 are completed, the commission shall report to the legislature by February 15 of each year on the results of the airport planning activities of the commission under this section. The report must include a summary of expenditures and sources of funding for the activities.

(b) By March 1, 1990, after consulting with the council, the federal aviation administration, industry representatives, and other persons, the commission shall report to the legislature on the assumptions and methods that the commission will use in preparing forecasts for airport development and operations purposes and for determining capacity and facility needs.

(c) By March 1, 1990, the commission shall report to the legislature on the integration of major airport facilities in the metropolitan area with state, national, and international air transportation systems and on the commission's planning assumptions and parameters related to such airport development issues as capacity, safety, environmental impact, and air service.

(d) By March 1, 1990, the commission shall report to the legislature on the conceptual design study for a major new airport, prepared under subdivision 2. By January 1, 1991, the commission shall report to the legislature on the conceptual design plan prepared under subdivision 2.

**Sec. 4. [473.618] [AIRPORT PLANNING AND DEVELOPMENT REPORT.]**

Within 180 days after the completion of the actions required by section 3, subdivision 3, the metropolitan council and the airports commission shall report to the legislature on the long-range planning and development of major airport facilities in the metropolitan area. The report must include the recommendations of the agencies on major airport development in the metropolitan area for a prospective 30-year period and on acquiring a site for a major new airport. The report must include an analysis of the effect of a new airport on present and proposed facilities at the existing airport and on the local, regional, and state economies. The report must contain the recommendations of the agencies on financial planning and financing for a major new airport, including: cost; cost allocation; amortization of major improvements at the existing airport before a transfer of operations; financing methods and sources of public and private funds; lease agreements and user charges at a new airport; and a method of capturing for public uses a portion of the revenue from development around a new airport.

**Sec. 5. [473.619] [PLANNING ADMINISTRATION.]**

Subdivision 1. [INTERAGENCY AGREEMENT.] The metropolitan council and the airports commission shall enter into an inter-governmental agreement by July 1, 1989. The agreement must establish a process and agency responsibilities for comprehensive and coordinated planning for major airport development, consistent with the requirements of this section and sections 1 to 4. The agreement must establish a joint committee composed of board members of the two agencies to oversee implementation of the agreement.

Subd. 2. [SCOPE OF WORK REPORT.] By September 1, 1989, the metropolitan council and the airports commission shall prepare a scope of work report that describes the general scope and schedule of work and the topics to be addressed in the planning and study tasks required of the agencies under sections 1 to 4.

Subd. 3. [FEDERAL PARTICIPATION.] The metropolitan council and the airports commission shall make use of available federal funding for their activities under sections 1 to 4.

Subd. 4. [CONSULTATION.] The metropolitan council and the airports commission shall prepare the plans and reports under sections 1 to 4 in consultation with each other, the commissioner of transportation, the federal aviation administration, industry representatives, and other interested persons.

Subd. 5. [COMMENCEMENT.] In order to meet the planning deadlines prescribed in sections 1 to 4, the agencies may begin

preparing plans and studies immediately, without waiting for the completion of the interagency agreement or the completion and review of the scope of work report.

Sec. 6. Minnesota Statutes 1988, section 473.621, subdivision 1a, is amended to read:

Subd. 1a. [RELATIONSHIP TO LEGISLATURE.] The commission shall be held accountable to the legislature in its activities, plans, policies, and programs. It shall report each session to appropriate committees of the legislature as to its activities, plans, policies, and programs and shall make other reports and recommendations which the legislature or its committees deem appropriate. The commission shall adopt a long-term comprehensive plan for the Minneapolis-St. Paul International Airport. The plan must describe, in the degree of detail that the commission deems appropriate for at least a prospective ten-year period, the following:

- (1) aviation demand;
- (2) airport capacity, including environmental, runway, terminal, and other factors relevant to capacity;
- (3) a plan and financial estimates for physical development;
- (4) airport operational characteristics;
- (5) compatibility with the capacity of metropolitan and local physical facility systems;
- (6) environmental effects; and
- (7) the effect on the neighboring communities.

The plan must be submitted to the legislature by December 31, 1988, and be updated at least every five years thereafter. The plan is subject to sections 473.165 and 473.611.

#### Sec. 7. [STATE ADVISORY COUNCIL.]

Subdivision 1. [ESTABLISHMENT; PURPOSE.] A state of Minnesota advisory council on metropolitan airport planning is established to provide a forum at the state level for education, discussion, and advice to the legislature on the reports prepared for the legislature by the metropolitan council and metropolitan airports commission. The creation of this advisory council does not affect the existing reporting relationship of the commission and council to the legislature.

Subd. 2. [AUTHORITY; DUTIES.] (a) The advisory council shall review and comment to the legislature on the scope of work report required by section 5, subdivision 2.

(b) The advisory council shall review and comment to the legislature on the reports to the legislature required by section 1, subdivision 4; section 3, subdivision 4; and section 4.

(c) The advisory council may conduct public meetings on the reports to inform the public and solicit opinion.

(d) The advisory council may request interim briefings on work in progress.

Subd. 3. [MEMBERSHIP.] The members of the advisory council are:

(1) six legislators, three members of the senate and three members of the house of representatives, appointed by the customary appointing authority of each house;

(2) the commissioners of transportation, planning, the pollution control agency, and trade and economic development, or their designees;

(3) two metropolitan council members, appointed by the metropolitan council, at least one from a district directly affected by the international airport;

(4) two members of the metropolitan airports commission, appointed by the airports commission, at least one from a district directly affected by the international airport;

(5) two representatives of the aviation industry, appointed by the metropolitan council;

(6) four persons who are not eligible for selection under other clauses appointed as follows: two persons appointed by the customary appointing authority of each house of the legislature, one from the metropolitan area and the other from elsewhere in the state; and

(7) a representative of the federal aviation administration and persons representing members of Congress from the state, serving ex officio.

Members serve at the pleasure of the appointing authority.

Subd. 4. [CHAIRS.] The legislative appointing authorities shall each designate a legislative appointee to serve as a co-chair of the advisory council.

Subd. 5. [ADMINISTRATION.] On the request of the advisory council, legislative staff offices and the state and metropolitan agencies represented on the advisory council shall provide administrative and staff assistance.

Subd. 6. [TERMINATION.] The advisory council ceases to exist when the actions required by section 3, subdivision 3, and section 4 are completed.

**Sec. 8. [COMPLIANCE WITH OTHER LAWS.]**

Nothing in sections 1 to 9 relieves the commission or the council of any duties or responsibilities otherwise imposed by law.

**Sec. 9. [APPLICATION.]**

Sections 1 to 6 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 1379, A bill for an act relating to health; establishing notice requirements for emergency medical services personnel who are first responders; providing safeguards for first responders against exposure to infectious diseases; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 3, line 27, before "confidentiality" insert "data practices,"

Page 3, line 34, delete "has" and insert "and the facility's agents or employees"

Page 4, line 23, after the period, insert "The right to refuse a blood test under the circumstances described in this section does not apply to a prisoner who is in the custody or under the jurisdiction of the commissioner of corrections."

Page 5, line 9, delete everything after "is"

Page 5, delete lines 10 and 11 and insert ", with respect to patients and employees of persons in the private sector, private and confidential information and, with respect to patients and employees of



state agencies, statewide systems, or political subdivisions, private data."

Page 5, line 24, after "individual" insert ", state agency, statewide system, political subdivision,"

Page 5, line 25, delete "agency" and insert "person" and after "releasing" insert "private data, or confidential or"

Page 5, line 26, before the period, insert "or employee"

With the recommendation that when so amended the bill pass.

The report was adopted.

Ogren from the Committee on Health and Human Services to which was referred:

H. F. No. 1410, A bill for an act relating to local government; the towns of Crystal Bay, Beaver Bay, and Stony River, the cities of Beaver Bay and Silver Bay, and Unorganized Territory No. 1; permitting the establishment of a medical clinic district.

Reported the same back with the following amendments:

Page 7, after line 10, insert:

"Sec. 6. [COOK COUNTY; HOSPITAL DISTRICT.]

Subdivision 1. [CREATION; REFERENDUM.] The board of commissioners of Cook county may by resolution create a Cook county hospital district. The resolution providing for creation of the district must be published in the official newspaper of the county. If within ten days after the publication a petition is filed with the county board that is signed by qualified voters of the county at least equal in number to ten percent of the number of voters voting at the most recent election of county commissioners, requesting a referendum on the resolution, it shall not be effective until it is approved by a majority of qualified voters voting on the question at a special or general election.

Subd. 2. [OPERATION OF DISTRICT.] A hospital district created under this section shall be subject to Minnesota Statutes, sections 397.06 to 397.102, except as provided otherwise in this act.

Subd. 3. [BOARD.] Notwithstanding Minnesota Statutes, section 397.06, the board of the district shall be comprised of one member from each county commissioner district elected by the voters at the first general election in the county after the resolution has become

effective. After the 1992 general election, the term of each board member shall be four years or until a successor has been elected and qualified. Terms shall begin on the first day of January following the election. If members are elected in 1990, their terms shall be two years.

When the district is first created, the county commissioner from each district shall appoint a member of the board to serve until the commencement of the term of a successor. Thereafter when a vacancy occurs, the county commissioner from the district affected shall appoint a member to serve until January 1 following the next general election in the county, when a successor shall be elected for a regular term or the unexpired remainder of the regular term.

Subd. 4. [TAX LEVY.] The tax levied under Minnesota Statutes, section 397.09, shall not exceed \$300,000 in any year, and its proceeds may be used for all purposes of the hospital district.

**Sec. 7. [COOK COUNTY; HOSPITAL APPROPRIATION.]**

Notwithstanding the limitations of Minnesota Statutes, section 376.08, the board of commissioners of Cook county may appropriate up to \$240,000 from the proceeds of the 1989 general county levy for taxes payable in 1990 for the cost of acquiring, constructing, improving, altering, equipping, maintaining, and operating hospitals within the county."

Page 7, line 11, delete "6" and insert "8"

Page 7, line 13, delete "this act takes" and insert "sections 1 to 5 take"

Page 7, line 14, after the period insert "Sections 6 and 7 take effect the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the board of county commissioners of Cook county."

Delete the title and insert:

"A bill for an act relating to local government; providing procedures for the establishment of certain medical facilities in Cook county."

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

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1446, A bill for an act relating to retirement; public employees retirement association; clarifying certain provisions; changing administrative requirements; altering member eligibility requirements; changing disability benefit payments; amending Minnesota Statutes 1988, sections 353.01, subdivisions 2a and 2b, and by adding a subdivision; 353.27, subdivision 12; 353.28, subdivisions 5 and 6; 353.29, subdivisions 4 and 7; 353.33, subdivisions 1, 2, 5, 6, and 7; 353.34, subdivision 1; 353.35; 353.64, subdivisions 2 and 3; and 353.656, subdivision 4; repealing Minnesota Statutes 1988, sections 353.01, subdivision 2c; 353.661; and 353.662.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

#### MSRS

Section 1. Minnesota Statutes 1988, section 43A.44, subdivision 2, is amended to read:

Subd. 2. [BENEFITS.] Employees in shared positions shall be eligible for the following benefits and subject to the following obligations:

(a) (1) Membership in the Minnesota state retirement system, the teachers retirement association or the state patrol retirement fund, whichever is appropriate, except that, notwithstanding any provision of section 352.01, subdivisions 11 and 16; 352B.01, subdivision 3; 354.05, subdivisions 13 and 25; or 354.091, employees shall have allowable service for the purpose of meeting the minimum service requirements for eligibility to a retirement annuity or other retirement benefit credited in full, but shall have benefit accrual service for the purpose of computing a retirement annuity or other retirement benefit credited on a fractional basis either weekly or annually based upon the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year;

(b) (2) Vacation and sick leave accruals shall be prorated in accordance with the pertinent collective bargaining agreement or plan covering the position;

(c) (3) Employee dental, medical and hospital benefits coverage

shall be available of the same type and coverage afforded to comparable full-time employees. Employees in shared positions who elect such coverage shall pay, by payroll deduction, the difference between the actual cost to the employer and the appropriate shared time percent of the actual cost. The remaining percent shall be paid by the employer. Employee life insurance coverage shall be available to employees in shared positions on the same terms as for comparable full-time employees;

(d) (4) Dependent life insurance coverage shall be available to employees in shared positions on the same terms as for comparable full-time employees. Dependent medical, hospital and dental benefits coverage shall be available to employees in shared positions of the same type and coverage afforded to comparable full-time employees, except that the employer shall contribute the appropriate shared time percent of the dollar amount contributed for comparable full-time employees electing the same program, the remainder to be paid by payroll deduction by the employee electing such coverage;

(e) (5) Employees in shared positions shall be entitled to the prorated holiday provisions of the applicable collective bargaining agreement or plan covering the position;

(f) (6) Employees in shared positions shall accrue seniority time in every relevant category at the same rate accorded to comparable full-time employees. No full-time employee accepting a shared position shall suffer any loss of or gap in seniority time in the relevant categories applicable to the full-time employment; and

(g) (7) Any other benefits of employment for employees in shared positions shall be prorated at a rate of the appropriate shared time percent of those available to comparable full-time employees, whenever the benefits are divisible. Contributions by the employer toward the benefits, if any, shall be equal to the appropriate shared time percent of the full-time benefits. When not divisible, the cost of the full-time benefits normally allocable to the employer shall be allocated, the appropriate shared time percent to the employee in a shared position, by payroll deduction, and the remaining percent to the employer.

Sec. 2. Minnesota Statutes 1988, section 352.01, subdivision 11, is amended to read:

Subd. 11. [ALLOWABLE SERVICE.] "Allowable service" means:

(1) Service by an employee for which on or before July 1, 1957, the employee was entitled to allowable service credit on the records of the system by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, chapter 352, as amended by Laws 1955, chapter 239.

(2) Service by an employee for which on or before July 1, 1961, the employee chose to obtain credit for service by making payments to the fund under Minnesota Statutes 1961, section 352.24.

(3) Except as provided in clauses (9) and (10), service by an employee after July 1, 1957, for any calendar month in which the employee is paid salary from which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041.

(4) Except as provided in clauses (9) and (10), service by an employee after July 1, 1957, for any calendar month for which payments in lieu of salary deductions are made, deposited, and credited in the fund, as provided in section 352.27 and Minnesota Statutes 1957, section 352.021, subdivision 4.

For purposes of clauses (3) and (4), except as provided in clauses (9) and (10), any salary paid for a fractional part of any calendar month is deemed the compensation for the entire calendar month.

(5) The period of absence from their duties by employees who are temporarily disabled because of injuries incurred in the performance of duties and for which disability the state is liable under the workers' compensation law until the date authorized by the director for the commencement of payments of a total and permanent disability benefit from the retirement fund.

(6) The unused part of an employee's annual leave allowance for which the employee is paid salary.

(7) Any service covered by a refund repaid as provided in section 352.23 or 352D.05, subdivision 4, except service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system.

(8) Any service before July 1, 1978, by an employee of the transit operating division of the metropolitan transit commission or by an employee on an authorized leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division, which was credited by the metropolitan transit commission-transit operating division employees retirement fund or any of its predecessor plans or funds as past, intermediate, future, continuous, or allowable service as defined in the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977.

(9) Service after July 1, 1983, by an employee who is employed on a part-time basis for less than 50 percent of full time, for which the

employee is paid salary from which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041 or for which payments in lieu of salary deductions are made, deposited, and credited in the fund as provided in section 352.27 shall be credited on a fractional basis either by pay period, monthly, or annually based on the relationship that the percentage of salary earned bears to a full-time salary, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time pay period, month, or a full-time year. For periods of part-time service that is duplicated service credit, section 356.30, subdivision 1, clauses (i) and (j), govern.

(10) Any service by an employee in the Minnesota demonstration job-sharing program under sections 43A.40 to 43A.465 which is less than 40 hours per week or 2,080 hours per year and for which the employee is paid salary from which deductions are made, deposited and credited in the fund, shall be credited on a fractional basis either weekly or annually based on the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year.

The allowable service determined and credited on a fractional basis under clauses (9) and (10) shall be used in calculating the amount of benefits payable, but service as determined on a fractional basis must not be used in determining the length of service required for eligibility for benefits.

(11) (10) Any period of authorized leave of absence without pay that does not exceed one year and for which the employee obtained credit by payment to the fund in lieu of salary deductions. To obtain credit, the employee shall pay an amount equal to the employee and employer contribution rate in section 352.04, subdivisions 2 and 3, multiplied by the employee's hourly rate of salary on the date of return from leave of absence and by the days and months of the leave of absence without pay for which the employee wants allowable service credit. The employing department, at its option, may pay the employer amount on behalf of its employees. Payments made under this clause shall include interest at the rate of six percent per year from the date of termination of the leave of absence to the date payment is made unless payment is completed within one year of the return from leave of absence.

Sec. 3. Minnesota Statutes 1988, section 352.021, subdivision 5, is amended to read:

Subd. 5. [CONTINUING COVERAGE.] Any state employee who has made contributions to the retirement fund for a period of one year and who, continuing in state service after that year, becomes

eligible for membership in the state teachers retirement association as a full-time teacher, as defined in section 354.05, subdivision 2, may continue coverage under the system by filing in its office written notice of election to continue. The election to be covered by the system under this subdivision or section 352.01, subdivision 2b, clause (3), must be made on a form approved by the director within 90 days after appointment to the position. If the option is exercised, the employee is not thereafter entitled to membership in the teachers retirement association while employed by the state in a position that entitled the employee to make this election.

Sec. 4. Minnesota Statutes 1988, section 352.03, subdivision 11, is amended to read:

Subd. 11. [LEGAL ADVISER, ATTORNEY GENERAL.] The attorney general shall be the legal adviser of the board and of the director. The board may sue or be sued or petitioned under this section in the name of the board of directors of the system. In actions brought by it or against it, the board shall be represented by the attorney general- and, except as provided in subdivision 9, venue of actions shall be in the Ramsey county district court.

Sec. 5. [352.031] [APPEALS PROCEDURE.]

Subdivision 1. [DEFINITIONS.] Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the following terms have the meanings given them.

(a) "Board" means the board of directors of the Minnesota state retirement system.

(b) "Documentation" includes, but is not limited to:

(1) sworn and notarized affidavits made on the personal knowledge of any person;

(2) official letters or documents;

(3) documents from the file of the petitioner; and

(4) other relevant documents that are admissible as evidence in a court of law.

(c) "Executive director" means the executive director of the Minnesota state retirement system.

(d) "Person" includes any state agency or other governmental unit that employs persons covered under statutes listed in subdivision 2.

(e) "Record" means the petition and the documentation that the petitioners submit with the petition; the executive director's answer to the petition and documentation submitted with it; and any documentation the board allows to be submitted at or after the meeting at which the petition is considered.

Subd. 2. [NOTICE OF TERMINATION OR DENIAL.] If the executive director terminates a benefit, reduces a benefit, or denies an application or a written request of any person claiming a right under chapter 352, other than sections 352.96 and 352.97; chapters 3A, 352B, 352C, and 352D; sections 490.121 to 490.133; or the applicable sections of chapters 355 and 356, the executive director must serve upon that person written notice containing:

(1) the reasons for the termination, reduction, or denial;

(2) notice that the person may petition the board for a review of the termination, reduction, or denial and that the petition for review must be filed within 60 days of the receipt of the written notice;

(3) a statement that failure to petition the board within 60 days will preclude the person from contesting in any other court procedure or administrative hearing, the issues determined by the executive director; and

(4) a copy of this section.

Subd. 3. [PETITION FOR REVIEW.] A person who claims a right under subdivision 2 and whose benefit has been terminated or reduced or whose application or written request has been denied may petition for a review of that decision by the board. A petition under this section must be served upon the executive director personally, or by mail postmarked no later than 60 days after the petitioner received the notice required by subdivision 2. The petition must include the sworn, notarized statement of the reasons the petitioner believes the decision of the executive director should be reversed or modified and may include relevant documentation.

Subd. 4. [ANSWER; RECORD FOR HEARING.] Within a reasonable time after receiving a petition, the executive director must serve the petitioner with an answer to the petition with all relevant documentation and with notice of the time and place of the regular or special board meeting at which the board will consider the petition. The documentation need not duplicate the documentation submitted by the petitioner. Not later than ten days before the board meeting at which the petition will be heard, the executive director must, personally or by mail, deliver a copy of the relevant documentation to each board member. Each board member who participates in the decision on the petition must be familiar with all relevant documentation.



Subd. 5. [HEARING.] The board shall hold a timely hearing on a petition for review. The board shall make its decision on a petition solely on the relevant documentation as submitted and the proceedings of the hearing. At the hearing, the petitioner, the petitioner's attorney, and the executive director may state and discuss with the board their positions with respect to the petition. The board may allow further documentation to be placed in the record at or subsequent to the board meeting at which the petition is considered. If the board allows additional documentation into the record at or subsequent to the board meeting, it may make a final determination on the petition at that board meeting only upon the agreement of both the petitioner and the executive director.

Subd. 6. [TERMINATION OF BENEFITS.] If the executive director proposes to terminate a benefit that is being paid to any person, before terminating the benefit, the executive director must, in addition to the other procedures prescribed herein, give the person written or oral notice of the proposed termination. The notice must explain the reason for the proposed termination. The person must be given an opportunity, verbally or in writing, to explain why the benefit should not be terminated: if the executive director is unable to contact the person and the executive director determines that a failure to terminate the benefit might result in unauthorized payment by the association, the executive director may terminate the benefit with only a written notice containing the information required by subdivision 2, mailed to the address to which the benefit was last sent and, if that address is a financial institution, to the last known address of the person.

Subd. 7. [MEDICAL ADVISOR ACTION.] If a person petitions the board to reverse or modify a determination by the executive director finding that the petitioner, for medical reasons, does not or has ceased to qualify for a disability benefit, the board may resubmit the matter to the medical advisor for reconsideration, with or without instructions to obtain further medical examinations. The board may make a determination contrary to the recommendation of the medical advisor only if there is expert medical evidence in the record to support its contrary decision. If there is no medical opinion contrary to the opinion of the medical advisor in the record and the medical advisor asserts that the decision was made in accordance with the disability standard in sections 352.01, subdivision 17; 352B.10; or 490.121, subdivision 13, the board must follow the determination of the medical advisor. The board may make a determination different from the recommendation of the medical advisor on issues that do not involve a medical opinion.

Subd. 8. [BOARD FINDINGS.] After the board has made a decision on a petition, the executive director must prepare findings of fact, the board's reasons for its conclusions, and the board's final order for the signature of the chair or other board member as the board, by resolution, may designate. The executive director shall

serve the findings, conclusions, and order on the petitioner by certified mail.

Subd. 9. [APPEALS.] Within 30 days of receipt of the findings, conclusions, and final order, the petitioner may appeal the board's decision by writ or certiorari to the court of appeals. Failure to appeal to that court within the 30 days precludes the petitioner from later raising, in any court procedure or administrative hearing, those substantive and procedural issues that reasonably should have been raised upon appeal.

Subd. 10. [REFERRAL FOR ADMINISTRATIVE HEARING.] Notwithstanding sections 14.03; 14.06; and 14.57 to 14.69, a challenge to a determination of the executive director must be conducted exclusively under the procedures in this section. The board in its sole discretion may refer a petition brought under this section to the office of administrative hearings for a contested case hearing under sections 14.57 to 14.69.

Sec. 6. Minnesota Statutes 1988, section 352.116, subdivision 3, is amended to read:

Subd. 3. [OPTIONAL ANNUITIES.] The board shall establish an optional retirement annuity in the form of a joint and survivor annuity. The board may also establish an optional annuity in the form of an annuity payable for a period certain and for life thereafter or establish an optional annuity which takes the form of a joint and survivor annuity providing that, if after the joint and survivor annuity becomes payable, the person with the designated remainder interest in the annuity dies before the former member, the annuity amount must be reinstated to a normal single life annuity amount as of the first day of the month after the day the person dies. In addition, the board may also establish an optional annuity that takes the form of an annuity calculated on the basis of the age of the retired employee at retirement and payable for the period before the retired employee becomes eligible for social security old age retirement benefits in a greater amount than the amount of the annuity calculated under subdivision 2 on the basis of the age of the retired employee at retirement but equal so far as possible to the social security old age retirement benefit and the adjusted retirement annuity amount payable immediately after the retired employee becomes eligible for social security old age retirement benefits and payable for the period after the retired employee becomes eligible for social security old age retirement benefits in an amount less than the amount of the annuity calculated under subdivisions 2 and 3. The social security leveling option may be calculated based on broad average social security old age retirement benefits. For each year that the retiring employee is under age 62, up to five percent of the total single life annuity required reserves may be used to accelerate the optional retirement annuity. This greater amount shall be paid until the end of the month in which the retired

employee reaches age 62, at which time the annuity shall be reduced. The optional forms must be actuarially equivalent to the normal single life annuity forms provided in sections 352.115 and 352.116, whichever applies.

Sec. 7. Minnesota Statutes 1988, section 352.22, subdivision 1, is amended to read:

Subdivision 1. [SERVICE TERMINATION.] Any employee who ceases to be a state employee by reason of termination of state service or layoff is entitled to a refund provided in subdivision 2 or a deferred retirement annuity as provided in subdivision 3. Application for a refund may be made 30 or more days after the termination of state service or layoff if the applicant has not again become a state employee required to be covered by the system.

Sec. 8. Minnesota Statutes 1988, section 352.22, subdivision 2a, is amended to read:

Subd. 2a. [AMOUNT OF CERTAIN REFUND REPAYMENTS PROHIBITED.] For any employee who is entitled to a refund under subdivision 1 and who, before July 1, 1978, was a member of the metropolitan transit commission-transit operating division employees retirement fund, the refund for contributions made before July 1, 1978, must equal the following amounts:

(a) For any employee contributions made before January 1, 1950, the amount equal to one-half of the employee contributions without interest;

(b) For any employee contributions made after December 31, 1949, but before January 1, 1975, the amount of the employee contributions plus simple interest at the rate of two percent per year; and

(c) For any employee contributions made after December 31, 1974, but before July 1, 1978, the amount of the employee contributions plus simple interest at the rate of 3½ percent per year. The refund of contributions made on or after July 1, 1978, must be determined under subdivision 2. Interest must be computed to the first day of the month in which the refund is processed and must be based on fiscal year balances. No refunds of contributions made to the metropolitan transit commission-transit operating division employees retirement fund received before July 1, 1978, or for service rendered before July 1, 1978, may be repaid.

Sec. 9. Minnesota Statutes 1988, section 352.93, subdivision 3, is amended to read:

Subd. 3. [PAYMENTS; DURATION AND AMOUNT.] The annuity

under this section shall begin to accrue as provided in section 352.115, subdivision 8, and must be paid for an additional 84 full calendar months or to the first of the month following the month in which the employee becomes age 65, whichever occurs first, except that payment must not cease before the first of the month following the month in which the employee becomes 62. It must then be reduced to the amount as calculated under section 352.115, except that if this amount, when added to the social security benefit based on state service the employee is eligible to receive at the time, is less than the benefit payable under subdivision 2, the retired employee shall receive an amount that when added to the social security benefit will equal the amount payable under subdivision 2.

When an annuity is reduced under this subdivision, the percentage adjustments, if any, that have been applied to the original annuity under section 11A.18, before the reduction, must be compounded and applied to the reduced annuity. A former correctional employee employed by the state in a position covered by the regular plan or the unclassified employees retirement program between the ages of 58 and 65 shall receive a partial return of correctional contributions at retirement with five percent interest based on the following formula:

Employee contributions contributed as a correctional employee in excess of the contributions the employee would have contributed as a regular employee	X	Years and complete months of regular service between ages 58 and 65 ..... 7
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Sec. 10. Minnesota Statutes 1988, section 352B.08, subdivision 3, is amended to read:

Subd. 3. [OPTIONAL ANNUITY FORMS.] In lieu of the single life annuity provided in subdivision 2, the member or former member with ~~ten~~ five years or more of service may elect an optional annuity form. The board of the Minnesota state retirement system shall establish a joint and survivor annuity, payable to a designated beneficiary for life, adjusted to the actuarial equivalent value of the single life annuity. The board shall also establish an additional optional annuity with an actuarial equivalent value of the single life annuity in the form of a joint and survivor annuity which provides that the elected annuity be reinstated to the single life annuity provided in subdivision 2, if after commencing the elected joint and survivor annuity, the designated beneficiary dies before the member, which reinstatement is not retroactive but takes effect for the first full month occurring after the death of the designated beneficiary. The board may also establish other actuarial equivalent value

optional annuity forms. In establishing actuarial equivalent value optional annuity forms, each optional annuity form shall have the same present value as a regular single life annuity using the mortality table adopted by the board and the interest assumption specified in section 356.215, subdivision 4d, and the board shall obtain the written recommendation of the commission-retained actuary. These recommendations shall be a part of the permanent records of the board.

Sec. 11. Minnesota Statutes 1988, section 352B.10, subdivision 5, is amended to read:

Subd. 5. [OPTIONAL ANNUITY.] A disabled member ~~not eligible for~~ may, in lieu of survivorship coverage under section 352B.11, subdivision 2, may choose the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 2. The choice of an optional annuity must be made before commencement of payment of the disability benefit. It is effective ~~30 days after receipt of this choice or on~~ the date on which the disability benefit begins to accrue, whichever is later. Upon becoming effective, the optional annuity begins to accrue on the date provided for the disability benefit.

Sec. 12. Minnesota Statutes 1988, section 352B.11, subdivision 2, is amended to read:

Subd. 2. [DEATH; PAYMENT TO SPOUSE AND CHILDREN.] If a member serving actively as a member, a member receiving the disability benefit provided by section 352B.10, subdivision 1, or a former member receiving a disability benefit as provided by section 352B.10, subdivision ~~3~~ 2, dies from any cause, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least five years of allowable service ~~or a former member with at least 20 years of allowable service~~ is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member became or would have become 55.

(b) The surviving spouse of a member who had credit for less than five years of service shall receive, for life, a monthly annuity equal to 20 percent of that part of the average monthly salary of the member from which deductions were made for retirement. If the surviving spouse remarries, the annuity shall cease as of the date of the remarriage.

(c) The surviving spouse of a member who had credit for at least five years service and who died after attaining 55 years of age, may elect to receive a 100 percent joint and survivor annuity, for life, notwithstanding a subsequent remarriage, in lieu of the annuity prescribed in paragraph (b).

(d) The surviving spouse of any member who had credit for five years or more and who was not 55 years of age at death, shall receive the benefit equal to 20 percent of the average monthly salary as described in clause (b) until the deceased member would have reached the age of 55 years, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity. If the surviving spouse remarries before the deceased member's 55th birthdate, benefits or annuities shall cease as of the date of remarriage. Remarriage after the deceased member's 55th birthday shall not affect the payment of the benefit.

(e) Each dependent child shall receive a monthly annuity equal to ten percent of that part of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over 18 and under 22 years of age also may receive the monthly benefit provided in this section, if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school but separates from full-time attendance during any part of a school year, the annuity shall cease at the end of the month of separation. In addition, a payment of \$20 per month shall be prorated equally to surviving dependent children when the former member is survived by one or more dependent children. Payments for the benefit of any qualified dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The maximum monthly benefit must not exceed 40 percent of the average monthly salary for any number of children.

(f) If the member dies under circumstances that entitle the surviving spouse and dependent children to receive benefits under the workers' compensation law, the workers' compensation benefits received by them must not be deducted from the benefits payable under this section.

(g) The surviving spouse of a deceased former member who had credit for five or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 3 2, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have reached the age of 55 years, if the surviving spouse has not remarried before that date. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of five percent per year compounded annually.

Sec. 13. Minnesota Statutes 1988, section 352D.06, subdivision 1, is amended to read:

Subdivision 1. When a participant attains at least age ~~58~~ 55, is

retired from covered service, and applies for a retirement annuity, the cash value of the participant's shares shall be transferred to the Minnesota postretirement investment fund and used to provide an annuity for the retired employee based upon the participant's age when the benefit begins to accrue according to the reserve basis used by the state employees retirement fund in determining pensions and reserves.

Sec. 14. Minnesota Statutes 1988, section 352D.075, subdivision 2, is amended to read:

Subd. 2. If a participant dies leaving a spouse and there is no named beneficiary who survives to receive payment or the spouse is named beneficiary, the spouse may receive:

(1) The value of the participant's total shares;

(2) The value of one-half of the total shares and beginning at age 58 55 or thereafter receive an annuity based on the value of one-half of the total shares, provided that if the spouse dies before receiving any annuity payments the value of said shares shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse; or

(3) Beginning at age 58 55 or thereafter receive an annuity based on the value of the total shares, provided that if the spouse dies before receiving any annuity payments the value of said shares shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse; and further provided, if said spouse dies after receiving annuity payments but before receiving payments equal to the value of the employee shares, the value of the employee shares remaining shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse.

Sec. 15. [DEADLINE EXTENSION IN CERTAIN INSTANCES.]

Notwithstanding any provision of Minnesota Statutes, section 352D.12, to the contrary, a participant on the effective date of this section may transfer prior service contributions or repay any refund under that section by September 30, 1989, or within one year of the person's participation, whichever is later.

Sec. 16. [REPEALER.]

Minnesota Statutes 1988, sections 352.03, subdivision 13; and 352.73, subdivision 3, are repealed.

Sec. 17. [EFFECTIVE DATES.]

Sections 1 to 14 and 16 are effective July 1, 1989. Section 15 is effective the day following final enactment.

ARTICLE 2

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Section 1. Minnesota Statutes 1988, section 136.81, subdivision 1, is amended to read:

Subdivision 1. There shall be deducted from the salary of each person described in section 136.80, subdivision 1, a sum equal to five percent of the portion of the person's annual salary paid between \$6,000 and \$15,000. The deduction is to be made in the same manner as other retirement deductions are made from the salary of the person only after the first \$6,000 has been paid in a fiscal year. The state employer shall make a contribution to the plan on behalf of every covered person in an amount equal to the deductions made from the salary of the person. The moneys so deducted and the state employer contribution shall be deposited to the credit of the state university and community college supplemental retirement plan account of the teachers retirement fund. The account is hereby established and shall be separate and distinct from other funds, accounts, or assets of the teachers retirement fund. The money required to meet the obligation of the state as provided in this subdivision shall be contributed to the executive director of the teachers retirement association by the state. Two percent of the amount of the salary deductions and employer contributions must be credited to the administrative expense reserve account of the supplemental retirement plan and must be used for payment of necessary and reasonable administrative expenses of the supplemental retirement plan as provided in section 354.65.

Any deductions which are taken from the salary of a person for the supplemental retirement plan in error shall upon discovery and verification be refunded to the person. Any related employer contributions must be refunded to the employer. The retirement board executive director shall establish a reserve which shall must reflect any gains or losses realized due to the purchase and redemption of shares representing salary deductions and state employer contributions which were made in error. The balance of the reserve shall remaining after the refund of contributions made in error must be credited annually to the cancellation reserve established pursuant



to section 136.82, subdivision 1, clause (5) administrative expense reserve account.

If any payroll salary deductions which are required pursuant to under this section are omitted, the amount of the omitted salary deductions shall may be remitted by the person to the supplemental retirement plan investment account of the teachers retirement association within one year from the end of the fiscal year in which the deductions were due, and at the time of the receipt of 90 days following the association's written notification to the person of the omission, but not thereafter. If the omitted salary deductions are received from the person, the required state employer contribution shall then must be made paid by the employer within 30 days after the association's written notification to the employer of the amount due.

Sec. 2. Minnesota Statutes 1988, section 136.82, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] (a) The executive director of the teachers retirement fund shall redeem shares in the accounts of the Minnesota supplemental retirement investment fund standing in an employee's share account record under the following circumstances; but always in accordance with the laws and rules governing the Minnesota supplemental retirement investment fund:

(b) The executive director shall redeem shares under this subdivision when requested to do so in writing on forms provided by the executive director by a person having shares to the credit of the employee's share account record if the person is age 55 or older and is no longer employed by the state university board or state board for community colleges. In such case the person must receive the cash realized on the redemption of the shares. The person may direct the redemption of not more than 20 percent of the person's shares in the employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, at their sole discretion, permit greater withdrawals in any one year.

(c) The executive director shall redeem shares under this subdivision when requested to do so in writing, on forms provided by the executive director, by a person having shares to the credit of the employee's share account record if the person has left employment by the state university board or state board for community colleges because of a total and permanent disability as defined in section 354.05, subdivision 14. If the executive director finds that the person is totally and permanently disabled and will as a result be unable to

return to similar employment, the person must receive the cash realized on the redemption of the shares. The person may direct the redemption of not more than 20 percent of the shares in the employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, at their sole discretion, permit greater withdrawals in any one year. If the person returns to good health, the person owes no restitution to the state or a fund established by its laws for a redemption under this paragraph.

(d) The executive director shall redeem shares under this subdivision in the event of the death of a person having shares to the credit of the employee's share account record and leaving a surviving spouse, when requested to do so in writing, on forms provided by the executive director, by the surviving spouse. The surviving spouse must receive the cash realized on the redemption of the shares. The surviving spouse may direct the redemption of not more than 20 percent of the shares in the deceased spouse's employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, at their sole discretion, permit greater withdrawals in any one year. In that case the surviving spouse must receive the cash realized from the redemption of the shares. Upon the death of the surviving spouse any shares remaining in the employee's share account record must be redeemed by the executive director and the cash realized from the redemption must be distributed to the estate of the surviving spouse.

(e) In the event of the death of a person having shares to the credit of the employee's share account record and leaving no surviving spouse, the executive director shall redeem all shares to the credit of the employee's share account record and pay the cash realized from the redemption to the estate of the deceased person.

(f) The executive director shall redeem shares under this subdivision when requested to do so in writing, on forms provided by the executive director, by a person having shares to the credit of the employee's share account record if the person is no longer employed by the state university board or state board for community colleges, but does not qualify under the provisions of paragraphs (b) to (e). In that case, the person is entitled upon application to receive one-half of the cash realized on the redemption of shares must be received by the person and one-half becomes the property must be credited to the administrative expense reserve account of the supplemental

retirement plan account of the teachers retirement fund for payment of necessary and reasonable administrative expenses of the supplemental retirement plan as provided in section 354.65. Annually on July 1 the cancellations of the previous 12 months must be prorated among the employees share accounts in proportion to the value that each account bears to the total value of all share accounts.

Sec. 3. Minnesota Statutes 1988, section 136.82, subdivision 2, is amended to read:

Subd. 2. [REDEMPTION OF SHARES AS AN ANNUITY.] A person who has shares to the credit of the employee's share account record, who is 55 years of age or older and who is no longer employed by the state university board or the state board for community colleges or who is totally and permanently disabled pursuant to subdivision 1, paragraph (2) (c), or who has the status of a surviving spouse of a person who has shares to the credit of the employee's share account pursuant to subdivision 1, paragraph (3) (d), may redeem all or part of the shares to purchase an annuity by depositing the cash realized upon redemption with the executive director of the teachers retirement fund and receive in exchange an annuity for life or an optional annuity as hereinafter provided. The election to purchase an annuity may be made only once by any individual. If an election is made before the date on which the person is entitled to request redemption, the redemption shall not be made prior to the date upon which the person would be entitled to make the request. The annuity purchase rates shall be based on the annuity table of mortality adopted by the board of trustees of the teachers retirement fund for the fund as provided in section 354.07, subdivision 1, using the interest assumption specified in section 356.215, subdivision 4d. The amount of the annuity for life shall be that amount which has a present value equal to the cash realized on the redemption of the shares as of the first day of the month next following the date of the election to purchase an annuity. The board of trustees of the teachers retirement fund shall establish an optional joint and survivor annuity, an optional annuity payable for a period certain and for life thereafter, and an optional guaranteed refund annuity paying the annuitant a fixed amount for life with the guarantee that in the event of death the balance of the cash realized from the redemption of shares is payable to the designated beneficiary. The optional forms of annuity shall be actuarially equivalent to the single life annuity as defined in section 354.05, subdivision 7. In establishing these optional forms, the board of trustees shall obtain the written recommendation of the actuary retained by the legislative commission on pensions and retirement, and these recommendations shall be a part of the permanent records of the board of trustees.

Sec. 4. Minnesota Statutes 1988, section 354.05, subdivision 35, is amended to read:

Subd. 35. [SALARY.] (a) "Salary" means the compensation paid to a teacher excluding, upon which member contributions are required and made, that is paid to a teacher before any allowable reductions permitted under the federal Internal Revenue Code, as amended, for employee selected fringe benefits, tax sheltered annuities, deferred compensation, or any combination of these items.

(b) "Salary" does not mean:

(1) lump sum annual or leave payments;

(2) lump sum sick leave payments and all;

(3) payments in lieu of any employer paid group insurance coverage, including the difference between single and family premium rates, that may be paid to a member with single coverage.  
"Salary" does not mean;

(4) any form of payment made in lieu of any other employer paid fringe benefit or expense; or;

(5) any form of severance payments;

(6) workers' compensation payments; or

(7) disability insurance payments including self-insured disability payments.

Subd. 35a. [SEVERANCE PAYMENTS.] Severance payments include, but are not limited to:

(a) (1) payments to an employee to terminate employment;

(b) (2) payments, or that portion of payments, that are not clearly for the performance of services by the employee to the employer; and

(c) (3) payments to an administrator or former administrator serving as an advisor to a successor or as a consultant to the employer under an agreement to terminate employment within two years or less of the execution of the agreement for compensation that is significantly different than the most recent contract salary; and

(4) payments under a procedure that allows the employee to designate the time of payment if the payments are made during the period of formula service credit used to compute a benefit or annuity under section 354.44, subdivision 6 or 7; 354.46, subdivision 1 or 2; or 354.48, subdivision 3.

Sec. 5. Minnesota Statutes 1988, section 354.05, subdivision 37, is amended to read:

Subd. 37. [TERMINATION OF TEACHING SERVICE.] "Termination of teaching service" means the withdrawal of a member from active teaching service by resignation or the termination of the member's teaching contract by the employer. A member is not considered to have terminated teaching service, if before the effective date of the termination or retirement, the member has entered into a contract to resume teaching service with an employing unit covered by the provisions of this chapter.

Sec. 6. Minnesota Statutes 1988, section 354.07, subdivision 3, is amended to read:

Subd. 3. The attorney general shall be legal advisor to the board and the executive director. The board may sue or be sued or petitioned under section 7 in the name of the board of trustees of the teachers retirement fund and. In all actions brought by or against it the board shall be represented by the attorney general. Except as provided in section 7, subdivision 9, venue of all actions is in the Ramsey county district court.

Sec. 7. [354.071] [APPEALS PROCEDURE.]

Subdivision 1. [DEFINITIONS.] Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the following terms have the meanings given.

(a) "Documentation" includes but is not limited to:

(1) sworn and notarized affidavits made on the personal knowledge of any person;

(2) official letters or documents;

(3) documents from the file of the petitioner; and

(4) other relevant documents that are admissible as evidence in a court of law.

(b) "Executive director" means the executive director of the teachers retirement association.

(c) "Person" includes any state institution, school district, or other governmental unit that employs persons covered under statutes listed in subdivision 2.

(d) "Record" means the petition and the documentation that the petitioners submit with the petition, the executive director's answer to the petition and documentation submitted with it, and any

documentation the board allows to be submitted at or after the meeting at which the petition is considered.

Subd. 2. [NOTICE OF TERMINATION OR DENIAL.] If the executive director terminates a benefit, reduces a benefit, or denies an application or a written request of any person claiming a right under this chapter or the applicable sections of chapters 136, 355, and 356, the executive director must serve upon that person a written notice. The notice must contain:

(1) the reasons for the termination, reduction, or denial;

(2) notice that the person may petition the board for a review of the termination, reduction, or denial and that the petition for review must be filed within 60 days of the receipt of the written notice;

(3) a statement that failure to petition the board within 60 days will preclude the person from contesting in any other court procedure or administrative hearing, the issues determined by the executive director; and

(4) a copy of this section.

Subd. 3. [PETITION FOR REVIEW.] A person who claims a right under subdivision 2 and whose benefit has been terminated or reduced, or whose application or written request has been denied may petition for a review of that decision by the board. A petition under this section must be served upon the executive director personally, or by mail postmarked no later than 60 days after the petitioner received the notice required by subdivision 2. The petition must include the sworn, notarized statement of the reasons the petitioner believes the decision of the executive director should be reversed or modified and may include relevant documentation.

Subd. 4. [ANSWER; RECORD FOR HEARING.] Within a reasonable time after receiving a petition, the executive director must serve the petitioner with an answer to the petition with all relevant documentation and with notice of the time and place of the regular or special board meeting at which the board will consider the petition. The documentation need not duplicate the documentation submitted by the petitioner. Not later than ten days before the board meeting at which the petition will be heard and at the time the petition is considered by the board, the executive director must, personally or by mail, deliver a copy of the relevant documentation to each board member. Each board member who participates in the decision on the petition must be familiar with all relevant documentation.

Subd. 5. [HEARING.] The board shall hold a timely hearing on a petition for review. The board shall make its decision on a petition

solely on the relevant documentation as submitted and the proceedings of the hearing. At the hearing the petitioner, the petitioner's attorney, and the executive director may state and discuss with the board their positions with respect to the petition. The board may allow further documentation to be placed in the record at or subsequent to the board meeting at which the petition is considered. If the board allows additional documentation into the record at or subsequent to the board meeting, it may make a final determination on the petition at that board meeting only upon the agreement of both the petitioner and the executive director.

Subd. 6. [TERMINATION OF BENEFITS.] If the executive director proposes to terminate a benefit that is being paid to any person, before terminating the benefit the executive director must, in addition to the other procedures prescribed herein, give the person written or oral notice of the proposed termination. The notice must explain the reason for the proposed termination. The person must be given an opportunity, verbally or in writing, to explain why the benefit should not be terminated. If the executive director is unable to contact the person and the executive director determines that a failure to terminate the benefit might result in unauthorized payment by the association, the executive director may terminate the benefit with only a written notice containing the information required by subdivision 2, mailed to the address to which the benefit was last sent and, if that address is a financial institution, to the last known address of the person.

Subd. 7. [MEDICAL ADVISOR ACTION.] If a person petitions the board to reverse or modify a determination by the executive director finding that the petitioner, for medical reasons, does not or has ceased to qualify for a disability benefit, the board may resubmit the matter to the medical advisor for reconsideration, with or without instructions to obtain further medical examinations. The board may make a determination contrary to the recommendation of the medical advisor only if there is expert medical evidence in the record to support its contrary decision. If there is no medical opinion contrary to the opinion of the medical advisor in the record and the medical advisor asserts that the decision was made in accordance with the disability standard in section 354.05, subdivision 14, the board must follow the determination of the medical advisor. The board may make a determination different from the recommendation of the medical advisor on issues that do not involve a medical opinion.

Subd. 8. [BOARD FINDINGS.] After the board has made a decision on a petition, the executive director must prepare findings of fact, the board's reasons for its conclusions, and the board's final order for the signature of the chair or other board member as the board, by resolution, may designate. The executive director must serve the findings, conclusions, and order on the petitioner by certified mail.

Subd. 9. [APPEALS.] Within 30 days of receipt of the findings, conclusions, and final order, the petitioner may appeal the board's decision by writ of certiorari to the court of appeals. Failure to appeal to that court within the 30 days precludes the petitioner from later raising, in any court procedure or administrative hearing, those substantive and procedural issues that reasonably should have been raised upon appeal.

Subd. 10. [REFERRAL FOR ADMINISTRATIVE HEARING.] Notwithstanding sections 14.03, 14.06, and 14.57 to 14.69, a challenge to a determination of the executive director must be conducted exclusively under the procedures in this section. The board in its sole discretion may refer a petition brought under this section to the office of administrative hearings for a contested case hearing under sections 14.57 to 14.69.

Sec. 8. Minnesota Statutes 1988, section 354.091, is amended to read:

354.091 [SERVICE CREDIT.]

In computing the time of service of a teacher, the length of a legal school year in the district or institution where such service was rendered shall constitute a year under sections 354.05 to 354.10, provided such year is not less than the legal minimum school year of this state. No person shall be allowed credit for more than one year of teaching service for any fiscal year. Commencing July 1, 1969 1961 (1) if a teacher teaches only a fractional part of a day, credit shall be given for a day of teaching service for each five hours taught, and (2) if a teacher teaches at least 170 full days in any fiscal year credit shall be given for a full year of teaching service, and (3) if a teacher teaches for only a fractional part of the year credit shall be given for such fractional part of the year as the term of service rendered bears to 170 days. Teaching service performed prior to July 1, 1969 1961 shall be computed pursuant to the law in effect at the time it was rendered.

In no event shall any teacher lose or gain retirement service credit as a result of the employer converting to a four day work week. If the employer does convert to a four day work week, the forms for reporting and procedures for determining service credit shall be determined by the executive director with the approval of the board of trustees.

Sec. 9. Minnesota Statutes 1988, section 354.092, is amended to read:

354.092 [SABBATICAL LEAVE.]

A member who is granted a sabbatical leave may receive allow-



able service credit not exceeding three years in any ten consecutive years toward a retirement annuity by paying into the fund employee contributions during the period of leave. The employee contribution shall be based upon the appropriate rate of contributions and the salary received during the year immediately preceding the leave. This payment shall be made by the end of the fiscal year following the fiscal year in which the leave of absence terminated, and shall be without interest. A member shall not accrue more than three years allowable service by reason of this section unless the allowable service credit was paid for by the member prior to July 1, 1962. A sabbatical leave for the purpose of this section shall be compensated by a minimum of one-third of the salary the member received for a comparable period during the prior fiscal year. Before the end of the fiscal year during which any sabbatical leave begins, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. Deductions for employee contributions at the applicable rate specified in section 354.42 must be made by the employing unit from salary paid to the member for a sabbatical leave. The member may also make direct payment of employee contributions at the appropriate rates specified in section 354.42 based upon the difference between the salary received for the sabbatical leave and the salary received for a comparable period during the year immediately preceding the leave. This direct payment must be made by the end of the fiscal year following the fiscal year in which the leave of absence terminated and must be without interest. If the employee contributions during the period of the leave made under this section are less than the employee contributions based on the salary received made for a comparable period during the year immediately preceding the leave, the allowable and formula service credit of the member shall be prorated according to section 354.05, subdivision 25, clause (3), except that if the member is paid full salary for any sabbatical leave of absence, either past or prospective, the allowable and formula service credit shall not be prorated. A member may not receive more than three years of allowable service credit in any ten consecutive years under this section unless the allowable service credit was paid for by the member before July 1, 1962. For sabbatical leaves taken that begin after June 30, 1986, the required employer contribution, including the amortization amount contributions specified in section 354.42, subdivisions 3 and 5, shall must be paid by the employing unit within 30 days after the association's written notification by the association to the employing unit of the amount due.

Sec. 10. Minnesota Statutes 1988, section 354.10, subdivision 2, is amended to read:

Subd. 2. [AUTOMATIC DEPOSITS.] The board may pay an annuity or benefit to a banking institution, qualified under chapter 48, that is a trustee for a person eligible to receive such the annuity or benefit. Upon completion of the proper forms as provided by the

board executive director, the annuity or benefit amount may be electronically transferred or the annuity or benefit check may be mailed to a banking institution, savings association or credit union for deposit to the recipient's individual account or joint account with a spouse. The board shall prescribe the conditions which shall govern these procedures.

Sec. 11. Minnesota Statutes 1988, section 354.35, is amended to read:

**354.35 [RETIREMENT BEFORE BECOMING ELIGIBLE FOR SOCIAL SECURITY OPTIONAL ACCELERATED RETIREMENT ANNUITY BEFORE AGE 65.]**

Any coordinated member who retires before becoming eligible for social security retirement benefits age 65, may elect to receive an optional accelerated retirement annuity from the association which provides for different annuity amounts over different periods of retirement. The election of this optional accelerated retirement annuity shall be exercised by making an application to the board on a form provided by the board. The optional accelerated retirement annuity shall take the form of an annuity payable for the period before the member attains the age of 65 years in a greater amount than the amount of the annuity calculated under section 354.44 on the basis of the age of the member at retirement but equal insofar as possible to the social security old age retirement benefit and the adjusted retirement annuity amount payable immediately after the annuitant becomes eligible for social security old age retirement benefits in an amount less than the amount of the annuity calculated under section 354.44 on the basis of the age of the member at retirement. The social security leveling option may be calculated based on broad average social security old age retirement benefits. the optional accelerated retirement annuity shall must be the actuarial equivalent of the member's annuity computed on the basis of the member's age at retirement. The greater amount shall must be paid until the member retiree reaches the age of 65 and at which that time the payment from the association shall must be reduced. For each year the retiree is under age 65, up to five percent of the total life annuity required reserves may be used to accelerate the optional retirement annuity under this section. The method of computing the optional accelerated retirement annuity provided in this section shall be established by the board of trustees. In establishing the method of computing the optional accelerated retirement annuity, the board of trustees shall must obtain the written recommendation approval of the commission-retained actuary. The recommendations shall written approval must be a part of the permanent records of the board of trustees.

Sec. 12. Minnesota Statutes 1988, section 354.42, subdivision 7, is amended to read:

Subd. 7. [ERRONEOUS SALARY DEDUCTIONS OR DIRECT PAYMENTS.] (4) (a) Any deductions taken from the salary of an employee for the retirement fund in error shall, be refunded to the employee upon discovery and verification by the school district or institution employing unit making the deduction, be refunded to the employee and the corresponding employer contribution and additional employer contribution amounts attributable to the erroneous salary deduction must be refunded to the employing unit.

(2) In the event (b) If salary deductions and employer contributions were erroneously transmitted to the retirement fund and should have been transmitted to another public pension fund enumerated in section 356.30, subdivision 3, the retirement fund must transfer these salary deductions and employer contributions to the appropriate public pension fund without interest.

(c) If a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check has been returned to the funds of the school district or institution employing unit making the payment, a refundment refund of the sum so amount deducted, or any portion of it as that is required to adjust the salary deductions, shall be made to the school district or institution provided application for it is made on a form furnished by the retirement board employing unit.

(d) Any erroneous direct payments of member paid contributions or erroneous salary deductions that were not refunded in the regular processing of an employing unit's annual summary report shall be refunded to the member with interest computed using the rate and method specified in section 354.49, subdivision 2.

Sec. 13. Minnesota Statutes 1988, section 354.44, subdivision 3, is amended to read:

Subd. 3. [APPLICATION FOR RETIREMENT.] Retirement may Application for retirement must be made upon application of by the member or of by someone acting authorized to act in the member's behalf. Application must be made on a form prescribed by the executive director.

Sec. 14. Minnesota Statutes 1988, section 354.44, subdivision 5, is amended to read:

Subd. 5. [RESUMPTION OF TEACHING SERVICE AFTER RETIREMENT.] Any person who retired under any provision of any retirement law applicable to schools and institutions covered by the provisions of this chapter and has thereafter resumed teaching in any school or institution employer unit to which this chapter applies shall is eligible to continue to receive payments in accordance with the annuity except that annuity payments must be reduced during any the calendar year immediately following any calendar year in

which the person's income from the teaching service is in an amount equal to or greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of under United States Code, title 42, section 403. The amount of the reduction must be one-half of the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits.

If the person is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income specified in this subdivision must be prorated for that calendar year.

After a person has reached the age of 70, no reemployment income maximum is applicable regardless of the amount of income. For the purpose of this subdivision, income from teaching service shall include includes, but is not limited to:

(a) all income for services performed as a consultant or an independent contractor for an employer unit covered by the provisions of this chapter; and

(b) the greater of either the income received or an amount based on the rate paid with respect to an administrative position, consultant, or independent contractor in an employer unit with approximately the same number of pupils and at the same level as the position occupied by the person who resumes teaching service.

In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits. The amount in excess of the applicable reemployment income maximum specified in this subdivision shall be deducted from the annuity payable for the year immediately following the year in which the excess amount was earned. After a person has reached the age of 70, the person shall receive the annuity in full regardless of the amount of income.

Sec. 15. Minnesota Statutes 1988, section 354.44, is amended by adding a subdivision to read:

Subd. 5a. [EXEMPTION FOR INTERIM SUPERINTENDENT.]

A person who performs services as an interim superintendent because of the death, disability, termination, or resignation of the previous superintendent is exempt from the earnings limitations and reductions in annuity payments in subdivision 5 for up to 90 working days of service as an interim superintendent. During this period of up to 90 working days, the school board may pay the interim superintendent at any rate, up to the rate paid to the previous superintendent. This exemption applies only if the school board hiring the interim superintendent submits an application for the exemption to the executive director, and the executive director approves the application before the services as interim superintendent begin. The application must certify that the school board has unanimously approved the exemption from the earnings limitations and reductions. The executive director may prescribe a form for the application. A school board may not apply for more than one exemption in a fiscal year. No more than three exemptions may be approved for any person. Only one exemption may be approved for any person in a fiscal year.

Sec. 16. Minnesota Statutes 1988, section 354.44, subdivision 8, is amended to read:

Subd. 8. [ANNUITY PAYMENT; EVIDENCE OF RECEIPT.] Payment of An annuity or benefit for a given month shall must be paid during the first week of that month. Evidence of receipt of the check issued or acknowledgment of the amount electronically transferred in payment of an annuity or benefit shall be submitted by may be required from the payee or a banking institution on a form prescribed by the executive director. The evidence of receipt form shall may be submitted required periodically at times specified by the board. In the event the required evidence of receipt form is not submitted required, future annuities or benefits shall must be withheld until the form is submitted.

Sec. 17. Minnesota Statutes 1988, section 354.47, subdivision 2, is amended to read:

Subd. 2. [BENEFITS OF \$500 \$1,500 OR LESS.] If a member or a former member dies without having a surviving designated a beneficiary, or if the beneficiary should die before making application for the refundment and the amount to the credit of such deceased member or former member, and the amount of the benefit the decedent is \$500 \$1,500 or less, the retirement board of trustees may 90 days after the date of death of the member or former member, in the absence of probate proceedings, make payment to the surviving spouse of the deceased member or former members, or, if none to the next of kin under the laws of descent of the state of Minnesota and such decedent. This payment shall be a bar to recovery of this payment from the association by any other person or persons. Any accrued retirement allowance or annuity which shall

have accrued at the time of death of an annuitant, disability, or survivor benefit, may be paid in like the same manner.

Sec. 18. Minnesota Statutes 1988, section 354.48, subdivision 1, is amended to read:

Subdivision 1. [AGE, SERVICE AND SALARY REQUIREMENTS.] Any A member who became is totally and permanently disabled after and has at least five years of credited allowable service shall be at the time that the total and permanent disability begins is entitled to a disability benefit based on this allowable service in an amount provided in subdivision 3. If such the disabled person's member's teaching service has terminated at any time, at least three of the required five years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month shall is not be entitled to disability benefits.

Sec. 19. Minnesota Statutes 1988, section 354.48, subdivision 2, is amended to read:

Subd. 2. [APPLICATIONS.] Any person described in subdivision 1, or another person authorized to act on behalf of the person; may make application for a total and permanent disability benefit only within the 18 months month period following the termination of teaching service but not thereafter. This benefit shall begin to accrue accrues from the day following the commencement of disability or the day following the date on last day for which salary ceases is paid, whichever is later, but shall may not begin to accrue more than 90 days prior to before the date the application is filed with the board. If salary is being received for either annual or sick leave during the period, payments shall accrue from the date day following the last day for which this salary ceases is paid.

Sec. 20. Minnesota Statutes 1988, section 354.65, is amended to read:

#### 354.65 [ADMINISTRATIVE EXPENSES.]

Necessary and reasonable administrative expenses incurred by the teachers retirement association shall must be prorated and allocated to the teachers retirement fund, and the organization's participation in both the Minnesota variable annuity investment fund, the Minnesota postretirement investment fund and the Minnesota supplemental investment retirement fund in accordance with policies and procedures established by the board of trustees of the teachers retirement association.

#### Sec. 21. [354A.095] [MATERNITY LEAVE.]

A basic or coordinated member of the St. Paul teachers' retirement fund association and old or new coordinated members of the Duluth teachers' retirement fund association, who is granted parental or maternity leave of absence by the employing authority, is entitled to obtain service credit not to exceed one year for the period of leave upon payment to the applicable fund by the end of the fiscal year in which the leave of absence terminated. The amount of the payment must include the total required employee and employer contributions for the period of leave prescribed in section 354A.12. Payment must be based on the member's average monthly salary upon return to teaching service, and is payable without interest. Payment must be accompanied by a certified or otherwise adequate copy of the resolution or action of the employing authority granting or approving the leave.

Sec. 22. Minnesota Statutes 1988, section 354A.31, subdivision 3, is amended to read:

Subd. 3. [RESUMPTION OF TEACHING AFTER COMMENCEMENT OF A RETIREMENT ANNUITY.] Any person who retired and is receiving a coordinated program retirement annuity under the provisions of sections 354A.31 to 354A.41 and who has resumed teaching service for the school district in which the teachers retirement fund association exists shall be is entitled to continue to receive retirement annuity payments except that for any person under the age of 72 years during any quarter in which the person's compensation for the teaching service is in an amount equal to or greater than the quarterly maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of United States Code, title 42, section 403. In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the quarterly maximum earnings allowable for the minimum age for the receipt of social security benefits. The amount in excess of the applicable reemployment income maximum specified in this subdivision shall be deducted from the retirement annuity payment payable for the quarter immediately following the quarter in which the excess amount was earned. Any person to whom this subdivision applies who has reached the age of at least 72 years shall be entitled to continue to receive retirement annuity payments in full that annuity payments must be reduced during the calendar year immediately following the calendar year in which the person's income from the teaching service is in an amount greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services under the provisions of United States Code, title 42, section 403. The amount of the reduction must be one-half the amount in excess of the applicable

reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits.

If the person is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income specified in this subdivision must be prorated for that calendar year.

After a person has reached the age of 70, no reemployment income maximum is applicable regardless of the amount of any compensation received for teaching service for the school district in which the teachers retirement fund association exists.

Sec. 23. Minnesota Statutes 1988, section 356.30, subdivision 2, is amended to read:

Subd. 2. [REPAYMENT OF REFUNDS.] Any A person who is employed has service credit in a position covered by one of the funds enumerated in subdivision 3 and who is employed or was formerly employed in a position covered by one of these funds but also has received a refund from any other of such these funds, may repay such the refund to the respective fund under such terms and conditions as that are consistent with the laws governing such the other fund, except that the person need not be a currently contributing member of the fund to which the refund is repaid at the time the repayment is made. Unless otherwise provided by statute, the repayment of a refund under this subdivision may only be made within six months following termination of employment from a position covered by one of the funds enumerated in subdivision 3 or before the date of retirement from that fund, whichever is earlier.

Sec. 24. Minnesota Statutes 1988, section 356.371, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENT OF NOTICE TO MEMBER'S SPOUSE.] If a public pension fund provides optional retirement annuity forms which include a joint and survivor optional retirement annuity form potentially applicable to the surviving spouse of a member, the chief administrative officer of the public pension fund shall send a copy of the written statement required by subdivision 2 to the spouse of the member prior to before the member's election of an optional retirement annuity.

Following the election of an optional retirement annuity form by the member, a copy of the completed retirement annuity application



shall and retirement annuity beneficiary form must be sent by certified mail by the public pension fund to the spouse of the retiring member. A signed acknowledgment must be required from the spouse confirming receipt of a copy of the completed retirement annuity application and retirement annuity beneficiary form. If the required signed acknowledgment is not received from the spouse within 30 days, the public pension fund must send another copy of the completed retirement annuity application and retirement annuity beneficiary form to the spouse by certified mail.

Sec. 25. Minnesota Statutes 1988, section 356.80, subdivision 1, is amended to read:

Subdivision 1. [INFORMATION FOR A PENDING MARRIAGE DISSOLUTION.] (a) Upon written request by a person with access to the data under subdivision 3 who cites this statute, a public or private pension plan administrator must provide the court and the parties to a marriage dissolution action involving a plan member or former plan member with information regarding pension benefits or rights of the plan member or former plan member. The pension plan shall provide this information upon request of the court or a party to the action without requiring a signed authorization from the plan member or former plan member.

(b) The information must include the pension benefits or rights of the plan member or former plan member as of the first day of the month following the date of the request, or as of the end of the previous fiscal year for the plan, and as of the date of valuation of marital assets under section 518.58, if the person requesting the information specifies that date. The information must include the accrued service credit of the person, the credited salary of the person for the most current five-year period, a summary of the benefit plan, and any other information relevant to the calculation of the present value of the benefits or rights.

Sec. 26. Minnesota Statutes 1988, section 356.80, subdivision 3, is amended to read:

Subd. 3. [ACCESS TO DATA.] Notwithstanding any provision of chapter 13 to the contrary, an administrator may release private or confidential data on individuals to the court, the parties to a marriage dissolution, their attorneys, and an actuary appointed under section 518.582, to the extent necessary to comply with this section, but only if the administrator has received a copy of the legal petition showing that an action for marriage dissolution has commenced and a copy of the affidavit of service showing that the petition has been served on the responding party to the action.

Sec. 27. [356.81] [REPAYMENT OF REFUNDS.]

Repayment of a refund and interest on that refund permitted

under laws governing any public pension plan in Minnesota may be made with funds distributed from a plan qualified under the federal Internal Revenue Code of 1986, as amended through December 31, 1988, section 401(a) or an annuity qualified under the federal Internal Revenue Code, section 403(a). Repayment may also be made with funds distributed from an individual retirement account used solely to receive a nontaxable rollover from that type of a plan or annuity. The repaid refund must be separately accounted for as coordinated member contributions not previously taxed. Before accepting any transfers to which this subdivision applies, the executive secretary may require the coordinated member to demonstrate that the amounts to be transferred are eligible for a tax-free rollover and qualify for that treatment under the federal Internal Revenue Code.

Sec. 28. [ST. PAUL TEACHERS BYLAW AMENDMENT.]

Authorization is granted in accordance with Minnesota Statutes, section 354A.12, subdivision 4, for the St. Paul teachers' retirement fund association to amend its bylaws as follows:

Paragraph (4) of section 2 of article IV of the bylaws may be amended to provide that repayment of a refund and interest on that refund may be made with funds distributed from a plan qualified under the federal Internal Revenue Code, section 401(a), an annuity qualified under the federal Internal Revenue Code, section 403(a), or from an individual retirement account used solely to receive a nontaxable rollover from that type of a plan or annuity. The conditions for acceptance of the repayment are governed by section 27.

Sec. 29. [REPEALER.]

Minnesota Statutes 1988, sections 136.88, subdivision 3; 354.41, subdivision 3; 354.531; 354.532; 354.55, subdivision 5; and 354.56, are repealed.

Sec. 30. [EFFECTIVE DATE.]

Sections 2 to 13 and 15 to 29 are effective the day following final enactment. Section 1 is effective July 1, 1989. Section 14 is effective January 1, 1989.

ARTICLE 3

PERA

Section 1. Minnesota Statutes 1988, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. [INCLUDED EMPLOYEES.] The following persons are included in the meaning of "public employee":

- (1) elected or appointed officers and employees of elected officers;
- (2) district court reporters;
- (3) officers and employees of the public employees retirement association;
- (4) employees of the league of Minnesota cities;
- (5) employees of the association of metropolitan municipalities;
- (6) officers and employees of public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions;
- ~~(6)~~ (7) employees of a school district who receive separate salaries for driving their own buses;
- ~~(7)~~ (8) employees of the association of Minnesota counties;
- ~~(8)~~ (9) employees of the metropolitan intercounty association;
- ~~(9)~~ (10) employees of the Minnesota municipal utilities association;
- (10) (11) employees of the Minnesota association of townships when the board of the association, at its option, certifies to the executive director that its employees are to be included for purposes of retirement coverage, in which case coverage of all employees of the association is permanent;
- (12) employees of the metropolitan airports commission if employment initially commenced after June 30, 1979;
- ~~(11)~~ (13) employees of the Minneapolis employees retirement fund, if employment initially commenced after June 30, 1979;
- ~~(12)~~ (14) employees of the range association of municipalities and schools;
- ~~(13)~~ (15) employees of the soil and water conservation districts;
- ~~(14)~~ (16) employees of a county historical society who are county employees;

~~(15)~~ (17) employees of a county historical society located in the county whom the county, at its option, certifies to the executive director to be county employees for purposes of retirement coverage under this chapter, which status must be accorded to all similarly situated county historical society employees and, once established, must continue as long as a person is an employee of the county historical society and is not excluded under subdivision 2b;

~~(16)~~ (18) employees of an economic development authority created under sections 458C.01 to 458C.23;

~~(17)~~ (19) employees of the department of military affairs of the state of Minnesota who are full-time firefighters; and

(20) employees who became members before July 1, 1988, based on the total salary of positions held in more than one governmental subdivision.

Sec. 2. Minnesota Statutes 1988, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] (a) The following persons are excluded from the meaning of "public employee":

(1) persons who are employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate ~~help~~ personnel who perform services in governmental subdivision charitable, penal, and or correctional institutions of a governmental subdivision;

(5) members of boards, commissions, bands, and others who serve ~~the~~ a governmental subdivision intermittently;

(6) employees whose employment is not expected to continue for a period longer than six consecutive months, unless it involves employment for a probationary period that is part of a permanent position. Immediately following the expiration of a six-month period of employment, if the employee continues in public service and earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee in accordance with section 353.27, subdivision 4.

Membership eligibility of an employee who holds concurrent temporary employment of six months or less and part-time positions in one governmental subdivision must be determined by the salary of each position. Membership eligibility of an employee who holds nontemporary positions in one governmental subdivision must be determined by the total salary of all positions;

(7) part-time employees who receive monthly compensation from a one governmental subdivision not exceeding \$425, and part-time employees and elected officials whose annual compensation from a one governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public service; Membership eligibility of an employee who holds concurrent part-time positions under this clause must be determined by the total salary of all such positions in one governmental subdivision. If compensation from one governmental subdivision to an employee under this paragraph exceeds \$5,100 per calendar year or school year after being stipulated in advance not to exceed that amount, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee's earnings first exceeded \$425;

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

(9) emergency employees who are employed by reason of work caused by fire, flood, storm, or similar disaster;

(10) employees who by virtue of their employment as an officer or employee of a in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the state employees retirement system; the teachers retirement fund; the state patrol retirement fund; the Duluth teachers retirement fund association; the Minneapolis teachers retirement fund association; the St. Paul teachers retirement fund association; the Minneapolis employees retirement fund; the Minnesota state retirement system correctional officers retirement plan; or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund and for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10, other than as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association; Minnesota state retirement system, the teachers retirement association, the Duluth teachers

retirement fund association, the Minneapolis teachers retirement association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund, or any police or firefighters relief association that has consolidated with the public employees retirement association but whose members have not elected coverage by the public employees police and fire fund as provided in sections 353A.01 to 353A.10. This clause must not be construed to prevent a person from being a member of and contributing to the public employees retirement association and also belonging to and contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association by a teacher as defined in section 354.05, subdivision 2;

(11) police matrons who are employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a) (8) (A), as amended through January 1, 1987;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are not employed full time by a governmental subdivision;

(14) resident physicians, medical interns, and pharmacist residents and interns who are serving in a degree or residency program in public hospitals and students who are serving in an internship or residency program sponsored by an accredited educational institution;

(15) appointed or elected officers, who are paid entirely on a fee basis, and who were not members on June 30, 1971;

(16) persons holding who hold a part-time adult supplementary technical institute license who render part-time teaching service in a technical institute if the service is incidental to the person's regular nonteaching occupation, the applicable technical institute stipulates annually in advance that the part-time teaching service will not exceed 300 hours in a fiscal year, and the part-time teaching service actually does not exceed 300 hours in a fiscal year; and;

(17) persons exempt from licensure under section 125.031;

(18) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the public employees retirement association and participants in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel; and

(19) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the public employees retirement association and a participant in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment activities other than those as a volunteer firefighter.

(b) Immediately following the expiration of a six-month period of employment by an employee covered by paragraph (a), clause (6), if the employee continues in public service and earns more than \$425 from a governmental subdivision in any one calendar month, the department head shall report the employee for membership and cause employee contributions to be made on behalf of the employee in accordance with section 353.27, subdivision 4, and the employee remains a member until termination of public service. This paragraph may not be construed to exclude an employee from membership whose employment is expected to continue for more than six months but who is serving a probationary period.

(c) If compensation from a governmental subdivision to an employee covered by paragraph (a), clause (7), exceeds \$5,100 per calendar year or school year after being stipulated in advance, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee first exceeded \$425.

(d) Paragraph (a), clause (10), does not prevent a person from being a member of and contributing to the public employees retirement association and also belonging to or contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2, by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association in accordance with section 354.05, subdivision 2.

Sec. 3. Minnesota Statutes 1988, section 353.01, subdivision 10, is amended to read:

Subd. 10. [SALARY.] "Salary" means the periodical compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees. Fees paid to district court reporters are not considered a salary. Lump sum annual or lump sum sick leave payments, severance payments, and all payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage, are not deemed to be salary. Before the time that all sick leave has been used, amounts paid to an employee under a disability insurance policy or program where the employer paid the premiums are considered salary, and, after all sick leave has been used, the payment is not considered salary. Workers' compensation payments are not considered salary. Except as provided in sections 353.86 or 353.87, compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivisions 35 and 36, is not considered salary. For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 353A.08 following the consolidation, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodical compensation of the public employee after the effective date of the consolidation.

Sec. 4. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 11a. [TERMINATION OF PUBLIC SERVICE.] An officer or employee who terminates employment but within 30 days returns to employment in the same governmental subdivision or begins employment in another position otherwise excluded from membership is considered a member from the beginning of the reemployment unless the total period covered by all periods of employment is less than six months or the amount earned does not exceed the dollar limitations in subdivision 2b, clause (7).

Sec. 5. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 35. [VOLUNTEER AMBULANCE SERVICE PERSONNEL.] Volunteer ambulance service personnel for purposes of this chapter are basic and advanced life support emergency medical



service personnel employed by or providing services for any public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity.

Sec. 6. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 36. [VOLUNTEER FIREFIGHTER.] For purposes of this chapter, a person is considered a volunteer firefighter for all service for which the person receives credit in an association or fund operating under chapter 424A.

Sec. 7. Minnesota Statutes 1988, section 353.27, subdivision 12, is amended to read:

Subd. 12. [OMITTED SALARY DEDUCTIONS; OBLIGATIONS.] In the case of omission of required deductions from salary of an employee, past due for 60 days or less, the head of the department shall deduct from the employee's next salary payment and remit to the executive director the amount of the employee contribution delinquency; with the department head shall immediately, upon discovery, report the employee for membership and require employee deductions be made in accordance with subdivision 4. Omitted employee deductions due for the 60-day period preceding enrollment must be deducted from the employee's next salary payment and remitted to the association. The employer shall pay any remaining omitted employee deductions past due and any omitted employer contributions, plus cumulative interest at the rate of six percent a year, compounded annually, from the date or dates each delinquent omitted employee contribution was first payable. The interest must be paid by the employer. Omitted required deductions past due for a period in excess of 60 days are the sole obligation of the governmental subdivision from the time the deductions were first payable, together with interest as specified in this subdivision. Any amount so due, together with employer and additional employer contributions at the rates and in the amounts specified in subdivisions 3 and 3a, with interest at the rate of six percent compounded annually from the date they were first payable, from the employer must be paid from the proceeds of a tax levy made under section 353.28 or from other funds available to the employer. Unless otherwise indicated, An employer shall not hold an employee liable for omitted employee deductions due for more than the 60-day period preceding enrollment nor attempt to recover from the employee those employee deductions paid by the employer. Neither an employer nor an employee is responsible to pay omitted employee deductions when an employee terminates public service before making payment of omitted employee deductions to the association, but the employer remains liable to pay omitted employer contributions plus interest at the rate of six percent compounded annually from the date the contributions were first payable. This subdivision has both retroactive and prospective application, and the govern-

mental subdivision is liable retroactively and prospectively for all amounts due under it. No action for the recovery of omitted employee and employer contributions or interest on contributions may be commenced and no payment of omitted contributions may be made or accepted unless the association has already commenced action for recovery of omitted contributions. The association may not commence action for the recovery of omitted employee deductions and employer contributions after the expiration of three calendar years after the calendar year in which the contributions and deductions were omitted. No payment may be made or accepted unless the association has already commenced action for recovery of omitted deductions. An action for the recovery of omitted contributions or interest commences five calendar days after on the date of the mailing of any written correspondence from the association requesting information from the governmental unit that may lead to a recovery of omitted contributions subdivision upon which to determine whether or not omitted deductions occurred.

Sec. 8. Minnesota Statutes 1988, section 353.28, subdivision 5, is amended to read:

Subd. 5. Any amount which becomes due and payable pursuant to this section or section 353.27, subdivision 4, shall bear compound interest at the rate of six percent per year from the date due for the next five calendar days, and compound interest at the rate of ten percent per year for amounts past due in excess of five calendar days until the date payment is actually received in the office of the association, with a minimum charge of \$10. Interest for past due payments of excess police state aid under section 69.031, subdivision 5, must be charged at a rate of six percent compounded annually.

Sec. 9. Minnesota Statutes 1988, section 353.28, subdivision 6, is amended to read:

Subd. 6. If the governmental subdivision fails to pay amounts due under this chapter or fails to make payments of excess police state aid to the public employees police and fire fund under section 69.031, subdivision 5, the executive director shall certify those amounts to the governmental subdivision for payment. If the governmental subdivision fails to remit the sum so due in a timely fashion, the executive director shall certify amounts to the county auditor for collection. The county auditor shall collect such amounts out of the revenue of the governmental subdivision, or shall add them to the levy of the governmental subdivision and make payment directly to the association. This tax shall be levied, collected and apportioned in the manner other taxes are levied, collected and apportioned.

Sec. 10. Minnesota Statutes 1988, section 353.29, subdivision 4, is amended to read:

Subd. 4. [APPLICATION FOR ANNUITY.] Application for a retirement annuity may be made by a member or by a person authorized to act on behalf of the member. Every application for retirement shall be made in writing on a form prescribed by the executive director and shall be substantiated in writing by written proof of the member's age of the member and identity. No application for a retirement annuity may be considered complete until all necessary supporting documents are received by the executive director.

Sec. 11. Minnesota Statutes 1988, section 353.29, subdivision 7, is amended to read:

Subd. 7. [ANNUITIES; ACCRUAL.] Except as to elected public officials, all retirement annuities granted under the provisions of this chapter shall commence with the first day of the first calendar month next succeeding the date of termination of public service and shall be paid in equal monthly installments, but no payment shall accrue beyond the end of the month, in which entitlement to such annuity has terminated. If the annuitant dies prior to negotiating the check for the month in which death occurs, payment will be made to the surviving spouse or if none to the designated beneficiary or if none to the estate. Any annuity granted to an elective public official shall accrue on the day following expiration of the public office held or right thereto, and the annuity for that month shall be prorated accordingly. No annuity, once granted, shall be increased, decreased, or revoked except as provided in this chapter. No annuity payment shall be made retroactive for more than three months prior to that month in which application therefor shall be filed with the association a complete application is received by the executive director as provided in subdivision 4.

Sec. 12. Minnesota Statutes 1988, section 353.33, subdivision 1, is amended to read:

Subdivision 1. [AGE, SERVICE, AND SALARY REQUIREMENTS.] Any member who becomes totally and permanently disabled before age 65 and after five years of allowable service shall be entitled to a disability benefit in an amount provided in subdivision 3. If such the disabled person's public service has terminated at any time, at least three of the required five years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month shall not be entitled to a disability benefit. No repayment of a refund otherwise authorized pursuant to section 353.34 and A repayment of a refund may be made before the effective date of disability benefits under subdivision 2. No purchase of prior service or payment made in lieu of salary deductions otherwise authorized pursuant to section 353.01, subdivision 16, 353.017, subdivision 4, or 353.36, subdivision 2, may be made after the occurrence of the disability for which an application pursuant to this section is filed.

Sec. 13. Minnesota Statutes 1988, section 353.33, subdivision 2, is amended to read:

Subd. 2. [APPLICATIONS; ACCRUAL OF BENEFITS.] Every claim or demand for a total and permanent disability benefit shall must be initiated by written application in the manner and form prescribed by the executive director, filed in the office of the retirement association, showing compliance with the statutory conditions qualifying the applicant for a total and permanent disability benefit and filed with the executive director. A member or former member who became totally and permanently disabled during a period of membership may file application for total and permanent disability benefits within three years next following termination of public service, but not thereafter. This benefit shall begin to accrue the day following the commencement of disability, 90 days preceding the filing of the application, or, if annual or sick leave is paid for more than the said 90 day period, from the date salary ceased whichever is later. No payment shall accrue beyond the end of the month in which entitlement has terminated. If the disabilitant dies prior to negotiating the check for the month in which death occurs, payment will be made to the surviving spouse, or if none, to the designated beneficiary, or if none, to the estate. An applicant for total and permanent disability benefits may file a retirement annuity application under section 353.29, subdivision 4, simultaneously with an application for total and permanent disability benefits. The retirement annuity application is void upon the determination of the entitlement for disability benefits by the executive director. If disability benefits are denied, the retirement annuity application must be initiated and processed.

Sec. 14. Minnesota Statutes 1988, section 353.33, subdivision 5, is amended to read:

Subd. 5. [BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.] Disability benefits paid shall be reimbursed and future benefits shall be reduced by coordinated with any amounts received or receivable, including under workers' compensation law, such as temporary total, permanent total, temporary partial or, permanent partial, or economic recovery compensation benefits, in either periodic or lump sum payments from the employer under applicable workers' compensation laws, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabilitant. If the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability, whichever is greater, the disability benefit must be reduced to that amount which, when added to the workers' compensation benefits,

does not exceed the greater of the salaries described in clauses (1) and (2).

Sec. 15. Minnesota Statutes 1988, section 353.33, subdivision 6, is amended to read:

Subd. 6. [CONTINUING ELIGIBILITY FOR BENEFITS.] The eligibility for continuation of disability benefits shall be determined by the association, which has authority to require periodic examinations and evaluations of disabled members as frequently as deemed necessary. Disability benefits are contingent upon a disabled person's participation in a vocational rehabilitation program if the executive director determines that the disabled person may be able to return to a gainful occupation. If a member is found to be no longer totally and permanently disabled and is reinstated to the payroll, payments shall be made for no more than 60 days.

Sec. 16. Minnesota Statutes 1988, section 353.33, subdivision 7, is amended to read:

Subd. 7. [PARTIAL REEMPLOYMENT.] If, following a work or nonwork-related injury or illness, a disabled person resumes a gainful occupation from which earnings are less than the salary at the date of disability or the salary currently paid for similar positions, the board shall continue the disability benefit in an amount that, when added to the earnings and workers' compensation benefit, does not exceed the salary at the date of disability or the salary currently paid for similar positions, whichever is higher, provided the disability benefit does not exceed the disability benefit originally allowed, plus any postretirement adjustments payable after December 31, 1988, in accordance with section 11A.18, subdivision 10. No deductions for the retirement fund may be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.

Sec. 17. Minnesota Statutes 1988, section 353.34, subdivision 1, is amended to read:

Subdivision 1. [REFUND OR DEFERRED ANNUITY.] Any member who ceases to be a public employee by reason of termination of public service, or who is on a continuous layoff for more than 120 calendar days, shall be entitled to a refund of accumulated deductions as provided in subdivision 2, or to a deferred annuity as provided in subdivision 3. An active member of a fund enumerated in section 356.30, subdivision 3, clause (7), (8), or (14), who terminates public service in any of those funds and becomes a member of another fund enumerated in those clauses may receive a refund of employee contributions plus five percent interest compounded annually from the fund in which the member terminated service. Application for a refund may not be made prior to date of termination of public service, or the expiration of 120 days of layoff, and a

refund shall be paid within 120 days following receipt of application, provided applicant has not again become a public employee required to be covered by the association.

Sec. 18. Minnesota Statutes 1988, section 353.35, is amended to read:

**353.35 [CONSEQUENCES OF REFUND; REPAYMENT, RIGHTS RESTORED.]**

When any former member accepts a refund, all existing service credits and all rights and benefits to which the person was entitled prior to the acceptance of such the refund shall terminate and shall not again be restored until the person acquires not less than 18 months allowable service credit subsequent to after taking the last refund and repays all refunds taken and interest received under section 353.34, subdivisions 1 and 2, plus interest at six percent per annum compounded annually. If more than one refund has been taken, all refunds must be repaid by the person may repay all refunds or only the refund for the fund in which the person had most recently been a member, with interest at six percent per annum compounded annually. All refunds must be repaid within three months of the last date of termination of public service.

Sec. 19. Minnesota Statutes 1988, section 353.64, subdivision 1, is amended to read:

Subdivision 1. [POLICE AND FIRE FUND MEMBERSHIP] Any person who prior to July 1, 1961, was a member of the police and fire fund, by virtue of being a police officer or firefighter, shall as long as the person remains in either position, be deemed to continue membership in the fund. Any person who was employed by a governmental subdivision as a police officer and was a member of the police and fire fund on July 1, 1978, by virtue of being a police officer as defined by this section on that date shall be entitled, if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date, to continue membership in the fund whether or not that person has the power of arrest by warrant after that date. Any person who was employed by a governmental subdivision as a police officer or a firefighter, whichever applies, was an active member of the local police or salaried firefighters relief association located in that governmental subdivision by virtue of that employment as of the effective date of the consolidation as authorized by sections 353A.01 to 353A.10, and has elected coverage by the public employees police and fire fund benefit plan, shall be considered to be a member of the police and fire fund after that date if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date. Any other employee serving on a full-time basis as a police officer or firefighter on or after July 1, 1961, shall become a member of the public employees

police and fire fund. Any employee serving on less than a full-time basis as a police officer shall become a member of the public employees police and fire fund only after a resolution stating that the employee should be covered by the police and fire fund is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a police officer. Any employee serving on less than a full-time basis as a firefighter, ~~other than a volunteer firefighter~~, shall become a member of the public employees police and fire fund only after a resolution stating that the employee should be covered by the police and fire fund is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a firefighter. Any police officer or firefighter, ~~other than a volunteer firefighter~~, employed by a governmental subdivision who by virtue of that employment is required by law to be a member of and to contribute to any police or firefighter relief association governed by section 69.77 which has not consolidated with the public employees police and fire fund and any police officer or firefighter of a relief association that has consolidated with the association for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10 ~~other than a volunteer firefighters relief association to which sections 69.771 to 69.776 apply~~ shall not be a member of this fund.

Sec. 20. Minnesota Statutes 1988, section 353.64, subdivision 2, is amended to read:

Subd. 2. Before a governing body may declare a position to be that of a police officer, the duties of the person so employed ~~shall must~~, as a minimum, include services employment as an officer of a designated police department or sheriff's office or person in charge of a designated police department or sheriff's office whose primary job it is to enforce the law, who is licensed by the Minnesota board of peace officer standards and training under sections 626.84 to 626.855, who is engaged in the hazards of protecting the safety and property of others, and who has the power to arrest by warrant. A police officer who is periodically assigned to employment duties not within the scope of this subdivision may contribute to the public employees police and fire fund for all service, if a resolution declaring that the primary position held by the person is that of a police officer, is adopted by the governing body of the department, and is promptly submitted to the executive director.

Sec. 21. Minnesota Statutes 1988, section 353.64, subdivision 3, is amended to read:

Subd. 3. Before a governing body may declare a position to be that of a firefighter, the duties of the person so employed ~~shall must~~, as a minimum, include services as an employee of a designated fire company or person in charge of a designated fire company or

companies who is engaged in the hazards of fire fighting. A firefighter who is periodically assigned to employment duties outside the scope of firefighting may contribute to the public employees police and fire fund for all service, if a resolution declaring that the primary position held by the person is that of a firefighter, is adopted by the governing body of the company or companies, and is promptly submitted to the executive director.

Sec. 22. Minnesota Statutes 1988, section 353.656, subdivision 4, is amended to read:

Subd. 4. No member shall receive any disability benefit payment when there remains to the member's credit unused annual leave or sick leave or under any other circumstances; when, during the period of disability, there has been no impairment of salary and. Should ~~such~~ the member resume a gainful occupation with earnings less than the salary earned at the date of disability or the salary currently paid for similar positions, the association shall continue the disability benefit in an amount which when added to ~~such~~ workers' compensation benefits and actual earnings does not exceed the salary earned at the date of disability or the salary currently paid for similar positions, whichever is higher, ~~provided~~. In no event may the disability benefit in ~~such case does not~~ exceed the disability benefit originally allowed. In the event that the total amount is higher, the executive director shall reduce the disability benefit by the amount of the excess.

Sec. 23. [353.86] [VOLUNTEER AMBULANCE SERVICE PERSONNEL; PARTICIPATION; ELECTION; LIMITATION; AND COMPENSATION.]

Subdivision 1. [PARTICIPATION.] Volunteer ambulance service personnel, as defined in section 353.01, subdivision 35, who are or become members of and participants in the public employees retirement fund or the public employees police and fire fund and make contributions to either of those funds based on compensation for service other than volunteer ambulance service may elect to participate in that same fund with respect to compensation received for volunteer ambulance service, provided that the volunteer ambulance service is not credited to another public or private pension plan including the public employees retirement plan established by chapter 353D and provided further that the volunteer ambulance service is rendered for the same governmental unit for which the nonvolunteer ambulance service is rendered.

Subd. 2. [ELECTION.] Volunteer ambulance service personnel to whom subdivision 1 applies may exercise the election authorized under subdivision 1 within the earlier of the one-year period beginning on July 1, 1989, and extending through June 30, 1990, or the one-year period commencing on the first day of the first month following the start of employment in a position covered by the public



employees retirement fund or the public employees police and fire fund. The election must be exercised by filing a written notice on a form prescribed by the executive director of the association.

Subd. 3. [LIMITATION.] Volunteer ambulance service personnel to whom subdivision 1 applies who exercise their option in accordance with subdivision 2 and their governmental employers are not required to pay omitted deductions and contributions under section 353.27, subdivision 12, for volunteer ambulance service rendered before July 1, 1989.

Subd. 4. [COMPENSATION.] Notwithstanding section 353.01, subdivision 10, compensation received for service rendered by volunteer ambulance service personnel to whom subdivision 1 applies who exercise their option in accordance with subdivision 2 shall be considered salary.

Sec. 24. [353.87] [VOLUNTEER FIREFIGHTERS; PARTICIPATION; LIMITATION; AND REFUND.]

Subdivision 1. [PARTICIPATION.] Except as provided in subdivision 2, a volunteer firefighter, as defined in section 353.01, subdivision 36, who, on June 30, 1989, was a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and was making contributions to either of those funds based, at least in part, on compensation for services performed as a volunteer firefighter shall continue as a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and compensation for services performed as a volunteer firefighter shall be considered salary.

Subd. 2. [OPTION.] A volunteer firefighter to whom subdivision 1 applies has the option to terminate membership and future participation in the public employees retirement fund or the public employees police and fire fund upon filing of a written notice of intention to terminate participation. Notice must be given on a form prescribed by the executive director of the association and must be filed in the offices of the association not later than June 30, 1990.

Subd. 3. [LIMITATION.] No volunteer firefighter to whom subdivision 1 applies or the governmental employer of the volunteer firefighter is required to make back contributions to the public employees retirement association for volunteer firefighter services rendered before July 1, 1989, notwithstanding the provisions of section 353.27, subdivision 12.

Subd. 4. [REFUND.] Upon timely filing of a valid notice of termination of participation in accordance with subdivision 2, a volunteer firefighter to whom subdivision 1 applies must be given a refund of all past employee contributions made on account of

volunteer firefighter service with five percent interest compounded annually.

Subd. 5. [FURTHER OPTION.] A volunteer firefighter, as defined in section 353.01, subdivision 36, who is or becomes a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and makes contributions to either of those funds based on compensation for services other than services as a volunteer firefighter shall have the option of making contributions to the same fund for service performed as a volunteer firefighter with compensation received for those volunteer firefighter services considered salary, provided that the volunteer firefighter is not a participant in, or covered under, a local volunteer firefighter plan and notwithstanding the fact that the volunteer firefighter service is performed for one governmental unit and the nonvolunteer firefighter service is performed for another governmental unit.

Sec. 25. Laws of Minnesota 1985, chapter 11, section 12, subdivision 3, is amended to read:

Subdivision 3. [ELECTION PROCEDURES.] The board shall accept filings for one elected position on the board in November 1985 and shall conduct an election for that position in January 1986. The board shall accept filings for two elected positions on the board in November 1986 and shall conduct an election for those positions in January 1987. Notwithstanding the four-year term of office specified in section 353.03, subdivision 1, the term of office for the January 1986 elected position extends through January 1991, so that all three elected positions are four-year terms which begin and end at the same time. Thereafter, the board shall follow the election procedures described in Minnesota Statutes, section 353.03, subdivision 1, as necessary to fill the positions of elected trustees.

Sec. 26. [REPEALER.]

Minnesota Statutes 1988, sections 353.01, subdivision 2c; 353.661; and 353.662, are repealed.

Sec. 27. [EFFECTIVE DATE.]

(a) Sections 1 to 26 are effective July 1, 1989.

(b) The past due excess police state aid interest charge provided for in section 8 is retroactive to July 1, 1989."

Delete the title and insert:

"A bill for an act relating to retirement; making various administrative changes in laws governing operation of statewide retire-

ment associations; amending Minnesota Statutes 1988, sections 43A.44, subdivision 2; 136.81, subdivision 1; 136.82, subdivisions 1 and 2; 352.01, subdivision 11; 352.021, subdivision 5; 352.03, subdivision 11; 352.116, subdivision 3; 352.22, subdivisions 1 and 2a; 352.93, subdivision 3; 352B.08, subdivision 3; 352B.10, subdivision 5; 352B.11, subdivision 2; 352D.06, subdivision 1; 352D.075, subdivision 2; 353.01, subdivisions 2a, 2b, 10, and by adding subdivisions; 353.27, subdivision 12; 353.28, subdivisions 5 and 6; 353.29, subdivisions 4 and 7; 353.33, subdivisions 1, 2, 5, 6, and 7; 353.34, subdivision 1; 353.35; 353.64, subdivisions 1, 2, and 3; 353.656, subdivision 4; 354.05, subdivisions 35 and 37; 354.07, subdivision 3; 354.091; 354.092; 354.10, subdivision 2; 354.35; 354.42, subdivision 7; 354.44, subdivisions 3, 5, 8, and by adding a subdivision; 354.47, subdivision 2; 354.48, subdivisions 1 and 2; 354.65; 354A.31, subdivision 3; 356.30, subdivision 2; 356.371, subdivision 3; and 356.80, subdivisions 1 and 3; Laws of Minnesota 1985, chapter 11, section 12, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 352; 353; 354; 354A; and 356; repealing Minnesota Statutes 1988, sections 136.88, subdivision 3; 352.03, subdivision 13; 352.73, subdivision 3; 353.01, subdivision 2c; 353.661; 353.662; 354.41, subdivision 3; 354.531; 354.532; 354.55, subdivision 5; and 354.56."

With the recommendation that when so amended the bill pass.

The report was adopted.

Battaglia from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1448, A bill for an act relating to Hennepin county; permitting the issuance of obligations by the county board of Hennepin county for a public safety building.

Reported the same back with the following amendments:

Page 1, line 9, delete "\$130,000,000" and insert "\$30,000,000"

Page 1, line 10, delete "the" and insert "land" and delete the first "and" and insert "planning, design, and other preliminary work for the"

Page 1, after line 18, insert:

"Sec. 2. [REPORTS TO THE LEGISLATURE.]

The board of county commissioners of Hennepin county, the judges of the fourth judicial district, the Hennepin county attorney, and the Hennepin county sheriff shall each prepare a report to the

legislature on ways and means to improve the administration of the criminal justice system in the fourth judicial district. The reports shall specifically identify ways to make the criminal justice system more timely and cost effective. The reports shall also identify any state mandates that unduly increase the cost of the criminal justice system. The reports shall be submitted to the legislature on or before January 15, 1990."

Renumber the remaining section

Amend the title as follows:

Page 1, line 4, before the period insert "; requiring reports to the legislature"

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

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 1463, A bill for an act relating to agriculture; requiring dairy products processed or manufactured with milk from cows that have been administered bovine somatotropin to be labeled if sold or offered for sale; restricting use of bovine somatotropin; authorizing dispensing and administering of bovine somatotropin only by licensed veterinarians; prescribing penalties; amending Minnesota Statutes 1988, sections 151.01, subdivision 28; 151.15, subdivision 3; and 151.25; proposing coding for new law in Minnesota Statutes, chapter 32.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [PROHIBITIONS.]

Subdivision 1. [SALE OF BST LIMITED.] A person may not sell, purchase, or administer bovine somatotropin in this state except for research purposes.

Subd. 2. [SALE OF BST DAIRY PRODUCTS PROHIBITED.] A person may not sell or offer for sale in this state milk or dairy products produced by cows to which BST has been administered.

Sec. 2. [REPEALER.]

This act is repealed July 1, 1990.

## Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective June 1, 1989."

Delete the title and insert:

"A bill for an act relating to agriculture; restricting use, purchase, or sale of bovine somatotropin."

With the recommendation that when so amended the bill pass.

The report was adopted.

Ogren from the Committee on Health and Human Services to which was referred:

H. F. No. 1562, A bill for an act relating to human services; providing for cost-based reimbursement for outpatient services provided by pediatric specialty hospitals to children under age 18 under the medical assistance and general assistance medical care programs; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 256B.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

S. F. No. 169, A bill for an act relating to motor vehicles; allowing custodial parent of handicapped minor to obtain special license plates for the handicapped; amending Minnesota Statutes 1988, section 168.021, subdivisions 1 and 3.

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

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

S. F. No. 206, A bill for an act relating to state government; administrative procedures; regulating exempt rules; making certain technical changes; amending Minnesota Statutes 1988, sections

14.40; and 97A.051, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 3; repealing Minnesota Statutes 1988, sections 97A.051, subdivision 3; 144A.10, subdivision 6a; 174.031, subdivision 2; 254B.03, subdivision 6; 254B.04, subdivision 2; 257.357; and 574.262, subdivision 3; Laws 1985, chapter 4, section 8; and Laws 1987, chapter 337, section 128.

Reported the same back with the following amendments:

Page 2, after line 17, insert:

"Subd. 4. [NONAPPLICATION.] Except as provided in subdivision 1, paragraph (b), this section does not apply to section 14.02, subdivision 4, clauses (a) to (h)."

With the recommendation that when so amended the bill pass.

The report was adopted.

Ogren from the Committee on Health and Human Services to which was referred:

S. F. No. 218, A bill for an act relating to health; amending the bill of rights for patients and residents of health facilities; requiring health facilities to notify family members of the admission of a patient or resident under certain circumstances; amending Minnesota Statutes 1988, section 144.651, subdivision 10.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Judiciary.

The report was adopted.

McEachern from the Committee on Education to which was referred:

S. F. No. 618, A bill for an act relating to education; exempting employment by a school district from certain requirements relating to employment of rehabilitated criminal offenders; amending Minnesota Statutes 1988, section 364.09.

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

The report was adopted.

Skoglund from the Committee on Insurance to which was referred:

S. F. No. 701, A bill for an act relating to insurance; requiring coverage for child health supervision and prenatal services; clarifying certain definitions; amending Minnesota Statutes 1988, section 62A.047.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 62A.047, is amended to read:

62A.047 [CHILDREN'S HEALTH SUPERVISION SERVICES AND PRENATAL CARE SERVICES.]

No A policy of individual or group health and accident insurance regulated under this chapter, or individual or group subscriber contract regulated under chapter 62C, health maintenance contract regulated under chapter 62D, or health benefit certificate regulated under chapter 64B, shall be issued, renewed, or continued, delivered, issued for delivery, or executed in this state, or approved for issuance or renewal in this state by the commissioner of commerce unless to provide coverage to a Minnesota resident, must provide coverage for child health supervision services and prenatal care services. The policy or, contract, or certificate must specifically exempts exempt reasonable and customary charges for child health supervision services and perinatal prenatal care services from a deductible, copayment, or other coinsurance or dollar limitation requirement. For individual policies, this section does not prohibit the use of waiting periods or preexisting condition limitations for these services. Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit cited in this section subject to the schedule set forth in this section. Nothing in this section shall apply applies to a commercial health insurance policy issued as a companion to a health maintenance organization contract, a policy designed primarily to provide coverage payable on a per diem, fixed indemnity, or nonexpense incurred basis, or a policy that provides only accident coverage.

"Child health supervision services" means pediatric preventive services, appropriate immunizations, developmental assessments, and laboratory services appropriate to the age of a child from birth to age six as defined by Standards of Child Health Care issued by the American Academy of Pediatrics. Reimbursement must be made for at least five child health supervision visits from birth to 12 months, three child health supervision visits from 12 months to 24 months, once a year from three years old 24 months to six years old 72 months.

"Perinatal Prenatal care services" means the comprehensive package of medical and psychosocial support provided throughout the pregnancy, labor, delivery, and postpartum period including risk assessment, serial surveillance, prenatal education, and use of specialized skills and technology, when needed, observation of the mother and infant, preparation for discharge, and follow-up during the postpartum period as defined by Standards for Obstetric-Gynecologic Services issued by the American College of Obstetricians and Gynecologists.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective for policies issued or renewed on or after August 1, 1989."

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

The report was adopted.

## SECOND READING OF HOUSE BILLS

H. F. Nos. 146, 390, 643, 839, 962, 982, 1258, 1336, 1379, 1446 and 1463 were read for the second time.

## SECOND READING OF SENATE BILLS

S. F. Nos. 1241, 169, 206, 618 and 701 were read for the second time.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Rest and Wagenius introduced:

H. F. No. 1721, A bill for an act relating to crime; expanding the crime of first degree murder to include certain deaths caused by domestic abuse; imposing penalties; amending Minnesota Statutes 1988, section 609.185.

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



Carruthers, Pugh, Pappas and Weaver introduced:

H. F. No. 1722, A bill for an act relating to courts; authorizing use of alternative dispute resolution statewide; authorizing the court to order binding alternative dispute resolution with a right to appeal; amending Minnesota Statutes 1988, section 484.74, subdivisions 1, 2, 3, and by adding a subdivision; repealing Minnesota Statutes 1988, section 484.74, subdivision 4.

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

Onnen introduced:

H. F. No. 1723, A bill for an act relating to state government; creating a temporary legislative tax study commission; establishing a maximum effective rate of tax on certain types of property; providing reimbursement to local taxing jurisdictions; appropriating money; amending Minnesota Statutes 1988, sections 275.08, by adding a subdivision; and 276.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 275.

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

Welle and Cooper introduced:

H. F. No. 1724, A bill for an act relating to Kandiyohi county; permitting the county to merge the offices of county treasurer and county auditor.

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

Price; Segal; Anderson, G.; Greenfield and Anderson, R., introduced:

H. F. No. 1725, A bill for an act relating to appropriations; appropriating money for a developmental disabilities community outreach program.

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

Rest and Long introduced:

H. F. No. 1726, A bill for an act relating to public finance;

providing conditions and requirements for the issuance and use of public debt; amending Minnesota Statutes 1988, sections 298.2211, subdivision 4; 400.101; 430.06, by adding a subdivision; 469.015, subdivision 4; 469.152; 469.153, subdivision 2; 469.154, subdivisions 3 and 5; 469.155, subdivisions 2, 3, and 5; 471.56, subdivision 5; 473.541, subdivision 3, and by adding a subdivision; 473.811, subdivision 2; 475.51, by adding subdivisions; 475.54, subdivision 4, and by adding a subdivision; 475.55, subdivision 6, and by adding a subdivision; 475.60, subdivisions 1, 2, and 3; 475.66, subdivision 1; and 475.79; proposing coding for new law in Minnesota Statutes, chapters 469 and 473.

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

Segal and Price introduced:

H. F. No. 1727, A bill for an act relating to higher education; creating a resource center on developmental disabilities; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 137.

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

Greenfield, Orenstein, Dorn, Sviggum and Skoglund introduced:

H. F. No. 1728, A bill for an act relating to human services; creating a technology assistance review panel; requiring a study of the feasibility of developing a shared risk pool for technology-assisted persons; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 256.

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

## 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. 424, A bill for an act relating to commerce; unclaimed property; providing for the ownership of metal dies and molds;

amending Minnesota Statutes 1988, section 345.20, subdivision 1.

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. 553, A bill for an act relating to Olmsted county; exempting the county from operation of a public morgue.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 29, A bill for an act relating to examiners of title; increasing number of deputy examiners of title in second and fourth judicial districts; amending Minnesota Statutes 1988, section 508.12, subdivision 3.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

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. 535, 851, 1016, 321, 624, 1106, 1270, 119, 695 and 1082.

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. 665, 738, 827, 280, 391, 184 and 829.

PATRICK E. FLAHAVEN, Secretary of the Senate

**FIRST READING OF SENATE BILLS**

S. F. No. 535, A bill for an act relating to real property; abolishing certain residual marital interests in real property; clarifying that the 40-year limitation on actions affecting title to real estate applies to an action based on an option to repurchase or other restrictions on a surface estate; providing for certain certifications; changing effective dates for provisions relating to validation of foreclosure sales; amending Minnesota Statutes 1988, sections 541.023, subdivision 2; 548.181, subdivisions 1, 3, and by adding a subdivision; and 582.27; proposing coding for new law in Minnesota Statutes, chapter 519.

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

S. F. No. 851, A bill for an act relating to driving while intoxicated; making it a crime for certain repeat offenders to refuse to submit to chemical testing under the implied consent law; imposing penalties; amending Minnesota Statutes 1988, sections 169.121, subdivisions 1, 1a, 3, and 3b; and 169.123, subdivision 2.

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

S. F. No. 1016, A bill for an act relating to animals; authorizing a county board to regulate dogs and cats within the county without adopting a system of licensure; proposing coding for new law in Minnesota Statutes, chapter 347.

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

S. F. No. 321, A bill for an act relating to public nuisances; expanding the nuisance law to include prior convictions for certain drug and liquor offenses; amending Minnesota Statutes 1988, section 617.81, subdivision 2.

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

S. F. No. 624, A bill for an act relating to civil actions; removing certain limitations on parental liability for thefts by minors; amending Minnesota Statutes 1988, section 332.51, subdivision 3.

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

S. F. No. 1106, A bill for an act relating to adoption; changing the minimum age at which an adopted person may request original birth certificate information; changing time periods during which birth parents may consent to disclosure; authorizing disclosure of information on the consenting parent when only one birth parent consents; amending Minnesota Statutes 1988, section 259.49, subdivisions 1, 2, and 4.

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

S. F. No. 1270, A bill for an act relating to unemployment compensation; making various technical corrections; amending Minnesota Statutes 1988, sections 268.04, subdivisions 12 and 25; 268.06, subdivisions 1, 8a, and 28; 268.07, subdivisions 2 and 3; 268.09, subdivision 1; 268.10, subdivisions 1 and 2; 268.12, subdivision 12; 268.16, subdivision 4; 268.162, subdivision 1; 268.163, subdivision 1; and 268.165, subdivisions 1 and 2.

The bill was read for the first time.

Beard moved that S. F. No. 1270 and H. F. No. 1460, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 119, A bill for an act relating to local government; authorizing towns to establish subordinate service districts; proposing coding for new law as Minnesota Statutes, chapter 365B.

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

S. F. No. 695, A bill for an act relating to education; requiring school boards to report certain teacher discharges and resignations to the board of teaching; providing for immunity from liability; amending Minnesota Statutes 1988, section 125.09, by adding subdivisions.

The bill was read for the first time.

McEachern moved that S. F. No. 695 and H. F. No. 643, now on Technical General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1082, A bill for an act relating to administrative procedure; clarifying the applicability of the requirement that agencies

consider the impact of proposed rules on small business; amending Minnesota Statutes 1988, section 14.115, subdivision 7.

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

S. F. No. 665, A bill for an act relating to motor vehicles; allowing second set of handicapped license plates to be issued to physically handicapped person who is furnished a vehicle as part of employment; allowing commissioner of public safety to waive requirement of physician's statement as evidence of physical handicap in certain circumstances; amending Minnesota Statutes 1988, sections 168.021, subdivision 1; and 169.345, subdivisions 2a and 3.

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

S. F. No. 738, A bill for an act relating to traffic regulations; providing for special permits for vehicles transporting pole-length pulpwood; setting a fee; amending Minnesota Statutes 1988, section 169.86, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 169.

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

S. F. No. 827, A bill for an act relating to public safety; increasing membership on advisory council for the children's trust fund; amending Minnesota Statutes 1988, section 299A.23, subdivision 2.

The bill was read for the first time.

Williams moved that S. F. No. 827 and H. F. No. 833, now on Technical General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 280, A bill for an act relating to natural resources; suspension of certain trespass laws to allow taking of fox during certain periods; amending Minnesota Statutes 1988, section 97B.001, by adding a subdivision.

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

S. F. No. 391, A bill for an act relating to civil actions; excluding certain structures from the limitation period provided by the uni-

form commercial code; amending Minnesota Statutes 1988, section 336.2-725.

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

S. F. No. 184, A bill for an act relating to charitable organizations; regulating charitable solicitations and professional fund raisers; excluding certain religious organizations from registration; requiring a bond for professional fund raisers who have access to contributions; modifying disclosure requirements; authorizing the district court to redress violations of law; amending Minnesota Statutes 1988, sections 309.515, subdivision 2; 309.531, subdivision 2; 309.556; and 309.57, subdivision 1.

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

S. F. No. 829, A bill for an act relating to insurance; prohibiting insurers from maintaining subrogation actions against insureds; proposing coding for new law in Minnesota Statutes, chapter 60A.

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

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

Wynia, from the Committee on Rules and Legislative Administration, pursuant to House Rule No. 1.9, designated the following bills as Special Orders to be acted upon immediately preceding General Orders for today, Thursday, April 20, 1989:

H. F. No. 996; S. F. No. 1051; and H. F. Nos. 166, 557, 1665, 1338, 786, 1460, 1408, 472, 811, 831, 1472, 1530, 1440, 1323, 1355, 930, 1354, 1027, 1107, 1139, 1016, 1339, 1113 and 693.

#### CALENDAR

S. F. No. 361, A bill for an act relating to insurance; no-fault auto; clarifying eligibility for economic loss benefits; amending Minnesota Statutes 1988, sections 65B.51, subdivision 2; and 65B.64, subdivisions 2 and 3.

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. There were 126 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Forsythe	Kostohryz	Olson, K.	Schafer
Anderson, G.	Frederick	Krueger	Omann	Seaberg
Anderson, R.	Frerichs	Lasley	Onnen	Segal
Battaglia	Girard	Lieder	Orenstein	Simoneau
Bauerly	Greenfield	Limmer	Ostrom	Skoglund
Beard	Gruenes	Long	Otis	Solberg
Begich	Gutknecht	Lynch	Ozment	Sparby
Bennett	Hartle	Macklin	Pappas	Stanis
Bertram	Hasskamp	Marsh	Pauly	Steensma
Bishop	Haukoos	McDonald	Pellow	Sviggum
Blatz	Heap	McEachern	Pelowski	Swenson
Boo	Henry	McGuire	Peterson	Tompkins
Brown	Hugoson	McLaughlin	Poppenhagen	Trimble
Burger	Jacobs	McPherson	Price	Tunheim
Carlson, D.	Janezich	Milbert	Pugh	Uphus
Carlson, L.	Jaros	Miller	Quinn	Valento
Carruthers	Jefferson	Munger	Redalen	Vellenga
Clark	Johnson, A.	Murphy	Reding	Wagenius
Conway	Johnson, R.	Nelson, C.	Rest	Waltman
Cooper	Johnson, V.	Nelson, K.	Rice	Weaver
Dauner	Kahn	Neuenschwander	Richter	Welle
Dawkins	Kalis	O'Connor	Rodosovich	Wenzel
Dempsey	Kelly	Ogren	Rukavina	Williams
Dille	Kelso	Olsen, S.	Runbeck	Winter
Dorn	Knickerbocker	Olson, E.	Sarna	Wynia
				Spk. Vanasek

The bill was passed and its title agreed to.

S. F. No. 104, A bill for an act relating to agriculture; making changes in the rural finance authority loan program; amending Minnesota Statutes 1988, sections 41B.02, subdivisions 12, 15, and 18; 41B.03, subdivision 3, and by adding a subdivision; 41B.039, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 41B; repealing Minnesota Statutes 1988, sections 41B.03, subdivision 4; and 41B.039, subdivisions 3, 4, and 5.

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. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Bertram	Carruthers	Dorn	Hartle
Anderson, G.	Bishop	Clark	Forsythe	Hasskamp
Anderson, R.	Blatz	Conway	Frederick	Haukoos
Battaglia	Boo	Cooper	Frerichs	Heap
Bauerly	Brown	Dauner	Girard	Henry
Beard	Burger	Dawkins	Greenfield	Hugoson
Begich	Carlson, D.	Dempsey	Gruenes	Jacobs
Bennett	Carlson, L.	Dille	Gutknecht	Janezich



Jaros	Macklin	Olson, E.	Redalen	Steensma
Jefferson	Marsh	Olson, K.	Reding	Sviggum
Jennings	McDonald	Omamn	Rest	Swenson
Johnson, A.	McEachern	Onnen	Rice	Tompkins
Johnson, R.	McGuire	Orenstein	Richter	Trimble
Johnson, V.	McLaughlin	Osthoff	Rodosovich	Tunheim
Kalis	McPherson	Ostrom	Rukavina	Uphus
Kelly	Milbert	Otis	Runbeck	Valento
Kelso	Miller	Ozment	Sarna	Vellenga
Kinkel	Morrison	Pappas	Schafer	Wagenius
Knickerbocker	Munger	Pauly	Scheid	Waltman
Kostohryz	Murphy	Pellow	Seaberg	Weaver
Krueger	Nelson, C.	Pelowski	Segal	Welle
Lasley	Nelson, K.	Peterson	Simoneau	Wenzel
Lieder	Neuenschwander	Poppenhagen	Skoglund	Williams
Limmer	O'Connor	Price	Solberg	Winter
Long	Ogren	Pugh	Sparby	Wynia
Lynch	Olsen, S.	Quinn	Stanis	

The bill was passed and its title agreed to.

### SPECIAL ORDERS

H. F. No. 996 was reported to the House.

Skoglund moved to amend H. F. No. 996, the first engrossment, as follows:

Page 1, line 26, before the comma insert "in a public school"

Page 2, line 5, delete "(c)" and insert "(d)"

Page 2, line 9, after "includes" insert ", but is not limited to,"

Page 2, line 10, before the period insert ", the developmental immaturity of the child, or significant family stress"

Page 2, after line 22, insert:

"(d) A pupil under the age of seven who is withdrawn from enrollment in the public school is no longer subject to the compulsory attendance provisions of this chapter."

The motion prevailed and the amendment was adopted.

Olsen, S., moved to amend H. F. No. 996, the first engrossment, as amended, as follows:

Page 2, line 15, after "copy" insert "and a statement saying that they have read and understood the enrollment policy" and after "receipt" insert "and the signed statement"

The motion prevailed and the amendment was adopted.

Orenstein was excused between the hours of 3:00 p.m. and 3:40 p.m.

Schafer and Richter moved to amend H. F. No. 996, the first engrossment, as amended, as follows:

Page 2, delete lines 9 and 10, and insert "parent or guardian who must inform the school board in writing. At the time of withdrawal, the child is no longer subject to the compulsory attendance requirements of section 127.20."

Schafer moved to amend the Schafer and Richter amendment to H. F. No. 996, the first engrossment, as amended, as follows:

Delete the last sentence

The motion did not prevail and the amendment to the amendment was not adopted.

The question recurred on the Schafer and Richter amendment to H. F. No. 996, the first engrossment, as amended. The motion did not prevail and the amendment was not adopted.

Boo moved to amend H. F. No. 996, the first engrossment, as amended, as follows:

Page 1, line 26, after "enrolled" insert "and deemed a habitual truant as defined in section 260.132"

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

The Speaker called Anderson, G., to the Chair.

H. F. No. 996, A bill for an act relating to education; allowing a school board to compel attendance of enrolled pupils under the age of seven; making conforming changes; amending Minnesota Statutes 1988, sections 120.101, subdivision 5, and by adding a subdivision; and 127.20.

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. There were 112 yeas and 8 nays as follows:

Those who voted in the affirmative were:

Abrams	Forsythe	Knickerbocker	Omann	Simoneau
Anderson, G.	Frerichs	Kostohryz	Onnen	Skoglund
Anderson, R.	Girard	Krueger	Osthoff	Solberg
Battaglia	Greenfield	Lasley	Ostrom	Stanius
Bauerly	Gruenes	Lieder	Otis	Steensma
Beard	Gutknecht	Long	Ozment	Sviggun
Begich	Hartle	Lynch	Pappas	Swenson
Bennett	Hasskamp	Marsh	Pauly	Trimble
Bertram	Haukoos	McDonald	Pellow	Tunheim
Bishop	Heap	McEachern	Pelowski	Uphus
Blatz	Henry	McGuire	Peterson	Valento
Brown	Hugoson	McPherson	Price	Vellenga
Burger	Janezich	Milbert	Pugh	Wagenius
Carlson, D.	Jaros	Morrison	Redalen	Waltman
Carlson, L.	Jefferson	Munger	Reding	Weaver
Carruthers	Jennings	Murphy	Rest	Welle
Clark	Johnson, A.	Nelson, C.	Rice	Wenzel
Conway	Johnson, R.	Nelson, K.	Rodosovich	Williams
Cooper	Johnson, V.	Neuenschwander	Rukavina	Winter
Dauner	Kalis	O'Connor	Runbeck	Wynia
Dawkins	Kelly	Olsen, S.	Sarna	
Dempsey	Kelso	Olson, E.	Seaberg	
Dorn	Kinkel	Olson, K.	Segal	

Those who voted in the negative were:

Boo	Macklin	Poppenhagen	Schafer
Limmer	Miller	Richter	Tompkins

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

S. F. No. 1051, A resolution memorializing the Congress of the United States to reject pending legislation that would authorize the use of Minnesota waters for the transportation of coal and would grant the right of eminent domain of coal slurry pipelines.

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. There were 99 yeas and 28 nays as follows:

Those who voted in the affirmative were:

Abrams	Conway	Jennings	Long	O'Connor
Anderson, G.	Cooper	Johnson, A.	Macklin	Ogren
Battaglia	Dauner	Johnson, R.	Marsh	Olsen, S.
Bauerly	Dawkins	Kahn	McEachern	Olson, E.
Beard	Dorn	Kalis	McGuire	Olson, K.
Begich	Gruenes	Kelly	McLaughlin	Omann
Bennett	Hartle	Kelso	McPherson	Orenstein
Bertram	Hasskamp	Kinkel	Milbert	Osthoff
Brown	Heap	Knickerbocker	Munger	Ostrom
Carlson, D.	Jacobs	Kostohryz	Murphy	Otis
Carlson, L.	Janezich	Krueger	Nelson, C.	Ozment
Carruthers	Jaros	Lasley	Nelson, K.	Pauly
Clark	Jefferson	Lieder	Neuenschwander	Pellow

Pelowski	Rice	Segal	Trimble	Weaver
Peterson	Rodosovich	Simoneau	Tunheim	Welle
Price	Rukavina	Skoglund	Uphus	Wenzel
Pugh	Runbeck	Solberg	Valento	Williams
Quinn	Sarna	Sparby	Vellenga	Winter
Reding	Scheid	Stanisus	Wagenius	Wynia
Rest	Seaberg	Steensma	Waltman	

Those who voted in the negative were:

Anderson, R.	Dille	Henry	Miller	Schafer
Bishop	Frederick	Hugoson	Morrison	Sviggum
Blatz	Frerichs	Johnson, V.	Onnen	Swenson
Boo	Girard	Limmer	Poppenhagen	Tompkins
Burger	Gutknecht	Lynch	Redalen	
Dempsey	Haukoos	McDonald	Richter	

The bill was passed and its title agreed to.

Simoneau was excused for the remainder of today's session.

H. F. No. 166 was reported to the House.

Lasley moved to amend H. F. No. 166, the second engrossment, as follows:

Page 4, after line 15, insert:

"Sec. 8. Minnesota Statutes 1988, section 169.14, is amended by adding a subdivision to read:

Subd. 11. [CHARGES.] When a person is charged with violating a speed limit specified by executive order issued under the authority granted in section 169.141, the law enforcement officer shall specify the unlawful speed in the uniform traffic ticket issued to the violator. If the unlawful speed specified in the uniform traffic ticket is more than 65 miles per hour, the prosecuting attorney may not reduce the charged speed below 66 miles per hour unless the prosecuting attorney has probable cause to believe that the unlawful speed was, in fact, less than 66 miles per hour."

Renumber the sections in sequence

Correct internal references accordingly

Amend the title as follows:

Page 1, line 7, after the semicolon insert "limiting the reduction of speeding charges in certain cases;"

Page 1, line 22; after the second semicolon insert "169.14, by adding a subdivision;"

A roll call was requested and properly seconded.

#### POINT OF ORDER

Abrams raised a point of order pursuant to rule 3.9 that the Lasley amendment was not in order. Speaker pro tempore Anderson, G., ruled the point of order not well taken and the amendment in order.

The question recurred on the Lasley amendment and the roll was called. There were 23 yeas and 101 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Gruenes	Lasley	Nelson, K.	Skoglund
Clark	Jaros	Marsh	Orenstein	Vellenga
Dauner	Kahn	McGuire	Price	Wagenius
Forsythe	Kalis	Murphy	Rodosovich	
Greenfield	Kostohryz	Nelson, C.	Scheid	

Those who voted in the negative were:

Abrams	Frederick	Krueger	Osthoff	Seaberg
Battaglia	Frerichs	Limmer	Ostrom	Segal
Bauerly	Girard	Long	Otis	Solberg
Beard	Gutknecht	Lynch	Ozment	Sparby
Begich	Hartle	Macklin	Pauly	Stanius
Bennett	Hasskamp	McDonald	Pellow	Steensma
Bertram	Haukoos	McEachern	Pelowski	Svigum
Bishop	Heap	McLaughlin	Peterson	Swenson
Blatz	Henry	McPherson	Poppenhagen	Tompkins
Boo	Hugoson	Milbert	Pugh	Trimble
Brown	Jacobs	Miller	Quinn	Tunheim
Burger	Janezich	Morrison	Redalen	Uphus
Carlson, D.	Jefferson	Neuenschwander	Reding	Valento
Carlson, L.	Jennings	O'Connor	Rest	Waltman
Carruthers	Johnson, A.	Ogren	Rice	Weaver
Conway	Johnson, R.	Olsen, S.	Richter	Welle
Cooper	Johnson, V.	Olson, E.	Rukavina	Wenzel
Dempsey	Kelso	Olson, K.	Runbeck	Williams
Dille	Kinkel	Omann	Sarna	Winter
Dorn	Knickerbocker	Onnen	Schafer	Wynia
				Spk. Vanasek

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

H. F. No. 166, A bill for an act relating to state agencies; providing that certain information submitted to department of transportation is public data; providing for development of internal auditing standards; classifying certain internal auditing data as other than public; defining terms; providing for limousine registration; exempting certain special transportation service providers holding current

certificate of compliance from motor carrier regulations; delineating requirements of carriers to display certain information; providing for permits of special passenger carriers and household goods carriers; providing for operation under motor carrier permit on death of holder; providing for amount of insurance, bond, or other security required of motor carriers; giving commissioner of transportation subpoena power for certain enforcement purposes; providing for suspension of registration of interstate authority for failure to maintain insurance; amending Minnesota Statutes 1988, sections 13.72, by adding subdivisions; 16A.055, subdivision 1; 168.011, subdivision 35; 168.128, subdivision 2; 174.30, subdivision 6; 221.011, subdivisions 16, 20, and by adding a subdivision; 221.031, subdivision 6; 221.111; 221.121, subdivision 6a; 221.141, subdivision 1b, and by adding a subdivision; and 221.60, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 13; 65B; and 221.

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. There were 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frerichs	Kostohryz	Olson, K.	Sarna
Anderson, G.	Girard	Krueger	Omman	Schafer
Battaglia	Greenfield	Lasley	Onnen	Scheid
Bauerly	Gruenes	Lieder	Orenstein	Seaberg
Beard	Gutknecht	Limmer	Osthoff	Skoglund
Begich	Hartle	Long	Ostrom	Solberg
Bennett	Hasskamp	Lynch	Otis	Sparby
Bertram	Haukoos	Macklin	Ozment	Stanis
Bishop	Heap	Marsh	Pappas	Steensma
Blatz	Henry	McDonald	Pauly	Swiggum
Boo	Hugoson	McGuire	Pellow	Swenson
Brown	Jacobs	McLaughlin	Pelowski	Tompkins
Burger	Janezich	McPherson	Peterson	Trimble
Carlson, D.	Jaros	Milbert	Poppenhagen	Tunheim
Carlson, L.	Jefferson	Miller	Price	Uphus
Carruthers	Jennings	Morrison	Pugh	Valento
Clark	Johnson, A.	Munger	Quinn	Vellenga
Conway	Johnson, R.	Murphy	Redalen	Wagenius
Cooper	Johnson, V.	Nelson, C.	Reding	Waltman
Dawkins	Kahn	Nelson, K.	Rest	Weaver
Dempsey	Kalis	Neuenschwander	Rice	Welle
Dille	Kelly	O'Connor	Richter	Wenzel
Dorn	Kelso	Ogren	Rodosovich	Williams
Forsythe	Kinkel	Olsen, S.	Rukavina	Winter
Frederick	Knickerbocker	Olson, E.	Runbeck	Wynia

The bill was passed and its title agreed to.

H. F. No. 557 was reported to the House.

Johnson, R., moved to amend H. F. No. 557, the first engrossment, as follows:

Page 3, lines 6 to 19, delete the new language

The motion prevailed and the amendment was adopted.

H. F. No. 557, A bill for an act relating to retirement; providing additional resources for the public employees insurance plan; amending Minnesota Statutes 1988, sections 43A.316, subdivision 9; 69.031, subdivision 5; and 353.65, subdivisions 1 and 6, and by adding a subdivision.

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. There were 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frerichs	Krueger	Omann	Schafer
Anderson, G.	Girard	Lasley	Onnen	Scheid
Battaglia	Greenfield	Lieder	Orenstein	Seaberg
Bauerly	Gruenes	Limmer	Osthoff	Skoglund
Beard	Hartle	Long	Ostrom	Solberg
Begich	Hasskamp	Lynch	Otis	Sparby
Bennett	Haukoos	Macklin	Ozment	Stanius
Bertram	Heap	Marsh	Pappas	Steensma
Bishop	Henry	McDonald	Pauly	Sviggun
Blatz	Hugoson	McEachern	Pellow	Swenson
Boo	Jacobs	McGuire	Pelowski	Tompkins
Brown	Janezich	McLaughlin	Peterson	Trimble
Burger	Jaros	McPherson	Poppenhagen	Tunheim
Carlson, D.	Jefferson	Milbert	Price	Uphus
Carlson, L.	Jennings	Morrison	Pugh	Valento
Carruthers	Johnson, A.	Munger	Quinn	Vellenga
Conway	Johnson, R.	Murphy	Redalen	Wagenius
Cooper	Johnson, V.	Nelson, C.	Reding	Waltman
Dauner	Kahn	Nelson, K.	Rest	Weaver
Dawkins	Kalis	Neuenschwander	Rice	Welle
Dempsey	Kelly	O'Connor	Richter	Wenzel
Dille	Kelso	Ogren	Rodosovich	Williams
Dorn	Kinkel	Olsen, S.	Rukavina	Winter
Forsythe	Knickerbocker	Olson, E.	Runbeck	Wynia
Frederick	Kostohryz	Olson, K.	Sarna	Spk. Vanasek

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

H. F. No. 1665, A bill for an act relating to commerce; creating a lien for public improvements and expenditures made for the benefit of certain corporations; proposing coding for new law in Minnesota Statutes, chapter 514.

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. There were 115 yeas and 9 nays as follows:

Those who voted in the affirmative were:

Abrams	Girard	Kostohryz	Omann	Schafer
Anderson, G.	Greenfield	Krueger	Onnen	Scheid
Anderson, R.	Gruenes	Lasley	Orenstein	Seaberg
Battaglia	Hartle	Lieder	Osthoff	Skoglund
Bauerly	Hasskamp	Limmer	Ostrom	Solberg
Beard	Haukoos	Long	Otis	Sparby
Begich	Heap	Lynch	Ozment	Stanius
Bennett	Henry	Macklin	Pappas	Steensma
Bertram	Hugoson	Marsh	Pauly	Sviggum
Blatz	Jacobs	McEachern	Pellow	Swenson
Boo	Janezich	McLaughlin	Pelowski	Tompkins
Brown	Jaros	Milbert	Peterson	Tunheim
Carlson, D.	Jefferson	Morrison	Poppenhagen	Uphus
Carlson, L.	Jennings	Munger	Price	Valento
Conway	Johnson, A.	Murphy	Pugh	Vellenga
Cooper	Johnson, R.	Nelson, C.	Quinn	Wagenius
Dauner	Johnson, V.	Nelson, K.	Rest	Waltman
Dawkins	Kahn	Neuenschwander	Rice	Welle
Dille	Kalis	O'Connor	Richter	Wenzel
Dorn	Kelly	Ogren	Rodosovich	Williams
Forsythe	Kelso	Olsen, S.	Rukavina	Winter
Frederick	Kinkel	Olson, E.	Runbeck	Wynia
Frerichs	Knickerbocker	Olson, K.	Sarna	Spk. Vanasek

Those who voted in the negative were:

Bishop	Dempsey	McDonald	Miller	Weaver
Burger	Gutknecht	McPherson	Redalen	

The bill was passed and its title agreed to.

Sarna was excused for the remainder of today's session.

H. F. No. 1338, A bill for an act relating to motor vehicles; restricting access to registration information concerning passenger automobile lessees; amending Minnesota Statutes 1988, section 168.345.

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. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Anderson, G.	Anderson, R.	Battaglia	Bauerly
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Beard	Gruenes	Lieder	Orenstein	Segal
Begich	Gutknecht	Limmer	Osthoff	Skoglund
Bennett	Hartle	Long	Ostrom	Solberg
Bertram	Hasskamp	Lynch	Otis	Sparby
Bishop	Haukoos	Macklin	Ozment	Stanisus
Blatz	Heap	Marsh	Pappas	Steensma
Boo	Henry	McDonald	Pauly	Swiggum
Brown	Hugoson	McEachern	Pellow	Swenson
Burger	Jacobs	McGuire	Pelowski	Tompkins
Carlson, D.	Janezich	McLaughlin	Peterson	Trimble
Carlson, L.	Jaros	McPherson	Poppenhagen	Tunheim
Carruthers	Jefferson	Milbert	Price	Uphus
Clark	Jennings	Miller	Pugh	Valento
Conway	Johnson, A.	Morrison	Quinn	Vellenga
Cooper	Johnson, R.	Munger	Redalen	Wagenius
Dauner	Johnson, V.	Murphy	Reding	Waltman
Dawkins	Kahn	Nelson, C.	Rest	Weaver
Dempsey	Kalis	Nelson, K.	Rice	Welle
Dille	Kelly	Neuenschwander	Richter	Wenzel
Dorn	Kelso	O'Connor	Rodosovich	Williams
Forsythe	Kinkel	Ogren	Rukavina	Winter
Frederick	Knickerbocker	Olsen, S.	Runbeck	Wynia
Frerichs	Kostohryz	Olson, E.	Schafer	Spk. Vanasek
Girard	Krueger	Olson, K.	Scheid	
Greenfield	Lasley	Onnen	Seaberg	

The bill was passed and its title agreed to.

H. F. No. 786, A bill for an act relating to employment; requiring the hiring of local workers and the payment of wages equal to those of railroad workers on certain railroad projects assisted with state money; amending Minnesota Statutes 1988, section 222.50, subdivision 5.

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. There were 125 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Abrams	Cooper	Janezich	Long	Ogren
Anderson, G.	Dauner	Jaros	Lynch	Olsen, S.
Anderson, R.	Dawkins	Jefferson	Macklin	Olson, E.
Battaglia	Dille	Jennings	Marsh	Olson, K.
Bauerly	Dorn	Johnson, A.	McDonald	Omann
Beard	Forsythe	Johnson, R.	McEachern	Onnen
Begich	Frederick	Johnson, V.	McGuire	Orenstein
Bennett	Frerichs	Kahn	McLaughlin	Osthoff
Bertram	Girard	Kalis	McPherson	Ostrom
Bishop	Greenfield	Kelly	Milbert	Otis
Blatz	Gruenes	Kelso	Miller	Ozment
Boo	Gutknecht	Kinkel	Morrison	Pappas
Burger	Hartle	Knickerbocker	Munger	Pauly
Carlson, D.	Hasskamp	Kostohryz	Murphy	Pellow
Carlson, L.	Heap	Krueger	Nelson, C.	Pelowski
Carruthers	Henry	Lasley	Nelson, K.	Peterson
Clark	Hugoson	Lieder	Neuenschwander	Poppenhagen
Conway	Jacobs	Limmer	O'Connor	Price

Pugh	Rodosovich	Skoglund	Tompkins	Waltman
Quinn	Rukavina	Solberg	Trimble	Weaver
Redalen	Runbeck	Sparby	Tunheim	Welle
Reding	Schafer	Stanius	Uphus	Wenzel
Rest	Scheid	Steensma	Valento	Williams
Rice	Seaberg	Sviggum	Vellenga	Winter
Richter	Segal	Swenson	Wagenius	Wynia

Those who voted in the negative were:

Dempsey      Haukoos

The bill was passed and its title agreed to.

H. F. No. 1408 was reported to the House.

There being no objection, H. F. No. 1408 was temporarily laid over on Special Orders.

H. F. No. 472, A bill for an act relating to transportation; motor carriers; increasing maximum length of certain semitrailers; defining mobile cranes and providing for their maximum length; requiring a highway cost allocation study; amending Minnesota Statutes 1988, sections 169.01, by adding a subdivision; 169.81, subdivision 2; and 169.86, subdivision 5.

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. There were 128 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abrams	Dempsey	Johnson, R.	Milbert	Pelowski
Anderson, G.	Dille	Johnson, V.	Miller	Peterson
Anderson, R.	Dorn	Kahn	Morrison	Poppenhagen
Battaglia	Forsythe	Kalis	Munger	Price
Bauerly	Frederick	Kelly	Murphy	Pugh
Beard	Frerichs	Kelso	Nelson, C.	Quinn
Begich	Girard	Kinkel	Nelson, K.	Redalen
Bennett	Greenfield	Knickerbocker	Neuenschwander	Reding
Bertram	Gruenes	Kostohryz	O'Connor	Rest
Bishop	Gutknecht	Krueger	Ogren	Rice
Blatz	Hartle	Lasley	Olson, S.	Richter
Boo	Hasskamp	Lieder	Olson, E.	Rodosovich
Brown	Haukoos	Limmer	Olson, K.	Rukavina
Burger	Heap	Long	Omann	Runbeck
Carlson, D.	Henry	Lynch	Onnen	Schafer
Carlson, L.	Hugoson	Macklin	Orenstein	Scheid
Carruthers	Jacobs	Marsh	Ostrom	Seaberg
Clark	Janezich	McDonald	Otis	Segal
Conway	Jaros	McEachern	Ozment	Skoglund
Cooper	Jefferson	McGuire	Pappas	Solberg
Dauner	Jennings	McLaughlin	Pauly	Sparby
Dawkins	Johnson, A.	McPherson	Pellow	Stanius

Steensma  
Sviggum  
Swenson  
Tompkins

Trimble  
Tunheim  
Uphus  
Valento

Vellenga  
Wagenius  
Waltman  
Weaver

Welle  
Wenzel  
Williams  
Winter

Wynia  
Spk. Vanasek

Those who voted in the negative were:

Osthoff

The bill was passed and its title agreed to.

H. F. No. 1408 which was temporarily laid over earlier today was again reported to the House.

Carruthers moved that H. F. No. 1408 be continued on Special Orders. The motion prevailed.

H. F. No. 811 was reported to the House.

Sparby moved that H. F. No. 811 be temporarily laid over on Special Orders. The motion prevailed.

H. F. No. 831 was reported to the House.

Olson, K.; Kahn; Johnson, A.; Williams; Scheid; McGuire; Olsen, S.; Forsythe; Morrison; Vellenga; Runbeck; Henry; Long; Segal; Rest; McPherson; Wagenius; Blatz; Lynch; Kelso; Pappas; Tompkins; Pauly and Clark moved to amend H. F. No. 831, the first engrossment, as follows:

Page 1, line 13, after "February" insert "except as provided in subdivision 1a"

Page 1, after line 19, insert:

"Sec. 2. Minnesota Statutes 1988, section 97C.395, is amended by adding a subdivision to read:

Subd. 1a. [EXPERIMENTAL PRAIRIE LAKE ZONE OPEN SEASON.] (a) The open season for walleye, sauger, and northern pike in the prairie lake zone for the open seasons in 1990 and 1991 begins the first Saturday in May.

(b) The prairie lake zone means the area south of U.S. highway marked No. 12 plus the entire area within Hennepin, Anoka, Ramsey, and Washington counties."

Amend the title as follows:

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

A roll call was requested and properly seconded.

The question was taken on the Olson, K., et al amendment and the roll was called. There were 61 yeas and 64 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Girard	Kalis	Olsen, S.	Scheid
Bishop	Greenfield	Long	Olson, K.	Skoglund
Blatz	Gutknecht	Lynch	Omann	Steensma
Brown	Hartle	Macklin	Ostrom	Swiggum
Carlson, L.	Henry	McGuire	Pappas	Tompkins
Clark	Hugoson	McLaughlin	Pauly	Valento
Conway	Jaros	McPherson	Pelowski	Vellenga
Dawkins	Jefferson	Milbert	Quinn	Wagenius
Dempsey	Jennings	Miller	Redalen	Waltman
Dille	Johnson, A.	Morrison	Rest	Wenzel
Forsythe	Johnson, V.	Nelson, K.	Runbeck	Williams
Frerichs	Kahn	O'Connor	Schafer	Winter
				Wynia

Those who voted in the negative were:

Abrams	Dauner	Knickerbocker	Olson, E.	Rodosovich
Anderson, R.	Dorn	Kostohryz	Onnen	Rukavina
Battaglia	Frederick	Krueger	Orenstein	Seaberg
Bauerly	Gruenes	Lasley	Osthoff	Solberg
Beard	Hasskamp	Lieder	Otis	Sparby
Begich	Haukoos	Limmer	Ozment	Stanius
Bennett	Heap	Marsh	Pellow	Swenson
Bertram	Jacobs	McDonald	Peterson	Trimble
Boo	Janezich	McEachern	Poppenhagen	Tunheim
Burger	Johnson, R.	Munger	Price	Uphus
Carlson, D.	Kelly	Murphy	Pugh	Weaver
Carruthers	Kelso	Nelson, C.	Reding	Welle
Cooper	Kinkel	Ogren	Richter	

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

Gruenes and Stanius moved to amend H. F. No. 831, the first engrossment, as follows:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 1988, section 97A.445, is amended by adding a subdivision to read:

Subd. 4. [ANGLING; TAKE A MOM FISHING WEEKEND.] Any mother who is a resident of Minnesota may take fish by angling without a license during the Saturday and Sunday of the angling season that coincides with Mother's Day. The commissioner shall publicize the Saturday and Sunday as "Take a Mom Fishing Weekend.""

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 831, A bill for an act relating to game and fish; Mom Fishing Weekend; season opening date for certain game fish; amending Minnesota Statutes 1988, sections 97A.445, by adding a subdivision; and 97C.395, subdivision 1.

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. There were 105 yeas and 22 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Forsythe	Kostohryz	Orenstein	Seaberg
Anderson, R.	Frerichs	Krueger	Osthoft	Skoglund
Battaglia	Girard	Lasley	Ostrom	Solberg
Bauerly	Gruenes	Lieder	Otis	Sparby
Beard	Gutknecht	Macklin	Ozment	Stanis
Begich	Hartle	Marsh	Pauly	Steensma
Bennett	Hasskamp	McDonald	Pellow	Sviggum
Bertram	Haukoos	McEachern	Pelowski	Swenson
Boo	Heap	McGuire	Peterson	Tompkins
Brown	Henry	McLaughlin	Poppenhagen	Trimble
Burger	Hugoson	McPherson	Price	Tunheim
Carlson, D.	Jacobs	Milbert	Pugh	Uphus
Carlson, L.	Janezich	Miller	Quinn	Valento
Carruthers	Jaros	Murphy	Redalen	Wagenius
Conway	Jefferson	Nelson, C.	Reding	Waltman
Cooper	Jennings	Neuenschwander	Rest	Weaver
Dauner	Johnson, R.	O'Connor	Rice	Welle
Dawkins	Johnson, V.	Ogren	Richter	Wenzel
Dempsey	Kelly	Olson, E.	Rodosovich	Winter
Dille	Kelso	Olson, K.	Rukavina	Wynia
Dorn	Kinkel	Omann	Schafer	Spk. Vanasek

Those who voted in the negative were:

Abrams	Johnson, A.	Lynch	Onnen	Vellenga
Bishop	Kahn	Morrison	Pappas	Williams
Blatz	Knickerbocker	Munger	Rumbeck	
Clark	Limmer	Nelson, K.	Scheid	
Frederick	Long	Olsen, S.	Segal	

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

Pappas was excused for the remainder of today's session.

H. F. No. 811 which was temporarily laid over earlier today was again reported to the House.

H. F. No. 811, A bill for an act relating to natural resources; changing certain provisions relating to the taking of turtles; amending Minnesota Statutes 1988, sections 97A.475, subdivision 41; 97C.605, subdivisions 2 and 3; and 97C.611; repealing Minnesota Statutes 1988, section 97C.615.

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. There were 114 yeas and 9 nays as follows:

Those who voted in the affirmative were:

Abrams	Girard	Krueger	Onnen	Skoglund
Anderson, G.	Greenfield	Lieder	Orenstein	Solberg
Anderson, R.	Gruenes	Limmer	Osthoff	Sparby
Battaglia	Gutknecht	Long	Ostrom	Stanisus
Bauerly	Hartle	Lynch	Otis	Steensma
Begich	Hasskamp	Macklin	Ozment	Svigum
Bennett	Haukoos	Marsh	Pauly	Swenson
Bertram	Heap	McEachern	Pellow	Tompkins
Bishop	Henry	McGuire	Pelowski	Trimble
Blatz	Jacobs	McLaughlin	Peterson	Tunheim
Boo	Janezich	McPherson	Price	Uphus
Brown	Jaros	Milbert	Pugh	Valento
Burger	Jefferson	Morrison	Quinn	Vellenga
Carlson, L.	Jennings	Munger	Redalen	Wagenius
Carruthers	Johnson, A.	Nelson, C.	Reding	Waltman
Clark	Johnson, R.	Nelson, K.	Rest	Weaver
Conway	Kahn	Neuenschwander	Rice	Welle
Cooper	Kalis	O'Connor	Rodosovich	Wenzel
Dawkins	Kelly	Ogren	Rukavina	Williams
Dempsey	Kelso	Olsen, S.	Runbeck	Winter
Dorn	Kinkel	Olson, E.	Schafer	Wynia
Frederick	Knickerbocker	Olson, K.	Scheid	Spk. Vanasek
Frerichs	Kostohryz	Omann	Seaberg	

Those who voted in the negative were:

Beard	Dauner	Hugoson	Miller	Richter
Carlson, D.	Forsythe	Johnson, V.	Poppenhagen	

The bill was passed and its title agreed to.

H. F. No. 1472 was reported to the House.

Redalen and Wenzel moved to amend H. F. No. 1472, the first engrossment, as follows:

Page 3, line 27, delete "\$16.08 per hundredweight" and insert "the

maximum allowable level under any federal milk marketing order in the United States"

Page 3, line 28, delete "the \$16.08" and insert "that"

The motion prevailed and the amendment was adopted.

H. F. No. 1472, A resolution memorializing the President and Congress to assure fair treatment for Minnesota dairy farmers.

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. There were 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Forsythe	Knickerbocker	Olsen, S.	Scheid
Anderson, G.	Frederick	Kostohryz	Olson, E.	Seaberg
Anderson, R.	Frerichs	Krueger	Olson, K.	Segal
Battaglia	Girard	Lasley	Omann	Skoglund
Bauerly	Greenfield	Lieder	Orenstein	Solberg
Beard	Gruenes	Limmer	Osthoff	Sparby
Begich	Gutknecht	Long	Ostrom	Stanius
Bennett	Hartle	Lynch	Otis	Steensma
Bertram	Hasskamp	Macklin	Ozment	Svigum
Bishop	Haukoos	Marsh	Pauly	Swenson
Blatz	Heap	McDonald	Pellow	Tompkins
Boo	Henry	McEachern	Pelowski	Trimble
Brown	Hugoson	McGuire	Peterson	Tunheim
Burger	Jacobs	McLaughlin	Poppenhagen	Uphus
Carlson, D.	Janezich	McPherson	Price	Valento
Carlson, L.	Jaros	Milbert	Pugh	Vellenga
Carruthers	Jefferson	Miller	Quinn	Wagenius
Clark	Jennings	Morrison	Redalen	Waltman
Conway	Johnson, R.	Munger	Reding	Weaver
Cooper	Johnson, V.	Murphy	Rice	Welle
Dauner	Kahn	Nelson, C.	Richter	Wenzel
Dawkins	Kalis	Nelson, K.	Rodosovich	Williams
Dempsey	Kelly	Neuenschwander	Rukavina	Winter
Dille	Kelso	O'Connor	Runbeck	Wynia
Dorn	Kinkel	Ogren	Schafer	Spk. Vanasek

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

H. F. No. 1530, A bill for an act relating to commerce; regulating business relations between manufacturers of heavy and utility equipment and independent retail dealers of those products; proposing coding for new law in Minnesota Statutes, chapter 325E.

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. There were 124 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Forsythe	Kostohryz	Olson, E.	Scheid
Anderson, G.	Frederick	Krueger	Olson, K.	Seaberg
Anderson, R.	Girard	Lasley	Omann	Segal
Battaglia	Greenfield	Lieder	Onnen	Skoglund
Bauerly	Gruenes	Limmer	Orenstein	Solberg
Beard	Gutknecht	Long	Osthoff	Sparby
Begich	Hartle	Lynch	Ostrom	Stanis
Bennett	Hasskamp	Macklin	Otis	Steenma
Bertram	Haukoos	Marsh	Ozment	Sviggum
Bishop	Heap	McDonald	Pauly	Swenson
Blatz	Henry	McEachern	Pellow	Tompkins
Boo	Hugoson	McGuire	Pelowski	Trimble
Brown	Jacobs	McLaughlin	Peterson	Tunheim
Burger	Janezich	McPherson	Poppenhagen	Uphus
Carlson, D.	Jaros	Milbert	Price	Valento
Carlson, L.	Jefferson	Miller	Pugh	Vellenga
Carruthers	Jennings	Morrison	Quinn	Waltman
Clark	Johnson, R.	Munger	Redalen	Weaver
Conway	Johnson, V.	Murphy	Reding	Welle
Cooper	Kahn	Nelson, C.	Rest	Wenzel
Dauner	Kalis	Nelson, K.	Richter	Williams
Dawkins	Kelly	Neuenschwander	Rodosovich	Winter
Dempsey	Kelso	O'Connor	Rukavina	Wynia
Dille	Kinkel	Ogren	Runbeck	Spk. Vanasek
Dorn	Knickerbocker	Olsen, S.	Schafer	

The bill was passed and its title agreed to.

H. F. No. 1440 was reported to the House.

Greenfield moved to amend H. F. No. 1440, as follows:

Page 2, after line 33, insert:

"Subd. 7. [TEMPORARY EXEMPTION.] Political subdivisions currently providing group insurance coverage and benefits through a contract awarded by a competitive bid process under section 471.616 are exempt from the requirements of this section for the period during which the existing contract remains in force. Upon expiration of the existing contract, a political subdivision must adhere to the request for proposal process outlined in this section."

Page 2, after line 35, insert:

"Sec. 4. [EFFECTIVE DATE.]

This act is effective the day following enactment."

The motion prevailed and the amendment was adopted.



H. F. No. 1440, A bill for an act relating to local government; requiring political subdivisions to request proposals for group insurance coverage; amending Minnesota Statutes 1988, section 43A.316, subdivision 10; proposing coding for new law in Minnesota Statutes, chapter 471; repealing Minnesota Statutes 1988, section 471.616.

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. There were 127 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Kostohryz	Olson, K.	Seaberg
Anderson, G.	Frerichs	Krueger	Omann	Segal
Anderson, R.	Girard	Lasley	Onnen	Skoglund
Battaglia	Greenfield	Lieder	Orenstein	Solberg
Bauerly	Gruenes	Limmer	Osthoff	Stanisus
Beard	Gutknecht	Long	Ostrom	Steensma
Begich	Hartle	Lynch	Otis	Sviggum
Bennett	Hasskamp	Macklin	Ozment	Swenson
Bertram	Haukoos	Marsh	Pauly	Tompkins
Bishop	Heap	McDonald	Pellow	Trimble
Blatz	Henry	McEachern	Pelowski	Tunheim
Boo	Hugoson	McGuire	Peterson	Uphus
Brown	Jacobs	McLaughlin	Poppenhagen	Valento
Burger	Janezich	McPherson	Price	Vellenga
Carlson, D.	Jaros	Milbert	Pugh	Wagenius
Carlson, L.	Jefferson	Miller	Quinn	Waltman
Carruthers	Jennings	Morrison	Redalen	Weaver
Clark	Johnson, A.	Munger	Reding	Welle
Conway	Johnson, R.	Murphy	Rest	Wenzel
Cooper	Johnson, V.	Nelson, C.	Rice	Williams
Dauner	Kahn	Nelson, K.	Richter	Winter
Dawkins	Kalis	Neuenschwander	Rodosovich	Wynia
Dempsey	Kelly	O'Connor	Rukavina	Spk. Vanasek
Dille	Kelso	Ogren	Runbeck	
Dorn	Kinkel	Olsen, S.	Schafer	
Forsythe	Knickerbocker	Olsen, E.	Scheid	

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

H. F. No. 1323 was reported to the House.

Carlson, L., moved that H. F. No. 1323 be continued on Special Orders. The motion prevailed.

The Speaker resumed the Chair.

H. F. No. 1355, A bill for an act relating to probate; modifying provisions for the award of sentimental property and family allowances; amending Minnesota Statutes 1988, sections 525.151; and 525.152.

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. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Kostohryz	Olson, K.	Seaberg
Anderson, G.	Frerichs	Krueger	Omman	Segal
Anderson, R.	Girard	Lasley	Onnen	Skoglund
Battaglia	Greenfield	Lieder	Orenstein	Solberg
Bauerly	Gruenes	Limmer	Osthoff	Sparby
Beard	Gutknecht	Long	Ostrom	Stanius
Begich	Hartle	Lynch	Otis	Steensma
Bennett	Hasskamp	Macklin	Ozment	Sviggum
Bertram	Haukoos	Marsh	Pauly	Swenson
Bishop	Heap	McDonald	Pellow	Tompkins
Blatz	Henry	McEachern	Pelowski	Trimble
Boo	Hugoson	McGuire	Peterson	Tunheim
Brown	Jacobs	McLaughlin	Poppenhagen	Uphus
Burger	Janezich	McPherson	Price	Valento
Carlson, D.	Jaros	Milbert	Pugh	Vellenga
Carlson, L.	Jefferson	Miller	Quinn	Wagenius
Carruthers	Jennings	Morrison	Redalen	Waltman
Clark	Johnson, A.	Munger	Reding	Weaver
Conway	Johnson, R.	Murphy	Rest	Welle
Cooper	Johnson, V.	Nelson, C.	Rice	Wenzel
Dauner	Kahn	Nelson, K.	Richter	Williams
Dawkins	Kalis	Neuenschwander	Rodosovich	Winter
Dempsey	Kelly	O'Connor	Rukavina	Wynia
Dille	Kelso	Ogren	Runbeck	Spk. Vanasek
Dorn	Kinkel	Olsen, S.	Schafer	
Forsythe	Knickerbocker	Olson, E.	Scheid	

The bill was passed and its title agreed to.

Wynia moved that the remaining bills on Special Orders for today be continued. The motion prevailed.

### GENERAL ORDERS

Wynia moved that the bills on General Orders for today be continued. The motion prevailed.

### MOTIONS AND RESOLUTIONS

Jennings moved that his name be stricken and the name of Limmer be added as chief author on H. F. No. 337. The motion prevailed.

Pugh moved that the name of Conway be stricken and the name of

Carruthers be added as an author on H. F. No. 1425. The motion prevailed.

Carlson, D., moved that the name of Bennett be added as an author on H. F. No. 1685. The motion prevailed.

Jefferson moved that the name of Clark be added as an author on H. F. No. 1715. The motion prevailed.

#### ADJOURNMENT

Wynia moved that when the House adjourns today it adjourn until 2:30 p.m., Monday, April 24, 1989. The motion prevailed.

Wynia moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:30 p.m., Monday, April 24, 1989.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

